

CHAPTER 130: GENERAL OFFENSES

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disturb another, or operate any motor vehicle in a careless or erratic manner upon the streets and highways of the city;

(D) No person shall be in possession of an open container of intoxicating liquor, as defined by Wis. Stats. § 125.02, or fermented malt beverage commonly known as beer, as defined by Wis. Stats. § 125.02, while the person is on the public streets, sidewalks, or alleys of the city without written permission of the Mayor or the Chief of Police.

(E) Any person who intentionally dials the telephone number "911" to report an emergency, knowing that the fact situation which he or she reports does not exist, shall be subject to the penalty as established in § 10.99

(Ord. 18, passed - -; Am. Ord. 57, passed 8-1-77; Am. Ord. 19-01, passed 3-11-19)

§ 130.01 REQUIRED ORDERLY CONDUCT.

Whoever does any of the following shall upon conviction thereof forfeit not more than \$100 together with the costs of prosecution, or in default thereof, shall be imprisoned until such forfeiture and costs are paid, not exceeding 60 days:

(A) In a public or private place, engage in violent, abusive, indecent, profane, boisterous, unreasonably loud, or otherwise disorderly conduct under circumstances in which such conduct tends to cause or provoke a disturbance; or

(B) With intent to annoy another, makes a telephone call, whether or not conversation ensues;

(C) Operates a motor vehicle within the city so as to cause or to be made any loud, disturbing, or unnecessary noise, such as may tend to annoy or

§ 130.02 BATTERY, DAMAGE TO PROPERTY AND THEFT.

The statutory provisions contained in Wis. Stats. §§ 940.19(1), 943.01(1) and 943.20(1)(a), exclusive of any provisions therein relating to penalties, providing for the offenses of battery, damage to property, and theft, are hereby adopted and by reference made part of this chapter as if fully set forth herein. Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this chapter. Any further amendments, revisions, or modifications of the statutes incorporated herein are made part of this chapter.

(Ord. 119, passed 2-1-88; Am. Ord. 119A, passed 2-6-95) Penalty, see § 10.99

§ 130.03 FIREARMS AND OTHER WEAPONS.

(A) (1) No person may discharge a firearm within city limits unless necessary for the protection of the possessor or a third party.

(2) This division (A) shall not apply to any premises owned and operated by any public or private sportsman's range or club.

(B) (1) No person may hunt with a rifle or handgun within that portion of the city which lies west of a line described as follows:

Beginning at the intersection of the east line of the southwest quarter of the northwest quarter (SW $\frac{1}{4}$ of the NW $\frac{1}{4}$), Section 12, Township 21N, Range 13W, and the centerline of County Trunk Highway E; thence north along the east line of the west half of the northwest quarter (W $\frac{1}{2}$ of the NW $\frac{1}{4}$), Section 12 to the north line of said Section 12; thence west to the northwest corner of said Section 12; thence north along the east line of Section 2, Township 21N, Range 13W to the intersection of the east line of the northeast quarter of the northeast quarter (NE $\frac{1}{4}$ of the NE $\frac{1}{4}$), said Section 2, with the bluff line; thence continuing northerly along the bluff line through said Section 2 and through Section 35, Township 22N, Range 13W to the intersection of the bluff line with the north line of said Section 35; thence east along the north line of Section 35 to the northeast corner thereof; thence north along the east line of Section 26, Township 22N, Range 13W to the intersection of such east line with the centerline of State Trunk Highway 37 and there terminating.

(2) This division (B) shall not apply to possession of a shotgun.

(C) (1) No person may discharge an airgun or a bow and arrow without a permit within the platted portions of the city located north of Laue Street and south of the south line of the north half of the northeast quarter (N $\frac{1}{2}$ of the NE $\frac{1}{4}$), Section 2, Township 21N, Range 13W (which runs approximately through the intersection of State Trunk Highway 35 (Main St.) and Riverview Drive).

(2) Permits shall be issued annually without cost to the applicant by the Police Chief on approval of either the Mayor or the Chairperson of the Services Committee.

(3) Permits may only be issued to a natural person for use of an airgun or bow and arrow on land owned or rented by them at an approved range or site where there is a sufficient backstop and side clearance to avoid injury to others.

(D) Within this section, the following definitions apply:

AIRGUN. A weapon which expels a missile by the expansion of compressed air or other gas, including BB guns, pellet guns, and air rifles.

BLUFF LINE. The top of the escarpment of the bluff.

