

TITLE XIII: GENERAL OFFENSES

Chapter

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CHAPTER 130: OFFENSES AGAINST PROPERTY

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§ 130.01 DESTROYING, DEFACING PUBLIC, AND PRIVATE PROPERTY.

(A) For the purpose of this section, "DEFACING" shall mean the throwing on, or into, the below described properties of any rubbish or material whatsoever, which does or might damage such property.

(B) It shall be unlawful to injure, tamper, break, destroy or deface, or assist in injuring, breaking, destroying, or defacing, any bridge, fence, building, schoolhouse, church, depot, swimming pool, water tower, or other public or private building or structure, street sign, lamp post, electric line or pole, electrical lamp or any appurtenance thereto, alarm box, hydrant or any other public or private property within the city without the consent of the owner thereof or other person in charge of such property.

(C) It shall be unlawful to use skate boards and/or roller blades on Commercial buildings, school campuses, churches, or other public or private buildings without the consent of the owner or property custodian.

(Ord. 255, passed 7-24-61; Am. Ord. 679, passed 7-19-04) Penalty, see § 130.99

§ 130.02 TRESPASSING.

No person shall enter or attempt to enter upon the land of another without consent of the owner, proprietor, lessee, or person in charge thereof.

(Ord. 264, passed 12-3-62) Penalty, see § 130.99

§ 130.03 PASTING STICKERS ON VEHICLES WITHOUT CONSENT OF OWNER.

It shall be unlawful for any person, firm, or corporation, within the corporate limits of the city to stick or paste any sticker, paper, cardboard, or cloth upon the windshield or any other part of a motor vehicle, or upon any other vehicle using the streets of the city, without first obtaining the express consent of the owner of that motor vehicle or other vehicle.

(Ord. 160, passed 2-1-26) Penalty, see § 130.99

§ 130.99 PENALTY.

Any person, firm, or corporation violating any of the provisions of this chapter, shall upon conviction, be fined not more than \$200.

Section

General Provisions

- 131.01 Curfew hours for minors
- 131.02 Public intoxication

Weapon Control

- 131.15 Discharge of weapons
- 131.16 Shooting or throwing missiles

- 131.99 Penalty

GENERAL PROVISIONS

§ 131.01 CURFEW HOURS FOR MINORS.

(A) Definitions. In this section:

"CURFEW HOURS." That period of time between:

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

(b) 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday.

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

"ESTABLISHMENT." Any privately owned place of business to which the public is invited or generally has access, and the "premises" of an establishment includes the structure where the business is operated, any structures adjacent thereto and any parking lot, sidewalk or common area associated with a particular business. An establishment includes any place of amusement or entertainment.

"GUARDIAN." A person or public or private agency who has been appointed as the guardian of the person of a minor child by a court of this or any other state.

"MINOR." Any person under 17 years of age.

"OPERATOR." An individual, firm, association, partnership, or corporation, operating, managing, or conducting any establishment. The

term includes the member or partners of an association or partnership and the officers of a corporation.

"PARENT." A person:

(a) Who is a natural or adoptive parent or step-parent of a minor; or

(b) Who has been appointed by a court as a conservator of a minor and has the duty of care, control, protection, and reasonable discipline of a minor at the time of any alleged violation of this section; or

(c) Who is at least 18 years of age and authorized by a parent, guardian or conservator of the minor to have the care or custody of a minor at the time of any alleged violation of this section.

"PUBLIC PLACE." Any place to which the public or a substantial group of the public generally has access and includes, but is not limited to streets, highways, sidewalks, parks, vacant lots and parking lots (whether owned by a private person or by a governmental entity), any part of school premises including athletic fields or facilities, athletic fields or facilities (whether owned or operated by private persons or organizations or by a governmental entity), public swimming pools, and the common areas of hospitals, apartment houses, office building, transport facilities, and shops.

"REMAIN." To:

(a) Linger or stay; or

(b) Fail to leave premises when requested to do so by a police officer or 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.

(B) Offenses.

(1) A minor commits an offense if he or she is present, or remains, in any public place or on the premises of any establishment within the city during curfew hours, including any public place or the premises of any establishment which was not open to the public at the time of any alleged violation of this subsection.

(2) A parent or guardian of a minor commits an offense if the parent or guardian knowingly permits, or by insufficient control allows, a minor to remain in any public place or on the premises of any establishment within the city during curfew hours including any public place or the premises of any establishment which was not open to the public at the time of any alleged violation of this subsection.

(3) 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.

(C) Defenses.

