MINNESOTA LANDLORD/TENANT LAW: TRAINING MANUAL FOR THE POLICE

by

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HOME Line

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TABLE OF CONTENTS

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PREFACE

The purpose of this manual is to inform police about Minnesota housing law as it relates to police work to ensure that housing law is being applied fairly, consistently and correctly. There are numerous landlord/tenant disputes which have criminal components that the police need to be aware of to protect both landlords and tenants. After talking with local police officers, it became apparent that there is little or no training of housing law for the police. Police officers have indicated a desire to learn about these issues.

The issues covered by the manual are those which tenants and/or police officers have reported arise frequently. Issues for which the police presumably already receive training, such as Fourth Amendment search and seizure rules, may be mentioned but are intentionally not discussed in depth.

In cases where there are both criminal and civil remedies for a violation of law, the discussion of the civil remedies is intentionally brief as the police officer's main duty is to enforce the criminal law. Typically, the officer will refer the landlord and tenant to other resources for assistance with civil remedies.

Some civil areas which are quasi-criminal, such as forfeiture and license revocation statutes, are discussed in more depth.

Appendix I is a Quick Reference Chart, listing the topics covered and the major statutes applying to each topic. Appendix II consists of copies of the statutes, ordinances, and administrative rules discussed throughout the manual.

INTRODUCTION

I. GENERAL DEFINITIONS

Residential tenant = A person who occupies a premise under a lease or contract that requires paying rent or performing services.[1]

Landlord = The owner of real property or any other person who is directly or indirectly in control of rental property.[2] The landlord is entitled to the real property after the tenant moves out

Lease = A written or oral agreement creating a tenancy in real property.[3] Lack of a written lease means that the landlord and tenant have an oral lease.

Tenancy at will = A lease, whether written or oral, that does not have a fixed ending date.[4] A month-to-month lease is a common example.

Hotel guest = A person who occupies a hotel for transient occupancy. A true hotel guest is not a tenant.[5] Hotel guests are discussed further in Part IX.B *infra*.

II. ORAL AND WRITTEN LEASES

1) A landlord is required to have a written lease if there are 12 or more residential units. A landlord who fails to provide a lease under these conditions is ***guilty of a petty misdemeanor***.[6]

2) A written lease is also required if the landlord and tenant agree to a tenancy that will not end until more than one year from the day the agreement is made.[7] However, when a tenant takes possession under an invalid (too long) oral lease, he still is under a lease; it is just reduced to a tenancy at will[8] (probably a month-to-month lease).

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[1]Minn. Stat. §504B.001, Subd. 12
[2]Minn. Stat. §504B.001, Subd. 7
[3]Minn. Stat. §504B.001, Subd. 8
[4]Minn. Stat. §504B.001, Subd. 13
[5]Minn. Stat. §327.705, Subds. 2,3, & 5; *Gutierrez v.Eckert Farm Supply*, No. C5-02-1900 (Minn. Ct. App. July 1, 2003), *rev. denied* (Minn. September 24, 2003)
[6]Minn. Stat. §504B.111
[7]Minn. Stat. §513.01
[8]*Fisher v. Heller*, 174 Minn. 233, 219 N.W. 79 (1928)

EXAMPLE 1: Rob is a property owner and Mary is looking for rental property. Rob and Mary agree orally to a 13-month lease for a house and Rob moves in.

RESULT: Mary is a tenant and Rob is her landlord. No crime has been committed. However, the lease is a month-to-month lease. It is not a 13-month lease because 13-month oral leases are not valid (too long).

EXAMPLE 2: Matt is a property owner and Kristi is looking for an apartment. They agree orally to a 6-month lease for an apartment in a 13-unit complex.

RESULT: Kristi is a tenant and Matt is her landlord under the lease. The 6-month oral lease is fine because it will end in less than one year. However, Matt is guilty of a petty misdemeanor because a written lease is required if there are 12 or more units.

