

TITLE XIII: GENERAL OFFENSES

Chapter

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CHAPTER 130: GENERAL PROVISIONS

Section

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BUILDING. Any structure, dwelling or other improvement to vacant land.

CHILD. Any person the age of 12 years or younger.

DISORDERLY PERSON. A person who commits any offense or performs or does an act prohibited by this title.

INDIVIDUAL. Every person, firm, association, partnership or corporation business entity, joint tenancy or tenancy in common, whether of the male or female gender, or singular or plural.

MINOR. Any person under the age of 18 years.

PERSON, ACCUSED AND SIMILAR WORDS. Unless a contrary intention appears, public and private corporations, co-partnerships and unincorporated or voluntary associations.

PROPERTY. Any matter or thing upon or in respect to which any offense may be committed.

PUBLIC PLACE. Any street, alley, park, public building, any place of business or assembly open to or frequented by the public, and any other place which the public has access.

WRITING, WRITTEN AND ANY TERM OF LIKE IMPORT. Includes words printed, painted, engraved, lithographed, photographed or otherwise copied, traced or made visible to the eye.
(Ord. 126, passed 7-28-1997)

' 130.01 PREAMBLE.

(A) This title prohibits the commission of certain acts and offenses within the city and provides penalties for the violation thereof.

(B) This title shall be known and may be cited as the General Offenses Code of the city.

(C) The rule that a criminal statute is to be strictly construed shall not apply to this title or any of the provisions thereof. All provisions of this title shall be construed according to the fair import of their terms, to promote justice and to effect the objects of the law.

(Ord. 126, passed 7-28-1997)

' 130.02 DEFINITIONS.

(A) In this title, the singular number includes the plural and the plural includes the singular; the masculine gender includes the feminine and neuter genders.

(B) For the purposes of this title, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACT or DOING OF AN ACT. Includes omission to act.

CHAPTER 131: OFFENSES INVOLVING PERSONAL CONDUCT

Section

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' 131.01 ASSAULT AND BATTERY.

(A) *Assault*. It shall be unlawful for any person to willfully assault another or engage in or aid in a fight, quarrel or other disturbance and/or either attempt to commit a battery on another person or do an illegal act that causes another person to reasonably fear an immediate battery.

(B) *Assault and battery*. It shall be unlawful for any person to commit a battery on another individual or to commit an assault and battery on another individual by a forceful or violent touching of another person or something closely connected with that person, whether or not that touching causes an injury.

(C) *Domestic assault and domestic assault and battery*. An individual who assaults and batters his or her spouse or former spouse, an individual with whom he or she has had a child in common, or a resident or former resident of his or her household, is guilty of a misdemeanor.

(D) *Deferral of proceedings; conditions*.

(1) When an individual who has not been convicted previously of a violation of this section or of the State Penal Code, Public Act 328 of 1931, ' 81 or ' 81a, as amended, being M.C.L.A. ' ' 750.81 and 750.81a, or a violation of a local ordinance substantially corresponding to this section or Public Act 328 of 1931, ' 81, being M.C.L.A. ' 750.81, pleads guilty to, or is found guilty of, a violation of Public Act 328 of 1931, ' 81 or ' 81a, as amended, being M.C.L.A. ' ' 750.81 and 750.81a, as amended, and the victim of the assault is the offender=s spouse or former spouse, an individual who has a child in common with the offender or an individual residing or having resided in the same household as the offender, the court, without entering a judgment of guilty with the consent of the accused and of the prosecuting attorney in consultation with the victim, may defer, further proceedings and place the accused on probation, as provided in this section. However, before deferring proceedings under this division, the court shall contact the Department of State Police and determine whether, according to the records of the Department of State Police, the accused has previously been convicted under Public Act 328 of 1931, ' 81 or ' 81a, as amended, being M.C.L.A. ' ' 750.81 and 750.81a, or under local ordinance substantially corresponding to this section or to Public Act 328 of 1931, ' 81, being M.C.L.A. ' 750.81, or has previously availed himself or herself of this section. If the search of the records reveals an arrest for a violation of Public Act 328 of 1931, ' 81 or ' 81a, as amended, being M.C.L.A. ' ' 750.81 and 750.81a or this section or a local ordinance substantially corresponding to Public Act 328 of 1931, ' 81, being M.C.L.A. ' 750.81, but no disposition, the court shall contact the arresting agency and the court that had jurisdiction over the violation to determine the disposition of that arrest for purposes of this section.

(2) Upon a violation of a term or condition of probation, the court may enter an adjudication of guilty and proceed as otherwise provided in this section.

(3) An order of probation entered under this division may require the accused to participate in a mandatory counseling program. The court may order the accused to pay reasonable costs of the program.

(4) The court shall enter an adjudication of guilty and proceed as otherwise provided in this section if any of the following circumstances exist:

(a) The accused commits an assaultive crime during a period of probation. As used in this section, *ASSAULTIVE CRIME* means one or more of the following:

1. The term as defined in division (A) or (B) above;

2. The term as defined in M.C.L.A. ' 770.9a, Chapter X, ' 9(a); and

3. A violation of Chapter XI of the Michigan Penal Code, Public Act 328 of 1931, being M.C.L.A. ' ' 750.81 and 750.90.

(b) The accused violates an order of the court that he or she receive counseling regarding his or her violent behavior; and

(c) The accused violates an order of the court that he or she have no contact with a named individual.

(5) Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against the person. Discharge and dismissal under this section shall be without adjudication of guilt, and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.

(6) There may be only one discharge and dismissal under this section with respect to any individual. This court shall submit a non-public record to be maintained by the Department of State Police of an arrest and discharge or dismissal under this section. This record shall be furnished to a court or police agency upon request for the purpose of showing that a defendant in a criminal action under Public Act 328 of 1931, ' 81 or ' 81a, as amended, being M.C.L.A. ' ' 750.81 and 750.81a, as amended, this section or a local ordinance substantially corresponding to Public Act 328 of 1931, ' 81, being M.C.L.A. ' 750.81 has already once availed himself or herself of this section. (Ord. 126, passed 7-28-1997; Ord. 126-1, passed

3-25-2002) Penalty, see ' 131.99

It shall be unlawful for any person to knowingly send or deliver or make, and for the purpose of being delivered or sent, to part with the possession of any letter, postal card or writing containing any obscene language with or without a name subscribed thereto, or signed with a fictitious name, or with any letter, mark or other designation, with the intent thereby to cause annoyance to any person, or with a view or intent to extort or gain any money or property of any description belonging to another.

(Ord. 126, passed 7-28-1997) Penalty, see ' 131.99

' 131.03 HARASSING TELEPHONE CALLS.

It shall be unlawful for any person to telephone any person repeatedly or cause the same to be done for the primary purpose of harassing the other person or his or her family, whether or not conversation ensues; or to use any threatening, vulgar, indecent, obscene, immoral or insulting language over any telephone.

(Ord. 126, passed 7-28-1997) Penalty, see ' 131.99

' 131.04 PUBLIC DISTURBANCES.

It shall be unlawful for any person to make or excite any disturbance or contention in any tavern, store or grocery, manufacturing establishment or any other business place or in any street, lane, alley, highway, public building, grounds or park, or any election or other public meeting where citizens are peaceably and lawfully assembled.

(Ord. 126, passed 7-28-1997) Penalty, see ' 131.99

' 131.05 DISTURBING THE PEACE.

It shall be unlawful for any person to disturb the public peace and quiet by loud, boisterous or vulgar conduct.

(Ord. 126, passed 7-28-1997) Penalty, see ' 131.99

' 131.06 DISORDERLY PLACE.

It shall be unlawful for any person to permit or

' 131.02 HARASSING MAIL.

suffer any place occupied or controlled by him or her to be a resort of noisy, boisterous or disorderly persons.

(Ord. 126, passed 7-28-1997) Penalty, see ' 131.99

' 131.07 BEHAVIOR IN PUBLIC PLACES.

(A) It shall be unlawful for any person to be found jostling or roughly crowding people unnecessarily in a public place.

(B) It shall be unlawful for any person to accost, molest, or otherwise annoy, either by word of mouth, sign or motion any person in any public place.

(C) It shall be unlawful for any person to engage in any disturbance, fight or quarrel in a public place.

(D) It shall be unlawful for any person to engage in any indecent, insulting, immoral or obscene conduct in any public place.

(E) It shall be unlawful for any person to utter vile, profane or obscene language in any public place. (Ord. 126, passed 7-28-1997) Penalty, see ' 131.99

' 131.08 LOITERING.

