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TITLE XIII: GENERAL OFFENSES

Chapter

130. GENERAL OFFENSES

131. CLANDESTINE DRUG LAB SITES; CHEMICAL DUMP SITES

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CHAPTER 130: GENERAL OFFENSES

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§ 130.01 DAMAGE TO PROPERTY; GRAFFITI.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

GRAFFITI. In addition to its usual and customary meaning of defacing walls or structures with messages or slogans, **GRAFFITI** shall also mean any letter, numeral, figure, emblem, insignia, picture, outline, character, spectacle, delineation, announcement, word, phrase, diagram, symbol, sketch, inscription or representation, wherein the contents thereof are visible to any member of the general public and which contains references to sexual activity, diagrams relating to sexual activity or sexual organs, references to criminal activities or groups which promote or are involved in criminal activity, swearing or fighting words, defamatory materials about any person, references to relationships or any marking of any kind whatsoever which results in damage to, defacing of, marring of or discoloring of any designated public sidewalk, street or other public surface, any vehicle, any equipment, lamp, lamp post or other city property, or of the exterior surface of a wall, fence, door, building or other structure, whether publicly or privately owned.

OWNER. The owner of record of the subject property, whether public or private, at the time of the placement or discovery of the graffiti or at a subsequent time, the beneficial owner under a land trust, the contract purchaser, or that person or persons or trust in whose name the general taxes for the last preceding year were paid, except that **OWNER** shall not include the city.

(B) *Conduct prohibited.*

- (1) It is unlawful for any person to inscribe, draw or otherwise place or cause to be placed any graffiti upon the surface of any building, structure, wall or surface of other property that is publicly or privately owned.
- (2) It shall be unlawful for any parent or legal guardian to knowingly permit any minor child in his or her custody or control to violate division (B)(1) of this section.
- (3) The parent or legal guardian of a minor defendant who resides with the parent or legal guardian at the time of the offense may be held liable for any fine or condition of restitution or reparation imposed by a court upon a minor for violation of this section; provided that, minor has not paid the fine or made restitution or reparation within the time ordered by the court; and, further, provided that, the parent or legal guardian has been served with summons or notice to appear whether in the original cause or in any subsequent proceedings arising therefrom, including sentencing or collection actions, as provided by law.

(C) *Removal by owner.*

- (1) *Owner's responsibility.* It shall be the duty of the owner of the structure or wall or other

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private property upon which any graffiti is placed or made to remove, eradicate or eliminate the inscription or representation within 30 days of the occurrence unless granted additional time by the City Council.

(2) *Notice to remove graffiti.* In the event the owner has failed to eliminate the graffiti, the owner shall be notified by certified mail or personal notice that he or she has 30 days from the date of the notice in which to remove the graffiti. In the event that charges have been filed against the person believed responsible for placement of the graffiti and the owner can show to the city that there is a reasonable likelihood that the person will be required to make restitution or restore the premises to its previous condition, the owner may be given additional time to meet the removal requirements. In no event shall the owner be granted more than a total of six months' time to remove graffiti, but any extensions shall be based solely upon a reasonable likelihood of apprehension and conviction of the person responsible. In the absence of the reasonable likelihood, the owner is responsible for removal within the time allowed in divisions (C)(1) and (2) of this section.

(3) *List of contractors and cleaning materials.* The city may make available a list of contractors in the business of removing graffiti and list of cleaning materials generally recognized in the industry as effective in the removal of graffiti. By providing lists of contractors and cleaning materials, the city does not guarantee the quality or adequacy of work performed by anyone selected by owner or the effectiveness or safety of the materials listed, and the city expressly disclaims responsibility or liability for the quality or adequacy of the work or materials or any claims for damage or injury arising therefrom.

(D) *Removal by the city.*

(1) The city shall have the right but not the duty to remove graffiti from the exterior of private property if the owner informs the city of the presence of the graffiti and of the owner's inability to remove it. Prior to the city entering any private property to remove graffiti, the owner must sign a statement authorizing removal by the city and agreeing to pay the reasonable costs of the removal and to allow the recording of a lien against the real estate upon which the work was performed if the cost is not paid to the city within 30 days of the date of the invoice sent to the owner. The owner must also sign a release holding the city harmless from any claims or suits brought for damages pursuant to any adverse or injurious effects of such chemicals or from the actions taken by the city or its employees to remove the graffiti prior to the city commencing work on the property. If the property owner does not remove the graffiti within the time specified or extended time requested and granted by the city or if the city is unable to perform the work at the request of the owner, the owner shall be subject to the penalties listed in division (E) of this section.

