Chapter 46

OFFENSES AND MISCELLANEOUS PROVISIONS*

***State law reference—**General police power of city, Minn. Stats. § 412.221, subd. 32.

ARTICLE I. IN GENERAL

Secs. 46-1—46-18. Reserved.

ARTICLE II. OFFENSES INVOLVING PROPERTY RIGHTS

Sec. 46-19. Removing barricades.

No person shall remove, throw down, run over or interfere with any barricade lawfully erected, placed to guard and protect any grading, paving, excavation, sidewalk construction, or other work.

(Code 1987, § 930.01)

Sec. 46-20. Molesting unfinished paving.

No person shall walk upon, drive, or ride over or across any pavement in the course of construction or any uncompleted grading or sidewalk construction which has not been opened for travel.

(Code 1987, § 930.05)

Secs. 46-21—46-43. Reserved.

ARTICLE III. OFFENSES INVOLVING PUBLIC SAFETY

DIVISION 1. GENERALLY

Sec. 46-44. Discharge of fireworks.

(a) The use, display, possession, discharge or sale or any fireworks not expressly permitted by Minn. Stats. § 624.20, subd. 1(c) is strictly prohibited.

(b) All use, display or discharge of those non-explosive, non-aerial pyrotechnic entertainment devices only containing the limited amounts of pyrotechnic chemical compositions described in and permitted by Minn. Stats. § 624.20, subd. 1(c), hereinafter permitted consumer fireworks, is strictly prohibited in the area on, below, above or within:

(1) Recreational areas, roadways, streets, highways, bicycle lanes, pedestrian paths, sidewalks, rights-of-way, lakes, rivers, waterways and all other property owned or leased by the city, county, state or federal government and located in whole or in part within the city limits.

(2) Private property within the city limits that has conspicuously posted a written sign or notice that no fireworks discharge is allowed.

(3) Within 300 feet of any consumer fireworks retail sales facility or storage area that has properly posted a written sign or notice that no fireworks discharge is allowed.

(4) Any property, area, structure or material that by its physical condition or the physical conditions in which it is set would constitute a fire or personal safety hazard.

(c) All other use, display or discharge of permitted consumer fireworks must be conducted in a manner that minimizes the risk of injury to other persons or property.

(Code 1987, § 905.25; Ord No. 08-2002, 6-23-2002)

Sec. 46-45. Hunting and trapping prohibited.

(a) No person shall, within the city, take, capture, shoot, or trap any animals or birds except as follows:

(1) Persons duly authorized to act as law enforcement officers in the discharge of their duties.

(2) For the destruction of diseased, injured, or dangerous birds, animals, or reptiles by persons specifically authorized to do so by the Chief of Police or the City Council.

(3) Persons authorized by the City Council for the purpose of protecting the health, safety, or general welfare.

(4) Persons who have obtained a trapping license from the department of natural resources and who trap using a live trap.

(5) Commercial trappers who have obtained a proper trapping license from the state department of natural resources.

(b) The Council may limit the type of animal or bird to be trapped, captured, or shot and the manner and means of accomplishing the task.

(Code 1987, § 905.30; Ord. No. 03-2004, 7-4-2004)

Sec. 46-46. Setting fires.

No person shall set on fire or cause to be set on fire any combustible material whereby the property of another shall be endangered, nor shall any person suffer any fire upon his own land to extend beyond the limits thereof.

(Code 1987, § 920.01)

Secs. 46-47—46-65. Reserved.

DIVISION 2. WEAPONS

Sec. 46-66. Weapons.

(a) *Definitions.* The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Deadly weapons means and shall include the following:

(1) All firearms;

(2) Bows and arrows when the arrows are pointed tipped;

(3) All instruments used to expel at high velocity any pellets of any kind, including, but not limited to, BB guns and air rifles;

(4) Sling shots;

(5) Sand clubs;

(6) Metal knuckles;

(7) Daggers, dirks, stilettos, switch blade knife, spring blade knife, push

button knife, or figures or discs sharpened with points or edges (commonly known as throwing stars); and

(8) Dynamite.

The provisions of this section do not apply to firearms or ammunition or their respective components to the extent that that the provisions of this section impose restrictions or prohibitions other than restrictions or prohibitions on the discharge of firearms.

(b) *Prohibition.* Except as herein specifically authorized, all discharging and use of deadly weapons within the corporate limits of the city are hereby prohibited.