(A) It shall be unlawful for any person to loiter on any street or sidewalk or in any park or public building or conduct himself or herself in any public place so as to obstruct the free and uninterrupted passage of the public.

(B) It shall be unlawful for any person to knowingly loiter in or about any place where illegal occupation or business is being conducted.

(Ord. 126, passed 7-28-1997) Penalty, see ' 131.99

' 131.09 SWIMMING AND BATHING.

It shall be unlawful for any person to swim or bathe in any public place or within public view without proper apparel.

(Ord. 126, passed 7-28-1997) Penalty, see ' 131.99

' **131.10 INDECENT EXPOSURE.**

It shall be unlawful for any person to make any immoral exhibition or indecent exposure of his or her person.

(Ord. 126, passed 7-28-1997) Penalty, see ' 131.99

' **131.11 FALSE ALARMS.**

It shall be unlawful for any person to summon, as a joke or prank or otherwise without any good reason therefor, by telephone or otherwise, the Police or the Fire Department or any public or private ambulance to go to any address where the service called for is not needed.

(Ord. 126, passed 7-28-1997) Penalty, see ' 131.99

' **131.12 FALSE REPORTS.**

It shall be unlawful for any person to make or file with the Police Department of the city any false, misleading or unfounded statement or report concerning the commission or alleged commission of any crime occurring within the city.

(Ord. 126, passed 7-28-1997) Penalty, see ' 131.99

' **131.13 NONSUPPORT OF FAMILY.**

It shall be unlawful for any person of sufficient ability to refuse or neglect to support his or her family.

(Ord. 126, passed 7-28-1997) Penalty, see ' 131.99

' **131.14 WINDOW PEEPING.**

It shall be unlawful for any person to engage in peeping in the windows of any inhabited place.

(Ord. 126, passed 7-28-1997) Penalty, see ' 131.99

' **131.15 UNAUTHORIZED PROWLING.**

It shall be unlawful for any person to prowl upon the private premises of any other person in the nighttime, without authority of the permission of the owner of those premises.

(Ord. 126, passed 7-28-1997) Penalty, see ' 131.99

' **131.16 PROSTITUTION.**

It shall be unlawful for any person to engage in any act of prostitution. (A person commits the offense of *PROSTITUTION* if he or she engages in, or agrees to engage in, sexual conduct with another in return for a fee.)

(Ord. 126, passed 7-28-1997) Penalty, see ' 131.99

' **131.17 BEGGING.**

It shall be unlawful for any person to beg in any public place.

(Ord. 126, passed 7-28-1997) Penalty, see ' 131.99

' **131.18 INTOXICATION, EUPHORIA AND THE LIKE.**

It shall be unlawful for any person to for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction or dulling of the senses or nervous system, intentionally smell or inhale the fumes or any substance into his or her respiratory or circulatory system. This shall not prohibit the inhalation of any anesthesia for medical or dental purposes.

(Ord. 126, passed 7-28-1997) Penalty, see ' 131.99

' **131.19 AIMING FIREARMS.**

It shall be unlawful for any person to intentionally, without malice, point or aim any firearm at or toward any other person.

(Ord. 126, passed 7-28-1997) Penalty, see ' 131.99

' 131.20 FIREARMS; UNDER THE INFLUENCE.

It shall be unlawful for any person under the influence of intoxicating liquor or any exhilarating or stupefying drug to carry, have in possession of under control, or use in any manner or discharge any firearm within the city.

(Ord. 126, passed 7-28-1997) Penalty, see ' 131.99

' 131.21 RECKLESS HANDING OF FIREARM.

It shall be unlawful for any person to recklessly or heedlessly or willfully or wantonly use, carry, handle or discharge any firearm without due caution and circumspection for the rights, safety or property of others.

(Ord. 126, passed 7-28-1997) Penalty, see ' 131.99

' 131.22 MINOR POSSESSION OF FIREARMS.

It shall be unlawful for any person under 18 years of age to use or possess any firearm or to use and possess any handgun designed and manufactured exclusively for propelling BBs not exceeding 0.177 caliber by means of spring, gas or air, outside the curtilage of his or her domicile unless he or she is accompanied by a person over 18 years of age.

(Ord. 126, passed 7-28-1997) Penalty, see ' 131.99

' 131.23 PROPELLING OBJECTS FROM MOTOR VEHICLE.

It shall be unlawful for any person to wrongfully throw or propel any snowball, missile or object from or at any moving motor vehicle.

(Ord. 126, passed 7-28-1997) Penalty, see ' 131.99

' 131.28 PUBLIC INTOXICATION.

' 131.24 OBSTRUCTING GOVERNMENTAL FUNCTION.

(A) No person shall intentionally obstruct, impair or hinder the performance of a governmental function or the use of government property by using or threatening to use violence, force, physical interference or obstacle.

(B) For purposes of this section, *GOVERNMENT* includes any principal subdivision or agency of the United States, the state, the city or any agency of local governmental operations within the city. *GOVERNMENTAL FUNCTION* includes any activity which a public agency or public servant is legally authorized to undertake.

(Ord. 126, passed 7-28-1997) Penalty, see ' 131.99

' 131.25 ILLEGAL DUMPING.

It shall be unlawful for any person to knowingly dump, deposit, place, throw or leave; cause to permit the dumping, depositing, placing, throwing or leaving; or cause to permit the dumping, depositing, placing, throwing or leaving of litter on any public or private property or waters other than property designated and set aside for that purpose.

(Ord. 126, passed 7-28-1997) Penalty, see ' 131.99

' 131.26 THROWING DANGEROUS OBJECTS ON PUBLIC PROPERTY.

It shall be unlawful for any person to place or throw glass or other dangerous pointed or edged substances in or on any beach or waters adjacent thereto, highway or walk, or on public property within 50 feet of a public highway.

(Ord. 126, passed 7-28-1997) Penalty, see ' 131.99

' 131.27 MARIJUANA.

It shall be unlawful for any person knowingly or intentionally to possess marijuana.

(Ord. 126, passed 7-28-1997) Penalty, see ' 131.99

It shall be unlawful for a person to be intoxicated in a public place and who is either endangering directly the safety of another person or of property or is acting in a manner that causes a public disturbance creating a breach of peace.

(Ord. 126, passed 7-28-1997) Penalty, see ' 131.99

' 131.99 PENALTY.

(A) *Assault.*

(1) A person who assaults an individual in violation of ' 131.01(A) is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500, or both.

(2) A person who assaults and batters an individual in violation of ' 131.01(B) is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500, or both.

(3) A person who assaults and batters an individual in violation of ' 131.01(C) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500, or both.

(B) *Generally.* A person who violates any section of this chapter, except ' 131.01, shall be guilty of a misdemeanor, punishable by imprisonment of not more than 90 days in the county jail or a fine of not more than \$500, or both.

(Ord. 126, passed 7-28-1997; Ord. 126-1, passed 3-25-2002)

CHAPTER 132: INTERFERENCE WITH POLICE DEPARTMENT AND RELATED OFFENSES

Section

- 132.01 Resisting police officer
- 132.02 Wearing uniform
- 132.03 Assisting escape

- 132.99 Penalty

(B) No person shall make available to, present to or place within the reach of any person confined, under the authority of the city, any intoxicating or malt liquor or any tool, implement or other thing calculated to aid the escape of that person so confined.
(Ord. 126, passed 7-28-1997) Penalty, see ' 132.99

' 132.01 RESISTING POLICE OFFICER.

No person shall resist any police officer, any member of the Police Department, or any person duly empowered with police authority while in the discharge or apparent discharge of his or her duty, or in any way interfere with or hinder him or her in the discharge of his or her duty.
(Ord. 126, passed 7-28-1997) Penalty, see ' 132.99

' 132.99 PENALTY.

A person who violates any section of this chapter shall be guilty of a misdemeanor, punishable by imprisonment of not more than 90 days in the county jail or a fine of not more than \$500, or both.
(Ord. 126, passed 7-28-1997)

' 132.02 WEARING UNIFORM.

No person other than an official police officer of the city shall wear or carry the uniform apparel, badge, identification card or any other insignia of office like, or similar to, or colorable imitation of that adopted and worn, or carried by the official police officers of the city.
(Ord. 126, passed 7-28-1997) Penalty, see ' 132.99

' 132.03 ASSISTING ESCAPE.

(A) No person shall offer or endeavor to assist any person in the custody of a police officer, a member of the Police Department, or a person duly empowered with police authority to escape or attempt to escape from custody.

