

TITLE XIII: GENERAL OFFENSES

Chapter

**130. OFFENSES AGAINST CITY
REGULATIONS**

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CHAPTER 130: OFFENSES AGAINST CITY REGULATIONS

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GENERAL PROVISIONS**§ 130.01 DISORDERLY CONDUCT.**

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

(1) **PUBLIC PLACE.** A street, alley, park, public building or any place of business, grounds, parking lot, area or assembly in the city which is open to or frequented by the public.

(2) **PUBLIC VIEW.** Within the plain view of persons who are in or upon a public place.

(B) *Actions prohibited.* No person shall do any of the following:

(1) *Violations of statute.* Violate any criminal statute of the state of Michigan, the violation of which shall constitute a violation of this code of ordinances as if the state law provisions were set forth in full as ordinances of the city.

(2) *Prowling.* Loiter or prowl in a place within the city, 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.

(a) Among the circumstances which may be considered in determining alarm is the fact that the person takes flight upon appearance of a police officer, refuses to identify himself or endeavors to conceal himself or any object.

(b) Unless flight by the person or other circumstances makes it impracticable, a police officer shall, prior to any arrest for an offense under this division, allow the person an opportunity to dispel any alarm which would otherwise be warranted by requesting him to identify himself and explain his presence and conduct.

(c) No person shall be convicted of an offense under this provision if the police officer did not comply with the preceding section, or if it appears at trial that the explanation given by the person, if believed by the police officer at the time, would have dispelled the alarm.

(3) *Damaging property.*

(a) Willfully destroy, damage or in any manner deface any property not his or her own; or any public school building or part, equipment or furnishings thereof or therein; or any public or private building or part, equipment, or furnishings thereof or therein; or any bridge, fire hydrant, alarm box, street light, street sign, parking meter or shade tree belonging to the city or located in a public place in the city.

(b) Mark or post handbills on, or in any manner mar, the walls of a public building, or any fence, tree or pole in a public place within the city; or

(c) Destroy, take or meddle with any property belonging to the city or remove the same from the building or place where it may be kept, placed or stored, without authority from City Council or another authorized official custodian of such property.

(4) *Disturbances; fighting.* Engage in any disturbance, fight or quarrel, so as to irritate or disturb a reasonable person, in a public place.

(5) *Rough crowding.* Jostle or roughly crowd persons in a public place;

(6) *General trespass.* Knowingly or willfully enter upon the real property of another without the consent of the owner, lessee or other person rightfully in charge or in possession if:

(a) The premises are fenced or enclosed in a manner to exclude intruders; or

(b) Notice to stay off or leave the premises is personally communicated to the person by the owner, lessee or person rightfully in charge or in possession thereof; or

(c) Notice against trespass is given by posting the premises in a conspicuous manner.

(7) *Unlawful assemblies.* Collect or stand in crowds, or arrange, encourage or abet the collecting of persons in crowds in any public place for illegal or mischievous purposes.

(8) *Unlawful standing, congregating.* Individually, or with others stand, loiter, stroll or collect in a group or crowd without reasonable cause, and to the annoyance, inconvenience or interference of others in any place in the city, public or private.

(9) *Public urination.* Urinating in public place or public view as defined under division (A).

(10) *Snowmobiles.* Riding snowmobiles on city streets and alleys other than Center to Charles to Walnut Streets.

(Ord. 168, passed 3-9-87; Am. Ord. 257, passed 2-5-01) Penalty, see § 10.99

Cross-reference:

Disorderly conduct in public dance halls, see § 113.06

§ 130.02 DISCHARGING FIREARMS.

(A) Except for public law-enforcing officers in the performance of their duties, no person shall discharge firearms and weapons within the corporate limits of the city.

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(B) Except for public law-enforcing officers in the performance of their duties, no person shall discharge BB guns, bow-and-arrows, pellet guns, slingshots and paintball guns on city-owned property and lands within the City of Bangor corporation limits, or on lands not owned by the person discharging said propellants.

(C) This provision does not apply to other city employees in specific act of protecting the wastewater lagoons from damage by animals if such employees have been granted a nuisance permit from the appropriate and authorized state office.