BUILDING. Includes any house, trailer, or mobile home, but does not include any tent, truck, vehicle, or similar portable unit.

FIREARM. A weapon that acts by force of gunpowder.

HANDGUN. Any weapon designed or redesigned or made or remade and intended to be fired while held in one hand and to use the energy of an explosive to expel a projectile through a smooth or rifled bore.

RIFLE. A firearm designed or redesigned, made or remade, and intended to be fired from the shoulder or hip and designed or redesigned and made or remade to use the energy of a propellant in a metallic cartridge to fire through a rifled barrel a single projectile for each pull of the trigger.

SHOTGUN. A weapon designed or redesigned, made or remade, and intended to be fired from the shoulder or hip and designed or redesigned and made or remade to use the energy of a propellant in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.
(Ord. 151, passed 11-6-97; Am. Ord. 130.03, passed 12-5-13) Penalty, see § 10.99

§ 130.04 CURFEW.

(A) *Hours of curfew.* No person under 16 years of age (herein child) shall be present on any property dedicated for use to the public, including but not limited to streets and alleys, school grounds, or parks between the hours of 10:30 p.m. and 4:30 a.m.

(B) *Exceptions.* This section shall not apply to any person under the age of 16 years who meets one of the following definitions:

- (1) Any child who is accompanied by the child's parent, guardian, or adult spouse;
- (2) Any child who is present during the course of and as a requirement of employment;
- (3) Any child traveling directly between the child's home and supervised school, church, or civic function;
- (4) Any child engaged in the immediate execution of an errand given at the express direction of a parent, guardian, or adult spouse and required by the parent, guardian, or adult spouse to be performed at that time.

(C) *Penalties.*

(1) Any parent or guardian who intentionally or negligently allows their child or ward to violate this section shall be subject to the penalty as established in § 10.99.

(2) Any child 14 years of age or older violating this section shall be subject to the penalty as established in § 10.99.
(Ord. 135, passed 6-4-90)

§ 130.05 ISSUANCE OF WORTHLESS CHECKS.

(A) The statutory provisions describing and defining regulations with respect to the issuance of worthless checks in Wis. Stats. § 943.24, exclusive of any provisions therein relating to penalties to be imposed by the punishment for violation of the statutes, are hereby adopted and by reference made a part of this section as if fully set forth herein.

(B) Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this section, to wit:

(1) Whoever issues any check or other order for the payment of money which at the time of issuance, he or she intends shall not be paid is guilty of a forfeiture violation. (Wis. Stats. § 943.24(1))

(2) Any of the following is prima facie evidence that the person at the time he or she issued the check or other order for the payment of money, intended it should not be paid:

(a) Proof that, at the time of issuance, the person did not have an account with the drawee;

(b) Proof that, at the time of issuance, the person did not have sufficient funds or credit with the drawee and that the person failed within five days after receiving notice of nonpayment or dishonor to pay the check or other order; or

(c) Proof that, when presentment was made within a reasonable time, the person did not have sufficient funds or credit with the drawee, and the person failed within five days after receiving notice of nonpayment or dishonor to pay the check or other order.

(Wis. Stats. § 943.24(3))

(3) This section does not apply to a postdated check or to a check given for a past consideration, except a payroll check. (Wis. Stats. § 943.24(4))

(4) In addition to the other penalties provided in violation of this section, a judge may order a violator to pay restitution. (Wis. Stats. § 943.24(5))

(Ord. 139, passed 6-1-92)

§ 130.06 REGULATING IN-LINE SKATES AND SKATEBOARDS.

(A) No person may ride upon a skateboard, in-line skates or other similar device on any sidewalk on Main St. between North St. and Vine St. within the city.

(B) No person may ride upon a skateboard within the city on the following streets:

(1) State Trunk Highway 35;

(2) Walnut Street between Second Street and Main Street;

(3) Cedar Street between Third Street and Main Street;

(4) Orange Street between Second Street and Main Street;

(5) Pine Street between Third Street and Main Street;

(6) Swift Street between Third Street and Main Street;

(7) Laue Street between Second Street and Main Street;

(8) County Trunk E from the city limits to State Trunk Highway 35.

(C) For the purpose of this section, "in-line skates" means skates with wheels arranged singly in a tandem line rather than in pairs.

(Ord. 150, passed 10-6-97) Penalty, see § 10.99

§ 130.07 POSSESSION OF MARIJUANA OR DRUG PARAPHERNALIA.