TENANT DUTIES AND TENANT CRIMES

III. ANTI-CRIME COVENANT BETWEEN LANDLORD AND TENANT

A. Scope

In every written or oral residential lease, the landlord and tenant "covenant" (promise) that neither will allow controlled substances, prostitution (or related activity), stolen property, or unlawful use or possession of a firearm on the rental property.[9] They also agree that neither the landlord nor the tenant will use the property to possess or sell controlled substances.[10]

B. The Tenant Can Be Evicted for Breaking the Covenant

If the covenant is broken, the tenant loses her right to live on the rental property. The landlord can bring an eviction action ("unlawful detainer" or "UD") against the tenant, or can allow the county attorney to file an eviction action.[11]

C. The Landlord Can Be Sued in Housing Court for Breaking the Covenant

Since the covenant works both ways, a tenant can sue the landlord for not dealing with these problems (drugs, prostitution, etc.), similar to a suit against the landlord for not doing needed repairs.

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[9]Minn. Stat. §504B.171

[10]Defense = the landlord or tenant did not know or did not have reason to know of the illegal activity.

[11]There may be constitutional problems if the county attorney files the eviction action. See footnote 14.

D. The State Cannot Make the Landlord or the Tenant Act on the Covenant

The government cannot require either the landlord or the tenant to take action under the statute. When the police are called for a drug situation in rental property, they should handle it in the same manner as in a non-rental property. After an arrest or seizure, the police may report the arrest/seizure to the other party (e.g., if the tenant's drugs are seized, the police may report this to the landlord).

IV. PROPERTY FORFEITURE FOR DRUG POSSESSION

A. Notice of Seizure

If contraband or a controlled substance is seized on residential rental property, the prosecuting attorney (usually the county attorney) must give notice of the seizure to the landlord.[12] This does not apply if the value of the controlled substance is less than $100. Notice does not need to be given during an ongoing investigation. The notice must state what has been seized and the penalties under the law for violating the statute.

B. What the Landlord Should Do

If the landlord does not respond to the seizure notice, the landlord could lose her property.[13] The statute is a "two-strikes-you're-out" rule.

First Occurrence - After the notice of seizure, the landlord is supposed to either:

1) file an eviction within 15 days; OR
2) allow the county attorney to file an eviction within 15 days

If the landlord does not take either action within the 15 days, the landlord is at risk of a forfeiture if there is a second seizure, as set out below.[14]

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[12]Minn. Stat. §609.5317

[13]Minn. Stat. §609.5317

[14]In *Torgelson v. 17138 - 880th Avenue*, 749 N.W.2d 24 (Minn. 2008), the Minnesota Supreme Court held that seizure of a homeowner's homestead for serious drug-sale felonies under a companion statute, Minn. Stat. § 609.5311, was unconstitutional because the seizure violated the anti-homestead-forfeiture provision, Minn. Const. art. I, sec. 12. This provision affords rental homesteads the same protection as owned homesteads. *In re E. P. Emerson's Homestead*. 58 Minn. 450; 60 N.W. 23 (1894) Thus, if the county brings a forfeiture case under Minn. Stat. §609.5317, it might be dismissed based on a ruling that Minn. Stat. §609.5317 is unconstitutional. We are unaware of any court ruling on this precise issue.

Second Occurrence - For a second occurrence:

* on residential rental property
* owned by the same landlord
* in the same county
* involving the same tenant
* within one year after the notice of the first occurrence

the property is subject to forfeiture.

C. Landlord Defenses

The landlord can raise the following defenses to having property taken:

1) the tenant had no knowledge or reason to know the presence of the contraband or controlled substance or could not prevent it from being brought onto the property
2) the landlord made every reasonable attempt to evict the tenant
3) the landlord did not receive notice of the seizure
4) the seized drugs were worth less than $100
5) the seized drugs were worth less than $1,000 and there was no second seizure

D. What the Police Should Do

This statute does not create extra criminal liability. The police need only 1) handle the raid and arrest in the usual manner, and 2) alert the prosecuting attorney of what was seized and where it was seized.