(2) If the city performs the graffiti removal pursuant to division (D)(1) of this section, it shall be entitled to a lien and to file a notice of lien against the property upon which the work was performed for the cost of the removal.

(E) *Penalty.*

(1) Upon a finding of guilty for violation of division (B) of this section, an offender shall be punished as provided in §130.99. Additionally, the court may, as a condition of probation, supervision or conditional discharge, require that the party guilty of violating the provisions of division (B) of this section make full and complete restitution to the owner of the property for expenses incurred in the removal of the graffiti or, with the consent of the owner, restore the structure, wall, building or surface to its previous

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condition. In addition, the court may order as a further penalty community service in the form of time to be spent in cleaning property that has been defaced by graffiti in any location in the city.

(2) Upon a finding of guilty for violation of division (C)(1) of this section, an offender shall be punished as provided in §130.99. Each and every day that graffiti is permitted to remain beyond the time specified in division (C)(2) of this section shall constitute a separate violation.

(F) *Compliance by the city.*

(1) It is the intention of the city that graffiti discovered upon city property or public property under the jurisdiction and control of the city will be removed within the time periods for graffiti removal imposed upon other governmental bodies and owners of private property under this section. The City Council shall have the authority to order and direct the removal of graffiti.

(2) A designated city officer, or his or her designee, shall provide, no less than semi-annually, a written report to the City Council of graffiti incidents involving city property and removal efforts by the city. The report shall include at a minimum the location of the graffiti, charges filed against or convictions of offenders where relevant, the date and methods of graffiti removal undertaken by the city and the cost of the removal.

§ 130.02 DISCHARGING FIREARMS.

(A) *Shooting upon, over or near a cemetery.* Except as provided by M.S. §97A.137, for wildlife management areas that are 40 acres or greater, no person shall, without permission from the proper officials, discharge a firearm upon or over a cemetery or within 100 yards thereof, unless the person is upon his or her own land.

(B) *Hunting near a city park.* Except as provided by M.S. §97A.137, for wildlife management areas that are 40 acres or greater, no person shall hunt, shoot or kill game within one-half mile of a city park unless the City Council has granted permission to kill game not desired within the limits prohibited by this division.

(C) *Discharge of firearms prohibited in certain places.* No person shall discharge a firearm on a lawn, park, playground, orchard or other ground appurtenant to a school, church or an inhabited dwelling, the property of another or a charitable institution. This section does not prevent or prohibit the owner thereof from discharging firearms upon his or her own land.

(D) *Discharging firearms on highways prohibited.* No person shall discharge a firearm upon or over a public road or highway.

(E) *Exceptions.* This section shall not prohibit the firing of a military salute or the firing of weapons by persons of the nation's armed forces acting under military authority, and shall not apply to law enforcement officials in the proper enforcement of the law, or to any person in the proper exercise of the right of self-defense, or to any person otherwise lawfully permitted by proper federal, state or local authorities to discharge a firearm in a manner contrary to the provisions of this section.

(F) If any of the above provisions are found to be in conflict with M.S. §624.717, as it may be amended from time to time, the provisions of that statute shall prevail.

§ 130.03 CURFEW FOR MINORS.

(A) *Loitering of minors prohibited.*

(1) It shall be unlawful for any minor age 16 or 17 to loiter, idle, wander, stroll or play in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, public places, public buildings, places of amusement and entertainment, vacant lots or other unsupervised places between the hours of 12:00 midnight and 6:00 a.m. of the following day.

