

## CHAPTER 130: OFFENSES AGAINST PUBLIC PEACE AND DECENCY

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Section

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## 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.

**INDECENT EXPOSURE.** When a person, male or female, intentionally exposes the genitals of the person under circumstances in which the person knows or should know the conduct and the exposing of the genitals is likely to cause affront or alarm.

#### **OBSCENITY.**

- (1) To the average person, applying contemporary community standards, the predominant appeal of the matter, taken as a whole, is to prurient interest in sexual conduct;
- (2) The matter depicts or describes the sexual conduct in a patently offensive way; and
- (3) The matter taken as a whole, lacks serious literary, artistic, political or scientific value.

**SEXUAL MISCONDUCT.** Acts of masturbation, homosexuality, lesbianism, bestiality, sexual intercourse or deviant sexual intercourse; or physical contacts with the genitals, flagellation or excretion for the purpose of sexual stimulation or gratification.

(1995 Code, § 9.04.010)

### § 130.02 ACTS PROHIBITED.

All forms of obscenity, sexual misconduct and indecent exposure in public places are prohibited in the City.

(1995 Code, § 9.04.020)

**§ 130.20 WEARING HOODS OR MASKS IN PUBLIC PLACES.**

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

**PUBLIC PLACE.** All walks, alleys, streets, boulevards, avenues, lanes, roads, highways or other ways or thoroughfares dedicated to public use or owned or maintained by public authority and all grounds and buildings owned, leased or operated for the use of organizations enjoying all tax-exempt privileges as a charitable use.

(B) (1) No person or persons shall, while wearing any hood, mask or device whereby a substantial portion of the face is hidden or covered so as to conceal the identity of the wearer, enter, be or appear in any public place within the City.

(2) No persons shall, while wearing any hood, mask or device whereby a substantial portion of the face is hidden or covered so as to conceal the identity of the wearer, demand entrance or admission, enter or come upon or into, or be upon or in the premises, enclosure or house of any other person in the City unless he or she shall have first obtained the written permission of the owner and the occupant of the property.

(C) The following are exempt provisions of division (B) above:

(1) Any person under 16 years of age;

(2) Any person wearing traditional holiday costumes in season;

(3) Any person using masks in theatrical productions including use in Mardi Gras celebrations and masquerade balls;

(4) Any person lawfully engaged in trades or employment or in a sporting activity where a mask or facial covering is worn for the purpose of ensuring the physical safety of the wearer or because of the nature of the occupation, trade or professional or sporting activity; and

(5) Any person wearing a gas mask in drills, exercises or emergencies.

(1995 Code, § 9.04.030) Penalty, see § 130.99

**§ 130.21 ALCOHOLIC BEVERAGES; POSSESSION AND CONSUMPTION.**

(A) No person being the owner or occupant or otherwise in possession of any property located within the City knowingly shall allow any person under the age of 21 years to remain on the property while in the possession of intoxicating liquor or beer or while consuming intoxicating liquor or beer.

(B) It shall be an affirmative defense under this section if the person charged with the offense, within 1 hour after the utilization of intoxicating liquor or beer constituting the basis of the violation, enlisted the aid of and cooperated with law enforcement personnel to cause minors who are utilizing intoxicating liquor or beer in violation of this chapter to not remain on the property.

(1995 Code, § 9.04.040) Penalty, see § 130.99

**§ 130.22 TOXIC GLUE.**

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

**TOXIC GLUE.** Any glue, adhesive cement, mucilage, plastic solvent or other adhesive containing toluene, acetone, xylene, butyl alcohol, hexane, tricresyl phosphate or other toxic ingredient.

(1995 Code, § 9.04.050)

(B) No person shall sell or transfer possession of any toxic glue to another person under 21 years of age, except that 1 tube of glue may be sold at any one time to a person under 21 years of age; provided that, the tube is included in a kit for the assembly of a model

airplane, automobile, boat or other unassembled model, or that a kit not having glue packaged therein is sold in conjunction with the sale of 1 tube of glue.