V. DAMAGES TO PROPERTY

A. Tenant Damaging Property

A tenant can be held criminally liable for damages to property.[15] The degree of crime (misdemeanor, gross misdemeanor, felony) is proportionate to the amount of damage. There is also a civil statute dealing with unlawful destruction and damages to property.[16]

B. Damage During a Police Raid

Damage to property can also be caused when the police raid rental property. When the police are executing a warrant, and property is damaged, it is important to look at court decisions to determine who is responsible for paying for the damages to the property. Courts have found that when an innocent third party (e.g., a landlord) has property damaged by the police during a lawful raid, the city is responsible for paying for the damages.

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[15]Minn. Stat. §609.595
[16]Minn. Stat. §504B.165

EXAMPLE 1: In the case of *Wegner v. Milwaukee Mutual Insurance Company*, a suspect fled the police and entered the home of Harriet Wegner and hid in the front closet. Wegner's granddaughter and fiancee, who were living there, left immediately. The Minneapolis police fired 25 rounds of tear gas and three flash-bang grenades into the home causing $71,000 worth of damages.[17] The court found that the City of Minneapolis must compensate the landlord for the repairs needed to restore the building.[18]

EXAMPLE 2: Another example is *McGovern v. City of Minneapolis*.[19] *McGovern* established two other rules. First, the landlord's innocence is important, because there is no compensation if the landlord is conspiring with the tenant who was the subject of the raid. Second, the city, not the individual police officers, is required to pay for the damages, just as if the state removes a home to build a road.[20]

VI. NOISE

A. Public Nuisance

A "public nuisance" exists when there is proof of two or more of the following acts within the previous 12 months:[21]

1) prostitution within the building
2) gambling within the building
3) maintaining a public nuisance under Minn. Stat. §609.74, cl (1) & (3)
4) permitting a public nuisance under Minn. Stat. §609.745
5) use or dealing of drugs within the building
6) unlicensed sale of alcoholic beverages in violation of §340A.401 within the building
7) unlawful sale of alcoholic beverages by an unlicensed person within the building
8) unlawful use or possession of a firearm within the building
9) violation of local or state business licensing regulations

A written notice must be sent from the prosecuting attorney to the people creating the nuisance. If the nuisance is stopped within 30 days, a court action will not be filed.[22] If the nuisance continues, the prosecuting attorney can sue the owner to get a temporary injunction,[23] or a

[17] *Wegner v. Milwaukee Mutual Insurance Company*, 479 N.W.2d 38 (Minn. 1991).
[18] *Id.* at 42.
[19] *McGovern v. City of Minneapolis*, 480 N.W.2d 121 (Minn. Ct. App. 1992).
[20] *Id.* at 125.
[21] Minn. Stat. §617.81
[22] Minn. Stat. §617.82
[23] Minn. Stat. §617.82

permanent injunction. If there is proof of a nuisance, the court will issue an order of abatement.[24] This order can close the building or part of it for one year.

Before the building is closed due to a tenant's behavior, the owner has a chance to file a motion to cancel the tenant's lease.[25] If a court finds that a tenant has maintained or conducted a nuisance, the court will order that the lease is canceled, freeing the landlord from having her building closed.

B. Bothering Neighbors

A person is ***guilty of a misdemeanor*** who maintains or permits a condition which unreasonably annoys, injures, or endangers the safety, health, moral, comfort, or repose of any considerable number of members of the public.[26]

C. City Codes

Many city codes in the metro area have provisions about noise. The Brooklyn Park and Bloomington City Codes will be used as examples. Brooklyn Park's City Code states that between 10:00 p.m. and 7:00 a.m. it is unlawful to be in a gathering of people, from which the noise rises to a sufficient volume which disturbs the peace and quiet of people who live in a residential neighborhood.[27]

The Bloomington City Code[28] states that an unlawful gathering is defined as an unreasonable disturbance by creating noise that disturbs the peace and quiet of nonparticipating persons nearby.

VII. CITY 3-STRIKE ORDINANCES

Some cities in the metro area require a landlord to take action against a tenant for certain crimes. Two typical ordinances are in the Brooklyn Park and Minneapolis City Codes.

