

TITLE XIII: GENERAL OFFENSES

Chapter

130. GENERAL OFFENSES

CHAPTER 130: GENERAL OFFENSES

Section

General Provisions

130.01 Definitions

Offenses Against Public Peace and Safety

130.15 Public nudity

130.16 Obstruction of public place

130.17 Littering

130.18 Creating nuisance by use of noise producing device

130.19 Occupying motor vehicle with open container of alcohol

130.20 Drinking alcoholic beverages in public places; public intoxication

130.21 Disturbing the peace

130.22 Assault and battery

130.23 Disturbance of religious or other lawful assemblage

130.24 Public use of profane language

Offenses Involving Minors

130.35 Curfew for minors

130.36 Furnishing minors with alcohol; minors possessing alcohol

130.37 Parental responsibilities as to minors

130.99 Penalty

Cross-reference:

Prohibition against children in a sexually oriented business, see § 110.41

GENERAL PROVISIONS

§ 130.01 DEFINITIONS.

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

PUBLIC PLACE. Any park, alley, street, sidewalk or parking lot to which the public, or any number of persons of the public has access to, or to which the public is customarily invited or admitted.

VILLAGE. The Village of Three Oaks, Berrien County, Michigan.

(Ord. 64, passed 12-2-1976)

OFFENSES AGAINST PUBLIC PEACE AND SAFETY

§ 130.15 PUBLIC NUDITY.

(A) *Public nudity.* It shall be unlawful for any person to permit or engage in any public nudity.

(B) *Definition.* As used in this section, **PUBLIC NUDITY** means knowingly or intentionally displaying in a public place, or for payment or promise of payment by any person including, but not limited to, payment or promise of payment of an admission fee, any individual's genitals or anus with less than a full opaque covering, or a female individual's breast with less than a fully opaque covering of the nipple and areola. **PUBLIC NUDITY** shall not include any of the following:

- (1) A woman's breast-feeding of a baby whether or not the nipple or areola is exposed during or incidental to the feeding;
- (2) **MATERIAL** as defined in Public Act 343 of 1984, § 2, being M.C.L.A. § 752.362; or
- (3) **SEXUALLY EXPLICIT VISUAL MATERIAL** as defined in Public Act 33 of 1978, § 3, being M.C.L.A. § 722.673.

(C) *Other remedies.* The remedies and penalties provided in § 130.99 are in addition to all other rights and powers of the village to proceed at law or equity with other and additional appropriate remedies.

(Ord. 140, passed 6-13-2001) Penalty, see § 130.99

§ 130.16 OBSTRUCTION OF PUBLIC PLACE.

No person, after having been first requested or ordered by a law enforcement officer or any other person in charge of a public place to move or pass on, shall stand, sit, assemble, loiter or congregate in or on any park, public street, alley, parking lot, way, sidewalk or public place in such manner as to obstruct the free passage of persons who are lawfully passing along such public place or in such manner as may tend to cause or result in a public disturbance.

(Ord. 64, passed 12-2-1976) Penalty, see § 130.99

§ 130.17 LITTERING.

No person knowingly, without the consent of the public authority having supervision of public property or the owners of private property, shall dump, deposit, place, throw or leave, or cause or permit the dumping, depositing, placing, throwing or leaving of litter on any public place, as herein defined, or upon private property or waters other than property designated and set aside for such purposes. The term **LITTER** as used herein shall mean all rubbish, refuse, waste, material, garbage, paper, glass, cans, bottles, trash, debris or other foreign substances of every kind and description.

(Ord. 64, passed 12-2-1976) Penalty, see § 130.99

§ 130.18 CREATING NUISANCE BY USE OF NOISE PRODUCING DEVICE.

(A) The operating or maintaining of noise making, noise amplifying or noise producing instruments or devices by which the peace or good order of the village is unreasonably disturbed is hereby declared a public nuisance.

(B) No person, firm, association or corporation by himself or herself or another shall use, operate, play or permit the use, operation or playing of any machine, sound production or reproduction device, radio, musical instrument, drums, compact disc player, phonograph,

television set, loud speakers, sound amplifiers or any other machine or device for the producing or reproducing of sound between the hours of 10:00 p.m. and 7:00 a.m., from Sunday evening through Friday morning, and between 12:00 a.m. and 7:00 a.m., from Friday evening through Sunday morning and on those evenings preceding legal holidays, as provided by law, in such manner as to be plainly audible, the same being louder than normal conversational tone, at a distance of 50 feet or more from its point of origin.