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- (2) The provisions of this section do not apply to a minor accompanied by his or her parent, guardian or other adult person having the care and custody of the minor or where the minor is upon an emergency errand or legitimate business by his or her parent, guardian or other adult person having the care and custody of the minor.
 - (3) The curfew shall not apply to any minor student who is lawfully attending, going to or returning from school, church or community sponsored athletic, musical or social activities or events; provided, however, any minor student shall take the most direct route home to the minor's destination.
 - (4) Each violation of the provisions of this section shall constitute a separate offense.
- (B) *Responsibility of parents and others.*
- (1) It shall be unlawful for the parents, guardian or other adult person having the care and custody of the minor under the age of 16 or 17 years or any person, firm or corporation operating or in charge of any place of amusement, entertainment or refreshment or any other place of business to permit such minor to loiter, idle, wander, stroll or play in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, public places and public buildings, places of amusement and entertainment, vacant lots or other unsupervised places between the hours of 10:00 p.m. and 6:00 a.m. of the following day, official city time.
 - (2) For the parents, guardian or other adult person having the care and custody of the minor under the age of 16 and 18 years or any person, firm or corporation operating or in charge of any place of amusement, entertainment or refreshment or any other place of business to permit the minor to loiter, idle, wander, stroll or play in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, public places and public buildings, places of amusement and entertainment, vacant lots or other unsupervised places between the hours of 1:00 a.m. and 6:00 a.m. of the following day, official city time; provided, however the provisions of this section do not apply to a minor accompanied by his or her parent, guardian or other adult person having the care and custody of the minor or where the minor is upon an emergency errand or legitimate business by his or her parent, guardian or other adult person having the care and custody of the minor.
 - (3) The curfew shall not apply to any minor student who is lawfully attending, going to or returning from school, church or community sponsored athletic, musical or social activities or events; provided, however, any minor student shall take the most direct route home to the minor's destination.
 - (4) Whenever the owner or person in charge of or in control of any place of amusement, entertainment, refreshment or other places of business shall find persons under the age of 18 years loitering, loafing or idling in the places of business:
 - (a) He or she shall immediately order the person to leave and, if the person refuses to leave the place of business, the operator shall immediately notify the Police Department and inform them of the violation.
 - (b) Failure to carry out the provisions of this section shall constitute a petty misdemeanor.
 - (5) Each violation of the provisions of this section shall constitute a separate offense.
- (C) *Officer's duties.* Upon finding a child under the age of 16 or 17 years after the hour of 10:00 p.m. or child under the age of 18 years after the hour of 1:00 a.m. unlawfully loitering, idling, wandering, strolling in or upon any of the public streets, highways, alleys, parks or other public places of the city in violation of any of the provisions of this section:

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- (1) Shall take the name of the child and the name and address of the parent, guardian or other person having the legal care of custody of the child;
- (2) Send the child home and make a report of the same to the Chief of Police;
- (3) Whereupon the Chief of Police shall send to the parent, guardian or other legal custodian that unless the terms of this section are complied with; and
- (4) The penalty provided thereof will be invoked against the parent, guardian or other legal custodian of the child upon a second occurrence within 12 months of the first occurrence.

§ 130.04 FIREWORKS.

(A) *Definitions.* For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

FIREWORKS. The same definition as contained in M.S. §624.20(1)(c) or any superseding statute.

(B) *Permit required.* No person shall sell or possess for sale fireworks without first having obtained an annual permit from the city.

(1) The application for the permit for the manufacturing, storage for commercial purposes and sale of fireworks shall be made to the Fire Chief a minimum of 15 days prior to operating.

(2) Permits shall be issued for a period of one calendar year.

(3) Prior to processing the application, a criminal records check must be conducted.

Neither the applicant nor the responsible party for the permit shall have been convicted of a felony of a fire/fireworks related misdemeanor within the last three years.

(4) Prior to processing the application, the Fire Chief shall determine that the proposed location is code compliant.

(5) The application shall include a letter from the person legally responsible for the property on which the fireworks related activity will occur. The letter shall grant permission to the applicant for the use of the property.

(C) *Sales and storage of fireworks.*

(1) No person shall sell or store fireworks within 100 feet of any fuel dispensing apparatus.

(2) It shall be unlawful for any seller of any fireworks to permit smoking at any site containing fireworks. "NO SMOKING" signs must be conspicuously posted and approved fire extinguishers must be available for use.

(3) In buildings that do not have an automated sprinkling system, retail sales displays of fireworks shall be limited to a gross weight of 200 pounds of fireworks. In buildings that do contain an automated sprinkling system, retail sales displays shall be limited to a gross weight of 400 pounds of fireworks.