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[24]Minn. Stat. §617.83
[25]Minn. Stat. §617.85
[26]Minn. Stat. §609.74
[27]Brooklyn Park City Code §134.03
[28]Bloomington City Code §12.01.01 (g)

A. Brooklyn Park

The Brooklyn Park City Code states that a landlord ("licensee" in the code) must see to it that the tenants conduct themselves in a manner that is not "disorderly".[29] There are 21 specific actions which are "disorderly ":

a) animal noise and public nuisances
b) noisy parties
c) unlawful possession, delivery, or purchase of controlled substances
d) disorderly conduct
e) unlawful sale of intoxicating liquor or 3.2 malt liquor
f) violation of laws relating to prostitution
g) unlawful use or possession of a firearm
h) assaults or violation of laws relating to assaults, including domestic assaults; or
î) [another 13 actions; see the ordinance printed in the appendix for complete list]

First Occurrence - The first time rental property is found to be disorderly, the city manager must give notice to the landlord of the violation and direct the landlord to take steps to prevent further violation.

Second Occurrence - The second time rental property is found to be disorderly within a 12-month period, the city manager must again notify the landlord of the violation. The landlord must give a written report, within ten days of the notice, including things he has done or will do to prevent further disorderly use of the premises for all notices within the preceding three months.

Third Occurrence - When rental property is found to be disorderly for a third time within a 12-month period, the license for the property may be denied, revoked, suspended, or not renewed. A license cannot be altered because of this code section if the landlord has filed an eviction.

A criminal charge is not a necessity to violate this code section.

Defenses - The landlord can raise the following defenses:

1) The landlord did not receive notice of the disorderly conduct
2) The premises were not disorderly
3) The landlord took the proactive steps discussed above

THE CITY ORDINANCE DOES NOT PUNISH LANDLORDS IF A TENANT HAS NUMEROUS POLICE CALLS. A landlord's license cannot be altered unless there are three acts each of which is among the nine violations listed above.

After 12 months pass, the landlord is back in the clear. The landlord is only penalized

[29]Brooklyn Park City Code §117.49

when a third violation occurs within the time period. There are no penalties to a landlord who does not take action after the first or second occurrence.

NOTE: Under the ordinance, the only punishment is removing the landlord's license. Of course, subsequent renting after losing the license can bring into play other penalties.

B. Minneapolis

The Minneapolis City Code 3-strike ordinance[30] is very similar to Brooklyn Park's. The code sections differ in two ways:

A) First, the community crime prevention/SAFE unit and inspections division jointly are responsible for the enforcement and administration of the code section. The SAFE team notifies the landlord of violations, instead of the city manager as in Brooklyn Park.

B) Second, the Minneapolis City Code has only seven actions which are deemed to be disorderly:

1) gambling
2) prostitution and acts relating thereto
3) sale or possession of controlled substances
4) unlawful sale of alcoholic beverages
5) noisy assemblies
6) unlawful possession, transportation, sale or use of a weapon
7) disturbing the peace and quiet of the occupants of at least two units on the licensed premises, other than the unit occupied by the person(s) committing the violation

C. Your City

Many cities are in the process of adding a similar provision to their city code. Usually the provision can be found under a heading entitled "conduct on licensed premises." It is important that police officers and landlords look to their city's code to determine if their city has a provision similar to these two code provisions. See Appendix II for copies of some cities' 3-strike ordinances.

[30]Minneapolis City Code §244.2020

D. Tenant's Right to Seek Police and Emergency Assistance

A landlord may not:[31]

* bar or limit a tenant's right to call for police or emergency assistance in response to domestic abuse or other conduct

* impose a penalty on a tenant for calling police or emergency assistance in response to domestic abuse or other conduct

Under no circumstances can a tenant waive the right to call for assistance. This section preempts (trumps) any ordinance that:

* requires an eviction after a certain number of calls by a tenant to police or emergency assistance
* assesses a fee or other penalty because the tenant called for assistance

NOTE: Police calls in response to domestic abuse do not violate the 3-strike city ordinances. A tenant should be encouraged, not penalized, for calling the police in these situations. The 3-strike ordinances discussed above are enforceable because the ordinances punish landlords who do not control tenants who commit crimes; the 3-strike ordinances do not and cannot punish a victim/tenant because s/he reports a crime to the police.

