

Chapter 18

OFFENSES AND MISCELLANEOUS PROVISIONS*

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*Cross reference(s)--Law enforcement, ch. 16.

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ARTICLE I. IN GENERAL**Sec. 18-1. Penalty for violation of chapter.**

Any person who shall violate any provision of this chapter, or who shall fail to comply with any requirement of this chapter shall be guilty of a misdemeanor and punished in accordance with section 1-13.

(Code 1976, § 12-101)

Sec. 18-2. Liability for ordinance violations of another.

(a) A person is liable for an ordinance violation committed by another if the person intentionally aids, advises, hires, counsels or conspires with, or otherwise procures the other to commit the ordinance violation.

(b) A person liable under subsection (a) of this section is also liable for any other ordinance violation committed in pursuance of the intended ordinance violation if reasonably foreseeable by the person as a probable consequence of committing or attempting to commit the ordinance violation intended.

(c) A person who intentionally aids, advises, hires, counsels or conspires with, or otherwise procures another to commit an ordinance violation and thereafter abandons the purpose and makes a reasonable effort to prevent the commission of the ordinance violation prior to its commission is not liable if the ordinance violation is thereafter committed.

(d) A person liable under this section may be charged with, and convicted of, the ordinance violation, although the person who directly committed it has not been convicted or has been convicted of some other ordinance violation or of a crime based on the same act.

(Code 1976, § 12-103)

Sec. 18-3. Attempts.

(a) Whoever, with intent to commit an ordinance violation, does an act which is a substantial step toward, and more than preparation for, the commission of the ordinance violation is guilty of an attempt to commit that ordinance violation, and is, therefore, guilty of a misdemeanor and shall, upon conviction, be punished in accordance with section 1-13.

(b) An act may be an attempt, notwithstanding the circumstances under which it was performed, or the means employed to commit the ordinance violation intended, or the act itself were such that the commission of the ordinance violation was not possible, unless such impossibility would have been clearly evident to a person of normal understanding.

(c) It is a defense to a charge of attempt that the ordinance violation was not committed because the accused desisted voluntarily and in good faith and abandoned the accused's intention to commit the ordinance violation.

(Code 1976, § 12-104)

Secs. 18-4--18-30. Reserved.

ARTICLE II. OFFENSES AGAINST THE PERSON***Sec. 18-31. Provoking assaults.**

No person shall use in reference to and in the presence of another, or in reference to or in the presence of any member of the family of another, abusive or obscene language intended or naturally tending to provoke an assault, or any breach of the peace.

(Code 1976, § 12-201)

Secs. 18-32--18-60. Reserved.**ARTICLE III. OFFENSES AGAINST PROPERTY*****Sec. 18-61. No smoking signs.**

No person shall light a pipe, cigar or cigarette in, or shall enter with a lighted pipe, cigar or cigarette, any mill or other building on which is posted in a conspicuous place, over or near the entrance, a notice, in plain legible characters, stating that no smoking is allowed in such building, and no person shall deface, destroy or remove any such notice.

(Code 1976, § 12-502)

Sec. 18-62. Trespassing on right-of-way.

No person, not an employee of a railway company, without permission from such company, on foot or with any animal or vehicle, shall enter upon any railway, bridge or trestle or, without a permit, shall ride, operate or propel any vehicle on or along the track of any railway.

(Code 1976, § 12-505)

Sec. 18-63. Trespassing on school premises.

No person shall trespass in or upon any school by remaining upon the school premises after being ordered to leave the school by a school official. For the purpose of this section, the term "school premises" shall include all buildings, facilities and property owned and operated by a school. No person, having been ordered by a school official to leave a school and having left such premises, shall reenter the school without the written permission of the school principal or the school official who gave the order to leave the school.

(Code 1976, § 12-506)

Sec. 18-64. Targeted residential picketing.

(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:

***State law reference(s)**--Crimes against the person, M.S.A. § 609.221 et seq.

***State law reference(s)**--Damage or trespass to property, M.S.A. § 609.556 et seq.

Targeted residential picketing means any picketing by one or more persons focused on a single residential dwelling.

(b) *Purpose of section.* The city has an interest in the protection of residential privacy, the well-being and tranquility of the home, and protecting citizens from unwanted speech when they are a captive audience within their homes. The city council finds that, without resorting to targeted residential picketing, ample opportunities exist for those otherwise engaged in targeted residential picketing to exercise constitutionally protected freedoms of speech and expression.