(1) It is a defense to prosecution under division (B) that the minor was:

(a) Accompanied by the minor's parent or guardian;

(b) In a motor vehicle involved in interstate travel;

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

(d) Involved in an emergency;

(e) On the sidewalk or front yard 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;

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

(g) Exercising First Amendment rights protected by the United States Constitution;

(h) Married or had disabilities of minority removed in accordance with Chapter 31 of the TEXAS FAMILY CODE; or

(i) Attending an activity meeting the following criteria:

1. The activity is supervised by adult sponsors who take responsibility for the minors in attendance so that a minor

may not leave the premises where the activity is held without a parent or guardian who gave permission for the minor to attend the activity; and

2. All ingress and egress to the facility where the activity is held is controlled by the adult sponsor(s) throughout the duration of the activity to ensure that all minors are in the premises where the activity is held.

(2) It is a defense to prosecution under division (B)(3) 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.

(D) Enforcement. Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in division (C) is present.

(E) Penalties.

(1) A person who violates a provision of this section 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 § 51.08 of the TEXAS FAMILY CODE, as amended, the municipal court shall waive original jurisdiction over a minor who violates division (B)(1) of this section and shall refer the minor to juvenile court.

(Ord. 669, passed 3-15-04; Am. Ord. 777, passed 3-15-10; Am. Ord. 837, passed 7-15-13; Am. Ord. 901, passed 7-11-16)

§ 131.02 PUBLIC INTOXICATION.

(A) For the purpose of this section "PUBLIC PLACE" shall include an automobile.

(B) It shall be unlawful for any person drunk or in a state of intoxication to be in any public place.

(Ord. 255, passed 7-24-61) Penalty, see § 131.99

WEAPON CONTROL

§ 131.15 DISCHARGE OF WEAPONS.

It shall be unlawful to discharge any firearm, airgun, beebie gun, or any toy gun, projecting lead or any missiles within the corporate limits of the city; provided that this section shall not be construed to prohibit any officer of the law from discharging a firearm in the performance of his duty; nor to any citizen from discharging a firearm when lawfully defending person or property. Whoever shall violate this section shall be guilty of a Class C misdemeanor.

(Ord. 426, passed 1-20-86) Penalty, see § 131.99

§ 131.16 SHOOTING OR THROWING MISSILES.

(A) It shall be unlawful for any person to shoot from any kind of sling or bow, air gun, or gun of any other kind or name, any missile of any kind, or throw a stone or any other missile in, along, or across any street or alley, or upon or across the property of any other person within the corporate limits of the city.

(B) It shall be unlawful for any person to shoot any of the above aforementioned objects on his real property within the city, if the possibility exists that any of the above mentioned objects could extend beyond his property boundaries causing bodily injury or property damage.

(Ord. 425, passed 1-20-86) Penalty, see § 131.99

§ 131.99 PENALTY.

Any person, firm, or corporation violating any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction shall be fined not exceeding \$200.

Section

General Provisions

132.01 Inhaling, drinking, or breathing of certain substances prohibited

Drug Paraphernalia

132.15 Definitions

132.16 Determination of object as drug paraphernalia

132.17 Use of drug paraphernalia prohibited

132.18 Advertising sale of drug paraphernalia prohibited

132.19 Illegal smoking products and ingestion devices

132.99 Penalty

GENERAL PROVISIONS

§ 132.01 INHALING, DRINKING, OR BREATHING, OF CERTAIN SUBSTANCES PROHIBITED.

(A) No person shall inhale, breathe, or drink any compound, liquid, chemical, or substance known as glue, adhesive cement, mucilage, dope, or any other material or substance or combination thereof, with intent of becoming intoxicated, elated, dazed, paralyzed, irrational, or in any other manner changing, distorting, or disturbing the eyesight, thinking process, judgment, or coordination of such person. For the purpose of this section, any such condition so induced shall be deemed to be an intoxicated condition.

(B) The provisions of this section shall not pertain to any person who inhales, breathes, or drinks such material or substance pursuant to the direction or prescription of any doctor, physician, or surgeon, dentist, or podiatrist authorized to so direct or prescribe. The provisions of this section shall not pertain to any person who inhales, breathes, or otherwise in any manner uses intoxicating liquor as defined by the Texas Liquor Control Act of the state, nor shall the provisions of this section apply to any persons who inhale, breathe, drink, or otherwise in any manner use any narcotic, dangerous drug, or other material or substance or combination thereof, which material or substance or combination thereof is defined by the use of and which is prohibited or regulated by any law of the state.

(C) The intent to commit the offense set out in this section is presumed whenever the means used is such as would ordinarily result in the commission of the forbidden act.

(Ord. 274, passed 12-6-65) Penalty, see § 132.99

DRUG PARAPHERNALIA

§ 132.15 DEFINITIONS.