(D) Persons allowed to discharge propellants such as BB guns, bow-and-arrows, pellet guns, slingshots and paintball guns on property they own in the City of Bangor must be of legal age to do so or must be under the direct supervision of a "family-related" (by blood or marriage) adult or legal guardian.

(E) Nothing in this section shall be interpreted to mean that a person allowed to discharge propellants such as BB guns, bow-and-arrows, pellet guns, slingshots and paintball guns on property he or she owns in the City of Bangor may or may not also need to obtain permits from other governmental or regulating agencies.

(F) Nothing in this section shall be interpreted as relieving any person allowed to discharge propellants such as BB guns, bow-and-arrows, pellet guns, slingshots and paintball guns on property he or she owns in the City of Bangor from any and all liability which may result from his or her actions in discharging of propellants.

(G) Violations of any portion of this section are subject to Title I, Chapter 10 and Chapter 11 of the Code of ordinances for the City of Bangor, or as established specifically herein below.

(1) Violations of this section shall warrant increasing penalties as herein established:

(a) First offense: \$75 payable to the City of Bangor

(b) Second offense: \$100 fine payable to the City of Bangor

(c) Third offense: \$125 fine payable to the City of Bangor

(d) Fourth and repeating offenses: A fine not to exceed \$500 or imprisonment not more than 90 days, or both fine and imprisonment.

(2) A separate offense shall be deemed committed upon each incident of which a violation occurs.

(Ord. 33, passed 2-11-57; Am. Ord. 278, passed 1-22-07) Penalty, see § 10.99

§ 130.03 LOITERING.

(A) *Title.* This section shall be known and may be cited as the “Loitering Ordinance.”

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

(1) **LOITERING.** Remaining idle in essentially one location and shall include the concept of spending time idly, loafing, or walking about aimlessly, and shall also include the colloquial expression, “Hanging Around.”

(2) **PUBLIC PLACE.** A street, alley, park, public building or any place of business, grounds, parking lot, area or assembly in the city which is open to or frequented by the public.

(C) *Prohibited acts.* No person shall, after being duly warned, loiter in a public place or place open to the general public in such a manner as to:

- (1) Create or cause to be created, a danger of a breach of peace;
- (2) Hinder or obstruct the free passage of pedestrians or vehicular traffic;
- (3) Obstruct, molest, or interfere with a person to cause them fear for their safety;

(4) Disturb the comfort and repose of a person acting lawfully by such action as making unsolicited remarks of an offensive, disgusting, threatening, or insulting nature or which are calculated to annoy or disturb the person to whom made or in whose hearing they are made.

(D) *Order to leave.* Whenever such action or activity enumerated in division (C) above is taking place in a public place or place open to the general public, any police officer may order the person so acting, to cease and leave the premises or place.

(Ord. 197, passed 8-3-92) Penalty, see § 10.99

§ 130.04 CURFEW.

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

- (1) **GUARDIAN.** Any person other than a parent, who has legal guardianship of a minor.
- (2) **MINOR.** Any person under the age of 18.
- (3) **PARENT.** The natural or adoptive parent of a minor.

(4) **PUBLIC PLACE.** Any street, alley, highway, sidewalk, park, playground or place to which the general public has access and a right to resort for business, entertainment, or other lawful purpose. A public place shall include but not be limited to any store, shop, restaurant, tavern, bowling alley, cafe, theater, drug store, pool room, shopping center and any other place devoted to amusement or entertainment of the general public. It shall also include the front or immediate area of the above.

(B) *Curfew for minors.* It shall be unlawful for any minor to remain, idle, wander, stroll or play in any public place either on foot or to cruise about without a set destination in any vehicle in, about or upon any place in the city between the hours of 10:00 p.m. and 7:00 a.m., Sunday through Thursday, and between the hours of 12:00 p.m. and 6:00 a.m. Friday through Saturday, unless accompanied by a parent, guardian, custodian or other adult person having custody or control of such minor or unless the minor is on an emergency errand or specific business or activity directed or permitted by his parent, guardian or other adult person having the care and custody of the minor or where the presence of such minor is connected with or required by some legitimate employment, trade, profession or occupation, or where such minor is participating in, going to, or returning from a lawful athletic, educational, entertainment, religious or social event, or interstate travel.