(A) *Possession of marijuana prohibited.* It is unlawful for any person to possess 14 grams or less of marijuana as defined in Wis. Stats. § 961.01(14) unless the marijuana was obtained directly from, or pursuant to a valid prescription or order of, a practitioner who is acting in the course of his or her professional practice as provided in Wis. Stats. § 961.41(3g)(intro.) or unless the person is otherwise authorized by Wis. Stats. Ch. 961 to possess marijuana.

(B) *Exceptions.* Any person who is charged with possession of more than 14 grams of marijuana shall not be charged under this section. Any person who was previously or is currently charged with the possession of any amount of marijuana or drug paraphernalia in the State of Wisconsin or any other jurisdiction that prohibits the possession of marijuana, tetrahydrocannabinol or drug paraphernalia shall not be charged under this section. Any person convicted of any offense under Wis. Stats. Ch. 961 or in any other jurisdiction relating to controlled substances, including marijuana or any local ordinances regarding possession of controlled substances shall not be charged under this section.

(C) *Possession of drug paraphernalia prohibited.* No person may use, or possess with the primary 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 marijuana. **DRUG PARAPHERNALIA** means all equipment, products and materials of any kind that are used, designed for use or primarily intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body marijuana.

(D) *Penalty.* Any person, firm or corporation violating any provision of this section shall, upon conviction, be required to forfeit not more than \$500, together with the costs of the action.

(E) *Enforceability.* This section may be enforced by citation by any law enforcement officer employed by the city.

(F) *Statutes applicable.* This section shall in no way be deemed to supplant or otherwise invalidate any provision of state statutes relating to the subject matter hereof. Any person entrusted with the enforcement of this section may, in the exercise of his or her discretion, proceed under applicable Wisconsin State Statutes.

(Ord. 165, passed 6-6-13)

§ 130.08 TRESPASSING - PUBLIC, PRIVATE AND SCHOOL PROPERTY.

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

PROPERTY. Includes real and personal property and includes, but is not limited to, boathouses, houseboats, motor vehicle dealership lots,

ships or vessels, any building or dwelling, enclosed railroad cars, motor home or other motorized type of home or a trailer home, whether or not a person is living in such home.

TRESPASSING.

(a) It is unlawful for a person to knowingly trespass upon the property of another. As used in this section, the term **PROPERTY** includes any land, dwelling, building, conveyance, vehicle or other temporary or permanent structure whether publicly or privately owned. The term **TRESPASS** means one of or more than the following acts:

1. *Entering property without permission.* Entering upon or in property without the express permission of the owner, lessee, or person in lawful possession with the intent to commit a public offense or to use, remove therefrom, alter, damage, harass, or place thereon or therein anything animate or inanimate.

2. *Entering or remaining on property.* Entering or remaining upon or in property without justification after being notified or requested to abstain from entering or to remove or vacate therefrom by the owner, lessee, or person in lawful possession, or by any police officer or public employee whose duty it is to supervise the use of or maintenance of the property.

3. *Interfering with lawful use of property.* Entering upon or in private property for the purpose or with the effect of unduly interfering with the lawful use of the property by others.

4. *Using property without permission.* Being upon or in property and wrongfully using, removing therefrom, altering, damaging, harassing, or placing thereon or therein anything animate or inanimate without the implied or actual permission of the owner, lessee, or person in lawful possession.

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(b) None of the above shall be construed to prohibit entering upon the property of another for the sole purpose of retrieving personal property which has accidentally or inadvertently been thrown, fallen, strayed, or blown onto the property of others, provided the person(s) retrieving the property takes the most direct and accessible route to and from the property to be retrieved, quits the property as quickly as possible, and does not unduly interfere with the lawful use of the property.

(B) *Public building unauthorized entry.* No unauthorized person shall enter or remain in or upon any public building, premises or grounds in violation of any notice posted thereon or when said building, premises or grounds are closed and not open to the public. When open to the public, a failure to pay any required admission also constitutes an unauthorized entry.

(C) *Trespass to property.*

(1) No person shall intentionally enter or remain upon the property, premises or within the enclosure of another, without the consent or permission of the owner, agent or possessor.

(2) No person shall intentionally enter or remain upon the property or premises of another after having been notified by the owner, agent or possessor of the property or premises not to enter or remain on the property or under circumstances tending to create or provoke a breach of the peace.