(4) The requirements of this section are in addition to any requirements imposed by any building and zoning regulations, fire codes or state law.

(5) Only persons 18 years of age or older may purchase fireworks and the age of the purchaser must be verified by photographic identification.

(6) No exterior storage, display, sales or transient sales of fireworks are permitted. No manufacturing, sales or storage for commercial purposes shall occur on residentially zoned property or properties used for educational purposes or assemblies.

(7) A list of all consumer fireworks displayed and stored on the property shall be available at all times. The list shall document the name, weight and quantity of the fireworks and be accompanied by the material safety data sheets.

(8) Manufacturing, warehouse buildings or display in excess of the quantities listed in division (C)(7) above for retail consumer fireworks shall be classified as an H

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occupancy and protected similarly to explosives and aerosols.

(9) A handout describing fireworks safety shall be provided to each consumer purchasing fireworks.

(D) *Use and possession.*

(1) It is unlawful to use, fire or discharge any fireworks along the route of and during any parade or at any place of public assembly or in any commercial/industrial district.

(2) It is unlawful at any time to throw, toss or aim any fireworks at any person, animal, vehicle or other thing or object or used in any manner that may threaten or cause possible harm to life or property.

(3) The discharge of fireworks shall be prohibited inside a building and within 15 feet of any building.

(4) The Fire Chief may ban fireworks if dry or windy conditions occur.

(5) Juveniles may not possess fireworks unless under the direct supervision of responsible adult.

(6) Fireworks may not be discharged in a manner that may create a nuisance nor between the hours of 10:00 p.m. to 7:00 a.m.

§ 130.05 LOITERING.

(A) The act of **LOITERING** shall be defined as conduct by any person consisting of lounging, sleeping, lurking, laying about, sitting, standing, idly remaining or any other state or condition without legal, real or apparent purpose other than to stand idly about, to linger aimlessly or to loaf.

(B) Loitering, as defined in division (A) above, on any public street, designated public sidewalk, alley, thoroughfare or other public way or private grounds who is there without the consent of the owner is hereby declared a nuisance and is hereby prohibited.

§ 130.06 VAGRANCY.

(A) Any person found within the corporate limits of the city, who by word or of mouth or by advocates or teaches in the city, or is about to advocate or teach therein, or habitually advocates or teaches or is engaged in whole or in part in the occupation whether for gain or gratuitously, of advocating, advising or teaching the duty, necessity or propriety of crime or of gratuitously, of advocating, advising or teaching the duty, necessity or propriety of crime or of violence as a means of accomplishing industrial or political ends, shall be guilty of vagrancy.

(B) Any person found within the corporate limits of the city, who by word of mouth or in writing, advocates or teaches in the city, or is about to advocate or teach therein, or habitually advocates or teaches, or is engaged in whole or in part in the occupation, whether for gain or gratuitously, of advocating, advising or teaching the violation or disregard of any duty or obligation imposed by any statute of the state, or of the United States, upon any person or class of persons, shall be guilty of vagrancy.

(C) (1) Any person found within the corporate limits of the city, who by any written or printed matter whatsoever, or by oral speech teaches, advises or advocates or is about to teach, advise or advocate or who habitually advocates or teaches or who is engaged in whole or in part in the occupation, whether for gain or gratuitously, of advocating, teaching or advising that citizens of the state shall not or ought not aid or assist the United States in prosecuting or carrying on war with the public enemies of the United States shall be guilty of vagrancy.

(2) A citizen of the state for the purpose of this section is hereby defined be any person within the confines of the state.

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§ 130.07 DISORDERLY CONDUCT; BREACHES OF PEACE.

