

**TITLE XIII: GENERAL OFFENSES**

Chapter

**130. GENERAL OFFENSES**

## CHAPTER 130: GENERAL OFFENSES

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### § 130.01 CURFEW.

(A) *Purpose.* The purpose of this section is to promote the general welfare and protect the general public through the reduction of juvenile violence within the city, to protect both real and personal property within the city from continuing juvenile mischief activity, to promote the safety and well-being of the city's youngest citizens, persons under the age of 18, whose inexperience renders them particularly vulnerable to becoming participants in unlawful activities, particularly unlawful drug activities and to being victimized by older perpetrators of crime, and to promote, foster, and strengthen parental responsibility for children.

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

**CURFEWS HOURS.** The hours between 1:00 a.m. and 5:00 a.m. on Saturday or Sunday, after 11:00 p.m. on Sunday, Monday, Tuesday, Wednesday, or Thursday, or before 5:00 a.m. on Monday, Tuesday, Wednesday, Thursday, or Friday.

**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 and any place of amusement or entertainment. With respect to such establishments, the term **OPERATOR** shall mean any person and any firm, association, partnership (and the individual members or partners thereof) and/or any corporation (and the individual officers thereof) conducting or managing that establishment.

**MINOR.** Any person under 18 years of age who has not been emancipated by court order pursuant to the law of the state.

**OFFICER.** A police or other law enforcement officer charged with the duty of enforcing the laws of the state and/or the ordinances of the city.

**PERSON.** An individual, not an 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, and shops.

('66 Code, § 4-11-1-1)

*(C) Offenses.*

(1) 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:

(a) The minor is accompanied by a parent or guardian; or

(b) The minor is involved in an emergency; or

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

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

(e) The minor is attending an activity supervised sponsored by a school, religious, or civic organization, by a public organization or agency, or by another similar organization or entity, which activity is supervised by adults, and/or the minor is going to or returning home from such activity without detour or stop; or

(f) The minor is on an errand at the direction of a parent or guardian and the minor has on his or her possession a writing signed by the parent or guardian containing the following information: the name, signature, address, and telephone number of the parent or guardian authorizing the errand, the name of the minor, the minor's destination, and the date and time that the minor is authorized to be engaged in the errand; or

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

(h) The minor is 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.

(2) It shall be unlawful for a minor's parent or guardian to knowingly permit, allow, or encourage such a minor to violate this section.

(3) It shall be unlawful for a person who is the owner or operator of a motor vehicle to knowingly permit, allow, or encourage a minor to violate this section.

(4) It shall be unlawful for the operator of an establishment, or any person who is an employee thereof, to knowingly permit, allow, or encourage a minor to remain upon the premises of the establishment during curfew hours. It shall be a defense to prosecution of this section 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.

(5) It shall be unlawful for any person (including a minor) to give false name, address, or telephone number to any officer investigating a possible violation of this section.  
(‘66 Code, § 4-11-1-2)

*(D) Enforcement.*

(1) Before taking any enforcement action hereunder, an officer shall make an immediate investigation for the purpose of ascertaining whether or not the presence of a minor in a public place, motor vehicle, and/or establishment within the city during curfew hours in violation of this ordinance.

(2) If such investigation reveals that the presence of such minor is in violation, then the officer shall issue a written citation to the minor or offender, charging him or her with violation of this ordinance. The officer shall provide a copy of the same to the City Attorney, and the City Attorney may consider further civil prosecution.

(3) Further, as soon as practicable, the officer shall advise the minor's parent or guardian of the alleged violation. If a parent or guardian is not immediately available, the officer shall issue a written advisement to be mailed by the police department.

(‘66 Code, § 4-11-1-3) (Ord. 1961, passed 11-13-2000) Penalty, see § 10.99

*Cross-reference:*

*Unlawful acts, see § 111.06*

**§ 130.02 FIREARMS AND OTHER DEADLY WEAPONS.**

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

***DEADLY WEAPON.***

(1) A loaded or unloaded firearm; or

(2) A weapon, device, taser or electronic stungun, equipment, chemical substance (not including mace or pepper spray), knife (with a blade more than 3 ¾-inches in length), or other material that in the manner it is used, could ordinarily be used, is intended to be used or is readily capable of causing serious bodily injury.

**FIREARM.** Any weapon which is capable of, designed to or that may be readily converted to expel a projectile by means of an explosion.

(B) Except as provided in division (C) of this section, no person shall possess on or about his or her person any deadly weapon while on the second floor of the Elwood City Building. Further, prohibition shall apply to any room on the first floor of the building that is being utilized to conduct judicial or prosecutorial activities.

(C) Division (B) of this section does not apply to law enforcement officers pursuant to I.C. 35-41-1-17, the Indiana Department of Correction Officers or employees of the United States duly authorized to carry deadly weapons.

(Ord. 1864, passed 5-6-96) Penalty, see § 10.99

### § 130.03 FALSE ALARMS.

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

**ALARM SYSTEM.** Any device used for the detection of an unauthorized entry or attempted entry into a building, structure or facility and alarms for fire, smoke, excess heat or explosion or for alerting others of the commission of an unlawful act within a building, structure, facility or grounds, which when activated causes notification to be made directly or indirectly to the Elwood Police Department. For the purpose of this section, an **ALARM SYSTEM** shall not include:

(1) An alarm installed on a motor vehicle;

(2) An alarm designed and operated so that no notification is given to the Police Department until after the occupants, and agent of the owner or lessee, or an agent of the alarm system business have checked the alarm site and determined that the alarm was the possible or probable result of criminal activity or fire or explosion of the kind for which the **ALARM SYSTEM** was designed to give notice. The alarm shall be equipped to disconnect any exterior sounding alarm automatically within ten minutes of activation; and

(3) An alarm installed upon premises occupied by the United States, the state or any political subdivision thereof.