(C) *Responsibility of owners of public places.* It shall be unlawful for any person, firm or corporation operating or having charge of any public place including but not limited to places of amusement or entertainment, to knowingly permit or suffer the presence of minors under the age of 18 between the hours of 11:00 p.m. and 6:00 a.m.

(D) *Parents' responsibility.* It shall be unlawful for the parent, guardian or other adult person having custody or control of any minor under the age of 18 to suffer or permit or by inefficient control to allow such person to be on the streets or sidewalks or on or in any public property or public place within the City between the hours of 10:00 p.m. and 6:00 a.m. However, the provisions of this section do not apply to a minor accompanied by his parent, guardian, custodian or other adult person having the care, custody or control of the minor, or if the minor is on an emergency errand or specific business or activity directed by his parent, guardian, custodian or other adult having the care and custody of the minor, or if the parent, guardian or other adult person herein has made a missing person notification to the Police Department, or where such minor is participating in, going to, or returning from a lawful athletic, educational, entertainment, religious or social event, or interstate travel.

(E) *Special functions.* Any minor attending a special function or entertainment of any church, school, club, or other organization that requires such minor to be out at a later hour than that called for in division (B) above, shall be exempt from the provisions of division (B) above provided the church, school, club or other organization shall register in advance with the Chief of Police or his designate to have the minors stay out to this late hour. The registrant shall state the time the function or entertainment shall end, and the minors who attend the function shall be required to be in their homes or usual place of abode within one half hour after the function is ended.

(F) *Procedures.*

(1) Any police officer upon finding a minor in violation of this section shall ascertain the name and address of such minor and warn the minor that he is in violation of curfew and shall direct the minor to proceed at once to his or her home or usual place of abode. The police officer shall report such action to the parents, guardian, or person having custody or control of such minor.

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(2) If such minor refuses to heed such warning or direction by any police officer or refuses to give such police officer his correct name and address, or if the minor has been warned on a previous occasion that he or she is in violation of curfew, he or she shall be taken to the Police Department and the parent, guardian or other adult person having the care and custody of such minor shall be notified to come and take charge of the minor. If the parent, guardian or other adult person above cannot be located or fails to come and take charge of the minor, the minor shall be released to the juvenile authorities.

(G) Any minor violating the provisions of this section shall be dealt with in accordance with the Juvenile Court law and procedure. Any parent, guardian, or other adult person having the care and custody of a minor violating this section shall, after having been previously notified under division (F) above, be punished as provided in § 10.99.

(Ord. 159, passed 9-26-83) Penalty, see § 10.99

§ 130.05 PARENTAL RESPONSIBILITY

(A) *Purpose.* The ordinance is declared necessary for the preservation of the public peace, health, safety and welfare of the people of the City of Bangor and is intended to address situations where parents have failed to act responsibly in the supervision of their minor children to the detriment of the general public.

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

DELINQUENT ACTS. Those acts which violate the laws of the United States, the statutes of the state or ordinances of the City which would cause or tend to cause the minor to come under the jurisdiction of the juvenile division of the Probate Court as defined by MCLA § 712A.2.

HABITUAL OFFENDER. One who commits two or more criminal acts or a combination of four or more criminal acts and/or moving traffic violations within a twelve month period.

MINOR. Any person under the age of 18 years residing with a parent.

PARENT. Mother, father, legal guardian and any person having the care or custody of a minor, or any person acting in the parents' stead who have custody or control over the minor.

(C) *Parental duties.*

(1) It is the continuous duty of the parents of any minor to exercise reasonable control to prevent the minor from committing any delinquent act.

(2) Included (without limitation) in this continuous duty of responsible parental control are the following obligations:

- (a) Know the Curfew Ordinance of the City of Bangor and to require the minor to observe the curfew ordinance.
- (b) Require the minor to attend regular school sessions and to prohibit the minor or to forbid the minor to be absent from class without parental or school permission.
- (c) Arrange proper supervision for the minor when the parent is absent.
- (d) Take the necessary precautions to prevent the minor from maliciously or willfully destroying real, personal or mixed property which belongs to the City of Bangor, or is located in the City of Bangor.
- (e) Forbid the minor from keeping stolen property, illegal firearms or illegal drugs, or associating with known juvenile delinquents.
- (f) Seek help from appropriate governmental authorities or private agencies in handling or controlling the minor, when necessary.