(c) *Prohibited activity.* No person shall engage in targeted residential picketing within the city.

(d) *Penalty.* Every person convicted of a violation of any provision of this section shall be guilty of a misdemeanor.

(Code 1976, § 12-507)

Secs. 18-65--18-90. Reserved.

ARTICLE IV. OFFENSES AGAINST PUBLIC PEACE AND SAFETY*

Sec. 18-91. Prohibited conduct in or near school.

(a) *Defacement of school buildings.* No person shall mark with ink, paint, chalk or other substance, or post handbills on, or in any other manner deface or injure any school building or structure used or usable for school purposes within the city, or mark, deface or injure fences, trees, lawns or fixtures appurtenant to or located on the site of such buildings, or post handbills on such fences, trees or fixtures, or place a sign anywhere on any such site.

(b) *Breach of peace on school grounds.* No person, on any school grounds adjacent to any school building or structure, shall engage in, or prepare, attempt, offer or threaten to engage in, or assist or conspire with another to engage in or congregate because of, any riot, fight, brawl, tumultuous conduct, act of violence, or any other conduct which disturbs the peace and quiet of another.

(c) *Offensive language and conduct.* No person shall use abusive language or gestures on any school grounds or in buildings or structures.

(d) *Improper conduct while school in session.* No person shall, in any school room or in any building or on the grounds adjacent to the same, disturb or interrupt the peace and good order of such school while in session. Any person not in immediate attendance in school and being in such building or upon the premises belonging thereto who shall conduct or behave himself improperly, or who, upon the request of a teacher of such school or the person in charge thereof to leave such building or premises, shall neglect or refuse to do so, shall be in violation of this section.

(e) *Loitering or lurking.* No person shall loiter on any school grounds or in any school building or structure, nor lurk, lie in wait or be concealed with intent to do any mischief or to commit any crime or unlawful act.

***State law reference(s)**--Public misconduct, M.S.A. § 609.687 et seq.

(f) *Making unnecessary noise or odor.* No person, in any school room or in any school building or on the grounds adjacent to the same, shall make, or assist in making, by any manner or means, any loud, unpleasant or raucous noise or odor disturbing to others unless the same is reasonably necessary to the preservation of life, health, safety or property.

(Code 1976, § 12-1316)

Sec. 18-92. Discharge of firearms and other weapons.

No person shall shoot or discharge any firearm, air rifle, slingshot or bow and arrow within the corporate limits of the city except as follows:

- (1) Persons duly authorized to act as law enforcement officers, or members of military forces of the United States or the state in the discharge of their duties;
- (2) Persons engaged in target shooting, with inanimate objects as targets within a building or structure safely enclosed where the sound of the shooting or discharge will not be a nuisance to persons occupying adjacent property;
- (3) Persons engaged in archery, target or trap shooting on archery, target or trap shooting ranges, licensed as such by the city council;
- (4) Persons acting in self-defense when the use of firearms for that purpose would not be unlawful under the laws of the state;
- (5) 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 manager.

(Code 1976, § 12-1201)

Sec. 18-93. Possession of knives or weapons in school zones.

(a) *Definitions.* The following words and terms, wherever they occur in this section, shall be interpreted as herein defined:

Edged weapon shall mean:

- (1) Any knife, regardless of size or the intended use;
- (2) Broken glass; or
- (3) Sharp plastics or sharp metal objects, including tools, capable of injuring a person.

School zone shall mean:

- (1) Any property owned, leased, or controlled by a school district or an organization operating a nonpublic school, as defined in M.S.A. § 123.932, subd. 3, where an elementary, middle, secondary school, secondary vocational center or other school providing educational services in grade one through grade 12 is located, or used for educational purposes, or where extracurricular or cocurricular activities are regularly provided, and

- (2) The area within a school bus when the bus is being used to transport one or more elementary or secondary school students.

(b) *Possession of knives or weapons in school zones prohibited; general prohibition.* It shall be unlawful for any person to be in possession of, manufacture, carry, transport or control any edged weapon in any school zone.

(c) *Exception.* Edged weapons shall be permitted when used in or as a part of any law enforcement or instructional activity carried on in a school zone, 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 in a school zone.

(Ord. No. 2126-98, § 1(12-1202.100), 9-8-1998)

Sec. 18-94. Definitions.