- (A) Any person or persons who may be found lurking, lying in wait or concealed in any house or in any building or in any yard or other premises or streets or alleys within the city with intent to pilfer, or commit any crime or misdemeanor whatever, or who cannot give a satisfactory explanation for his or her conduct and behavior shall, for every offense on his or her conviction before the city, be punished by a fine not exceeding \$100 and costs of prosecution or imprisonment in the common jail for a period of not more than 90 days.
- (B) Any person or persons who shall make and countenance or assist in any riot, disturbance or improper diversion or engage in any assault, battery, affray collect in bodies or crowds, for improper purpose or shall willfully disturb the peace or quiet of any street, alley or law or neighborhood, or of any family or persons assembled for a lawful purpose, by any loud or unusual noise, by blowing horns, trumpets or other instruments, or engines, by beating of drums, kettles, pans or other sounding instruments by bellowing, howling, screaming or disturbing the peace by any means or beating, abusing, maltreating any animal; or by swearing, quarreling, scolding, hallowing, cursing, challenging, assaulting, striking or fighting under any pretense whatever; and all persons who shall be found in a state of open or riotous drunkenness or intoxication, or who shall be found in any public place, street or alley in the city, drunk or intoxicated, and all persons who shall appear in state of nudity, or in a dress not belonging to his or her sex or in any lewd or indecent dress, or shall make any indecent exposure of his or her person, or be guilty of any lewd, obscene, filthy, immoral or insulting conduct, language, behavior, or shall sell or offer for sale or exhibit any obscene, indecent or lewd book, picture or thing or shall perform any lewd or indecent or immoral play or other representation in any of the streets, alleys, highways, shops or other public places in the city, shall for each offense, on conviction before the city, be liable to the penalties and punishment provided for in the penalties and punishment provided for in division (A) above.
- (C) No person shall indecently exhibit any stallion or bull within the city, nor permit any stallion of which he or she may be the owner or keeper to cover a mare, nor any bull of which he or she may be the owner or keeper to cover a cow, within the limits an enclosed place not exposed to public view.
- (D) No person shall discharge any cannon, anvil gun, rifle or pistol; or fire or explode, burn any squib, rocket or roman candle or any other explosive or combustible material or exhibit any fireworks or make or exhibit any bonfire within the city without the written permission of the President of the city, which permission shall limit the time and place of the firing and exhibition.
- (E) No person shall hitch or in any way fasten any horse, mule or other animal or animals to any shade or ornamental tree, lamp-post or, in any proximity thereto, that the same may be damaged thereby or shall damage the same in any manner within the limits of the city.
- (F) No person shall leave any horse, mule or other beast of burden, on any of the streets, highways or alleys of the city, without hitching or fastening the same in a secure manner, unless some competent person be left and remain in charge of same during the absence of the owner or driver.
- (G) No person shall willfully make or give any false alarm of fire within the limits of the city.
- (H) No person shall run, race or immoderately drive or ride any horse or horses, mule or mules, mare or gelding or other animals in any of the streets of the city, nor shall any person or persons ride, drive or cause to be driven or ridden any horse, mare, gelding, mule or other animal faster than at the rate of five mph in, along or through any street, alley or way, or upon any public place within the city; provided that, this section shall not apply to any

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grounds lawfully used as a public park or fairground.

§ 130.99 PENALTY.

- (A) *Generally.* Whoever violated any provision of this chapter for which no other penalty has been established shall be punished as provided in §10.99.
- (B) *Curfew penalties.*
- (1) *Minors.* Any minor found to be in violation of §130.03 may be adjudicated delinquent and shall be subject to the dispositional alternatives set forth in M.S. §260.185, as it may be amended from time to time.
 - (2) *Adults.* Any adult person found to be in violation of §130.03 shall be guilty of a misdemeanor.
- (C) *Fireworks.*
- (1) Materials which violate and/or pose a threat to public safety may be confiscated and destroyed. Costs associated with disposal shall be assessed back to the property owner or permit holder.
 - (2) Violations of §130.04 may result in revocation of the permit.
 - (3) Violations of §130.04 are misdemeanor offenses punishable by fines up to \$1,000 and/or 90 days in jail.
- (D) *Loitering.* Any violation of §130.05 shall constitute a misdemeanor and shall be punishable by fine of not to exceed \$1,000 or imprisonment not to exceed 90 days, or both.
- (E) *Vagrancy.* Any person found guilty of vagrancy, as defined in §130.06, shall, upon conviction thereof, be punished by a fine not exceeding \$100 or by imprisonment in the county jail not exceeding 90 days.
- (F) *Disorderly conduct; breaching the peace.* Any person or persons offending against any of the provisions of §130.07(C), (D), (E), (F), (G) and (H) shall, upon conviction thereof, before the city, for each and every offense pay a fine of not less than \$1, nor more than \$100, and costs of prosecution, and may be imprisoned in jail not less than one day, nor more than 60 days, or until the fine and costs are paid.

