

TITLE XIII: GENERAL OFFENSES

Chapter

130. GENERAL OFFENSES

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GENERAL PROVISIONS**§ 130.01 POSTING BILLS OR ADVERTISEMENTS.**

It shall be unlawful for any person to post any bills or advertisements on any public property without the authority of the city. It shall be unlawful to post any bill or advertisement on any private property without the written consent of the owner thereof.

(`97 Code, § 8-1) Penalty, see § 130.99

§ 130.02 MENACING ANOTHER PERSON.

(A) In this section, bodily injury and serious bodily injury have the meaning given each term, respectively, in Tex. Pen. Code, § 1.07, as amended.

(B) A person commits an offense if he or she intentionally places or attempts to place another person in fear of bodily injury, serious bodily injury or death by:

(1) Following the other person on two or more occasions; or

(2) Over a period of time, engaging in a course of conduct or committing two or more specific acts against the other person that would cause a reasonable person to fear bodily injury, serious bodily injury or death.

(`97 Code, § 8-6) (Ord. 1993-E, passed 6-22-93) Penalty, see § 130.99

§ 130.03 ILLEGAL DUMPING.

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

FILTH. Any matter in a putrescent state.

MATTER. That of which any physical object is composed.

OBJECTIONABLE, UNSIGHTLY OR UNSANITARY MATTER. Any matter, condition or object which is objectionable, unsightly or unsanitary to a person of ordinary sensitivities.

PUTRESCIBLE. The decomposition of organic matter with the formation of foul-smelling, incompletely oxidized products.

UNWHOLESOME MATTER. Any putrescible or nonputrescible condition, object or matter which tends, may or could cause injury, death or disease to human beings.

(B) It shall be unlawful for any person to bring, deposit, have or dump a carcass or other offensive or unwholesome substance or matter within the corporate city limits.

(C) A person who is responsible for placing such a carcass, offensive or unwholesome matter, filth, putrid or unsound beef, pork or fish or hides or skins of any kind is required to remove the offensive or unwholesome matter.

(`97 Code, § 8-9) (Ord. 1995-N, passed 10-10-95) Penalty, see § 130.99

§ 130.04 REVIEW OF CHAPTER.

(A) Before the third anniversary of the date of adoption of the ordinance from which this chapter was derived, and every third year thereafter, the City Council shall:

(1) Review the ordinance's effect on the community and on problems the ordinance was intended to remedy;

(2) Conduct public hearings on the need to continue the ordinance; and

(3) Abolish, continue or modify the ordinance.

(B) Failure to act in accordance with division (A) of this section shall cause the ordinance, and thus this chapter, to expire.

(`97 Code, § 8-77) (Ord. 1995-X, passed 12-12-95)

WEAPONS; EXPLOSIVES

§ 130.15 DISCHARGING FIREARMS, PROJECTILES.

It shall be unlawful for any person to discharge any firearm or airgun, BB gun or any toy gun, projecting lead or any missiles, except in a regularly established shooting gallery. This section shall not be construed to prohibit any officer of the law from discharging a firearm in the performance of his or

her duty, nor shall this section apply to any citizen discharging a firearm when lawfully defending his or her person or property.

(`97 Code, § 8-4) Penalty, see § 130.99

Statutory reference:

Authority of city to regulate or prohibit use of firearms, see Tex. Loc. Gov't Code, § 215.001

§ 130.16 CASTING MISSILES IN PUBLIC PLACES.

It shall be unlawful for any person to cast, throw or propel any missile on any street, alley or other public place.

(`97 Code, § 8-5) Penalty, see § 130.99

GRAFFITI

§ 130.30 DUTY OF PROPERTY OWNER TO REMOVE GRAFFITI.

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

GRAFFITI. Any marking, including, but not limited to any inscription, slogan, drawing, painting, symbol, logo, name, character or figure that is made in any manner on tangible property.

OWNER. Any person with the legal right of possession to tangible property.

(B) An owner of any tangible property in the city commits an offense if he or she fails to remove all graffiti from the property that is visible from any public property or right-of-way or from any private property other than the property on which the graffiti exists, unless the graffiti was created on the property with the owner's consent and does not violate any applicable city ordinance or state or federal law.

(C) Before issuing a citation for violation under division (B) of this section, the city's Code Enforcement Officer, or his or her designee, shall serve the property owner with written notice to remove the graffiti from the property within 21 calendar days from the date the notice is served. The notice may be served by handing it to the owner in person or by United States certified mail, 5-day return receipt requested, addressed as shown on the city's tax rolls. If the owner cannot be found and the notice is returned by the United States Postal Service, then the owner may be notified by:

(1) Publication two times within ten consecutive days in the official newspaper adopted by the City Council;

(2) Posting the notice on or near the front door of each building on the premises to which the violation relates; or

(3) Posting the notice on a placard attached to a stake driven into the ground on the premises to which the violation relates, if the premises contains no buildings.