CHAPTER 133: OFFENSES CONCERNING MINORS

Section

- 133.01 Minors and alcohol
- 133.02 Minors and obscenity
- 133.03 Neglected or delinquent minor
- 133.04 Finding of necessity
- 133.05 Contributing to the neglect or delinquency of children; misdemeanor
- 133.06 Curfew
- 133.07 Minors unattended in motor vehicle
- 133.08 Furnishing tobacco products to a minor
- 133.09 Minor in possession of tobacco products

- 133.99 Penalty

' 133.01 MINORS AND ALCOHOL.

(A) A minor shall not purchase or attempt to purchase alcoholic liquor, consume or attempt to consume alcoholic liquor, possess or attempt to possess alcoholic liquor, or have any bodily alcohol content, except as provided in this section.

(B) A person who furnishes fraudulent identification to a minor, or notwithstanding division (A) above, alcoholic liquor, is guilty of a misdemeanor.

(C) A peace officer who has reasonable cause to believe a minor has consumed alcoholic liquor or has any bodily alcohol content may require the person to submit to a preliminary chemical breath analysis. A peace officer may arrest a person based in whole or in part upon the results of a preliminary chemical breath analysis. The results of a preliminary chemical breath analysis or other acceptable blood alcohol test are admissible in a criminal prosecution to determine whether the minor has consumed or possessed alcoholic liquor or had any bodily alcohol content.

(F) This section does not limit the civil or

(D) A law enforcement agency, upon determining that a person less than 18 years of age who is not emancipated under Public Act 293 of 1968, being M.C.L.A. ' ' 722.1 to 722.6, allegedly consumed, possessed, purchased alcoholic liquor, attempted to consume, possess or purchase alcoholic liquor, or had any bodily alcohol content in violation of division (A) above shall notify the parent or parents, custodian or guardian of the person as to the nature of the violation if the name of a parent, guardian or custodian is reasonably ascertainable by the law enforcement agency. The notice required by this division shall be made not later than 48 hours after the law enforcement agency determines that the person who allegedly violated division (A) above is less than 18 years of age and not emancipated under Public Act 293 of 1968, being M.C.L.A. ' ' 722.1 to 722.6. The notice may be made by any means reasonably calculated to give prompt actual notice including, but not limited to, notice in person, by telephone or by first-class mail. If an individual less than 17 years of age is incarcerated for violating division (A) above, his or her parents or legal guardian shall be notified immediately as provided in this division.

(E) This section does not prohibit a minor from possessing alcoholic liquor during regular working hours and in the course of his or her employment if employed by a person licensed by this code, by the Commission, or by an agent of the Commission, if the alcoholic liquor is not possessed for his or her personal consumption.

criminal liability of the vendor or the vendor=s clerk, servant, agent or employee for a violation of this section.

(G) The consumption of alcoholic liquor by a minor who is enrolled in a course offered by an accredited post secondary education institution in an academic building of the institution under the supervision of a faculty member is not prohibited by this section if the purpose of the consumption is solely educational and is a requirement of the course.

(H) The consumption by a minor of sacramental wine in connection with religious services at a church, synagogue or temple is not prohibited by this section.

(I) Division (A) above does not apply to a minor who participates in either or both of the following;

(1) An undercover operation in which the minor purchases or receives alcoholic liquor under the direction of the person=s employer and with the prior approval of the local prosecutor=s office as part of an employer-sponsored internal enforcement action; and/or

(2) An undercover operation in which the minor purchases or receives alcoholic liquor under the direction of the state police, the Commission or a local police agency as part of an enforcement action unless the initial or contemporaneous purchase or receipt of alcoholic liquor by the minor was not under the direction of the state police, the Commission or the local police agency and was not part of the undercover operation.

(J) As used in this section, **ANY BODILY ALCOHOL CONTENT** means either of the following:

(1) An alcohol content of 0.02 grams or more per 100 milliliters of blood, per 210 liters of breath or per 67 milliliters of urine; or

(2) Any presence of alcohol within a person=s body resulting from the consumption of alcoholic liquor, other than consumption of alcoholic liquor as a part of a generally recognized religious service or ceremony.

(Ord. 126, passed 7-28-1997; Ord. 137, passed 2-28-2005) Penalty, see ' 133.99

' 133.02 MINORS AND OBSCENITY.

(A) *Sale to minors.* It shall be unlawful for any person to sell, give away or in any way furnish to any minor child any book, pamphlet or other printed paper or other thing, containing obscene language, or obscene prints, pictures, figures or descriptions tending to the corruption of morals of youth, or any newspaper, police reports or criminal deeds, and it shall be unlawful for any person to in any manner distribute these books, pamphlets or printed papers, and it shall be unlawful for any person having the care, custody or control of any child, to permit him or her to engage in this employment.

(B) *Obscene materials; in view of minors.* It shall be unlawful for any person to exhibit upon any public street or highway, or in any other place within the view of children passing on any street or highway, any book, pamphlet or other printed paper or thing containing obscene language or obscene prints: including newspapers, police reports or criminal deeds, figures or descriptions, tending to the corruption of the morals of youth.

(Ord. 126, passed 7-28-1997) Penalty, see ' 133.99

' 133.03 NEGLECTED OR DELINQUENT MINOR.

No person shall by any act, or by any way, encourage, contribute toward, cause or tend to cause any minor child under the age of 17 years to become neglected or delinquent so as to come or tend to come under the jurisdiction of the Juvenile Division of the Probate Court, as defined by Public Act 54 of 1944 (First Extra Session), being M.C.L.A. ' ' 712A.1 et seq., and any amendments thereto, whether or not the child shall in fact be adjudicated a ward of the probate court.

(Ord. 126, passed 7-28-1997) Penalty, see ' 133.99

' 133.04 FINDING OF NECESSITY.

The City Council finds that offenses against the laws of the United States, the statutes of the state and the ordinances of the city by minors under the age of 17 years are increasing at an alarming rate; that in a great many of the cases, a lack of proper supervision and control of the minor child by his or her parents or guardian is evident; that the increasing problem of criminal offenses by children will not be solved by sanctions imposed upon the children alone, but that it is necessary that sanctions be imposed upon parents whose neglect of their duty to properly supervise and control their children is a proximate cause of the delinquency of those children.
(Ord. 126, passed 7-28-1997)

' 133.05 CONTRIBUTING TO THE NEGLECT OR DELINQUENCY OF CHILDREN; MISDEMEANOR.

Any parent, legal guardian or other person having the care or custody of a minor child under the age of 17 years who shall by any act, or by any word, or by the failure to act, or by lack of supervision and control over the minor child, encourage, contribute toward, cause or tend to cause the minor child to become neglected or delinquent so as to come or tend to come under the jurisdiction of the Juvenile Division of the Probate Court, as defined by Public Act 54 of 1944 (First Extra Session), being M.C.L.A. ' ' 712A.1 et seq., and any amendments thereto, whether or not that child shall in fact be adjudicated a ward of the Probate Court, shall be guilty of a misdemeanor.
(Ord. 126, passed 7-28-1997) Penalty, see ' 133.99

' 133.06 CURFEW.

(A) *Curfew; minors 12 years of age and younger.* It shall be unlawful for any minor under the age of 13 years to loiter, idle or congregate in or on any public street highway, alley or park between the hours of 10:00 p.m. and 6:00 a.m. unless the minor is accompanied by a parent or guardian, or some adult delegated by the parent or guardian to accompany the child.

(B) *Curfew; minors between 12 years and 17 years of age.* It shall be unlawful for any minor under the age of 17 years to loiter, idle or congregate in or on any public street, highway, alley or park between the hours of 12:00 midnight and 6:00 a.m. immediately following, except where the minor is accompanied by a parent or guardian or some adult delegated by the parent or guardian to accompany the minor child, or where the minor is upon an errand or other legitimate business directed by his or her parent or guardian.
(Ord. 126, passed 7-28-1997) Penalty, see ' 133.99

' 133.07 MINORS UNATTENDED IN MOTOR VEHICLE.

It shall be unlawful for any parent, guardian, custodian or anyone else to whose care, children under 11 years of age are entrusted to leave, neglect or abandoned those children in a parked motor vehicle in any public place or place open to the public without furnishing someone over the age of 17 years for supervision of those children.
(Ord. 126, passed 7-28-1997) Penalty, see ' 133.99

' 133.08 FURNISHING TOBACCO PRODUCTS TO A MINOR.