(C) This provision shall not apply to any participant in parades, band concerts, lawful fireworks displays, memorial salutes or any other event or activity which has been authorized by the village or is otherwise specifically authorized by law.

(Ord. 64, passed 12-2-1976; Ord. 149, passed 5-19-2004) Penalty, see § 130.99

§ 130.19 OCCUPYING MOTOR VEHICLE WITH OPEN CONTAINER OF ALCOHOL.

No person shall knowingly occupy a motor vehicle in or upon any public highway, street, alley, parking lot or park in the village in which there is found open or unsealed containers of alcoholic beverages in the passenger compartment thereof.

(Ord. 64, passed 12-2-1976) Penalty, see § 130.99

§ 130.20 DRINKING ALCOHOLIC BEVERAGES IN PUBLIC PLACES; PUBLIC INTOXICATION.

(A) No person shall drink any intoxicating liquor or alcoholic beverage in or upon any park, public highway, street, alley, sidewalk or parking lot in the village.

(B) It shall be unlawful for any person to become drunk or intoxicated in any of the streets or public places within the corporate limits of the village.

(Ord. 7, passed 4-3-1947; Ord. 64, passed 12-2-1976) Penalty, see § 130.99

§ 130.21 DISTURBING THE PEACE.

It shall be unlawful for any person to engage in, or incite others to engage in, any affray, riot, disturbance, disorderly assemblage or mob or in any way disturb the public peace within the corporate limits of said village.

(Ord. 2, passed 4-3-1947) Penalty, see § 130.99

§ 130.22 ASSAULT AND BATTERY.

It shall be unlawful for any person to assault, beat or wound any other person or persons within the corporate limits of said village.

(Ord. 3, passed 4-3-1947) Penalty, see § 130.99

§ 130.23 DISTURBANCE OF RELIGIOUS OR OTHER LAWFUL ASSEMBLAGE.

It shall be unlawful for any person to willfully disturb any religious or other lawful assemblage or meeting held within the corporate limits of said village.

(Ord. 4, passed 4-3-1947) Penalty, see § 130.99

§ 130.24 PUBLIC USE OF PROFANE LANGUAGE.

It shall be unlawful for any person to use any vulgar or indecent language in any of the streets or public places within the corporate limits of said village.

(Ord. 6, passed 4-3-1947) Penalty, see § 130.99

OFFENSES INVOLVING MINORS

§ 130.35 CURFEW FOR MINORS.

(A) It shall be unlawful for any minor, under the age of 18 years, to be or remain in or upon any of the streets, alleys, parks or other public places in said village between the hours of 10:00 p.m. and 6:00 a.m. of the following day, unless such minor is accompanied by his or her parent or guardian or other person having legal custody and control of such minor, or unless such minor is engaged in the performance of a duty directed by such parent, guardian or custodian, or is attending approved church, community or school activities.

(B) The Village Marshal and/or any other law enforcement official may take into his or her custody any minor found by him or her violating the provisions of this section and detain such minor until proper complaint can be made to the Juvenile Court for the county. Provided, however, that no minor taken into custody under the provisions of this section shall be placed in any jail or locked up or shall be placed in any detention home without the order of the Judge of the Juvenile Court for said county.

(Ord. 35, passed 10-3-1963) Penalty, see § 130.99

§ 130.36 FURNISHING MINORS WITH ALCOHOL; MINORS POSSESSING ALCOHOL.

(A) It shall be unlawful for any person to willfully give, sell or furnish any alcoholic beverage to any person under the age of 21 years.

(B) It shall be unlawful for any person under the age of 21 years to purchase or knowingly possess or transport any alcoholic liquor or knowingly possess, transport or have under his or her control in any motor vehicle any alcoholic liquor.

(Ord. 42, passed 4-4-1968) Penalty, see § 130.99

§ 130.37 PARENTAL RESPONSIBILITIES AS TO MINORS.

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

DELINQUENT ACTS. Acts which violate the laws of the United States, or the statutes of the state or the ordinances of the village or those acts which would cause or tend to cause the minor to come under the jurisdiction of the juvenile division of the Probate Court as defined by M.C.L.A. § 712A.2, but does not include traffic violations.