(D) The 21-day calendar will be counted:

(1) From the date the notice is personally served on the owner or from the sixth day after the notice is placed in the United States certified mail; or

(2) If the owner cannot be found or the notice is returned by the United States Postal Service, from the date the notice is:

(a) Published for the second time in accordance with division (C)(1) of this section; or

(b) Posted in accordance with divisions (C)(2) or (C)(3).

(E) It is a defense to prosecution under division (B) of this section that:

(1) No notice was served on the property owner in compliance with division (C) of this section;

(2) The property owner has removed graffiti from that particular property three or more times within the preceding 12 months; or

(3) Before being issued a citation under this section, the property owner gave the city's Code Enforcement Officer, or his or her designee, written authorization to allow persons to enter onto the property and remove the graffiti pursuant to a volunteer or community service program approved by the city's Code Enforcement Officer, or his or her designee, in which the property is eligible to participate.

(F) An offense under this section is punishable by a fine of not less than \$200 nor more than \$500. ('97 Code, § 8-7) (Ord. 1995-C, passed 2-28-95)

§ 130.31 RESPONSIBILITY OF PARENT OR GUARDIAN FOR GRAFFITI CREATED BY A MINOR.

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

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GRAFFITI. Any marking, including, but not limited to any inscription, slogan, drawing, painting, symbol, logo, name, character or figure that is made in any manner on tangible property.

GUARDIAN. This term means the following:

- (a) A person who, under court order, is the guardian of the minor; or
- (b) A public or private agency with whom the minor has been placed by a court.

MINOR. Any person under 17 years of age.

OWNER. Any person with the legal right of possession to tangible property.

PARENT. A person who is a natural parent, adoptive parent or step-parent of another person.

(B) A parent or guardian of a minor commits an offense if he or she knowingly permits or by insufficient control allows the minor to create graffiti on tangible property in the city without the property owner's consent.

(C) An offense under this section is punishable by a fine of not less than \$200 nor more than \$500. ('97 Code, § 8-8) (Ord. 1995-C, passed 2-28-95)

CURFEW HOURS FOR MINORS

§ 130.45 DEFINITIONS.

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

CURFEW HOURS. This term means the following:

- (1) 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday until 6:00 a.m. of the following day; and
- (2) 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday.

CUSTODIAN. The adult with whom the child resides.

EMERGENCY. An unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster or automobile accident or any situation requiring immediate action to prevent serious bodily injury or loss of life.

ESTABLISHMENT. Any privately-owned place of business operated for a profit to which the public is invited, including, but not limited to any place of amusement or entertainment.

GUARDIAN. This term means the following:

- (1) A person who, under court order, is the guardian of a minor; or
- (2) A public or private agency with whom a minor has been placed by a court.

MINOR. Any person under 17 years of age.

OPERATOR. Any individual, firm, association, partnership, corporation or other legal entity operating, managing or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

PARENT. A person who is:

- (1) A natural parent, adoptive parent or step-parent of another person; or
- (2) At least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

POLICE DEPARTMENT. The City of Cockrell Hill Police Department or any successor thereto.

PUBLIC PLACE. Any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, restaurants, theaters, game rooms and shops, shopping centers or any other place that offers for sale services or merchandise.

REMAIN. This term means the following:

- (1) Linger or stay; or
- (2) Fail to leave premises when requested to do so by a police officer, the owner, operator or other person in control of the premises.

SERIOUS BODILY INJURY. Bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

(`97 Code, § 8-71) (Ord. 1995-X, passed 12-12-95)

§ 130.46 OFFENSES.

(A) A minor commits an offense if he or she remains in any public place or on the premises of any establishment within the city during curfew hours.

(B) A parent or guardian of a minor commits an offense if he or she knowingly permits, or by insufficient control allows, the minor to remain in any public place or on the premises of any establishment within the city during curfew hours.

(C) The owner, operator or any employee of an establishment commits an offense if he or she knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

(`97 Code, § 8-72) (Ord. 1995-X, passed 12-12-95) Penalty, see § 130.99

§ 130.47 DEFENSES.