**FALSE ALARM.** An alarm eliciting a police or fire response when the situation does not warrant it. For the purposes of this section, this does not include alarms triggered by severe atmospheric conditions or other circumstances not reasonably under the control of the alarm user, installer or maintainer.

(B) *Prohibited acts.*

(1) It shall be a prohibited act punishable by fine as provided in § 10.99 (B) to do any of the following acts:

(a) For a person who owns or controls property on which an alarm system is installed to issue, cause to be issued or permit the issuance of a false alarm.

(b) For a person who owns or controls property to install, maintain or permit to operate any alarm which automatically dials into any police department or emergency telephone line when the alarm is activated.

(2) Each separate occurrence under division (1) above and each separate day, under division (1)(b) shall constitute a separate and distinct violation.

(C) *Notice of violation.*

(1) The Police Chief, Fire Chief or designee may issue a violation. Upon the issuance of the first three violations of division (B) of this section for any specific property per calendar year, any fine will be excused upon the violator submitting a written report to the Police Chief or Fire Chief on the cause of the alarm within two weeks of the service of the notice of violation. The report must show that steps have been taken to correct the problem and that the problem will not occur again in the future.

(2) The notice of violation shall state the name of the violator, the location of the violation, the date and time of the violation, the division of this section which was violated, the penalties for the violation and the violator's right to appeal under any division of the section, if applicable.

(3) A notice of violation shall be served upon the violator at the violator's last known address. Service shall be complete upon the mailing (regardless of the receipt of the notice) or posting of the notice upon the property where the alarm is located.

(D) *Hearing on excuse.* Any person noticed for a violation of division (B) may petition the Board of Public Works and Safety for a hearing to show that for some reason beyond the violator's control, the false alarm was activated. The petition for a hearing must state specifically the reasons beyond the violator's control for the activation of the alarm. The violator must also furnish the Board of Public Works and Safety names and addresses of any and all witnesses as to the foregoing reasons. The petition must be filed with the office of the Police Chief within two weeks of service of the notice of violation. After the hearing, the Board of Public Works and Safety, in its sole discretion, will determine whether the false alarm was activated for reasons beyond the control of the violator. If the Board of Public Works and Safety does determine that it was beyond the control of the violator, the violation will be excused and no fine will be imposed.

(Ord. 1887, passed 11-6-96) Penalty, see § 10.99

**§ 130.04 LOITERING.**

(A) A person commits a violation if he or she loiters or prowls in a place, at a time, or in 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 alarm is warranted is the fact that the person takes flight upon appearance of a police officer, refuses to identify himself or herself, or manifestly endeavors to conceal himself or herself or any object. Unless flight by the person or other circumstances makes it impractical, a police officer shall, prior to any arrest for an offense under this section, afford the person an opportunity to dispel any alarm which would otherwise be warranted, by requesting the person to identify himself or herself and to explain his or her presence or conduct. No person shall be convicted of an offense under this section if the police officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the person was true and, if it had been believed by the police officer at the time, would have dispelled the alarm. Any police officer may arrest any person suspected of being a loiterer or prowler without a warrant if it reasonably appears that the delay in arresting the suspect caused by obtaining a warrant would result in the suspect's escape.

(B) It shall be unlawful for any person, after first being warned by a police officer, or where a "no loitering" sign or signs have been posted, to loiter, stand, sit, or lie in or upon any public or quasi-public sidewalk, street, curb, cross-walk, walkway area, mall or that portion of private property utilized for public use, so as to hinder or obstruct unreasonably the free passage of pedestrians or vehicles thereon. It shall be unlawful for any person to block, obstruct, or prevent free access to the entrance to any building open to the public.

(C) For the purpose of this section, **PUBLIC PLACE** has the following definition unless the context clearly indicates or requires a different meaning: an area generally visible to public view, including streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles (whether moving or not), and buildings open to the general public, including those which serve food or drink or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them.

('66 Code, §§ 4-11-2-1 and ('66 Code, § 4-11-2-2) Penalty, see § 10.99

**§ 130.05 SLEEPING IN PUBLIC PLACES.**

(A) *Streets, sidewalks and public ways.* No person shall sleep or lie upon any part of a public street or right-of-way, whether used for traffic or not used for traffic. No person shall sleep on any alley or any public way. No person shall sleep on any sidewalk.

(B) *City buildings.* No person shall sleep in any building owned or operated by the city, except in those buildings and locations designated for sleeping, such as fire station dormitories and shelters provided for indigent persons.

(C) *Places open to the public.* No person shall sleep in any other building or part of a building open to the public without the permission of the owner or person in charge of the premises.

(D) *Warning before filing charges.* No person shall be arrested for a violation of this section or charged with a violation of this section, unless the person continues to sleep, attempt to sleep or lie in a location covered by this section after a police officer has informed him or her that continued conduct is in violation hereof.

(E) *Exception in the case of illness.* No person shall be charged with a violation of this section if the person is unable, due to illness, to comply.

(Ord. 1633, passed 12-26-85) Penalty, see § 10.99