(A) A person shall not sell, give or furnish any cigarette, cigar, chewing tobacco, tobacco snuff or tobacco in any other form to a person under 18 years of age.

(B) A person who sells tobacco products at retail shall post in a place close to the point of sale and conspicuous to both employees and customers, a sign produced by the Department of Public Health that includes the following statement:

The purchase of tobacco products by a minor under 18 years of age and the provision of tobacco products to a minor are prohibited by law. A minor unlawfully purchasing or using tobacco products is subject to criminal penalties.

(C) If the sign required under division (B) above is more than six feet from the point of sale, it shall be five and one-half inches by eight and one-half inches and the statement required under division (B) above shall be printed in 36-point boldface type. If the sign required under division (B) above is six feet or less from the point of sale, it shall be two inches by four inches and the statement required under division (B) above shall be printed in 20-point boldface type.

(D) It is an affirmative defense to a charge pursuant to division (A) above that the defendant had in force at the time of arrest and continues to have in force a written policy to prevent the sale of cigarettes, cigars, chewing tobacco, tobacco snuff and other tobacco products to persons under 18 years of age, and that the defendant enforced and continues to enforce the policy. A defendant who proposes to offer evidence of the affirmative defense described in this division shall file and serve notice of the defense, in writing, upon the court and the prosecuting attorney. The notice shall be served not less than 14 days before the date set for trial.

(E) A prosecuting attorney who purposes to offer testimony to rebut the affirmative defense described in division (D) above shall file and serve a notice of rebuttal, in writing, upon the court and the defendant. The notice shall be served not less than seven days before the date set for trial, and shall contain the name and address of each rebuttal witness. (Ord. 126, passed 7-28-1997) Penalty, see ' 133.99

' 133.09 MINOR IN POSSESSION OF TOBACCO PRODUCTS.

A person under 18 years of age shall not possess or smoke cigarettes or cigars: or possess or chew, suck or inhale chewing tobacco or tobacco snuff: or possess or use tobacco in any other form, on a public highway, street, alley, park or other lands used for public purposes, or in a public place of business or amusement.

(Ord. 126, passed 7-28-1997) Penalty, see ' 133.99

' 133.99 PENALTY.

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of ' 10.99.

(B) A minor who violates ' 133.01(A) is guilty of a misdemeanor punishable by the following fines and sanctions and is not subject to the penalties prescribed in ' 909 of the state statute:

(1) For the first violation, a fine of not more than \$100, and may be ordered to participate in substance abuse prevention services or substance abuse treatment and rehabilitation services as defined in the Public Health Code, Public Act 368 of 1978, ' 6107, being M.C.L.A. ' 333.6107, and designated by the Administrator of Substance Abuse Services, and may be ordered to perform community service and to undergo substance abuse screening and assessment at his or her own expense as described in division (D) below.

(2) For a violation of ' 133.01(A) following a prior conviction or juvenile adjudication for a violation of ' 133.01(A), Public Act 8 of 1933 (Extra Session), being M.C.L.A. ' ' 436.1 et seq. or a local ordinance substantially corresponding to this division or Public Act 8 of 1933 (Extra Session), ' 33b(1), being M.C.L.A. ' ' 436.1801 through 436.1815, by imprisonment for not more than 30 days but only if the minor has been found by the court to have violated an order of probation, failed to successfully complete any treatment, screening or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, a fine of not more than \$200, or both, and may be ordered to participate in substance abuse prevention services or substance abuse treatment and rehabilitation services as defined in the Public Health Code, Public Act 368 of 1978, ' 6107, being M.C.L.A. ' 333.6107, and designated by the Administrator of Substance Abuse Services, to perform community service, and to undergo substance abuse screening and assessment at his or her own expense as described in division (D) below.

(3) For a violation of ' 131.01(A), following two or more prior convictions or juvenile adjudications for a violation of ' 131.01(A), Public Act 8 of 1933 (Extra Session), ' 33b(1), being M.C.L.A. ' ' 436.1 et seq., or a local ordinance substantially corresponding to this division or Public Act 8 of 1933 (Extra Session), ' 33b(1), being M.C.L.A. ' ' 436.1 et seq., by imprisonment for not more than 60 days but only if the minor has been found by the court to have violated an order of probation, failed to successfully complete any treatment, screening or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, a fine of not more than \$500, or both, and may be ordered to participate in substance abuse prevention services or substance abuse treatment and rehabilitation services as defined in the Public Health Code, Public Act 368 of 1978, ' 6107, being M.C.L.A. ' 333.6107, and designated by the Administrator of Substance Abuse Services, to perform community service, and to undergo substance abuse screening and assessment at his or her own expense as described in division (D) below.

(C) When an individual who has not previously been convicted of or received a juvenile adjudication for a violation of ' 131.01(A) pleads guilty to a violation of ' 131.01(A) or offers a plea of admission in a juvenile delinquency proceeding for a violation of ' 131.01(A), the court, without entering a judgment of guilt in a criminal proceeding or a determination in a juvenile delinquency proceeding that the juvenile has committed the offense and with the consent of the accused, may defer further proceedings and place the individual on probation upon terms and conditions that include, but are not limited to, the sanctions set forth in division (A)(1) above, payment of the costs including minimum state cost as provided for the Probate Code, being Public Act 288 of 1939, Ch. XIIA, ' 18m, being M.C.L.A. ' 712A.18m and the Code of Criminal Procedure, being Public Act 175 of 1927, Ch. IX, ' 1j, being M.C.L.A. ' 769.1(j), and the costs of probation as prescribed in the Code of Criminal Procedure, Public Act 175 of 1927, Ch. XI, ' 3, being M.C.L.A. ' 771.3. Upon violation of a term or condition of probation or upon a finding that the individual is utilizing this division in another court, the court may enter an adjudication of guilt, or a determination in a juvenile delinquency proceeding that the individual has committed the offense, and proceed as otherwise provided by law. Upon fulfillment of the terms and conditions of probation, the court shall discharge the individual and dismiss the proceedings. Discharge and dismissal under this section shall be without adjudication of guilt or without a determination in a juvenile delinquency proceeding that the individual has committed the offense and is not a conviction or juvenile adjudication for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including the additional penalties imposed for second or subsequent convictions or juvenile adjudications under divisions (A)(2) and (A)(3) above. There may be only one discharge or dismissal under this division as to an individual. The court shall maintain a nonpublic record of the matter while proceedings are deferred and the individual is on probation under this division. The Secretary of State shall retain a nonpublic record of a plea and of the discharge and dismissal under this division. This record shall be furnished to any of the following:

(1) To a court, prosecutor or police agency upon request for the purpose of determining if an

individual has already utilized this division; and

(2) To the Department of Corrections, a prosecutor or a law enforcement agency, upon the Department=s, a prosecutor=s or a law enforcement agency=s request, subject to all of the following conditions:

(b) The record is used by the Department of Corrections, the prosecutor or the law enforcement agency only to determine whether an employee has violated his or her conditions of employment or whether an applicant meets criteria for employment.

(D) The court may order the person convicted of violating ' 131.01(A) to undergo screening and assessment by a person or agency as designated by the substance abuse coordinating agency as defined in the Public Health Code, Public Act 368 of 1978, ' 6103, being M.C.L.A. ' 333.6103, in order to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs.

(E) In a criminal prosecution for the violation of ' 131.01(A) concerning a minor having any bodily alcohol content, it is an affirmative defense that the minor consumed the alcoholic liquor in a venue or location where the consumption is legal.

(F) A minor who violates ' 133.01(B) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100, or both.

(G) The Secretary of State shall suspend the operator=s or chauffeur=s license of an individual convicted of violating ' ' 131.01(A) or (B) as provided in the State Vehicle Code, Public Act 300 of 1949, ' 319, being M.C.L.A. ' 257.319.

(H) A minor who refuses to submit to a preliminary chemical breath test analysis as required in ' 131.01(C) is responsible for a city civil infraction and may be ordered to pay a civil fine of not more than \$100.

(I) A person guilty of violating ' 133.03 shall be guilty of a misdemeanor, punishable by

(a) At the time of the request, the individual is an employee of the Department of Corrections, the prosecutor or the law enforcement agency, or an applicant for employment with the Department of Corrections, the prosecutor or the law enforcement agency; and

imprisonment of not more than 90 days in the county jail or a fine of not more than \$500, or both.

(J) A person who violates ' 133.08(A) is guilty of a misdemeanor, punishable by a fine of not more than \$50 for each offense.