(Ord. 1, passed 9-10-1888; Ord. 30, passed - -; Ord. 101, passed 6-10-2002; Ord. 88, passed 6-8-1992; Ord. 95-A, passed 10-14-1996; Ord. 108, passed 9-13-2004)

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CHAPTER 131: CLANDESTINE DRUG LAB SITES; CHEMICAL DUMP SITES

Section

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- 131.01 Purpose and intent
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- 131.03 Fees
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Administration and Enforcement

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- 131.26 Authority to modify or remove declaration of public health nuisance

- 131.99 Penalty

GENERAL PROVISIONS

§ 131.01 PURPOSE AND INTENT.

- (A) The purpose of this chapter is to reduce public exposure to health risks where law enforcement officers have determined that hazardous chemicals from a suspected clandestine drug lab site or associated dump site may exist.
- (B) The City Council finds that the sites may contain suspected chemicals and residues that place people, particularly children or adults of child bearing age, at risk when exposed through inhabiting or visiting the site, now and in the future.

§ 131.02 INTERPRETATION AND APPLICATION.

- (A) In their interpretation and application, the provisions of this chapter shall be construed to protect the public health, safety and welfare.
- (B) Where the conditions imposed by any provision of this chapter are either more or less restrictive than comparable provisions imposed by any other law, ordinance, statute or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.
- (C) Should any court of competent jurisdiction declare any section or subpart of this chapter to be invalid, the decision shall not affect the validity of the chapter as a whole or any part thereof other than the provision declared invalid.

§ 131.03 FEES.

Fees for the administration of this chapter may be established and amended periodically by resolution of the City Council.

§ 131.04 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CHILD. Any person less than 18 years of age.

CHEMICAL DUMP SITE. Any place or area where chemicals or other waste materials used in a clandestine drug lab have been located.

CLANDESTINE DRUG LAB. The unlawful manufacture or attempt to manufacture controlled substances.

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CLANDESTINE DRUG LAB SITE.

- (1) Any place or area where law enforcement has determined that conditions associated with the operation of an unlawful clandestine drug lab exist.
- (2) A ***CLANDESTINE DRUG LAB SITE*** may include dwellings, accessory buildings, accessory structures, a chemical dump site or any land.

CONTROLLED SUBSTANCE. A drug, substance or immediate precursor in Schedules I through V of M.S. §152.02. The term shall not include distilled spirits, wine, malt beverages, intoxicating liquors or tobacco.

HOUSEHOLD HAZARDOUS WASTES.

- (1) Waste generated from a clandestine drug lab.
- (2) The wastes shall be treated, stored, transported or disposed of in a manner consistent with State Department of Health, State Pollution Control and County Health Department rules and regulations.

MANUFACTURE. In places other than a pharmacy, the production, cultivation, quality control, and standardization, by mechanical, physical, chemical or pharmaceutical means, packing, repacking, tableting, encapsulating, labeling, relabeling, filling or by other process of drugs.

OWNER. Any person, firm or corporation who owns, in whole or in part, the land, buildings or structures associated with a clandestine drug lab site or chemical dump site.

PUBLIC HEALTH NUISANCE. All dwellings, accessory structures and buildings or adjacent property associated with a clandestine drug lab site are potentially unsafe due to health hazards and are considered a public health nuisance.

ADMINISTRATION AND ENFORCEMENT

§ 131.20 LAW ENFORCEMENT NOTICE TO OTHER AUTHORITIES.

Law enforcement authorities that identify conditions associated with a clandestine drug lab site or chemical dump site that places neighbors, visiting public or present and future occupants of the dwelling at risk for exposure to harmful contaminants and other associated conditions must promptly notify the appropriate municipal, child protection and public health authorities of the property location, property owner, if known, and conditions found.

§ 131.21 DECLARATION OF PROPERTY AS A PUBLIC HEALTH NUISANCE.

If law enforcement determines the existence of a clandestine drug lab site or chemical dump site, the property shall be declared a public health nuisance.