(a) Drug paraphernalia. Except as otherwise provided in subsection (b) of this definition, "drug paraphernalia" means all equipment, products, and materials of any kind, which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, enhancing, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of M.S.A. Chapter 152. The term "paraphernalia" includes, without limitation:

- (1) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.
- (2) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.
- (3) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant, which is a controlled substance.
- (4) Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness, or purity of controlled substances.
- (5) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances.
- (6) Diluents and adulterants, including quinine hydrochloride, mannitol, dextrose, and lactose, used, intended for use, or designed for use in cutting controlled substances.
- (7) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.
- (8) Blenders, bowls, containers, spoons, grinders, and mixing devices used, intended for use, or designed for use in compounding, manufacturing, producing, processing, or preparing controlled substances.
- (9) Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances.

- (10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances or products or materials used or intended for use in manufacturing, producing, processing, or preparing controlled substances.
 - (11) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing controlled substances to include, but not limited to, marijuana, cocaine, hashish, or hashish oil into the human body, including:
 - a) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls.
 - b) Water pipes.
 - c) Carburetion tubes and devices.
 - d) Smoking and carburetion masks.
 - e) Objects, sometimes commonly referred to as roach clips, used to hold burning material, for example, a marijuana cigarette, that has become too small or too short to be held in the hand.
 - f) Miniature cocaine spoons and cocaine vials.
 - g) Chamber pipes.
 - h) Carburetor pipes.
 - i) Electric pipes.
 - j) Air driven pipes.
 - k) Chillums.
 - l) Bongs.
 - m) Ice pipes or chillers
- (b) Exceptions. Drug paraphernalia shall not include:
- (1) Those items used in conjunction with permitted uses of controlled substances under the Uniform Controlled Substances Act;
 - (2) Those items used by law enforcement officials as it relates to the seizure or forfeiture of drug paraphernalia in connection with a crime or offense;
 - (3) Those items used by federal, state or local law enforcement officials for educational purposes;
 - (4) The possession, manufacture, delivery or sale of hypodermic needles or syringes in accordance with M.S.A. § 151.40 or as it may be amended.

(c) Other terms. Other terms are defined as specified in M.S.A. § 152.01 and any amendment thereto.

(Ord. No. 2432-13, 3-29-2013)

Cross reference(s)--Definitions generally, § 1-2.

Sec. 18-95. Drug paraphernalia evidence. In determining whether an object is drug paraphernalia, a court or other authority shall consider, in addition to all other logically relevant factors:

- (a) Statements by an owner or by anyone in control of the object concerning its use.
- (b) Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance.
- (c) The proximity of the object, in time and space, to a direct violation of this section.
- (d) The proximity of the object to controlled substances.
- (e) The existence of any residue of controlled substances on the object.
- (f) Direct or circumstantial evidence of the intent of an owner, or of any person in control of the object, to deliver the object to another person whom the owner or person in control of the object knows, or should reasonably know, intends to use the object to facilitate a violation of this section. The innocence of an owner, or of any person in control of the object, as to a direct violation of this section may not prevent a finding that the object is intended or designed for use as drug paraphernalia.
- (g) Instructions, oral or written, provided with the object concerning the object's use.
- (h) Descriptive materials accompanying the object, which explain or depict the object's use.
- (i) National and local advertising concerning the object's use.
- (j) The manner in which the object is displayed for sale.
- (k) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, for example, a licensed distributor or dealer of tobacco products.
- (l) Direct or circumstantial evidence of the ratio of sales of the object or objects to the total sales of the business enterprise.
- (m) The existence and scope of legitimate uses for the object in the community.
- (n) Expert testimony concerning the object's use.
- (o) The actual or constructive possession by the owner or by a person in control of the object or the presence in a vehicle or structure where the object is located of written instructions, directions, or recipes to be used, or intended or designed to be used, in manufacturing, producing, processing, preparing, testing, or analyzing a controlled substance.

(Ord. No. 2432-13, 3-29-2013)

Sec. 18-96. Prohibited acts.

(a) Use or possession prohibited. It is unlawful for any person knowingly or intentionally to use or to possess drug paraphernalia. Any violation of this subsection is a petty misdemeanor.

(b) Delivery or manufacturing prohibited. A person may not deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, if that person knows or should reasonably know that the drug paraphernalia will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, enhance, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of M.S.A. Chapter 152, as amended, or any other State or Federal law, rule, or regulation governing the manufacture, delivery, sale, advertisement, possession, and/or use of controlled substances. Any violation of this subsection is a misdemeanor.