(K) (1) A person who violates ' 133.09 is guilty of a misdemeanor, punishable by a fine of not more than \$50 for each offense. Pursuant to a probation order, the court may require a person who violates ' 133.09 to participate in a health promotion and risk reduction assessment program, if available. A probationer who is ordered to participate in a health promotion and risk reduction assessment program under ' 133.09 is responsible for the costs of participating in the program.

(2) In addition, a person who violates ' 133.09 is subject to the following:

(a) For the first violation, the court may order the person to do one of the following:

1. Perform not more than 16 hours of community service in a hospice, nursing home or long-term care facility; or

2. Participate in a health promotion and risk reduction program, as described in this section.

(b) For a second violation, in addition to participation in a health promotion and risk reduction program, the court may order the person to perform not more than 32 hours of community service in a hospice, nursing home or long-term care facility.

(c) For a third or subsequent violation, in addition to participation in a health promotion and risk reduction program, the court may order the person to perform not more than 48 hours of community

service in a hospice, nursing home or long-term care facility.

(Ord. 126, passed 7-28-1997; Ord. 137, passed 2-28-2005)

CHAPTER 134: OFFENSES CONCERNING PROPERTY

Section

- 134.01 Destruction of property
- 134.02 Motor vehicles
- 134.03 Breaking and entering
- 134.04 Firearms
- 134.05 Libraries
- 134.06 Personal property
- 134.07 Buildings
- 134.08 Trespass
- 134.09 Stolen, embezzled or converted property
- 134.10 Larceny
- 134.11 Posting of signs

- 134.99 Penalty

' 134.01 DESTRUCTION OF PROPERTY.

It shall be unlawful for any person to willfully destroy, remove, damage, alter or in any manner deface any property not his or her own, or any public school building, bridge, fire hydrant, alarm box, street light, street sign or mark or post handbills on, or in any manner that mar the walls of any public building, or destroy, tree or pole within the city, or destroy, take or meddle with any property belonging to the city or remove the same from the building or place where it may be kept, place or stored, without proper authority or disturb, tamper with, disconnect or damage any city water meter without proper authority.

(Ord. 126, passed 7-28-1997) Penalty, see ' 134.99

' 134.02 MOTOR VEHICLES.

(A) It shall be unlawful for any person to intentionally and without authority from the owner, start or cause to be started the motor of any motor vehicle, or maliciously shift or change the starting device or gears of a standing motor vehicle to a position other than that in which it was left by the owner or driver of the motor vehicle.

(B) It shall be unlawful for any person to intentionally cut, mark, scratch or damage the chassis, running gear, body, sides, top, covering or upholstery of any motor vehicle of the property of another, or intentionally cut, mash, mark, destroy or damage the motor vehicle, or any of the accessories, equipment, appurtenances or attachments thereof, or any spare or extra parts thereon being or thereto attached, without the permission of the owner thereof.

(C) It shall be unlawful for any person to intentionally release the brake upon any standing motor vehicle with the intent to injure the machine or cause the same to remove without the consent of the owner; provided, that this section shall not apply in case of moving or starting of a motor vehicle by the police under authority of local ordinance or by member of Fire Department in case of emergency in the vicinity of a fire.

(Ord. 126, passed 7-28-1997) Penalty, see ' 134.99

' 134.03 BREAKING AND ENTERING.

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It shall be unlawful for any person to break and enter, or to enter without breaking, any dwelling, house, tent, hotel, office, store, shop, warehouse, barn, granary, factory or other building, boat, ship, railroad car or structure used or kept for public or private use or any private apartment therein, or any cottage, clubhouse, boat house, hunting or fishing lodge, garage or the outbuildings belonging thereto, or any other structure, whether occupied or unoccupied, without first obtaining permission to enter from the owner or occupant, agent or person having immediate control thereof. This section shall not apply to entering without breaking any place which at the time of the entry was open to the public, unless that entry has been expressly denied. This section shall not apply in cases where the breaking and entering or entering without breaking were committed by a peace officer or some one under his or her direction in the lawful performance of his or her duties as a peace officer. (Ord. 126, passed 7-28-1997) Penalty, see ' 134.99

' 134.04 FIREARMS.

It shall be unlawful for any person to, because of carelessness, recklessness or negligence, but not willfully or wantonly, cause or allow any firearm under his or her control to be discharged so as to destroy or injure the property of another, real or personal. (Ord. 126, passed 7-28-1997) Penalty, see ' 134.99

' 134.05 LIBRARIES.

(A) It shall be unlawful for any person to procure, or take in any way from any public library or the library of any literary, scientific, historical or library society or association, whether incorporated or unincorporated, any book, pamphlet, map chart, painting picture, photograph, periodical, newspaper, magazine, manuscript or exhibit or any part thereof, with intent to convert the same to be his or her own use, or with intent to defraud the owner thereof, or who having procured or taken any book, pamphlet, map, chart, painting, picture, photograph, periodical, newspaper, magazine, manuscript or exhibit or any part thereof to thereafter convert the same to his or her own use or fraudulently deprive the owner thereof.

(B) It shall be unlawful for any person to willfully, maliciously or wantonly tear, deface or mutilate or write upon, or by other means injure or mar any book, pamphlet, map, chart, painting, picture, photograph, periodical, newspaper, magazine, manuscript or exhibit or any part thereof belonging to or loaned to any public library, or to the library of any literary, scientific, historical or library society of association, whether incorporated or unincorporated. (Ord. 126, passed 7-28-1997) Penalty, see ' 134.99

' 134.06 PERSONAL PROPERTY.

It shall be unlawful for any person to willfully and maliciously destroy or injure the personal property of another, by any means not particularly mentioned or described in the preceding sections. (Ord. 126, passed 7-28-1997) Penalty, see ' 134.99

' 134.07 BUILDINGS.

It shall be unlawful for any person to willfully and maliciously destroy or injure any house, barn or other building of another, or the appurtenances thereof. (Ord. 126, passed 7-28-1997) Penalty, see ' 134.99

' 134.08 TRESPASS.

It shall be unlawful for any person to willfully enter upon the lands or premises of another without lawful authority, after having been forbidden so to do by the owner or occupant, and it shall be unlawful for any person being upon the land or premises of another who, upon being notified to depart therefrom by the owner or occupant or the agent or servant of either, neglects or refuses to depart therefrom. (Ord. 126, passed 7-28-1997) Penalty, see ' 134.99

' 134.09 STOLEN, EMBEZZLED OR CONVERTED PROPERTY.

It shall be unlawful for any person to buy, receive or aid in the concealment of any stolen, embezzled or converted money, goods or property knowing the same to have been stolen, embezzled or converted. Any person being a dealer in or collector of any merchandise or personal property, or the agent, employee or representative of that dealer or collector, who fails to make reasonable inquiry that the property to him or her has a legal right to do so, shall be presumed to have bought or received property knowing it to have been stolen, embezzled or converted. This presumption may, however, be rebutted by proof.

(Ord. 126, passed 7-28-1997) Penalty, see ' 134.99

' 134.10 LARCENY.

It shall be unlawful for any person to commit the offense of larceny, by stealing, of the property of another, any money, goods or chattels, or any bank note, bank bill, bond, promissory note, due bill, bill of exchange or other bill, draft, order or certificate, or any due, or to be delivered, or any deed or writing containing a conveyance of land, or any other valuable contract in force, or any receipt, release or any writ, process or public record.

(Ord. 126, passed 7-28-1997)

' 134.11 POSTING OF SIGNS.

The City Manager or any other authorized employee, Clerk and Treasurer of the city are each hereby authorized in the name of the city to post or cause to be posted notices and signs relating to the public and city matters in, on and over any public building, highway and other public places over which the city exercises authority.

(Ord. 33, passed 8-24-1942)

' 134.99 PENALTY.

Every violation of or failure to comply with the provisions of this chapter shall be punished as a civil infraction.

CHAPTER 135: CONTROLLED SUBSTANCES AND DRUG PARAPHERNALIA

Section

Controlled Substances and Drug Paraphernalia

- 135.01 Purpose
- 135.02 Definitions
- 135.03 Delivery, sale or marketing
- 135.04 Possession of drug paraphernalia
- 135.05 Advertisement of drug paraphernalia
- 135.06 Exception
- 135.07 Civil forfeiture

Social Host

- 135.20 Definitions
- 135.21 Prohibited action

- 135.99 Penalty

CONTROLLED SUBSTANCES AND DRUG PARAPHERNALIA

' 135.01 PURPOSE.