§ 131.22 NOTICE OF PUBLIC HEALTH NUISANCE TO CONCERNED PARTIES.

- (A) Upon notification by law enforcement authorities, the City Building Official shall promptly issue a declaration of public health notice for the affected property and post a copy of the declaration at the probable entrance to the dwelling or property.
- (B) The Building Official shall also notify the owner of the property by mail and notify the following parties:
 - (1) Occupants of the property;
 - (2) Neighbors at probable risk;
 - (3) The City Police Department; and
 - (4) Other state and local authorities, such as MPCA and MDH, that are known to have public and environmental protection responsibilities that are applicable to the situation.

§ 131.23 PROPERTY OWNER'S RESPONSIBILITY TO ACT.

The Building Official shall also issue an order to abate the public health nuisance, including the following:

- (A) Immediately vacate those portions of the property, including building or structure;
- (B) Promptly contract with appropriate environmental testing and cleaning firms to conduct

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- an on-site assessment, complete clean-up and remediation testing and follow-up testing, and determine that the property risks are sufficiently reduced to allow safe human occupancy of the dwelling. The property owner shall notify the city of actions taken and reach an agreement with the city on the clean-up schedule. The city shall consider practical limitations and the availability of contractors in approving the schedule for clean-up; and
- (C) Provide written documentation of the clean-up process, including a signed, written statement that the property is safe for human occupancy and that the cleanup was conducted in accordance with State Department of Health guidelines.

§ 131.24 PROPERTY OWNER'S RESPONSIBILITY FOR COSTS.

- (A) The property owner shall be responsible for all costs of vacation or clean-up of the site, including contractors fees and public costs for services that were performed in association with a clandestine drug lab site or chemical dump site clean-up.
- (B) Public costs may include, but are not limited to:
- (1) Posting of the site;
 - (2) Notification of affected parties;
 - (3) Expenses related to the recovery of costs, including the assessment process;
 - (4) Laboratory fees;
 - (5) Clean-up services;
 - (6) Administrative fees; and
 - (7) Other associated costs.

§ 131.25 RECOVERY OF PUBLIC COSTS.

- (A) If, after service of notice of the declaration of public health nuisance, the property owner fails to arrange appropriate assessment and clean-up, the City Building Official is authorized to proceed in a prompt manner to initiate the on-site assessment and clean-up.
- (B) If the city is unable to locate the property owner within ten days of the declaration of public health nuisance, the city is authorized to proceed in a prompt manner to initiate the on-site assessment and cleanup.
- (C) The city may abate the nuisance by removing the hazardous structure or building, or otherwise, according to M.S. Ch. 463.
- (D) If the city abates the public health nuisance, in addition to any other legal remedy, the city shall be entitled to recover all costs plus an additional 25% of the costs for administration. The city may recover costs by civil action against the person or persons who own the property or by assessing the costs as a special assessment against the property in the manner as taxes and special assessments are certified and collected pursuant to M.S. §429.101.

§ 131.26 AUTHORITY TO MODIFY OR REMOVE DECLARATION OF PUBLIC HEALTH NUISANCE.

- (A) The Building Official is authorized to modify the declaration conditions or remove the declaration of public health nuisance.
- (B) The modifications or removal of the declaration shall only occur after documentation from a qualified environmental or cleaning firm stating that the health and safety risks, including those to neighbors and potential dwelling occupants, are sufficiently abated or corrected to allow safe occupancy of the dwelling.

§ 131.99 PENALTY.

Any person violating any provision of this chapter is guilty of a misdemeanor and, upon conviction, shall be subject to the penalties set forth in M.S. §609.02(3).
(Ord. 110, passed 2-14-2005)

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CHAPTER 132: SOCIAL HOST ORDINANCE

SECTION

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§132.01 PURPOSE AND FINDINGS.

This ordinance prohibits, and establishes penalties for, any person hosting an event or gathering where alcohol is present and being possessed or consumed by persons under twenty-one (21) years of age.