(1995 Code, § 9.04.060)

(C) No person shall inhale, drink, eat or otherwise introduce into his or her respiratory or circulatory system any toxic glue with the intent of becoming intoxicated, elated, paralyzed, irrational or, in any manner, changing, distorting or disturbing the eyesight, thinking process, judgment, balance or coordination of the person. For the purpose of this section, any such condition so induced shall be deemed to be an intoxicated condition.

(1995 Code, § 9.04.070)

(D) No person shall, for the purpose of violating or aiding another to violate any provision of this section, intentionally possess, buy, sell, transfer, possess or receive any toxic glue.

(1995 Code, § 9.04.080) Penalty, see § 130.99

### **§ 130.23 NUDITY IN PUBLIC PLACE PROHIBITED.**

(A) (1) It is unlawful for a person to appear in any public place in a manner or attire as to expose to view any portion of the pubic area, anus, vulva or genitals, or any simulation thereof, or for any female to appear in such manner or attire as to expose to view the portion of the breast below a horizontal line across the top of the areola at its highest point or simulation thereof. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit or other wearing apparel provided the areola is not exposed in whole or in part.

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

**PUBLIC PLACE.** The same as the definition of "public place" in KRS 525.010.

(1995 Code, § 9.04.100)

(B) (1) For the purpose of this division (B), the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**BUSINESS ESTABLISHMENTS.** A business within the City, where liquor, beer and/or wine is sold for consumption on the premises pursuant to a retail drink liquor license and/or retail cereal malt beverage liquor license that has been issued by the City.

**LICENSE.** A retail drink liquor license or a retail cereal malt beverage liquor license issued by the City.

**LICENSEE.** Any person to whom a retail drink liquor license or a retail cereal malt beverage liquor license has been issued by the City, including the officers and agents of the licensee.

**LIQUOR ADMINISTRATOR.** The duly appointed Alcoholic Beverage Control Administrator of the City.

**OCCUPATION LICENSE.** The occupational license issued for the business establishment pursuant to the City's occupational license ordinance.

**PERSON.** A human being, and, where appropriate, a public or private corporation, an unincorporated association, a partnership, a government or a governmental authority.

**PREMISES.** The land and building in and upon which any business establishment regulated by alcoholic beverage statutes is carried on.

**RETAIL LICENSEE.** Any licensee, including its officers and agents, who sells at retail any alcoholic beverage for the sale of which an occupational license is required.

(1995 Code, § 9.12.010)

(2) It is unlawful for, and a person is guilty of, performing nude or nearly nude activity when that person appears on a business establishment's premises in a manner or attire as to expose to view any portion of the pubic area, anus, vulva or genitals, or any

simulation thereof, or when any female appears on a business establishment's premises in a manner or attire as to expose to view the portion of the breast below a horizontal line across the top of the areola at its highest point or simulation thereof. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit or other wearing apparel; provided, the areola is not exposed in whole or in part.

(1995 Code, § 9.12.020)

(3) A licensee or retail licensee is guilty of permitting nude or nearly nude activity when, having control of the business establishment's premises, which it knows or has reasonable cause to know is being used by any person to appear on the premises in a manner or attire as to expose to view portions of the pubic area, anus, vulva or genitals, or any simulation thereof, or used by any female to appear on the premises in a manner or attire as to expose to view any portion of the breast below a horizontal line across the top of the areola at its highest point or simulation thereof; it permits the activity or fails to make reasonable and timely effort to halt or abate the activity or fails to make reasonable and timely effort to halt or abate such activity or use. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit or other wearing apparel; provided, the areola is not exposed in whole or in part.

(1995 Code, § 9.12.030)

(4) (a) In the event that a violation of divisions (B)(2) or (3) above occurs, the City Liquor Administrator shall forthwith conduct a hearing pursuant to KRS 243.520, in conjunction with KRS 241.160 and 241.190, to determine whether the liquor licensee, at whose business establishment the activity prohibited by this chapter occurred, shall have his or her or its license suspended or revoked.