(c) *Aiming prohibited.* The aiming of any deadly weapon, whether loaded or not, at or toward any human being is hereby prohibited.

(d) *Minors.* The selling, giving, loaning, or furnishing in any way of any deadly weapon to a minor under the age of 18 years without the written consent of his parents or guardians, or of a police officer or magistrate, is hereby prohibited.

(e) *Minors, possession.* No minor shall handle or have in his possession or under his control, except while accompanied by or under the immediate charge of his parent or guardian, any deadly weapon.

(f) *Possession of knives on school grounds.* It shall be unlawful for any person to be in possession of, carry, transport or control any knife in any school building, on the grounds of any school building, in any school parking area or on public streets or sidewalks adjacent thereto except where such knives are used in or as a part of any instructional activity carried on in the school, used in the preparation or consumption of food in any lunchroom, cafeteria, snack bar, or other place where food is customarily prepared or served, or when used as a tool by a person authorized to perform construction, repair or maintenance services on school property.

(g) *Concealed.* The possession by any person other than a public officer, as defined in section 46-67, and any deadly weapon concealed or furtively carried on the person is hereby prohibited.

(h) *Defense.* Nothing in this division shall be construed to include any firing of a gun or use of other weapons when done in the lawful defense of persons or property or family, or the necessary enforcement of the law.

(i) *Permits.* Subject to reasonable regulation by the Police Chief for the protection of persons and property, the Police Chief may issue special permits to duly organized clubs and their members for shooting or practicing on lands owned or leased by the club or trap shooters shooting on grounds selected for that purpose, or to persons firing salutes over the graves of deceased persons.

(Code 1987, § 905.01)

State law reference—Local regulation of firearms, Minn. Stats. § 471.633.

Sec. 46-67. Exceptions.

(a) The provisions of this division shall not apply to any police or peace officer, sheriff, or any officer of the United States, the state, or of its counties who may carry, use, or discharge a firearm or gun in the city in the course and scope of their duties.

(b) The provisions of this division shall not apply to representatives of the city, county, or state or any person permitted by them, who in the course of their duties or pursuant to a permit, may use a firearm or gun to restrain the free movement of any animal, wildlife, or birds for humane or other authorized purposes.

(Code 1987, § 905.05)

DIVISION 3. PREDATORY OFFENDER RESIDENCY RESTRICTIONS

Sec. 46-68. Findings and Intent.

It is the intent of this chapter to serve the city's compelling interest to promote, protect, and improve the health, safety, and welfare of its citizens by establishing areas around locations where children regularly congregate in concentrated numbers, wherein certain predatory offenders are prohibited from establishing temporary or permanent residence.

(Ord. No. 03-2017, 3-26-2017)

Sec. 46-69. Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Day Care Center means a facility licensed by the State of Minnesota to provide child care.

Designated Offender means any person who has been categorized as a Level III predatory offender under Minnesota Statutes Section 244.052, a successor statute, or a similar statute from another state.

Park or *Playground* means any land, including improvements or beach, but excluding trails, sidewalks, commons, or rights-of-way operated by the city, county, state, or Three Rivers Park District for the use by the general public as a recreational area.

Permanent Residence means a place where a person abides, lodges, or resides for 14 or more consecutive days.

School means any public or non-public educational institution that offers educational instruction to individuals.

Temporary Residence means a place, other than a person's permanent residence, where a person abides, lodges, or resides for a period of 14 or more days in the aggregate during any calendar year or four (4) or more consecutive or non-consecutive days during any month.

(Ord. No. 03-2017, 3-26-2017)

Sec. 46-70. Residency Prohibition; Penalties; Exception.

(a) *Residency Prohibition.*

(1) It is unlawful for any designated offender to establish a permanent residence or temporary residence within 2,000 feet of any school, day care center, park, or playground.

(2) For purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent residence or temporary residence of the designated offender to the nearest outer property line of a school, day care center, park, or playground.

(b) *Penalties.* A person who violates this section shall be punished by a fine not exceeding $1,000, or by confinement for a term not exceeding 90 days, or by both such fine and confinement. Each day a person maintains a residence in violation of this Chapter constitutes a separate violation.

(c) *Exceptions.* A designated offender residing within a prohibited area as described in subsection (a) does not commit a violation of this section if any of the following apply:

(1) The designated offender lawfully established the permanent residence or temporary residence and reported and registered the residence pursuant to M.S. §243.166, §243.167, or successor statute, prior to the effective date of this section.