(D) Notification to parents and record of notification.

- (1) Whenever a minor is arrested or detained for the commission of any delinquent act within the City of Bangor, the parent shall be immediately notified by the Bangor City Police Department, advising the parent of such arrest or detention, the reason therefore, and the parent's responsibility under this section.
- (2) A record of such notifications shall be kept by the Bangor Police Department.

(E) Parental violation and penalty.

- (1) If a minor commits a delinquent act, the parent shall be guilty of a violation of this section if it is proven that any act, word or non-performance of parental duty by the parent encouraged, contributed toward or tended to cause the commission of the delinquent act by the minor.
- (2) Upon the first conviction of a violation of this section, the parent shall be subject to a fine of not less than \$75.00 dollars nor more than \$100.00 dollars.
- (3) Upon the second conviction of a violation of this section, the parent shall be subject to a fine of not less than \$100.00 dollars, nor more than \$500.00 dollars and in addition, shall be sentenced to probation with the condition that the parent participate in, through completion, a court-approved, community-based treatment program (such as parenting skills, family services, employment training, etc.), or in the discretion of the court, be imprisoned for a period of not less than 15 days nor more than 30 days.

(4) Upon the third or subsequent violation and conviction, the parent shall be subject to a fine of not less than \$250.00 dollars nor more than \$500.00 dollars, and in the discretion of the court, imprisoned for a period of not less than 15 days nor more than 90 days.
(Ord. 236, passed 2-16-98)

ALCOHOLIC BEVERAGES OFFENSES

§ 130.15 APPLICABLE STATUTORY DEFINITIONS.

The following words and phrases used in this subchapter, from the Michigan Liquor Control Act, being M.C.L.A. §§ 436.1 et seq., shall be construed as defined in this section, unless the context shall otherwise require:

ALCOHOL. The product of distillation of fermented liquid, whether rectified or diluted with water or not, whatever may be the origin thereof. It does not mean ethyl and/or industrial alcohol, diluted or not, that has been denatured or otherwise rendered unfit for beverage purposes.

ALCOHOLIC LIQUOR. Any spirituous, vinous, malt or fermented liquor, liquids and compounds, whether or not medicated, proprietary, patented, and by whatever name called, containing ½ of 1% or more of alcohol by volume which are fit for use for beverage purposes. The commission shall define and classify ***ALCOHOLIC LIQUOR*** according to alcoholic content as belonging to one of the varieties hereinafter defined.

BEER. Any beverage obtained by alcoholic fermentation of an infusion or decoction of barley, malt, hops, and/or other cereal in potable water.

BRANDY. An alcoholic liquor as defined in 27 CFR 5.22.

MIXED SPIRIT DRINK. A drink produced and packaged or sold by a mixed spirit drink manufacturer or an outside seller of mixed spirit drink which contains 10% or less of alcohol by volume consisting of distilled spirits mixed with nonalcoholic beverages or flavoring or coloring materials and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives.

MIXED WINE DRINK. A drink or similar product marked as a wine cooler and containing less than 7% alcohol by volume, consisting of wine and plain, sparkling, or carbonated water, and containing one or more of the following:

- (1) Nonalcoholic beverages;
- (2) Flavoring;

- (3) Coloring materials;
- (4) Fruit juices;
- (5) Fruit adjuncts;
- (6) Sugar;
- (7) Carbon dioxide; or
- (8) Preservatives

SACRAMENTAL WINE. Wine containing not more than 24% alcohol by volume which is used for sacramental purposes.

SPIRITS. Any beverage which contains alcohol obtained by distillation mixed with potable water and other substances, or both, in solution and includes wine containing an alcoholic content of more than 21% by volume, except sacramental wine and mixed spirit drinks.