The possession, delivery, sale, marketing and advertising of items, paraphernalia, accessories or things which are designed or marked for use with controlled substances shall be prohibited:

(A) To protect the health, safety and welfare of the citizens of the city; and

(B) To discourage the use of controlled substances.

(Ord. 126, passed 7-28-1997)

' 135.02 DEFINITIONS.

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

CONTROLLED SUBSTANCE. Any drug, substance or immediate precursor enumerated in Public Act 368 of 1978, being M.C.L.A. ' ' 333.7101 et seq., as amended.

DRUG PARAPHERNALIA.

(1) *Generally.* 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, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance.

(2) *Definition includes.* It includes, but is not limited to:

(a) 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;

(b) Kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;

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(c) Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance;

(d) Testing equipment used, intended for use or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances;

(e) Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances;

(f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use or designed for use in mixing with, diluting or cutting controlled substances;

(g) 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;

(h) Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances;

(i) Capsules, balloons, envelopes or other containers used, intended for use or designed for use in packaging small quantities of controlled substances;

(j) Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances;

(k) Hypodermic syringes, needles and other objects used, intended for use or designed for use in parenterally injecting controlled substances into the human body; and

(l) Objects used, intended for use or

designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:

1. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;

2. Water pipes;

3. Carburetion tubes and devices;

4. Smoking and carburetion masks;

5. Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

6. Miniature cocaine spoons and cocaine vials;

7. Chamber pipes;

8. Carburetor pipes;

9. Electric pipes;

10. Air-driven pipes;

11. Chillums;

12. Bongs: and

13. Ice pipes or chillers.

(3) *Inclusions or exclusions from the definition of DRUG PARAPHERNALIA.* The following are either included in, or excluded from the definition, as indicated:

(a) Paper with a colorful design or a name designed or marketed for use with controlled substances is included in the definition. White paper or tobacco-oriented paper, not designed or marketed for use with controlled substances and not displayed in proximity of other items within the definition, is not included;

(b) Roach clips or other pincer type devices designed or marketed for use with controlled substances are included in the definition. Common paper clips, tie clips, hair pins and alligator clips not designed or marketed for use with controlled and not displayed in proximity of other items within the definitions are not included;

(c) Pipes, bongs and similar inhalators designed or marketed for use with controlled are included in the definition. Pipes and inhalators not designed or marketed for use with controlled substances and not displayed in proximity of other items within the definition are not included; and

(d) Common household or retail items not designed or marketed for use with controlled substances and not displayed in proximity of other items within the definition are not included.

(4) *Additional considerations concerning determination of objects of DRUG PARAPHERNALIA.* In determining whether an object is **DRUG PARAPHERNALIA**, a court or other authority should consider, in addition to all other logically relevant factors, the following:

(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 anyone in control of the object, under any local ordinance or 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 subchapter;

(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 anyone in control of the object, to deliver the object to a person or persons whom he or she knows intends to use the object to facilitate a violation of this subchapter; the innocence of an owner or of anyone in control of the object, as to a direct violation of this subchapter, shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;

(g) Instructions, oral or written, provided with the object concerning its use;

(h) Descriptive materials accompanying the object which explain or depict its use;

(i) National and local advertising concerning the object=s use;

(j) The manner in which the object is displayed for sale;

(k) Direct or circumstantial evidence of the ratio of sales of the objects to the total sales of the business enterprise;

(l) The existence and scope of legitimate uses for the object in the community; and

(m) Expert testimony concerning the object in the community.

MARKET. The act of marketing a product. (Ord. 126, passed 7-28-1997)

' 135.03 DELIVERY, SALE OR MARKETING.

It is unlawful for any person to deliver, sell, market or possess with intent to deliver, sell or market drug paraphernalia, knowing that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance.

(Ord. 126, passed 7-28-1997) Penalty, see ' 135.99

**' 135.04 POSSESSION OF DRUG
PARAPHERNALIA.**

It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance.

(Ord. 126, passed 7-28-1997) Penalty, see ' 135.99

**' 135.05 ADVERTISEMENT OF DRUG
PARAPHERNALIA.**

It is unlawful for any person to place in any newspaper, magazine, handbill or other publication any advertisement, knowing 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.

(Ord. 126, passed 7-28-1997) Penalty, see ' 135.99

' 135.06 EXCEPTION.

This subchapter shall not apply to manufacturers, wholesalers, jobbers, licensed medical technicians, technologists, nurses, hospitals, research teaching institutions, clinical laboratories, medical doctors, osteopathic physicians, dentists, chiropodists, veterinarians, pharmacists and embalmers in the normal legal course of their respective business or profession, nor to persons suffering from diabetes, asthma or any other medical condition requiring self-injection.

(Ord. 126, passed 7-28-1997)

' 135.07 CIVIL FORFEITURE.

Any drug paraphernalia used or possessed in violation of this subchapter shall be seized and forfeited to the city or the seizing agency.

(Ord. 126, passed 7-28-1997)

SOCIAL HOST

' 135.20 DEFINITIONS.

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

ALCOHOLIC BEVERAGE. Any alcoholic liquor, beer, wines, spirits or alcoholic beverage as defined in the State Liquor Control Act, ' 2, being M.C.L.A. ' 436.2, as amended from time to time.

CONTROL. The authority to regulate, direct, superintend or govern; the authority to exercise restraining or dominating influence over, including a possessory right of property regardless of whether the party exercising the control is physically present or not.

CONTROLLED SUBSTANCE. Any drug substance or immediate precursor designed and listed in Schedules 1 through 5 of the Public Health Code, ' ' 7201 to 7231, being M.C.L.A. ' ' 333.7201 et seq., as amended.

HOUSE PARTY. Any social gathering at a residence including at least one person who is not the owner, tenant or regular occupant of the residence.

MINOR. A person not legally permitted by reason of age to possess alcoholic beverages under M.C.L.A. ' 436.33b, as amended.

PERSON. An individual 16 years of age or older.

RESIDENCE. A house, apartment, condominium or other dwelling unit, including the curtilage and land around the dwelling unit to the extent that the land is subject to the control of the same person having control of the dwelling unit.

(Ord. 99, passed 2-24-1986)

‘ 135.21 PROHIBITED ACTION.

It is unlawful for any person having control of any residence to allow a house party to take place, nor continue once begun, at a residence within the control of that person, when the person knows or reasonably should know that alcoholic beverages or controlled substances may be or have been possessed or consumed at the house by a minor.

(Ord. 99, passed 2-24-1986)

‘ 135.99 PENALTY.

Every violation of or failure to comply with the provisions of this chapter shall be punished as a civil infraction.

CHAPTER 136: PORNOGRAPHY

Section

- 136.01 Definitions
- 136.02 Promoting pornography
- 136.03 Promoting pornography for minors

- 136.99 Penalty

MATERIAL. Any printed matter, visual representation or sound recording, and includes, but is not limited to, books, magazines, motion picture films, pamphlets, newspapers, pictures, photographs, drawings, three-dimensional forms, sculptures and phonograph, tape or wire recordings.

MINOR. Any person under 18 years of age.

NUDITY. Uncovered, or less than opaquely covered, post-pubertal human female breast below a point immediately above the top of the areola or the covered human male genitals in a discernible turgid state. For the purpose of this definition, a female breast is considered uncovered if the nipple only or the nipple and the areola only are covered.

PANDER. Advertising or propagandizing in connection with the sale of material, the offering of a service or the presentation or exhibition of a performance by appealing to the prurient interest of potential customers.

PERFORMANCE. Any live or reproduced exhibition, including, but not limited to, any play, motion picture, film, dance or appearance presented to or performed before an audience.

PORNOGRAPHIC. Relating to pornography.

PORNOGRAPHY. Any material or performance when all of the following elements are present:

- (1) Considered as a whole by the average person, applying the contemporary community standards of the city, it appeals to the prurient interest;
- (2) It depicts, describes or represents, in a patently offensive way, sexual conduct; and

' 136.01 DEFINITIONS.

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

AUDIENCE. One or more persons who are permitted to view a performance:

- (1) For valuable consideration; or
- (2) In or from a public place.

DISPLAY PUBLICLY. The exposing, placing, posting, exhibiting or in any other fashion displaying in any location, whether public or private, material or a performance in a manner that it may be readily seen and its content or character distinguished by normal unaided vision viewing it from a public place or vehicle.

DISSEMINATE. To manufacture, issue, publish, sell, lend, distribute, transmit, broadcast, exhibit or present material or to offer or agree to do the same or to have in one=s possession with intent to do the same.

(3) It lacks serious literary, artistic, political or scientific value.