(2) The designated offender was a minor when he or she committed the offense and was not convicted as an adult.

(3) The designated offender is a minor.

(4) The school, day care center, park, or playground within 2,000 feet of the designated offender's permanent residence or temporary residence was designated or opened after the designated offender established the permanent residence or temporary residence and reported and registered the residence pursuant to M.S. §243.166 or §243.167, or successor statute.

(5) The residence is also the primary residence of the designated offender's parents, grandparents, siblings, spouse, or adult children.

(6) The residence is a property owned by the Minnesota Department of Corrections.

(Ord. No. 02-2017, 3-26-2017)

Secs. 46-71—46-138. Reserved.

ARTICLE IV. OFFENSES INVOLVING PUBLIC PEACE AND ORDER

Sec. 46-139. Lurking or loitering.

(a) Lurking, loitering, or being concealed in, upon, or near the public streets, highways, roads, alleys, parks, playgrounds, sidewalks, or other public grounds, and public buildings, places of amusement, entertainment or refreshment, vacant lots, parking lots, or other unsupervised places on any property, whether public or private, not ~~his~~ <u>its</u> own is prohibited:

(1) When such conduct results in the making of any noise, riot, disturbance, or improper diversion, to the annoyance or disturbance of a reasonable person;

(2) When such conduct tends reasonably to or is likely to arouse alarm, anger, fear, or resentment in a reasonable person;

(3) When such persons shall collect in groups or crowds, in, upon or near any street, sidewalk, or public place in the city so as to obstruct public travel or movement thereof.

(4) No person shall affix or operate remotely any surveillance, sound, video or still-image capture equipment deliberately pointed, oriented, or operated to capture sound or images of purposefully or nefariously-targeted subjects on any privately held property without permission of the owner.

(5) Nothing in this section is intended to limit, replace, or supersede any applicable federal law, regulation, rule or constitution provision.

(b) It is unlawful for any adult, parent, or guardian to knowingly or negligently permit their juvenile child to violate this section. The second violations by a juvenile of this section shall be prima facie evidence that the adult, parent, or guardian knowingly or negligently permitted the juvenile to violate this article.

(Code 1987, § 900.0; Ord. No. 05-2015, 11-22-2015)

Sec. 46-140. Trespassing and congregating on business/municipal parking lots and private business premises.

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Business/municipal parking lot means any parking lot adjacent to or in the immediate vicinity of any store, restaurant, gasoline station, public or private office building, commercial building, industrial facility, or any other facility which provides free parking for the use and convenience of employees, customers, patrons, guests or invitees.

Owner means any owner or other person lawfully in charge of a business parking lot, including any person authorized by the owner to rights granted the owner by law.

Private business premises means any lands or buildings, or any part thereof, owned or occupied by any store, restaurant, office, factory, church or any other business, whether for profit or not for profit.

(b) *Use of business/municipal parking lots restricted.* No person shall drive any vehicle across, through, into, or out of any business/municipal parking lot in the city except for the purpose of:

(1) Parking immediately prior to transacting business at a place of business, attending church services, attending a lodge or club activity, attending a promotional event, fair or parade, shopping, or patronizing a facility open to the public, adjacent to or in the immediate vicinity of a business/municipal parking lot;

(2) Leaving after parking;

(3) Leaving a passenger to transact business at a place of business, attending church services, attending a lodge or club activity, attending a promotional event, fair or parade, shopping, or patronizing a facility open to the public, adjacent to or in the immediate vicinity of a business/municipal parking lot;

(4) Picking up a passenger; or

(5) Parking while employed at a business in the immediate vicinity.

(c) *Congregating prohibited.* Except for the permitted purposes stated in subsection (b) of this section, no person shall linger, remain, sit or stand in any business/municipal parking lot or private business premises, when prohibited by the owner of a business parking lot or private business premises as expressed by a sign posted on the premises pursuant to subsection (e) of this section, nor shall any person remain in a business/municipal parking lot or private business premises after being ordered to leave the lot by the owner or authorized agent.

(d) *Trespassing prohibited.*

(1) No person shall enter or stay on any business/municipal parking lot or private business premises, without claim of right or consent of the lawful possessor, during such hours as entry is prohibited by conspicuously

posted signs; or

(2) No person shall enter upon the land of another and, without claim of right, refuse to depart therefrom on demand of the lawful possessor or his agent. A demand to depart may be made orally or by posting at reasonable intervals signs which prohibit trespass on the affected land. Any city police officer may be appointed an agent of the lawful possessor of land for the purpose of making a demand to depart therefrom.

