

**TITLE XIII: GENERAL OFFENSES**

**Chapter**

**130. GENERAL OFFENSES**

**Nappanee - General Offenses**

## CHAPTER 130: GENERAL OFFENSES

### Section

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#### *Cross-reference:*

*Ordinance Violations Bureau, see Chapter 36*

### **GENERAL OFFENSES**

#### **§ 130.01 DISCHARGING FIREARMS AND THE LIKE PROHIBITED.**

(A) It shall be unlawful for any person to shoot or discharge any firearms, slingshots, firecrackers, or other missile propelling instruments or explosives within the city limits.

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

**FIREARM.** Any weapon capable of firing a projectile with deadly force by means of an explosion, including but not limited to guns, pistols, revolvers, cannons, muskets, and rifles.

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(C) Shooting or propulsion of any missile, pellet, shot, arrow, dart, or other thing by means of any firearm, compressed air or gas propulsion device, bow, slingshot, or propelling device of any kind, nature, or description, into, upon, across, through, or against any lands, the air above same, or the waters, or any structures, shelters, buildings, or facilities within the city limits is unlawful.

(D) The only exception to this section are police officers in discharge of their official duties.  
(`83 Code, § 6-39) (Ord. 1091, passed 11-21-88) Penalty, see § 10.99

**§ 130.02 ADVERTISEMENTS AND HANDBILLS RESTRICTED.**

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

**ADVERTISEMENTS** and **HANDBILLS**. Any printed or written matter, circular, leaflet, pamphlet, paper booklet, advertisement, bill, or notice.

(B) It shall be illegal to post or cause to be posted on any public or private place, including but not limited to walks, fences, and poles, or on any public or private motor vehicle, any advertisement or handbill, without the permission of the owner or person having control of the same.

(C) Persons violating this section shall be fined, payable through the Ordinance Violations Bureau.  
(`83 Code, § 6-40) (Am. Ord. 1100, passed 4-17-89) Penalty, see § 10.99

**§ 130.03 LOITERING DEFINED.**

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

**LOITERING**. To spend time idly by wandering from place to place or upon the streets with no apparent reason or business.

(B) A person commits loitering when he or she is requested by a police officer to identify himself or herself and to account for his or her presence due to public safety demands, and the person refuses to do so.

(C) A person commits loitering when he or she interferes, interrupts, or disrupts the business of any person or disturbs the peace and quiet of the city by his or her actions.

(D) A person commits loitering when he or she congregates on a sidewalk in the city so as to prevent the free passage of any person on or along the same.  
(`83 Code, § 6-41) Penalty, see § 10.99

**CURFEW****§ 130.15 DEFINITIONS.**

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

**CURFEW HOURS.** For individuals 15, 16, and 17 years of age, refers to the time between 1 a.m. and 5 a.m. on Saturday or Sunday, after 11 p.m. on Sunday, Monday, Tuesday, Wednesday, or Thursday, and before 5 a.m. on Monday, Tuesday, Wednesday, Thursday, or Friday. **CURFEW HOURS** for individuals less than 15 years of age refers to the time after 11 p.m. and before 5 a.m. on any day.

**EMERGENCY.** Unforeseen circumstances, or the status or condition resulting therefrom, requiring immediate action to safeguard life, limb, or property. The term includes, but is not limited to, fires, natural disasters, automobile accidents, or other similar circumstances.

**ESTABLISHMENT.** Any privately owned place of business within the city operated for a profit, to which the public is invited, including but not limited to any place of amusement or entertainment. With respect to an **ESTABLISHMENT**, the term **OPERATOR** shall mean any person, and any firm, associates, partnership (and the members or partners thereof), and/or any corporation or limited liability company (and the officers or managers thereof) conducting or managing that **ESTABLISHMENT**.

**MINOR.** Any person under 18 years of age.

**PARENT.**

(1) A person who is a minor's biological or adoptive **PARENT** and who has legal custody of a minor (including either **PARENT**, if custody is shared under a court order or agreement);

(2) A person who is the biological or adoptive **PARENT** with whom a minor regularly resides;

(3) A person judicially appointed as a legal guardian of the minor; and/or

(4) A person 18 years of age or older standing in loco parentis, as indicated by the authorization of an individual listed in division(s) (1), (2), or (3) of this definition, for the care or physical custody of the child, or as indicated by any other circumstances.