PORNOGRAPHY FOR MINORS. Any material or performance when all of the following elements are present:

(1) Considered as a whole by the average person applying the contemporary community standards of the city, with respect to what is suitable for minors, it is presented in a manner as to appeal to a minor=s prurient interest;

(2) It depicts, describes or represents in a patently offensive way, nudity or sexual conduct; and

(3) It lacks serious literary, artistic, political or scientific value for minors.

PRURIENT INTEREST. Desire or craving for sexual stimulation or gratification. In determining **PRURIENT INTEREST**, the material or performance shall be judged with reference to average persons, unless it appears from the character of the material or performance that it is designated to appeal to the **PRURIENT INTEREST** of a particular group of persons including, but not limited to, homosexuals or sado-masochists. In that case, it shall be judged with reference to the particular group for which it was designed.

PUBLIC PLACE OR VEHICLE. Any of the streets, alleys, parks, boulevards, schools or other public property in the city or any dance hall, rental hall, theater, amusement park, liquor establishment, store, depot, place of public accommodation, or other private property generally frequented by the public for the purposes of education, recreation, amusement, entertainment, sport, shopping or travel; or any vehicle for public transportation, owned or operated by any nongovernmental agency for the use, enjoyment or transportation of the general public.

SADO-MASOCHISTIC ABUSE. Flagellation or torture by or upon a person who is nude or clad in undergarments or in a sexually revealing or bizarre costume, or the condition of the person being fettered, bound or otherwise physically restrained, in an apparent act of sexual stimulation or gratification.

SEXUAL CONDUCT.

(1) Masturbation;

(2) Sexual intercourse, whether genital-genital, oral-genital, oral-anal or anally-genital;

(3) Any erotic fondling or touching of the covered or uncovered genitals, buttocks, pubic area, or any part of the breasts of the female, whether the conduct described in divisions (1) through (3) above is engaged in alone or between members of the same or opposite sex, or between humans and animals or humans and inanimate objects;

(4) Actual or simulated display or exhibition of the human pubic area or genitals or any part thereof; or

(5) Sado-masochistic abuse.
(Ord. 126, passed 7-28-1997)

' 136.02 PROMOTING PORNOGRAPHY.

(A) It shall be unlawful for any person to promote pornography. A person commits the offense of promoting pornography if, knowing its content and character, he or she:

(1) Disseminates or causes to be disseminated any pornographic material in or from a public place or vehicle, or for valuable consideration, or has in his or her possession any pornographic material with intent to so disseminate; knowingly allows the use of any business, building, vehicle or place owned, leased, conducted or managed by him or her, for the dissemination of pornographic material;

(2) Sells an admission ticket or pass to premises where there is being exhibited or is about to be exhibited material or a performance which is

pornographic;

(3) Admits, by accepting a ticket or pass, a person to premises where there is being exhibited or is about to be exhibited material or a performance which is pornographic;

(4) Produces, presents, directs or knowingly allows the use of any business, building, vehicle or place, owned, leased, conducted or managed by him or her to be used for a pornographic performance before an audience;

(5) Participates in that portion of a live performance before an audience, which makes it pornographic; or

(6) Panders, displays publicly or disseminates door to door any pornographic material or performance, or causes the pandering, public display or door-to-door dissemination.

(B) For the purpose of this section, possession of two or more identical copies of any pornographic material by any person engaged in the business of disseminating material, as defined in division (A) above, shall be prima facie evidence of possession with intent to disseminate for valuable consideration. (Ord. 126, passed 7-28-1997) Penalty, see ' 136.99

' 136.03 PROMOTING PORNOGRAPHY FOR MINORS.

(A) It shall be unlawful for any person to promote pornography for minors. A person commits the offense of promoting pornography for minors if, knowing its content and character, he or she:

(1) Disseminates or causes to be disseminated to a minor, material which is pornography for minors, or knowingly allows the use of any business, building, vehicle or place owned, leased, conducted or managed by him or her for the dissemination to a minor of material which is pornography for minors;

(2) Exhibits to a minor a motion picture film or other performance which is pornography for minors;

(3) Sells to a minor an admission ticket, or pass to any building, vehicle or place where there is being exhibited or is about to be exhibited a motion picture film or other performance which is pornography for minors;

(4) Admits a minor to any building, vehicle or place where there is being exhibited or is about to be exhibited a motion picture film or other performance which is pornography for minors;

(5) Knowingly produces, presents, directs or allows the use of any business, building, vehicle or place owned, leased, conducted or managed by him or her for the presentation of performance which is pornography, which includes a minor; or

(6) Displays publicly or disseminates door to door any material or performance which is pornography for minors, or causes the public display or door to door dissemination.

(B) Divisions (A)(1) through (A)(5) above do not apply to a parent, guardian or other person in loco parentis to the minor. (Ord. 126, passed 7-28-1997) Penalty, see ' 136.99

' 136.99 PENALTY.

Every violation of or failure to comply with the provisions of this chapter shall be punished as a civil infraction.

CHAPTER 137: OFFENSES AGAINST PUBLIC SAFETY

Section

- 137.01 Definitions
- 137.02 Airtight boxes
- 137.03 Hurling projectiles from a motor vehicle
- 137.04 Hurling projectiles at a person or motor vehicle
- 137.05 Excavations
- 137.99 Penalty

' 137.02 AIRTIGHT BOXES.

(A) *Abandonment.* Any individual who knowingly leaves outside of any building in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator, deep freeze or other device with an airtight door of a kind and size sufficient to permit the entrapment and suffocation of a child therein, without first removing the snaplock or other locking devices from the lid or cover thereof, shall be guilty of a violation of this section.

(B) *Responsibility of landowner.* Any owner of land who knowingly permits to be left outside of any building owned by him or her, in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator, deep freeze or other device with an airtight door of any kind and size sufficient to permit the entrapment and suffocation of a child therein, without first removing the snaplock or other locking device from the lid or cover thereof, shall be guilty of a violation of this section.

(C) *Storage.* Any individual desiring to keep or maintain any unused, unattended or abandoned icebox, refrigerator, deep freeze or other device with airtight doors of a kind and size sufficient to permit the entrapment and suffocation of a child therein, who does not desire to remove the snaplock or other locking device from the lid or cover thereof, shall at all times keep the containers of devices in a building to which the means of ingress thereto shall be prohibited to children.
(Ord. 126, passed 7-28-1997) Penalty, see ' 137.99

' 137.01 DEFINITIONS.

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

ACCESSIBLE. Available to children whether the children are upon the land of another as a matter of right or as a trespasser.

BUILDING. Any structure, dwelling or other improvement to vacant land.

CHILDREN. Any person the age of 12 years or younger.

INDIVIDUAL. Every person, firm, association, partnership or corporation business entity, joint tenancy or tenancy in common, whether of the male or female gender, or singular or plural.

OWNER. Every individual who may own the fee title to any real estate or any tenant who shall be occupying the real estate under the provisions of any lease, regardless of the duration of the lease.
(Ord. 126, passed 7-28-1997)

' 137.03 HURLING PROJECTILES FROM A MOTOR VEHICLE.

It shall be unlawful for any person to wrongfully throw or propel any snowball, missile or object from any moving motor vehicle.

(Ord. 126, passed 7-28-1997) Penalty, see ' 137.99

' 137.04 HURLING PROJECTILES AT A PERSON OR MOTOR VEHICLE.

It shall be unlawful for any person to wrongfully throw or propel any snowball, missile or object toward any person or motor vehicle.

(Ord. 126, passed 7-28-1997) Penalty, see ' 137.99

' 137.05 EXCAVATIONS.

It shall be unlawful for any person to hereafter dig or cause to be dug an excavation or a partially constructed basement or any building or structure, and to fail to cover or safely fence the same.

(Ord. 126, passed 7-28-1997) Penalty, see ' 137.99

' 137.99 PENALTY.

A person who violates any section of this chapter shall be guilty of a misdemeanor, punishable by imprisonment of not more than 90 days in the county jail or a fine of not more than \$500, or both.

(Ord. 126, passed 7-28-1997)

CHAPTER 138: FIREARMS, HUNTING AND WEAPONS

Section

Firearms

- 138.01 Definitions
- 138.02 Hunting within city
- 138.03 Trapping and injuring game
- 138.04 Permit to use firearms or traps
- 138.05 Exception in the use of firearms

Weapons

- 138.20 Definitions
- 138.21 General prohibition
- 138.22 Regarding minors under the age of 21
- 138.23 Knives with blades more than three inches in length
- 138.24 Exceptions
- 138.25 Enforcement

- 138.99 Penalty

FIREARMS

' 138.01 DEFINITIONS.