(3) A person has received notice from the owner or occupant within the meaning of this section if such person has been notified personally, either orally or in writing, or if the property is posted.

(4) For purposes of this section, entry to a place during the time when it is open to the general public is with consent.

(D) *Unauthorized presence on school property prohibited.*

(1) It shall be unlawful for any student who is under suspension, expulsion, exemption or other discipline excluding such student from attending school under the jurisdiction of the Alma Area Schools Board of Education ("School Board"), or for any person, not a student presently enrolled to attend school under the jurisdiction of the School Board or not an employee of the School Board or not a parent or guardian of a student so enrolled or not an otherwise "authorized person" to be present within any school building or upon any school grounds under the jurisdiction of said School Board without having first secured authorization to be there from the principal or other person in charge of said school building or school grounds for any purpose previously authorized by the School Board or its designee.

(2) Any person shall, upon request of the principal or other person in charge of any school building or upon any school grounds under the jurisdiction of the School Board, or upon request of any police officer, display any written authorization to be present which such person may have, in their possession or otherwise explain such person's presence or status as such student, employee, parent or guardian, or "authorized person" referred to in division (D)(1) above.

(3) All entrances to the school buildings referred to in division (D)(1) above shall be posted with a notice stating, "Entry into School Building by Unauthorized Persons Prohibited." All school grounds referred to in division (D)(1) above shall be posted with a notice stating, "Entry Upon School Grounds by Unauthorized Persons Prohibited."

(E) *Enforcement.* This section shall be enforced by any law enforcement officer authorized to enforce the laws of the State of Wisconsin and city ordinances.

(F) *Penalty.* The penalties under Wis. Stats. § 23.33(13)(a) or § 10.99 of this Code of Ordinances are adopted by reference.

(Ord. passed 12-7-17)

Statutory reference:

Trespass, see Wis. Stats. § 943.14

§ 130.09 MINOR'S PURCHASE OF POSSESSION OF TOBACCO PRODUCTS, E-CIGARETTES AND VAPING.

(A) *Definition of tobacco products.* For the purposes of this section, **TOBACCO PRODUCTS** means any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco.

(B) *Purchase by minors prohibited.* It shall be unlawful for any person under the age of 18 years to purchase tobacco products, or to misrepresent their identity or age, or to use any false or altered identification for the purpose of purchasing tobacco products.

(C) *Possession by minors prohibited.* It shall be unlawful for any person under the age of 18 years to possess any tobacco products; provided that the possession by a person under the age of 18 years under the direct supervision of the parent or legal guardian of such person in the privacy of the parent's or legal guardian's home shall not be prohibited.

(D) *Purchase or possession of E-cigarettes and/or vaping products.* It shall be unlawful for any person under the age of 18 years to purchase or possess any e-cigarettes and/or vaping products.

(E) Any person who violates this section, shall be subject to the penalty as established in §10.99 of this Code of Ordinances.
(Ord. 19-02, passed 3-11-19)

§ 130.10 RESIDENCY RESTRICTIONS FOR SEXUAL OFFENDERS.

(A) *Findings and intent.*

(1) The Common Council of the City of Alma finds that repeat sexual offenders who use physical violence and sexual offenders who prey on children, are sexual offenders who present an extreme threat to the public safety. Sexual offenders are extremely likely to use physical violence and to repeat their offenses: and most sexual offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sexual offender victimization to society at large, while incalculable, clearly exorbitant.

(2) It is not the intent of the Common Council to punish sex offenders, but rather to serve the city's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the city by creating areas around locations where children regularly congregate in concentrated numbers, wherein, certain sexual offenders are prohibited from establishing temporary or permanent residence.

(3) School bus stops are the locations where students are waiting for a school bus or are being dropped off by a school bus. Such locations are **SCHOOL ZONES**, as defined in Wis. Stats. § 939.632(1)(d)3m. The frequency of use, consistent timing and consistent location of these school bus stops makes them locations where children regularly congregate in concentrated numbers. The students who use them are subject to routine observation by nearby residents. The city seeks to create areas around these locations where certain sexual offenders are prohibited from establishing temporary or permanent residence.

(4) Due to the high rate of recidivism for sexual offenders, and because reducing both opportunity and temptation would help minimize the risk of re-offense, there is a compelling need to protect children where they congregate or play in public places.

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

CHILD. A person under the age of 18 years.