VIII. LYING ON A RENTAL APPLICATION

A tenant who lies on an application to get an apartment is ***guilty of theft***.[32] The statute states that theft has been committed when a person "obtains.. the possession or custody or title of property of... a third person by intentionally deceiving the third person with false representation, which is known to be false, made with the intent to defraud and which does defraud the person to whom it is made."[33] Such theft is at least a ***misdemeanor***, but may carry a more severe punishment depending on how the court values the lease obtained by the fraud.

[31]Minn. Stat. §504B.205
[32]Minn. Stat. §609.52, Subd. 2 (3)
[33]Minn. Stat. §609.52, Subd. 2 (3)

LANDLORD DUTIES AND LANDLORD CRIMES

IX. LOCKOUT

A. Lockout Defined

A lockout occurs when:[34]

1) a landlord intentionally removes or excludes a tenant from the rental property

OR

2) intentionally alters the electrical, heat, gas, or water services

It is presumed that the landlord who caused an interruption of services did so to remove or exclude the tenant. In court the landlord must prove this is not true.[35]

B. Some Hotel Occupants are Tenants.

A true hotel guest is not protected by these statutes. A hotel may lockout a hotel guest and treat him like a trespasser if the guest overstays past his departure date[36], and may lockout a guest for non payment[37] or for violating a variety of provisions which are set out in this footnote[38].

However, it is important to recall that a true hotel guest is a transient occupant.[39] If the occupant's sole residence is the hotel, he is "rebuttably presumed" not to be a true hotel guest.[40].

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[34]Minn. Stat. §504B.225, Minn. Stat. §609.606

[35]Minn. Stat. §504B.225

[36]Minn. Stat. §327.72.

[37]Minn. Stat. §327.73, Subd. 1(1).

[38]See Minn. Stat. §327.73, Subd. 1(2-6) which read:

(2) while on the premises of the hotel acts in an obviously intoxicated or disorderly manner, destroys or threatens to destroy hotel property, or causes or threatens to cause a disturbance;

(3) the innkeeper reasonably believes is using the premises for the unlawful possession or use of controlled substances by the person in violation of chapter 152, or using the premises for the consumption of alcohol by a person under the age of 21 years in violation of section 340A.503;

(4) the innkeeper reasonably believes has brought property into the hotel that may be dangerous to other persons, such as firearms or explosives;

(5) violates any federal, state, or local laws, ordinances, or rules relating to the hotel; or

(6) violates a rule of the hotel that is clearly and conspicuously posted at or near the front desk and on the inside of the entrance door of every guest room.

[39]See footnote 5.

[40]See footnote 5.

"Rebuttably presumed" means that such a person is a tenant and not a hotel guest unless there is good evidence to show he is in transient occupancy. Therefore, before treating a hotel occupant as a hotel guest, the police need to make sure he really is not a tenant. Typically, asking about residence or sole residence will rapidly resolve this issue.

C. Lockouts Are Crimes

A landlord who locks out a tenant[41] has committed a crime and is ***guilty of a misdemeanor***.[42] A landlord who wants a tenant out of the rental property must go through the eviction (unlawful detainer) process in court. This process is described in Section X, Eviction and Execution of the Writ of Recovery.

A landlord who enters rental property to unlawfully change the locks or shut off utilities from the inside is also committing burglary because burglary is entering a building without consent and with the intent to commit a crime[43] (e.g., a lockout).

D. What Should the Police Do

A lockout is a crime, so the landlord should be arrested or given a tab charge for committing ***misdemeanor lockout*** and/or arrested for burglary and lockout.

Since a lockout is a theft of realty, if possible the police should try to restore the property to the tenant, just as police do anytime a theft of property is averted.

E. Tenants Can Also Take Action in Housing Court

There are civil remedies for a lockout whereby a residential tenant can get a quick order from the court to be let back onto the property.[44]

F. Non-intentional Loss of Utilities - Civil Actions

Sometimes when a utility stops working the landlord did not shut it off intentionally, but

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[41]The statutes protect "all other regular occupants" from lockout by the landlord, but this phrase means the other persons the tenant has agreed may stay in the unit. *Broszko v. Principal Mutual Life Ins. Co.*, 533 N.W.2d 656 (Minn. Ct. App. 1995)

[42]Minn. Stat. §504B.225 and §609.606.