(e) *Signs prohibiting trespassing and congregating.* The prohibition set out in subsections (c) and (d) of this section shall be in effect at any business/municipal lot or private business premises where the owner has posted a sign as provided in this subsection on the premises which are visible to an ordinarily prudent individual.

(1) With reference to subsections (b) and (c) of this section, each sign shall contain substantially the following language:

"No Congregating Or Cruising Violators Will Be Prosecuted"

(2) With reference to subsection (d) of this section, the sign shall contain substantially the following language:

"No Parking Or Trespassing Between _____ p.m. and _____ a.m.

Violators Will Be Prosecuted"

(f) *Exceptions.* The following uses of a business/municipal parking lot or private business premises shall not be in violation of this section:

(1) Entrance by owner, occupant, or the employees and agents of the owners or occupant;

(2) Entrance by customers, patrons, suppliers and other persons having lawful business at the business premises or other facility served by the business/municipal park lot during normal business hours, or when such business or facility is otherwise open to the public;

(3) Temporary entrance in any emergency;

(4) Entrance by police officers and city officials in the course of their duty.

(g) *Penalties.* A violation of this section shall be a petty offense.

(Code 1987, § 900.11; Ord. No. 34-1989, 9-18-1989)

Sec. 46-141. Noise in residential areas.

(a) *Gatherings, parties, etc.* No person shall, between the hours of 10:00 p.m. and 7:00 a.m., congregate because of or participate in any party or gathering of people from which noise emanates of a sufficient volume so as to disturb the peace, quiet or repose of persons residing in any residential area.

(1) No person shall visit or remain within any residential dwelling unit wherein such party or gathering is taking place except persons who have gone there for the sole purpose of abating the disturbance.

(2) A police officer may order all persons present, other than the owners or tenants of the dwelling unit, to immediately disperse in lieu of being charged under this article. Owners or tenants of the dwelling unit shall immediately abate the disturbance and if they do not abate the

disturbance they shall be in violation of this section.

(b) *Generating or reproducing noise or sound.* No person shall, between the hours of 10:00 p.m. or 7:00 a.m., create, cause, generate or reproduce a noise or sound of a sufficient volume so as to disturb the peace, quiet or repose of persons residing in any residential area.

(c) *Construction activity on any residentially zoned property.* No person shall engage in, permit, or allow construction activities involving the use of manual tools, movement of equipment or power equipment, including, but not limited to, any kind of electric, diesel, or gas-powered machine, at any time other than between the hours of 7:00 a.m. and 9:00 p.m. on weekdays, and 8:00 a.m. and 9:00 p.m. on public holidays, Saturdays and Sundays on any residentially zoned property.

(d) *Construction activity within public right-of-way within.* All construction activity within the public right-of-way within the city limits shall be conducted between the hours 7:00 a.m. and 7:00 p.m. on weekdays, 8:00 a.m. and 5:00 p.m. on Saturdays. No construction activity is allowed on Sundays except in the case of an emergency.

(Code 1987, § 920.15; Ord No. 16-1988, 11-7-1988; Ord. 55-1992, 3-23-1992; Ord. No. 03-2006, 2-26-2006)

Sec. 46-142. Anti-Graffiti Regulations

(a) *Definitions.* For the purposes of this section, the following words shall have the meaning provided to them in this section, except where the context clearly indicates a different meaning.

(1) *Aerosol paint container* means any aerosol container that is adapted or made for the purpose of applying spray paint or other substance capable of defacing property.

(2) *Broad-tipped marker* means any felt tip indelible marker or similar implement with a flat or angles writing surface that, at its broadest width, is greater than one-fourth of an inch, containing ink or other pigmented liquid that is not water soluble.

(3) *Etching equipment* means any tool, device, or substance that can be used to make permanent marks on any natural or man-made surface.

(4) *Graffiti* means any unauthorized inscription, word, painting, or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of public or private property by any graffiti implement, to the extent that the graffiti was not authorized in advance by the owner or occupant of the property, or despite advanced authorization is otherwise deemed a public nuisance by the City Council.

(5) *Graffiti implement* means an aerosol paint container, a broad-tipped marker, gum label, paint stick or graffiti stick, etching equipment, brush, or any other device capable of scarring or leaving a visible mark on any natural or man-made surface.