(c) Delivery or sale to minors prohibited. Any person 18 years of age or over who violates Sec. 18-210(b) by selling or delivering drug paraphernalia and said sale or delivery is to a person who is under 18 year of age and at least 3 years his or her junior shall also be violating this paragraph as well as Sec. 18-210(b). Any violation of this subsection is a misdemeanor.

(d) Advertisement prohibited. It is unlawful for any person to place in any newspaper, magazine, handbill or other publication any advertisement knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia. Any violation of this subsection is a misdemeanor.

(Ord. No. 2432-13, 3-29-2013)

Sec. 18-97. Civil forfeiture. All drug paraphernalia as defined in this article are subject to forfeiture, subject to the provisions set forth in Minnesota Statutes.

(Ord. No. 2432-13, 3-29-2013)

Sec. 18-98. Severability. If any provision of this article or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or application of this article which can be given effect without the invalid provision or application, and to this end, the provisions of this article are severable.

(Ord. No. 2432-13, 3-29-2013)

Secs. 18-99--18-120. Reserved.

ARTICLE V. OFFENSES RELATING TO MINORS**Sec. 18-121. Curfew.**

The county curfew regulations for minors shall apply within the city.
(Code 1976, § 12-1405)

Cross reference(s)--Illegal acts, § 8-377.

Secs. 18-122--18-150. Reserved.

ARTICLE VI. FALSE ALARMS**Sec. 18-151. Purpose and scope of article.**

(a) The purpose of this article is to protect the public safety services of the city from misuse and to provide for the maximum possible service to alarm users.

(b) This article provides regulation for the use of fire, burglary and safety alarms.

(Code 1976, § 11-1001; Ord. No. 2187-01, § 11-1001, 1-16-2001)

Sec. 18-152. 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:

Alarm system means and includes any alarm installation designed to be used for the prevention or detection of burglary, robbery, fire or hazardous conditions on the premises which contain an alarm installation. Medical (panic) alarms are included in this definition. Automobile alarm devices shall not be considered an alarm system under the terms of this article.

Alarm user means the person, firm, partnership, association, corporation, company or organization of any kind in control of any building, structure, or facility wherein an alarm system is maintained.

False alarm means an alarm signal eliciting a response by public safety personnel when a situation requiring a response does not exist, and which is caused by the activation of the alarm system through mechanical failure, alarm malfunction, improper installation or the inadvertence of the owner or lessee of an alarm system or of such owner's or lessee's employees or agents. False alarms do not include alarms caused by climatic conditions such as tornadoes, thunderstorms, utility line mishaps, violent conditions of nature or any other conditions which are clearly beyond the control of the alarm manufacturer, installer or owner.

Public safety answering point means the city facility used to receive emergency requests for service and general information from the public, and which dispatches public safety units as appropriate.

Public safety personnel means duly authorized city employees.

(Code 1976, § 11-1002; Ord. No. 2187-01, § 11-1002, 1-16-2001)

Cross reference(s)--Definitions generally, § 1-2.

Sec. 18-153. False alarm fees.

(a) Fees shall be set by city council resolution and may be reviewed and altered from time to time as deemed necessary.

(b) An alarm system user which reports more than one false alarm to the city in a single calendar year will cause such alarm user to be charged a false alarm fee.

(c) A false alarm fee will not be charged if the alarm system user notifies the public safety answering point that the alarm is unfounded and responding units are canceled prior to their arrival.

(d) Any alarm user who is required by the city to pay a fee as a result of a false alarm may make a written appeal of the false alarm charge to the city manager, or designee, within ten days of notice by the city of the false alarm charge. The city manager will have authority to make a final determination as to whether the appellant is to be charged with a false alarm.

(Code 1976, § 11-1003; Ord. No. 2187-01, § 11-1003, 1-16-2001)

Sec. 18-154. Payment of fees.

(a) Payment of fees provided for under section 18-153 must be paid to the city treasurer within 30 days from the date of notice by the city to the alarm user.

(b) All delinquent charges shall be certified by the clerk to the city assessor who shall prepare an assessment roll each year providing for assessment of the delinquent amounts against the respective properties served, which assessment roll shall be delivered to the city council for adoption on or before November 29 of each year.