WINE. The product made by normal alcoholic fermentation of the juice of sound, ripe grapes, or any other fruit with the usual cellar treatment, and containing not more than 21% of alcohol by volume, including fermented fruit juices other than grapes and mixed wine drinks.
(Ord. 145, passed 10-14-80)

§ 130.16 MINORS PURCHASING, POSSESSING OR TRANSPORTING ALCOHOLIC BEVERAGES PROHIBITED.

No person under the age of 21 years shall purchase or knowingly possess or transport or have under his control in any motor vehicle, boat, or other conveyance, any alcoholic liquor, unless the person is employed by a licensee under the laws of the State of Michigan and is so possessing, transporting or having such alcoholic liquor under his control during regular working hours and in the course of his employment.

(Ord. 145, passed 10-14-80) Penalty, see § 10.99

§ 130.17 FURNISHING ALCOHOLIC BEVERAGES TO OR PROCURING FOR MINORS PROHIBITED.

(A) No person shall wilfully give or furnish any alcoholic liquor or beverage to a minor except upon authority of and pursuant to a prescription of a duly licensed physician or in conjunction with established religious practices.

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(B) It shall be unlawful to give, loan or otherwise furnish to any minor a birth certificate or other document evidencing age or identity for the purpose of assisting any minor to obtain beer, wine or any other alcoholic beverage. The possession and use of such document shall be prima facia evidence that such document was furnished to such minor for the purpose of assisting in the purchase or procurement of such alcoholic beverage.

(Ord. 145, passed 10-14-80) Penalty, see § 10.99

§ 130.18 MISREPRESENTING AGE PROHIBITED.

No person under the age of 21 years shall by any documentary evidence falsely represent himself or any other person to be 21 years of age or over for the purpose of purchasing or attempting to purchase any alcoholic liquor; nor shall any person under the age of 21 give other false information regarding his age or the age of another person selling alcoholic liquor, for the purpose of securing a sale thereof to himself or any other person under the age of 21 years.

(Ord. 145, passed 10-14-80) Penalty, see § 10.99

§ 130.19 PUBLIC CONSUMPTION; OPEN CONTAINERS.

No alcoholic liquor shall be consumed on or in any public highway, street, alley, sidewalk, waterway, park, cemetery, parking lot, school grounds, place of amusement or recreation, or any other public place within the city; and any person who shall be found in or upon any such public place having in his possession an open receptacle or container containing any alcoholic beverage shall be deemed guilty of a violation of this section.

(Ord. 145, passed 10-14-80) Penalty, see § 10.99

§ 130.20 ALCOHOLIC BEVERAGES ON SCHOOL PROPERTY.

No person shall possess or consume any alcoholic beverage on any parking lot, playground, playfield or grounds of a public, private, or parochial school, without the expressed permission of the administration of such educational institution.

(Ord. 145, passed 10-14-80) Penalty, see § 10.99

GRAFFITI

§130.30 TITLE. §§ 130.30 through 130.99 shall be known and may be cited as the City of Bangor Anti-Graffiti Abatement Ordinance.

(Ord. 237, passed 3-2-98)

§130.31 DEFINITIONS.

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

GRAFFITI. Any unauthorized inscription, word, figure, symbol, drawing, design, painting, or other defacement that is written, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to or on any surface of property within the boundaries of the city by or with, but not limited to, any of the following: felt tip marker, paint stick or graffiti stick, or graffiti implement.

GRAFFITI IMPLEMENT. An aerosol paint container, felt tip marker, gum label, paint stick or graffiti stick, etching tool, or any other device capable of scarring or leaving a visible mark on glass, metal, wood, stone, brick, concrete or any other surface.

AEROSOL PAINT CONTAINER. Any aerosol container which is adapted or made for the purpose of applying spray paint, or other substance capable of defacing property.

FELT TIP MARKER. Any indelible marker or similar implement with a tip which, at its broadest width is greater than one-eighth of an inch, containing ink or other pigmented liquid which is not water-soluble.