(b) In the event 3 or more violations of divisions (B)(2) and (3) above occur at a business establishment within a 12-month period, the Liquor Administrator, after a hearing, shall revoke the retail drink license or retail cereal malt beverage liquor license or both.

(1995 Code, § 9.12.040)

(5) (a) In the event that a violation of divisions (B)(2) and (3) above occurs, the City Manager shall prefer charges against the retail license pursuant to this code of ordinances and after notice, a hearing and the like, held by the Board of Commissioners, the occupational license shall either be revoked or suspended.

(b) In the event that 3 or more violations of divisions (B)(2) or (3) above occur at a business establishment within a 12-month period, after notice and hearing and the like, pursuant hereto, the Board of Commissioners shall revoke the occupational license of the retail licensee.

(1995 Code, § 9.12.050) Penalty, see § 130.99

## **§ 130.24 WEAPONS.**

The use and possession of B-B guns, air rifles, pellet guns and any other instrument capable of issuing a projectile, whether by air, gas, spring or other means, other than a firearm, is prohibited by anyone under the age of 18 without parental guidance.

(1995 Code, § 9.20.010) Penalty, see § 130.99

## **§ 130.25 CURFEW.**

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

**ALLOW.** Either permit or neglect to refrain or prevent. It requires actual or constructive knowledge on the part of the parent or guardian; that is, the parent or guardian must actually know about the child violating this section, or the circumstances must be such that a reasonably prudent parent or guardian should have known the child was violating this section.

**CIVIL ACTIVITIES.** Any function or event sponsored by an established civil or social organization or school.

**MINOR.** Any person under the age of 18 or, as may be otherwise phrased, any person of the age of 17 or under.

**PARENT.** Any person having legal custody of a minor:

- (a) As a natural or adoptive parent;
- (b) As a legal guardian;
- (c) As a person who stands in loco parentis; and
- (d) Or as a person to whom legal custody has been given by order of court.

**RELIGIOUS ACTIVITIES.** Any activity, function, service or event sponsored by an established church.

**REMAIN.** To stay behind, to tarry or to stay unnecessarily upon or in any public assembly, building, place, street or highway.

(1995 Code, § 9.16.010)

(B) (1) *Daytime curfew for minors during school hours.*

(a) It shall be unlawful for any child between 6 and 18 years of age to be or remain in or upon any public assembly, building, place, commercial establishment, place of amusement and/or entertainment, street or highway within the City during the hours when the child is required to be in attendance at either public or private school, unless the child is accompanied by a parent, guardian or other adult person having written documentation of having care and custody of the child or is upon an emergency errand or other legitimate business directed by a parent, guardian or other adult person having the care and custody of the child.

(b) Any police officer may take any child found violating this section into custody and may charge the child with a violation hereof, or, in the alternative, may immediately take the child to his or her school and request that the school notify its attendance officer of the violation, or the officer may release the child to his or her parent, guardian, custodian or school attendance officer.

(2) *Nighttime curfew for minors.* It is unlawful for any person under the age of 18 to be or remain in or upon any public assembly, building, place, commercial establishment, place of amusement and/or entertainment, street or highway within the City at night during the period beginning at 11:00 p.m. and ending at 6:00 a.m., Sunday through Thursday, and beginning at 12:00 midnight and ending at 6:00 a.m., Friday and Saturday.