(6) *Paint stick* or *graffiti stick* means any device containing a solid form of paint, chalk, wax, epoxy, or other similar substance capable of being applied to a surface by pressure and leaving a mark of at least one-fourth of an inch in width.

(7) *Person* means any individual, partnership, cooperative association, private corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

(b) *Prohibited acts.*

(1) Defacement. It is unlawful for any person to apply graffiti to any natural or man-made surface on any publicly-owned property or, without the permission of the owner or occupant, on any privately-owned property.

(2) Possession of graffiti implements. Unless otherwise authorized by the owner or occupant, it is unlawful for any person to possess any graffiti implements while:

i. Within 200 feet of any graffiti located in or on a public facility, park, playground, swimming pool, recreational facility, or other public building or structure owned or operated by a governmental agency; or

ii. Within 200 feet of any graffiti located in any public place, or on private property, between the hours of 10:00 p.m. and 6:00 a.m.

(c) *Graffiti as nuisance.*

(1) *Declaration.* The existence of graffiti on public or private property in violation of this ordinance is expressly declared to be a public nuisance and, therefore, is subject to the removal and abatement provisions specified in this ordinance.

(2) *Duty of property owner.* It is the duty of both the owner of the property to which the graffiti has been applied and any person who may be in possession or who has the right to possess such property to at all times keep the property clear of graffiti.

(d) *Removal of graffiti.*

(1) *By perpetrator.* Any person applying graffiti on public or private property has the duty to remove the graffiti within 24 hours after notice by the city or private owner of the property involved. This removal must be done in a manner prescribed by the City Manager, Chief of Police, Public Works Director, or their designees. Any person applying graffiti is responsible for the removal or for the payment of the removal. Failure of any person to remove graffiti or pay for the removal will constitute an additional violation of this ordinance. Where graffiti is applied by a person under 18 years old, the parents or legal guardian shall also be responsible for such removal or for the payment for the removal.

(2) *By property owner or city.* If graffiti is not removed by the perpetrator according to paragraph 1 or the perpetrator is not known, the city may order that the graffiti be removed by the property owner or any person who may be in possession or who has the right to possess such property, pursuant to the nuisance abatement procedures in City Code Section 42-6 et. seq. If the property owner or responsible party fails to remove offending graffiti within the time specified by the city, the city may commence abatement and cost recovery proceedings for the graffiti removal in accordance with City Code Section 42-6 et. seq.

(Ord. No. 07-2016, 8-21-2016)

Secs. 46-143—46-165. Reserved.

ARTICLE V. OFFENSES INVOLVING ADMINISTRATION OF GOVERNMENT

Sec. 46-166. Rescuing prisoners.

No person shall by force or fraud, rescue from lawful custody of from an officer or person having him in lawful custody, a prisoner held upon a charge, arrest, commitment, conviction, or sentence, for the violation of any ordinance or law.

(Code 1987, § 915.05)

Sec. 46-167. Aiding escape from custody.

No person shall effect or facilitate the escape of a prisoner, whether such escape shall be effected or attempted or not, nor shall any person convey to any prisoner any information designed to facilitate or send any disguise, instrument, weapon, or other such things to any such prisoner or person in custody.

(Code 1987, § 915.10)

Sec. 46-168. Concealing escaped prisoner.

No person shall knowingly or willfully conceal or harbor for the purpose of concealment, a person who has escaped or who is escaping from custody from the violation of any ordinance or law.

(Code 1987, § 915.15)

Sec. 46-169. False identification.

(a) *Possession.* Every person who shall possess false identification or the identification papers of another with intent to display the same to deceive anyone thereby as to identity, age, or address, shall be guilty of a misdemeanor.

(b) *Display.* Every person who shall display false identification or the identification papers of another with the intent to deceive anyone thereby as to identity, age, or address, shall be guilty of a misdemeanor.

(c) *Presumptive intent.* Possession of false identification or the identification papers of another shall be presumptive evidence of intent to display the same to deceive.

(Code 1987, § 915.20)

Sec. 46-170. Communicating false information.

No person shall in any case or under any circumstances, not otherwise provided for, willfully communicate either orally or in writing or by any other method, to a city officer in discharging or attempting to discharge the duties of his office, any false or incorrect name or identity, or upon lawful demand and reasonable grounds of the city officer refuse to correctly identify oneself.

(Code 1987, § 915.25)