(A) It is a defense to prosecution under § 130.46(B) that the minor was:

(1) Accompanied by the minor's parent or guardian or accompanied by another adult approved by the parent or guardian;

(2) On an errand at the direction of the minor's parent or guardian, without any detour or stop;

(3) In a motor vehicle involved in intrastate or interstate travel or transportation through which passage through the curfew area is the most direct route;

(4) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;

(5) Involved in an emergency;

(6) On an errand made necessary by an illness, injury or medical emergency;

(7) On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the Police Department about the minor's presence;

(8) Attending an official school, religious or other recreational activity supervised by adults and/or sponsored by the city, a civic organization or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious or other recreational activity supervised by adults and sponsored by the city, a civic organization or another similar entity that takes responsibility for the minor;

(9) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right of assembly; or

(10) Married or had been married or had disabilities of minority removed in accordance with the Tex. Family Code, Chapter 31.

(B) It is a defense to prosecution under § 130.46(C) that the owner, operator or employee of an establishment promptly notified the Police Department that a minor was present on the premises of the establishment during curfew hours and refused to leave.
(`97 Code, § 8-73) (Ord. 1995-X, passed 12-12-95)

§ 130.48 ENFORCEMENT.

(A) Before taking any enforcement action under this subchapter, a police officer shall ask the apparent offender's age, name and address, the name and address of his or her parent or guardian and the reason for being in the public place. The officer shall not issue a citation or make an arrest under this subchapter unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in § 130.47 is present.

(B) A warning notice shall be issued to the minor, who shall be ordered to go home by the most direct means and route. A copy of the notice shall be forwarded to the Chief of Police or the Police Chief's designee, which shall send a letter to the parent or guardian of the minor advising of the fact that the minor was found in violation of this subchapter and soliciting cooperation in the future.

(C) If a police officer shall find a minor in violation of § 130.46, who has once previously been so found and warned as in division (B) of this section, the officer shall again record the name and address of the minor and his or her parents or the guardians, shall issue a second warning notice and direct the minor to go home by the most direct means and route. A copy of the second warning shall be forwarded to the Chief of Police or the Police Chief's designee which shall schedule a person to person conference with the parent or guardian and the minor concerning this subchapter and the city's expectation and requirement for parental control.

(D) Any police officer, upon finding a minor in violation of § 130.46, who has twice previously been found in violation and issued warnings as provided for in divisions (B) and (C) of this section, shall transfer the case to proper authorities for handling under the provisions of Title 3 of the Family Code.

In addition, a complaint will be filed against the parents in municipal court for violation of § 130.46. The Police Department shall file all necessary legal papers, supply all necessary documentation and provide necessary testimony as required for pursuing violation of this subchapter by either the minor or by any parent or guardian.

(E) A police officer may take a minor into custody for violation of this subchapter, in accordance with the procedures set forth in § 130.49.

(`97 Code, § 8-74) (Ord. 1995-X, passed 12-12-95)

§ 130.49 CUSTODY.

(A) A police officer taking into custody a minor for violation of this subchapter shall, without unnecessary delay:

- (1) Release the minor to the person's parent, guardian or custodian;
- (2) Take the minor before a municipal or justice court to answer the charge; or
- (3) Take the minor to the juvenile curfew processing center.

(B) A juvenile curfew processing center shall be established at the Police Department that is an unlocked, multipurpose area not designated, set aside or used as a secure detention area or part of a secure detention area. It may not be designated or intended for residential purposes.

(C) Juvenile detention procedures:

- (1) The minor may not be secured physically to a cuffing rail, chair, desk or stationary object;
 - (2) The minor may not be held longer than necessary to accomplish the purposes of identification, investigation, processing, release to parents, guardians or custodians and arrangement of transportation to school or court;
 - (3) The minor must be under continuous visual supervision by a peace officer or other person during the time the minor is in the juvenile curfew processing office; and
 - (4) The minor may not be held in a juvenile processing office for more than six hours.
- (`97 Code, § 8-76) (Ord. 1995-X, passed 12-12-95)

§ 130.99 PENALTY.

(A) Whoever violates a provision of this chapter for which no specific penalty is set forth shall be punished as provided in § 10.99.

(B) (1) A person who violates a provision of §§ 130.45 *et seq.* is guilty of a separate offense for each day or part of a day during which the violation is committed, continued or permitted. Each offense, upon conviction, is punishable by a fine not to exceed \$500.

(2) When required by the Tex. Family Code, § 51.08, as amended, the Municipal Court shall waive original jurisdiction over a minor who violates § 130.46(A) and shall refer the minor to juvenile court.

(3) In assessing punishment for either a parent or minor, municipal court judges are encouraged to consider a community service program.
(`97 Code, § 8-75) (Ord. 1995-X, passed 12-12-95)