CRIME AGAINST CHILDREN. Any of the following offenses set forth within the Wisconsin Statutes, as amended, or the laws of this or any other state or federal government, having like elements necessary for conviction, respectively.

§ 940.225(1)	First degree sexual assault
§ 940.225(2)	Second degree sexual assault
§ 940.225(3)	Third degree sexual assault
§ 940.22(2)	Sexual exploitation by therapist
§ 940.30	False imprisonment- victim was minor and not the offender's child
§ 940.31	Kidnapping - victim was minor and not the offender's child
§ 940.225	Rape
§ 944.06	Incest
§ 948.02	Sexual intercourse with a child
§ 948.02	Indecent behavior with a child
§ 948.07	Enticing child for immoral purposes
§ 948.02(1)	First degree sexual assault of a child
§ 948.02(2)	Second degree sexual assault of a child
§ 948.025	Engaging in repeated acts of sexual assault of the same child
§ 948.05	Sexual exploitation of a child

§ 948.055	Causing a child to view or listen to sexual activity
§ 948.06	Incest with a child
§ 948.07	Child enticement
§ 948.075	Use of a computer to facilitate a child sex crime
§ 948.08	Soliciting a child for prostitution
§ 948.095	Sexual assault of a student by school instructional staff
§ 948.11(2)(a)or(am)	Exposing a child to harmful material felony sections
§ 948.12	Possession of child pornography
§ 948.13	Convicted child sex offender working with children
§ 948.30	Abduction of another's child
§ 971.17	Not guilty by reason of mental disease or an included offense
§ 975.06	Sex crime law commitment

PERMANENT RESIDENCE. A place where a person abides, lodges or resides for 14 or more consecutive days.

SEX OFFENDER:

(a) Any person who is required to register under Wis. Stats. § 301.45 and/or any person who is required to register under Wis. Stats. § 301.45 and who is subject to the Special Bulletin Notification process set forth in Wis. Stats. §§ 301.46(2) and 301.46(2m);

(b) Any person subject to the sex crimes commitment provisions of Wis. Stats. § 975.06;

(c) Any person found not guilty by reason of disease or mental defect placed on lifetime supervision under Wis. Stats. § 971.17(1j);

(d) Any person who has been convicted of, or has been found not guilty by reason of disease or mental defect of, any crime against children as defined herein.

TEMPORARY RESIDENCE. A place where a person abides, lodges or resides for a period of 14 or more days in the aggregate during any calendar year and which is not the person's permanent address or place where the person routinely abides, lodges or resides for a period of four or more consecutive or non-consecutive days in any month and which is not the person's permanent address.

(C) *Residency restrictions.*

(1) In absence of a circuit court order specifically exempting a sex offender from the residency restriction in this division, a sexual offender shall not establish a permanent or temporary residence within 1,000 feet of any private or public school, churches, recreational trail, athletics fields used by children, playground or park where children regularly gather; licensed child care center as defined in Wis. Stats. § 48.65 or group home as defined in Wis. Stats. § 48.02(7). A map of such restricted areas shall be maintained, updated and available to the public at the City Hall.

(2) It is unlawful to let or rent any place, structure, or part thereof with the knowledge that it will be used as a residence by a sex offender if such place, structure, or part hereof is located within 1,000 feet of any private or public school, churches, recreational trail, athletics fields used by children, playground or park where children regularly gather; licensed child care center as defined in Wis. Stats. § 48.65 or group home as defined in Wis. Stats. § 48.02(7). A person letting or renting a place or structure shall be deemed to have such knowledge if, at least ten days prior to letting or renting the place, the sex offender's name appears on the Wisconsin Department of Corrections Sex Offender Registry and the person letting or renting the place knew the sex offender would be residing at the subject place or structure.

(3) In absence of a circuit court order specifically exempting a sex offender from the residency restriction in this division, a sexual offender shall not establish a permanent or temporary residence within 200 feet of any regularly used private or public school bus stop. A list of public school bus stops which are regularly used shall be maintained and updated by the city from information supplied by Alma Area Schools. A map of such restricted areas shall be maintained, updated and available to the public at the City Hall.

(4) It is unlawful to let or rent any place, structure, or part thereof with the knowledge that it will be used as a residence by a sex offender if such place, structure, or part hereof is located within 200 feet of any private or public school bus stop. A person letting or renting a place or structure shall be deemed to have such knowledge if, at least ten days prior to letting or renting the place, the sex offender's name appears on the Wisconsin Department of Corrections Sex Offender Registry and the person letting or renting the place knew the sex offender would be residing at the subject place or structure.