PAINT STICK OR GRAFFITI STICK. Any device containing a solid form of paint, chalk, wax, epoxy, or other similar substance capable of being applied to a surface by pressure, and upon application, of leaving a mark at least one-eighth of an inch in width.
(Ord. 237, passed 3-2-98)

§ 130.32 POSSESSION OF GRAFFITI IMPLEMENT BY MINORS.

(A) It is unlawful for any person under the age of 18 years to have in his or her possession any graffiti implement with unlawful intent while on any public property or on any private property, other than the minor's home.

(B) The provisions of this section shall not apply to the possession of felt tip markers by minors attending, or traveling to or from school at which the minor is enrolled, if the minor is participating in a class at a school which formally requires the possession of felt tip markers.

(C) The provisions of this section shall not apply to persons under the age of 18 years who require any graffiti implements in the course of lawful employment or for other lawful uses with written proof of the same from an employer, parent, or guardian.
(Ord. 237, passed 3-2-98)

§130.33 INJURING, REMOVING PROPERTY OF ANOTHER

(A) It shall be unlawful for any person to willfully, maliciously, wantonly, negligently, or otherwise
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injure, deface, destroy, alter, or remove real or personal property of another by any means without the consent of the owner.

(B) It shall be unlawful for any person to paint, inscribe, write or scrape messages, words, numbers, symbols, or any other type of picture upon a house, building, structure or other property of another without expressed consent of the owner, or to willfully and maliciously destroy or injure any appurtenance to such house, building, structure or property, including lawns, shrubs, trees, pools, signage, gardens, and mail receptacles.

(C) It shall be unlawful for any person to use any paint, spray paint, pigment or similar means to injure, deface or destroy the house, building, structure or other property of another, including the making of any drawing inscription, design, scribbling, motto, picture, pictograph or other markings, commonly referred to as graffiti.

(D) It shall be the duty of the owner of any house, building, structure, or other property marked or defaced as defined in this section to remove or paint over such markings so as to minimize the addition of further markings and other blight upon the property. The presence of such markings upon any house, building, structure or other property within the limits of the city is hereby declared to be a public nuisance. Any owner removing markings pursuant to this subchapter shall be entitled to restitution on an amount determined by the court for the cost of removing those markings, such restitution to be paid by any person convicted under this section of making those markings.

(Ord. 237, passed 3-2-98)

§ 130.34 REMOVAL OF GRAFFITI BY PERPETRATOR.

(A) Any person applying graffiti within the boundaries of the city shall have the duty to remove same immediately.

(B) Any person applying graffiti shall be responsible for the removal or payment of same.

(C) Failure of any person to remove graffiti or pay for its removal shall constitute an additional violation of this subchapter. Where graffiti is applied by an unemancipated minor, the parent(s) or legal guardian(s) shall also be responsible for such removal or for the payment therefor, pursuant to M.C.L. 600.2913 and as otherwise provided by this subchapter and by law.

(Ord. 237, passed 3-2-98)

§ 130.35 NOTICE TO PROPERTY OWNER OF GRAFFITI NUISANCE.

It is the duty of the city of Bangor to give notice of any violation of this subchapter. Notice shall be given by any one of the following methods: personal service, written notice, and/or posting.

(A) *Personal service.* Personal notice must be made to the property owner(s) or agent in violation

of this subchapter as shown on the city tax assessment rolls for said property. The property owner then shall have up to seven days to either appeal the notice, or remove, or paint over any markings.

(B) *Written notice.* Notice in writing shall be by either certified or registered mail to every person shown on the tax assessment rolls for said property. The property owner shall have up to seven days to either appeal the notice or remove or paint over any markings.

The written notice shall read substantially as follows:

Name and address
Tax roll number
Date

Notice of provisions of
The Graffiti Abatement Ordinance

According to the assessment records of this city, you appear to be the owner of the above described property which is subject to the graffiti abatement ordinance of the city of Bangor.

Notice is hereby given in accordance with the aforementioned ordinance provisions that it is the responsibility of the owner of property within the city to remove or paint over all drawings, inscriptions, designs, scribbles, mottoes, pictures, pictographs, or other markings commonly referred to as graffiti.

In the event of failure to comply with this notice on or before the date mentioned, in accordance with the above code provisions, the city shall cause the graffiti or other markings to be removed or painted over. The expense incurred by the city, together with a ten percent administrative charge, will be levied and collected against such property in the manner provided by law.