[43]Minn. Stat. §609.582.

[44]Minn. Stat. §504B.375

simply did not keep up with repairs or payments. This kind of emergency involving loss of running water, hot water, heat, electricity, sanitary facilities, or other essential services is not a crime, but the tenant can get an emergency hearing in housing court.[45]

Although disputes about other necessary repairs are also civil matters, police occasionally get called about them. A brief overview of the initial steps a tenant should take to get repairs done are:

1) call the city housing inspector (if there is a city inspector);

2) send a written request for the repairs to the landlord

Subsequent actions are then available in housing court.

Both tenants and landlords should be advised to read the free Minnesota Attorney General's publication entitled Landlords and Tenants: Rights and Responsibilities. The publication includes a detailed explanation of landlord and tenant's rights, as well as a list of agencies prepared to assist with civil actions.

X. EVICTION AND EXECUTION OF THE WRIT OF RECOVERY

A. Landlord Wants Tenant Out of Rental Property

A brief description of an eviction (unlawful detainer) process follows. If a landlord wants a tenant out of a rental unit for a legitimate reason, the landlord must go through the eviction process in district court or housing court (in Ramsey or Hennepin County). Legitimate reasons for filing an eviction against a tenant are nonpayment of rent, other breaches of the lease, refusal to leave after proper notice to vacate, or expiration of the lease. If the court finds for the landlord and the tenant is evicted, only the sheriff (or deputy) or a police officer can evict the tenant by enforcing a writ of recovery. With rare exceptions, it is the sheriff's office that handles evictions since the process is time consuming and sheriffs are specially trained to handle evictions.

The process starts with the landlord getting a writ of recovery from the court. The

[45]Minn. Stat. §504B.381

landlord gives this writ to the sheriff to post on the door of the rental property, giving the tenant 24 hours to move out. If the tenant has not moved out after 24 hours, the sheriff must return a second time to "execute the writ," that is, make the tenant leave the premises and have the landlord store the tenant's personal property.

When the writ is executed (at the "move out"), the landlord chooses whether to store the property off-site at a warehouse or "on the premises " (i.e., landlord storage).

If property is to be stored in a place other than the premises, the tenant is liable for all removal expenses. Typically, the tenant will arrange to pay the warehouse directly. This is the one case where the landlord can hold property hostage. The landlord has a legal right to the property for the reasonable costs of removing, caring for, and storing the property (not for unpaid rent). If no payment is made within 60 days, the landlord (and warehouse) may hold a public sale under Minn. Stat. §§514.18-514.22.[46]

If the personal property is stored on the premises, the sheriff and landlord prepare an inventory and then the landlord follows the rules governed by the Minnesota statute regarding abandoned property (see Section XI, Personal property of the tenant).[47]

B. Tenant Wants a Roommate/Guest Out of Rental Property

The situation of a tenant who wants another occupant who is not on the lease out of the rental property involves a question of fact. One must determine whether the other occupant is a guest, a licensee, or a subtenant.

The occupant is a subtenant if she is paying rent or performing services[48]. If the occupant is a subtenant, the parties need to go to housing court to resolve the dispute.

However, if the occupant who refuses to leave is a guest ("a person who is entertained or to whom hospitality is extended "[49]), then he may be ***guilty of misdemeanor trespass***[50] because he

[46]Minn. Stat. §504B.365
[47]Minn. Stat. §504B.271
[48]Minn. Stat. §504B.001, Subd. 12
[49]*Lee v. Regents of the University of Minnesota*, 672 N.W.2d 366 (Minn. Ct. App. 2003)
[50]Minn. Stat. §609.605

does not have a claim of right to be on the rental property.

The intermediate case is the occupant who is a licensee. Unlike a tenant who in effect "owns" the premises during the lease term, or the guest who is just being entertained, a licensee is "one who has a mere permission to use land [premises] ... and no interest I or exclusive possession of it being given to the occupant"[51]). A licensee has the right to "reasonable notice" before being forced to leave.[52] The licensee is not a tenant and thus housing court would not seem to be the place to resolve a dispute between the renter or homeowner who wants the licensee out and the licensee who won't leave. However, until after reasonable notice is given and runs, the occupant probably has a colorable claim of right of occupancy and thus under State v. Hoyt[53] is probably not committing trespass by failing to leave.