ILLEGAL DRUGS. Controlled substances obtained without a legal prescription.

JUVENILE DELINQUENT. Minors whose behavior interferes with the rights of other or menaces the welfare of the community.

MINOR. Any person under the age of 18 years residing with a parent.

PARENT. Mother, father, legal guardian and any other person having the care or custody of a minor or any person acting in the parents' stead who has custody or control of the minor.

(B) *Parental duties.*

(1) It is the continuous duty of the parent of any minor to exercise reasonable control to prevent the minor from committing any delinquent act.

(2) Included (without limitation) in this continuous duty of reasonable parental control are the following parental duties:

(a) To keep illegal drugs or illegal firearms out of the home and legal firearms locked in places that are inaccessible to the minor;

(b) To know the curfew ordinance of the village (Ord. 35 - codified herein as § 130.35) and to require the minor to observe the curfew ordinance;

(c) To require the minor to attend regular school sessions and to forbid the minor to be absent from class without parental or

school permission;

(d) To arrange proper supervision for the minor when the parent must be absent;

(e) To take the necessary precautions to prevent the minor from maliciously or willfully damaging or destroying any real, personal or mixed property which belongs to the village, or is located in the village; and

(f) To forbid the minor from keeping stolen property, illegally possessing firearms or illegal drugs, or associating with known juvenile delinquents, and to seek help from appropriate governmental authorities or private agencies in handling or controlling the minor, when necessary.

(C) *Notification of parents; record of notification.*

(1) Whenever a minor is arrested or detained for the commission of any delinquent act within the village, the parent of the minor shall be immediately notified by the village, advising the parent of such arrest or detention, the reason therefor and the parent's responsibility under this section.

(2) A record of such notifications shall be kept by the Police Department.

(D) *Parental violation.* If a minor commits a delinquent act, the parent shall be guilty of a violation of this section if it is proven that any act, word or non-performance of parental duty by the parent encouraged, contributed toward, caused or tended to cause the commission of the delinquent act by the minor.

(E) *Restitution.* In addition to any civil penalty imposed pursuant to this section, the court may order the parent to pay any restitution to a victim of the minor's conduct. The amount of the restitution ordered pursuant to this section shall not exceed \$2,500.

(Ord. 125, passed 5-14-1997) Penalty, see § 130.99

§ 130.99 PENALTY.

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

(B) Any person, firm or corporation who violates any of the provisions of § 130.15 shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of up to \$500 or imprisonment in the county jail up to 90 days or both such fine and imprisonment. Each day that a violation shall continue shall constitute a separate offense.

(C) (1) Any person indicated in divisions (C)(1)(a) through (C)(1)(c) below is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$50 nor more than \$500, plus costs and other sanctions, for each infraction:

(a) Any person or persons, partnership or corporation who shall violate any of the provisions of §§ 130.16 through 130.21, 130.23 and 130.24;

(b) Any, parent, guardian or other person who assists, aids, allows, permits or encourages any minor under the age of 18 years to violate the provisions of § 130.35; and/or

(c) Any parent who violates the provisions of § 130.37, in addition to the other provisions of § 130.37.

(2) Repeat offenses shall be subject to an increased civil fine as follows:

(a) The fine for any offense which is a first repeat offense shall be not less than \$250, plus costs and other sanctions; and

(b) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be not less than \$500, plus costs and other sanctions.

(3) A **REPEAT OFFENSE** means a second (or any subsequent) violation of any of the sections listed in division (C)(1) above committed by a person within any six-month period and for which the person admits responsibility or is determined to be responsible.

(4) Each day on which any violation of those sections continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.

(D) Any person or persons, partnership or corporation who shall violate the provisions of § 130.22 shall, upon conviction, be punished by a fine of not less than \$5 nor more than \$100, and the costs of prosecution, or imprisonment in the county jail for a period

not to exceed 90 days, or by both such fine and imprisonment in the discretion of the court.

(E) Any person, firm or corporation that violates any provision of § 130.36 shall, upon conviction thereof, be punished by a fine of not to exceed \$100 together with the cost of prosecution or by imprisonment for a period of not to exceed 90 days or by both such fine and imprisonment in the discretion of the court.

(Ord. 3, passed 4-3-1947; Ord. 64, passed 12-2-1976; Ord. 119, passed 4-12-1995; Ord. 125, passed 5-14-1997; Ord. 140, passed 6-13-2001)