(3) *Exceptions.* In the following exceptional cases a minor in or upon any public assembly, building, place, commercial establishment, place of amusement and/or entertainment, street, or highway in the City during the nighttime hours provided for in division (B)(2) of this section shall not be considered in violation of this section:

(a) When the minor is accompanied by a parent or guardian;

(b) When accompanied by an adult authorized by a parent or guardian of the minor;

(c) When 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; provided that written notice signed by the minor and counter-signed by a parent is in the possession of the minor specifying when, where, and in what manner the minor will be exercising the First Amendment rights;

(d) In case of reasonable necessity, but only after the minor's parent has communicated to the Police Department the facts establishing the reasonable necessity;

(e) When the minor is on the sidewalk of the place where the minor resides or on the sidewalk of either next-door neighbor who has not communicated an objection to a police officer or the Police Department;

(f) When returning home, by a direct route from, and within 1 hour of the termination of a religious or civil activity or any activity; provided that, justification indicating the place and time of termination of the event can be given to any investigating officer of the Police Department;

(g) When authorized by regulation issued by the City Manager, in cases of reasonable necessity involving more minors than may reasonably be dealt with on an individual basis; (The regulation should be issued sufficiently in advance to permit publicity through news media and through other agencies, such as the schools. The regulation shall define the activity, the scope of the use of the public assembly, building, place, commercial establishment, place of amusement and/or entertainment, street or highway permitted, and the period of time involved not to extend more than 1 hour beyond the time for termination of the activity, and the reason for finding that the regulation is reasonably necessary. The Mayor shall notify the Police Department of the information.)

(h) When engaged in a business or occupation which the laws of Kentucky authorize a person under 18 years of age to perform or returning home by direct route from the work;

(i) When the minor is, with parental consent, in a motor vehicle with a lawfully authorized driver; and/or

(j) When the minor, who is a duly authorized and licensed driver, is operating a motor vehicle within the City for the purpose of passing through, by direct route, from one location to another either within or out of the City, including all minors that may also be within the vehicle.

(4) *Responsibilities of parent or guardian.* It is unlawful for a parent or guardian having legal custody of a minor to allow such minor to be or remain in or upon a public assembly, building, place, commercial establishment, place of amusement and/or entertainment, street or highway in the City under circumstances not constituting an exception as enumerated in division (B)(3) above. It shall be no defense that a parent was completely indifferent to the activities or conduct or whereabouts of the minor.

(5) *Responsibilities of law enforcement.*

(a) A police officer upon finding or being notified of any minor in or upon any public assembly, building, place, commercial establishment, place of amusement and/or entertainment, street or highway believed to be in violation of this division (B) shall confront the minor and request such information as name, age, address and the name of a parent or legal guardian. In addition, the police officer shall request proof of the age of the minor. If it is determined that the minor is of the age subject to the curfew (under 18 years of age), the police officer shall forthwith take the minor to the police station and the parent or guardian shall immediately be notified to come for the minor. They shall be questioned to discover the relevant facts and circumstances and the information shall be duly recorded for future reference in the event of subsequent violations of this section.

(b) Police procedures may provide, inter alia, that a police officer may deliver a minor to a parent or guardian under appropriate circumstances; for example, a minor of tender age near home whose identity and address may be readily ascertained or are known. In the event of the delivery, the police officer shall file a written report within 24 hours which shall be duly recorded. The Chief of Police, or his or her duly authorized representative, can issue regulations of effectuate expeditious procedure under this section.

(c) When a parent has come to take charge of the minor and the appropriate information has been recorded, the minor shall be released to the custody of the parent.

(d) If a parent or guardian cannot be located or fails to take charge of the minor, the minor may temporarily be entrusted to a relative, neighbor or other person who will assume the responsibility for the minor on behalf of the parent or guardian pending the availability of the parent or guardian. In the absence of any such person to assume the responsibility for the minor, the minor shall be released to the juvenile authorities.

(1995 Code, § 9.16.020)

(Ord. O-96-37, passed 12-16-1996; Am. Ord. O-2001-4, passed 3-12-2001) Penalty, see § 130.99

### **§ 130.99 PENALTY.**

Any person, firm, organization, or corporation who violates any of the provisions of this chapter or fails to obtain a requisite certificate of appropriateness shall, upon conviction be guilty, of a Class B misdemeanor in accordance with the Kentucky Revised Statutes.