(D) *Residency restrictions exemptions.* A sex offender residing within a prohibited area as described division (C) above does not commit a violation of this section if any of the following apply:

(1) The person established a permanent residence or temporary residence and reported and registered the residence pursuant to Wis. Stats. § 301.45 before the effective day of this section.

(2) The person was under 17 years of age and is not required to register under Wis. Stats. §§ 301.45 or 301.46.

(3) The school, church, recreational trail, playground, athletics field, park, or licensed child care center, or group home, where children regularly gather within 1,000 feet of the person's permanent residence or temporary residence was opened after the person established the permanent residence or temporary residence and reported and registered the residence pursuant to Wis. Stats. § 301.45.

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(4) The person is required to serve a sentence at a jail, juvenile facility or other correctional institution or facility.

(5) The person is a minor or ward under guardianship.

(E) *Appeal.*

(1) The above 1,000-foot requirements for residency and rental may be waived upon approval of the Safety Committee and Common Council through appeal by the affected party. Such appeal shall be made in writing to the City Clerk's Office, who shall forward the request to the Common Council for referral to the Safety Committee, which shall receive reports from law enforcement agencies on such appeal. The Safety Committee shall convene and consider the public interest as well as the affected party's presentation and concerns. After deliberation, the Safety Committee shall forward its recommendation to the Common Council for consideration. The Common Council shall forward its decision in writing via the minutes or otherwise to the Police Department for their information and action. A written copy of the decision shall be provided to the affected party.

(2) The above 200-foot requirements for residency and rental may be waived upon approval of the Safety Committee and Common Council through appeal by the affected party. Such appeal shall be made in writing to the City Clerk's Office, who shall forward the request to the Common Council for referral to the Safety Committee, which shall receive reports from law enforcement agencies on such appeal. The Safety Committee shall convene and consider the public interest as well as the affected party's presentation and concerns. After deliberation, the Safety Committee shall forward its recommendation to the Common Council for consideration. The Common Council shall forward its decision in writing via the minutes or otherwise to the Police Department for its information and action. A written copy of the decision shall be provided to the affected party.

(3) The Safety Committee shall consist of five citizens, three of whom shall constitute a quorum. The Mayor shall appoint the members of the Safety Committee.

(F) *Loitering.*

(1) It shall be unlawful for any sex offender as designated in division (B) above, to loiter or prowl at any school or school property; recreational trail, playground or park; within 300 feet of a licensed child care center or group home; in a place, at a time, or a manner not usual for law abiding individuals, under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the actor takes flight upon appearance of a law enforcement officer, refuses to identify himself or herself or manifestly endeavors to conceal himself or herself or any object. Unless flight by the actor or other circumstances makes it impractical, a law enforcement officer shall prior to any arrest for an offense under this section, afford the actor an opportunity to dispel any alarm which would otherwise be warranted, by requesting him or her to identify himself or herself or explain his or her presence and conduct at the aforementioned locations. No person shall be convicted of an offense under this section if the law enforcement officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the actor was true, and, if believed by the law enforcement officer at the time, would have dispelled the alarm.

(2) *Exceptions.* The prohibitions set forth in division (F)(1) above shall not apply where the actor was with his or her parent or other adult person having his or her care, custody or control; or the actor was exercising First Amendment rights protected by the United States Constitution, including freedom of speech, free exercise of religion and the right of assembly.

(G) *Prohibited activities.* It shall be unlawful for any sex offender to participate in a holiday event

involving children under eight years of age, including, but not limited to, for purposes of example: distributing candy or other items to children on Halloween, wearing a Santa Claus costume on or preceding Christmas or wearing an Easter Bunny costume on or preceding Easter. Holiday events in which the offender is the parent or guardian of the children involved, and no non-familial children are present, are exempt from this division. Participation is to be defined as actively taking part in the event.

(H) *Measurement of distance.* For the purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the closest outer property line of the permanent residence or temporary residence to closest outer property line of a private or public school, recreational trail, playground or park where children regularly gather or licensed day care center or licensed group foster home.

(I) *Penalty.* A person who violates provisions of this section shall be subject to a forfeiture of not less than \$500 and no more than \$1,000 for each violation. Each day a violation continues shall constitute a separate offense. The city may also seek equitable relief to gain compliance.

(Ord. 19-05, passed 7-5-19)