(Code 1976, § 11-1004; Ord. No. 2187-01, § 11-1004, 1-16-2001)

Sec. 18-155. Administrative rules.

The city manager, or designee, shall promulgate such rules as may be necessary for the implementation of this article and the administration thereof.

(Code 1976, § 11-1005; Ord. No. 2187-01, § 11-1005, 1-16-2001)

Cross reference(s)--Administration, ch. 2.

Sec. 18-156. Confidentiality.

(a) All information submitted in compliance with this article shall be held in confidence and shall be deemed a confidential record exempt from discovery to the extent permitted by law.

(b) Subject to requirements of confidentiality, the chief of police or the fire chief, or designee, may develop and maintain statistics of the purpose of ongoing alarm systems evaluation.

(Code 1976, § 11-1106; Ord. No. 2187-01, § 11-1006, 1-16-2001)

Sec. 18-157. Communications center.

(a) No automatic dialing devices shall be connected to the public safety answering point through any telephone line. Use of automatic dialing devices will be considered a violation of this article.

(b) The city manager, or designee, shall have the authority to promulgate rules and regulations for the efficient operation of the public safety answering point.

(Code 1976, § 11-1007; Ord. No. 2187-01, § 11-1007, 1-16-2001)

Sec. 18-158. Enforcement and penalties.

Failure or omission to comply with any section of this article shall be deemed a misdemeanor.

(Code 1976, § 11-1008; Ord. No. 2187-01, § 11-1008, 1-16-2001)

Secs. 18-159-18-198. Reserved.**Article VII. UNCLAIMED PROPERTY; DISPOSAL****Sec. 18-199. Purpose and scope of article.**

In accordance with M.S.A. § 471.195, the purpose of this article is to provide for the custody and disposal of property lawfully coming into the city's possession in the course of municipal operations and remaining unclaimed by the owner.

Sec. 18-200. Custody of Property.

The chief of police will take custody of all personal property, including lost money, lawfully coming into the possession of the city and city employees in the course of municipal operations and remaining unclaimed by the owner. The chief of police must retain the property in a safe place for a period of at least 60 days, unless claimed by the true owner with satisfactory proof of ownership. The chief must keep a record of the property, including its disposition.

Sec. 18-201. Disposition of Property.

Property held in custody by the chief of police and not claimed by the true owner within 60 days will be deemed abandoned. The chief of police may dispose of non-monetary abandoned property in one of the following ways:

1. Sell the property at public sale following 10 days published notice in the official newspaper;
2. Return lost property to its finder;
3. Convert usable property to city use; or
4. Donate the property to a tax-exempt, non-profit organization if the donation is authorized by law.

Property not purchased at a sale may then be disposed of by the chief in any reasonable manner.

Sec. 18-202. Summary Disposal.

The chief of police may dispose of unclaimed property without notice and in a summary manner when he/she believes this to be in the public interest and if he/she determines that the property:

1. is of a dangerous or perishable nature;
2. is contraband;
3. has no resale value; or
4. cannot be legally or safely sold at public sale.

Sec. 18-203. Disposition of Funds.

Together with found money that has been held for 60 days, the chief of police must deliver all money that was received from the sale of abandoned property to the City Treasurer for deposit into the city's general fund. If no claim has been made by the former owner with satisfactory proof of ownership, found money may be returned to the finder; otherwise the money will revert to the city's general fund.

(Ord. No. 2387-10, 7-23-10)

Sec. 18-204. Special Provisions: Police Department.

Money and other property lawfully seized by, or voluntarily surrendered to, the city at the scene of a crime or during an official police investigation must be retained by the chief of police in a safe place for at least 60 days. If not lawfully claimed by the true owner with adequate proof of ownership during that time, non-monetary property may be disposed of in accordance with Section 18-201. Sale proceeds and seized money may then be deposited in the police department forfeiture and seizure account to be used only for law enforcement purposes.

Sec. 18-205. Claim of Former Owner.

If the former owner of property disposed of at public sale makes application and furnishes satisfactory proof of ownership within six months of the sale, he/she shall be paid the proceeds of the sale of his property less the costs of storage and the proportionate part of the cost of published notice and other costs of the sale.

Sec. 18-206. Disposition of Abandoned Motor Vehicles.

The chief of police must dispose of abandoned motor vehicles by following the procedure in M.S.A. § 168B.01 through §168B.101.

(Ord. No. 2259-03, 12-15-03; Ord. No. 2387-10, 7-23-10)