- (A) **PURPOSE AND FINDINGS.** The City of Stewart intends to discourage underage possession and consumption of alcohol, even if done within the confines of a private residence, and intends to hold persons criminally responsible who host events or gatherings where persons under 21 years of age possess or consume alcohol regardless of whether the person hosting the event or gathering supplied the alcohol. The City of Stewart finds that:
- (1) Events and gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of twenty-one are harmful to those persons and constitute a potential threat to public health requiring prevention or abatement.
 - (2) Prohibiting underage consumption acts to protect underage persons, as well as the general public, from injuries related to alcohol consumption, such as alcohol overdose or alcohol-related traffic collisions.
 - (3) Alcohol is an addictive drug which, if used irresponsibly, could have drastic effects on those who use it as well as those who are affected by the actions of an irresponsible user.
 - (4) Often, events or gatherings involving underage possession and consumption occur outside the presence of parents. However, there are times when the parent(s) is/are present and, condone the activity, and in some circumstances provide the alcohol.
 - (5) Even though giving or furnishing alcohol to an underage person is a crime, it is difficult to prove, and an ordinance is necessary to help further combat underage consumption.
 - (6) A deterrent effect will be created by holding a person criminally responsible for hosting an event or gathering where underage possession or consumption occurs.

§132.02 AUTHORITY. This ordinance is enacted pursuant to Minn. Stat. §145A.05 subdivision 1.

§132.03 DEFINITIONS. For purposes of this ordinance, the following terms have the following meanings:

- (A) **Alcohol.** “Alcohol” means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, whiskey, rum, brandy, gin, or any other distilled spirits including dilutions and mixtures thereof from whatever source or by whatever process produced.
- (B) **Alcoholic beverage.** “Alcoholic beverage” means alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, and which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.

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- (C) **Event or gathering.** “Event or gathering” means any group of three or more persons who have assembled or gathered together for a social occasion or other activity.
- (D) **Host.** “Host” means to aid, conduct, allow, entertain, organize, supervise, control, or permit a gathering or event.
- (E) **Parent.** “Parent” means any person having legal custody of a juvenile:
 - (1) As natural, adoptive parent, or step-parent;
 - (2) As a legal guardian; or
 - (3) As a person to whom legal custody has been given by order of the court.
- (F) **Person.** “Person” means any individual, partnership, co-partnership, corporation, or any association of one or more individuals.
- (G) **Residence or Premises.** “Residence” or “premises” means any home, yard, farm, field, land, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, park, or any other place of assembly, public or private, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party or other social function, and whether owned, leased, rented, or used with or without permission or compensation.
- (H) **Underage Person.** “Underage person” is any individual under twenty-one (21) years of age.

§132.04 Prohibited Acts.

- (A) It is unlawful for any person(s) to:
 - (1) host or allow an event or gathering;
 - (2) at any residence, premises, or on any other private or public property;
 - (3) where alcohol or alcoholic beverages are present;
 - (4) when the person knows or reasonably should know that an underage person will or does
 - (a) consume any alcohol or alcoholic beverage; or
 - (b) possess any alcohol or alcoholic beverage with the intent to consume it; and
 - (5) the person fails to take reasonable steps to prevent possession or consumption by the underage person(s).
- (B) A person is criminally responsible for violating Subdivision 4(a) above if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit the prohibited act.
- (C) A person who hosts an event or gathering does not have to be present at the event or gathering to be criminally responsible.

§132.05 Exceptions.

- (A) This ordinance does not apply to conduct solely between an underage person and his or her parents while present in the parent’s household.
- (B) This ordinance does not apply to legally protected religious observances.
- (C) This ordinance does not apply to retail intoxicating liquor or 3.2 percent malt liquor licensees, municipal liquor stores, or bottle club permit holders who are regulated by Minn. Stat. §340A.503 Subd.1(a)(1).
- (D) This ordinance does not apply to situations where underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.

§132.06 Enforcement. This ordinance may be enforced by the McLeod County Sheriff’s Department or any law enforcement officer assisting the Sheriff’s Department.

§132.07 Severability. If any section, subsection, sentence, clause, phrase, word, or other portion of this ordinance is, for any reason, held to be unconstitutional or invalid, in whole, or in part, by any court of competent jurisdiction, such portion shall be deemed

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severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this law, which remaining portions shall continue in full force and effect.

§132.99 Penalty. Violation of subdivision 4 is a misdemeanor which carries with it a maximum penalty of 90 days jail and/or \$1,000.00 fine.

(Ord. 153, passed 11-10-2014)