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

"DRUG PARAPHERNALIA." 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, texting, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the Controlled Substances Act of the state. It includes, but is not limited to:

(1) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

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

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

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

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

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

(7) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marihuana;

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

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

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

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

(12) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marihuana, cocaine, hashish, or hashish oil into the human body, such as:

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

(b) Water pipes;

(c) Carburetion tubes and devices;

(d) Smoking and carburetion masks;

(e) Roach clips, meaning objects used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand;

(f) Miniature cocaine spoons, and cocaine vials;

(g) Chamber pipes;

(h) Carburetor pipes;

(i) Electric pipes;

(j) Air-driven pipes;

(k) Chillums,

(l) Bongs; and

(m) Ice pipes or chillers.

(Ord. 377, passed 8-18-80)

§ 132.16 DETERMINATION OF OBJECT AS 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 of anyone in control of the object, under any state or federal law relating to any

controlled substances;

(C) The proximity of the object, in time and space, to a direct violation of the Controlled Substances Act of the state;

(D) The proximity of the object to controlled substances;

(E) The existence of any residue of controlled substances on the objects;

(F) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate a violation of the Controlled Substances Act of the state. The innocence of an owner, or of anyone in control of the object, as to a direct violation of the Controlled Substances Act of the state shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;

(G) Instruction, 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 its use;

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

(K) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products,

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

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

(N) Expert testimony concerning its use.

(Ord. 377, passed 8-18-80)

§ 132.17 USE OF DRUG PARAPHERNALIA PROHIBITED.

(A) 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 in violation of the Controlled Substances Act of the state.

(B) It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, 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 in violation of the Controlled Substances Act of the state. (Ord. 377, passed 8-18-80) Penalty, see § 132.99

§ 132.18 ADVERTISING SALE OF DRUG PARAPHERNALIA PROHIBITED.

It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia. (Ord. 377, passed 8-18-80) Penalty, see § 132.99

§ 132.19 ILLEGAL SMOKING PRODUCTS AND INGESTION DEVICES.

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

"ILLEGAL SMOKING PRODUCT." Any plant other substance, whether described as tobacco, herbs, incense, spice or any blend thereof, regardless of whether the substance is marketed for the purpose of being smoked, which includes any one or more of the following substances or chemicals:

(a) Salvinorin A: Contained within the Salvia Divinorum plant, whether growing or not; or possessed as an extract, compound, manufacture, derivative, mixture, or preparation of the plant;

(b) 2-[(1R, 3S)-3-hydroxycyclohexyl]-5-(2-methylcatan-2-yl) phenol (also known ad CP 47, 497) and homologues;

(c) I-Pentyl-3-(I-naphtholy) indole (also known as JWH-OI8);

(d) Butyl-3-(I-naphthoyl) indole (also known as JWH-073).

"INGESTION DEVICE." Equipment, a product or material that is used or intended for use in ingesting, inhaling, or otherwise introducing an illegal smoking product into the human body, including:

(a) A metal, wooden, acrylic, glass, stone, plastic, or ceramic pipe with or without a screen, permanent screen, hashish head, or punctured metal bowl;

- (b) A water pipe;
- (c) A carburetion tube or device;
- (d) A smoking or carburetion mask;
- (e) A chamber pipe;
- (f) A carburetor pipe;
- (g) An electric pipe;
- (h) An air-driven pipe;
- (i) A chillum;
- (j) A bong; or
- (k) An ice pipe or chiller.

"PERSON." An individual, corporation, partnership, wholesaler, retailer or any licenses or unlicensed business.

(B) Violation.

(1) It shall be unlawful for any person to use, possess, purchase, barter, give, publicly display, sell or offer for sale any illegal smoking product.

(2) It shall be unlawful for any person to use or possess an ingestion device with the intent to inject, ingest, inhale or otherwise introduce into the human body an illegal smoking product.

(3) Any person found to be violating any term or provision of this section, shall be subject to a fine in accordance with § 132.99 of the Code of Ordinances of the city for each offense. Every day a violation continues shall constitute a separate offense.

(4) Allegation and evidence of a culpable mental state is not required for proof of an offense defined by this chapter.

(C) Affirmative defense.

(1) It shall be an affirmative defense for a person charged with an offense for possession or use of an illegal smoking product that the use or possession was pursuant to the direction or prescription of a licensed physician or dentist authorized to direct or prescribe the act.

(2) It shall not be a violation of this section if the sale or possession of Salvinorin A was in conjunction with ornamental landscaping and used solely for that purpose.
(Ord. 831, passed 1-21-13)

§ 132.99 PENALTY.

Any person, firm, or corporation violating any provision of this chapter shall be guilty of a misdemeanor and upon conviction shall be fined not more than \$200. Each day any violation of this chapter continues shall constitute a separate offense.