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

FIREARM. A pistol, shotgun, rifle, air rifle, BB gun, slingshot, spear and/or bow and arrow.

TRAPPING. To stake, put out or set traps or bait, for the purpose of taking birds or animals.
(Ord. 126, passed 7-28-1997)

' 138.02 HUNTING WITHIN CITY.

No person shall hunt nor shall any person carry, for the purpose of hunting, firearms within the city. Any person carrying a firearm within the city limits, without a permit therefor, shall be deemed to be hunting. This section shall not apply to a person carrying an unloaded rifle, shotgun or pistol while traveling through the city limits.

(Ord. 126, passed 7-28-1997) Penalty, see ' 138.99

' 138.03 TRAPPING AND INJURING GAME.

No person shall engage in trapping within the city, nor shall any person at any time or in any manner whatever molest, harass or worry any bird, game or fur-bearing animal within the city limits unless that person shall have in his or her possession a written permit as provided in ' 138.04.

(Ord. 126, passed 7-28-1997) Penalty, see ' 138.99

' 138.04 PERMIT TO USE FIREARMS OR TRAPS.

(A) (1) The Chief of Police shall have the authority to issue to an adult resident of the city a written permit for the discharge of firearms within the city, provided that the permit shall not be for the purpose of hunting and providing that the discharge of firearms shall not endanger the lives and property of others.

(2) Upon written application of a citizen verifying that a feral bird or feral animal has become a nuisance by reason of its making sounds, frequently or for continued duration, which annoys, endangers, injures or disturbs a person of normal sensitivities or by repeatedly biting, chasing, menacing or in any way injuring people or by repeatedly damaging property, the Chief of Police may authorize a police officer or a qualified public or private agency to, by use of live traps only, apprehend the feral bird or feral animal and arrange for its confinement or release in a humane manner.

(B) This section shall not be construed to prohibit the use of mouse, rat or mole traps for the control of those animals.
(Ord. 126, passed 7-28-1997)

' 138.05 EXCEPTION IN THE USE OF FIREARMS.

This subchapter shall not apply to a police officer or authorized peace officer in the discharge of his or her duties, nor shall this subchapter be applicable to the discharge of a firearm upon the premises of a duly established target range authorized or licensed by the city or the state.
(Ord. 126, passed 7-28-1997)

WEAPONS

' 138.20 DEFINITIONS.

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

DART. A pointed weapon or stick thrown by hand.

SWITCH BLADE or ***SELF-OPENING KNIFE.***

A knife containing a blade or blades which can be opened by depressing a button, pressure on the handle, release of a spring or other mechanical contrivance.
(Ord. 51, passed - -)

' 138.21 GENERAL PROHIBITION.

It shall be unlawful for any person, firm, corporation or association to sell, offer for sale, keep, possess, use or loan any switch blade or self-opening knife as defined in ' 138.20; provided that the prohibition in this section shall not apply to any one-armed person in possession of this knife in connection with his or her living requirements.
(Ord. 51, passed - -) Penalty, see ' 138.99

' 138.22 REGARDING MINORS UNDER THE AGE OF 21.

It shall be unlawful for any person to sell, offer for sale, give away or loan to any minor under the age of 21 years any dart or knife except for educational purposes, i.e., Boy Scouts or Girl Scouts.
(Ord. 51, passed - -) Penalty, see ' 138.99

' 138.23 KNIVES WITH BLADES MORE THAN THREE INCHES IN LENGTH.

It shall be unlawful for any person to be in possession of a knife with a blade of more than three inches in length in any of the streets, alleys, parks, boulevards or other public property in the city or other private property generally frequented by the public for purposes of education, recreation, amusement, entertainment, sport or shopping.
(Ord. 51, passed - -) Penalty, see ' 138.99

' 138.24 EXCEPTIONS.

It shall be unlawful for any person under the age of 21 years to be in possession of any knife, dart or instrument of any description that could be used for cutting or stabbing in any of the streets, alleys, parks, boulevards or other public property in the city or other private property generally frequented by the public for purposes of education, recreation, amusement, entertainment, sports or shopping, provided that this section shall not apply to any person under 21 years of age being in possession of any knife when it is used or carried in good faith as a tool of honest work, trade business, sport or recreation or when used or carried in good faith as equipment related to and required for any legitimate sport, recreation or youth character building program (Boy Scouts, Girl Scouts and the like), when actively engaged therein in going to or returning from such honest work, trade, business, sport, recreation, or your character-building program.

(Ord. 51, passed - -)

' 138.25 ENFORCEMENT.

Any police officer of the city may and it is his or her duty to arrest without delay any person found violating any provision of ' ' 138.20 through 138.24.

(Ord. 51, passed - -)

' 138.99 PENALTY.

(A) A person who violates any section of ' ' 138.01 through 138.05 shall be guilty of a misdemeanor, punishable by imprisonment of not more than 90 days in the county jail or a fine of not more than \$500, or both.

(B) Any person violating any provision of ' ' 138.20 through 138.25 shall upon conviction thereof be guilty of a misdemeanor and be subjected to a fine not exceeding \$500 or 90 days, or both a fine and imprisonment, in the discretion of the court.

(Ord. 51, passed - -; Ord. 126, passed 7-28-1997)

CHAPTER 139: ANTI-LITTER

Section

- 139.01 Definitions
- 139.02 Prohibitions

- 139.99 Penalty

(A) No person shall dump, deposit, place, throw or leave, or cause or permit the dumping, depositing, placing, throwing or leaving of litter on any public or private property within the city other than on property designated and set aside for those purposes, or in receptacles provided for that purpose.

' 139.01 DEFINITIONS.

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

LITTER. All rubbish, refuse, waste material, garbage, offal, paper, glass, cans, bottles, trash, debris or other foreign substances of every kind and description.

PERSON. Any individual, corporation, partnership or other entity.

PUBLIC OR PRIVATE PROPERTY. Includes, but is not limited to, the right-of-way of any road or highway, any body of water or water course, the shores or beaches of any body of water or water course and includes the ice above those waters, any park, playground, building, refuge or conservation or recreation areas, and all residential or farm properties or timberlands.
(Ord. 126, passed 7-28-1997)

(B) Persons placing litter in receptacles shall do so in a manner so as to prevent the litter from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

(C) Persons owning or occupying property shall keep the sidewalk and parking places around their premises, and any vacant or occupied parcel, free of litter, and no person shall sweep into or deposit in any gutter, ditch, street or other public place within the city the accumulation of litter from any building, lot or parcel or parcel or from any public or private driveway of sidewalk.

(D) No person, whether driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the city or upon any private property within the city, except in places designated for that purpose.

(E) No person shall drive or move any truck or other vehicle within the city unless the vehicle is so constructed or loaded so as to prevent any load, contents of the load or litter from being blown or deposited upon any street, alley or other public place, or any private place within the city. Further no person shall drive or move any vehicle or truck within the city, the wheels or tires of which carry onto or deposit in or onto any street, alley or other public, mud, dirt, sticky substance or litter of any kind.

' 139.02 PROHIBITIONS.

(F) No person, including the owner thereof, shall throw or deposit litter on any private property within the city except if the owner or person in control of the private property may maintain receptacles for collection in a manner that the litter will be prevented from being carried or deposited away from the receptacles. This division shall not be interpreted to prohibit the storage of litter in those receptacles, provided storage is not otherwise unlawful.

(G) Any person removing a vehicle, wrecked or damaged in any accident on any highway, road or street, shall also remove all glass and other injurious substances dropped on the highway, road or street, as a result of the accident.

(H) In the case of property designated for the purpose of containing or receiving litter, no person shall dump, deposit, place, throw or leave, or cause or permit the dumping, depositing, placing, throwing or leaving of litter in a place without the consent of the public authority having supervision of public property or the owner of private property. This section shall not be construed to apply to receptacles placed in public use.

(I) No person shall knowingly cause any litter or any object to fall or to be thrown into the path of or hit a vehicle traveling on the highway.

(Ord. 126, passed 7-28-1997) Penalty, see ' 139.99

' 139.99 PENALTY.

(A) *Separate offenses.* Each day any violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as that hereunder.

(B) *Penalty.* Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding \$500 or be imprisoned in the county jail for a period of not exceeding 90 days or by both so fined and imprisoned in the discretion of the court, together with payment of costs.

(Ord. 126, passed 7-28-1997)