**PERSON.** An individual, and not any association, corporation or any other legal entity.

**PUBLIC PLACE.** Any place to which the public or a substantial group of the public has access, including, but not limited to, streets, highways, roads, sidewalks, alleys, avenues, parks, and/or the common areas of schools, hospitals, apartment houses, office buildings, transportation facilities, and shops.

**REMAIN.** The following actions:

(1) To linger or stay at or upon a place; and/or

(2) To fail to leave a place when requested to do so by an officer of the city's Police Department, a member of its Police Reserve Unit, or any other state or county police officer with law enforcement jurisdiction within the city.

(Ord. 1302, passed 9-18-00)

**§ 130.16 PROHIBITED ACTS.**

(A) It shall be unlawful for a minor, during curfew hours, to remain in or upon any public place within the city, to remain in any motor vehicle operating or parked therein or thereon, or to remain in or upon the premises of any establishment within the city, unless:

(1) The minor is accompanied by a parent;

(2) The minor is involved in an emergency;

(3) The minor is engaged in an employment activity, or is going to or returning home from that activity, without detour or stop;

(4) The minor is on the sidewalk directly abutting a place where he or she resides with a parent;

(5) The minor is attending an activity sponsored by a school, religious, or civic organization or agency, or by another similar organization or entity, which activity is supervised by an adult, and/or the minor is going to or returning from this type of an activity without detour or stop;

(6) The minor is involved in interstate travel through, or beginning or terminating in, the city;  
or

(7) The minor is exercising First Amendment rights protected by the United States Constitution, such as the bona fide free exercise of religion, freedom of speech, and the right to assembly.

(B) It shall be unlawful for a minor's parent to knowingly permit, allow, or encourage the minor to violate any term of this subchapter.

(C) It shall be unlawful for a person who is the owner or operator of any motor vehicle to knowingly permit, allow, or encourage a violation of any term of this subchapter.

(D) It shall be unlawful for the operator of any establishment, or for any person who is an employee thereof, to knowingly permit, allow, or encourage a minor to remain upon the premises of the

establishment during the curfew hours. It shall be a defense to prosecution under this division that the operator or employee of an establishment promptly notified the Police Department that a minor was present at the establishment after curfew hours and refused to leave.

(Ord. 1302, passed 9-18-00) Penalty, see § 10.99

**§ 130.17 ENFORCEMENT.**

A police officer, before taking any legal action, shall take steps necessary to question any individual who appears to be under the age of 18 years for the specific purpose of enforcing this subchapter. 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 under this subchapter unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, none of the factors referenced in § 130.16(A)(1) through (A)(7) of this code is present. An effort will be made on behalf of the city Police Department to contact the minor's parent to inform him or her of the alleged curfew violation under this subchapter.

(Ord. 1302, passed 9-18-00)

**§ 130.18 VIOLATIONS.**

A person who violates a provision of this subchapter is in violation of a separate offense for each day or part of a day during which a violation is committed, continued, or permitted. Each offense is punishable by a fine.

(Ord. 1302, passed 9-18-00) Penalty, see § 10.99

**§ 130.19 SCHOOL AND HOME SAFETY FUND.**

(A) The School and Home Safety Fund is hereby established as a separate dedicated non-reverting fund to be used to receive monies from fines assessed as described in this subchapter. All sums of monies so collected and deposited in the separate dedicated fund shall be used solely for the purpose of educating the public on home and school safety. Monies in this Fund shall be expended at the discretion of the Chief of Police, as appropriated by the City Council.

(B) Fifty percent of the monies collected as fines assessed as described in § 130.18 of this code shall be deposited in the School and Home Safety Fund and shall be used solely for the purpose designated in division (A) of this section. The remaining 50% of the monies collected as fines assessed as described in § 130.18 shall be deposited to the City Court/General Fund.

(Ord. 1302, passed 9-18-00)