You have the right to appeal the city's notice by contacting the city of Bangor hearing officer at 257 W. Monroe Street, Bangor, Michigan, 49013, in writing, of your desire to appeal, within seven days of the date of this notice. You will be notified of the time and place of the hearing.

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(C) *Posting.* When service cannot be made by either of the above methods, and after diligent efforts to locate the whereabouts of the owner and/or agent, the city shall do the following:

(1) Mail the written notice as set forth in § 130.35 to the owner(s) by first class us mail, postage prepaid.

(2) Post a copy of said written notice as set forth in § 130.35 on a conspicuous part of the property in violation.

The property then shall have up to seven days to either appeal the notice or remove or paint over any markings.

(Ord. 237, passed 3-2-98)

§ 130.36 OPPORTUNITY FOR HEARING AND EXTENSIONS FOR REMOVAL.

(A) Any property owner(s) notified may contact the Bangor city hall hearing officer, within seven days from the date of the notice and request a hearing to show cause why the notice was incorrect.

(B) The hearing officer shall be the code enforcement officer who will:

(1) Provide the property owner(s) with an opportunity to be heard regarding the dispute concerning the graffiti

(2) Hear such evidence as the property owner(s) may have regarding the dispute.

(3) Review the notice, perform such additional investigation of the matter as may be determined to be warranted, and correct any errors. Such hearings shall be informal and the decision of the hearing officer shall be final.

(C) The code enforcement officer, or his or her designee, may extend the time period allotted for the removal of the graffiti if the code enforcement officer determines that compliance within the time specified would place an undue burden on the property owner(s).

(Ord. 237, passed 3-2-98)

§ 130.37 REMOVAL OF GRAFFITI BY CITY.

Upon the failure, neglect, or refusal of any owner so notified to properly paint over or remove any graffiti within seven days after receipt of said notice provided for in § 130.35, or within seven days after the date of such notice in the event of the same is returned to the city because of the inability of the post office to deliver, provided the same was properly addressed to the last known address of such owner, the department of public works and its authorized representatives are hereby empowered to enter upon the property for the purpose of accomplishing abatement of the nuisance by removal or elimination of such graffiti by the city.

(Ord. 237, passed 3-2-98)

§ 130.38 COSTS OF GRAFFITI REMOVAL.

(A) Whenever the department of public works or its authorized representatives enters upon any parcel of land in order to accomplish abatement of such an existing nuisance, pursuant to the provisions of this subchapter, the director of the department of public works is authorized and directed to keep an

accurate account of all expenses incurred, and based upon same issue a certificate determining and certifying the reasonable cost involved for such work with respect to each parcel of property. The superintendent is also authorized to add to such costs a ten percent administrative charge or a \$100.00 service charge, whichever is greater, to cover the expense of administering the work performed, overhead, and other contingent expenses. Within ten days after receipt of the certificate, the city treasurer shall forward a statement of the total charges assessed on each parcel of the property to the owner as shown by the last current assessment or tax roll, and that assessment shall be payable to the city treasurer within 30 days from the date the statement was forwarded.

(B) If not paid within the prescribed 30 day period, the statement shall be filed with the city assessor and shall then be assessed against the land in question and become a lien on such property as provided by law. The amount charged may be discharged at any time by the payment of the amount specified in the statement, together with interest at the rate of six percent per year compiled from the time of filing said certificate with the City assessor. The amount shall be a debt of the person to whom assessed until paid and, in case of delinquency, may be enforced as delinquent City property taxes or by a suit against such person.

(Ord. 237, passed 3-2-98)

§ 130.99 PENALTY.

Any person or anyone acting on behalf of said person who shall violate any provision of this subchapter and code hereby adopted, or who shall fail to comply with any of the requirements, shall be guilty of a misdemeanor and shall upon conviction be subject to a fine of not more than \$100.00. Each day that a violation of this subchapter is continued or permitted to exist without compliance shall constitute a separate offense punishable upon conviction in the manner prescribed in this section.

(Ord. 237, passed 3-2-98)