> EXAMPLE 1: Jane is renting property. She invites high school friend Mike to visit her for two days. Mike admits that he contributes neither money nor services to the household and that he was invited for the two days. They have a disagreement and Jane wants Mike to leave after the second day. Jane calls the police for assistance. The police should arrest Mike for trespassing because he is not paying rent or performing services and is a guest.
>
> EXAMPLE 2: Cathy is renting property. She befriends Bob, who moves into the apt. He has been in the apartment for a couple of weeks and when he moved in, he moved in indefinitely. Although Bob contributes nothing to the household, he does have a number of his personal possessions like a TV and clothes stored in the apartment. Cathy and Robert have a disagreement and Cathy wants Bob out. Cathy calls the police for assistance. The police probably should take no action since Bob is probably a licensee.
>
> EXAMPLE 3: Betsy is renting property. She befriends Tim, who moves into the apartment. Tim pays money toward the electric bill. Betsy and Tim have a disagreement and Betsy calls the police because she wants Tim out. Betsy probably needs to go to housing court to get Tim out of the apartment because he is probably a subtenant.

NOTE: These situations exemplify ones which do not involve abuse.

XI. PERSONAL PROPERTY OF THE TENANT

Personal property disputes are often civil matters, but they frequently involve the police. There are three common personal-property issues implicating criminal law.

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[51] *Seabloom v. Krier*, 18 N.W.2d 88,91, 219 Minn. 362,367 (1945); also see *Lee v. Regents*, 672 N.W.2d 366
[52] *Lee v. Regents*, 672 N.W.2d 366
[53] *State v. Hoyt*, 304 N.W.2d 884 (Minn. 1981)

A. No Holding Property to Collect Rent

When a landlord holds a tenant's property hostage for unpaid bills, it is called "distress for rent."[54] Distress for rent is illegal - the landlord has no claim for the property.[55] Thus, it is ***criminal theft*** because theft includes intentionally and without claim of right taking property temporarily with the intent of giving it back only if the owner pays a reward or buys it back.[56]

B. Personal Property Remaining in Premises

Under Minn. Stat. §504B.271, if a tenant abandons rented premises and leaves property behind, the landlord must care for the property for 28 days; during the 28 days, the landlord must return the property to the tenant upon request.[57] Failure to do so would be ***criminal theft*** for retaining property without claim of right.[58] Sec. 504B.271 also provides the tenant civil remedies.

C. Landlord Liability

A landlord is civilly liable for damages to property for failure to care for the property in a reasonable manner.[59] Also, if the landlord acts too quickly and removes a tenant's personal property before the sheriff's move out, the landlord is guilty of a lockout and subject to criminal and civil penalties (see Section IX, Lockout).

XII. PRIVACY

A. Tenant's Right to Privacy

A landlord may only enter rental property:[60]

* for a reasonable business purpose AND
* must make a good faith effort to give the tenant notice

This right to privacy cannot be waived, even if the written lease says the landlord can enter at any

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[54]Minn. Stat. §504B.001
[55]Minn. Stat. §504B.101
[56]Minn. Stat. §609.52, Subd. 2 (5)(iii)
[57]Minn. Stat. §504B.271. The only exception is storage in a warehouse after eviction as described in Section X.
[58]Minn. Stat. §609.52, Subd. 2, clauses (1) and (5)(ì). After 28 days, keeping the property is not a crime. *Peterson v. City of Plymouth*, 945 F.2d 1416 (8th Cir. 1991).
[59]Minn. Stat. §504B.365
[60]Minn. Stat. §504B.211

time without notice.

There are only three situations in which the landlord is not required to give advance notice:

1) entry to prevent injury to persons or property because of conditions relating to maintenance, building security, or law enforcement

2) entry to determine a tenant's safety

3) entry to comply with local ordinances regarding unlawful activity on the premises[61]

After such an emergency entry, the landlord must leave a note behind telling the tenant about the entry.

B. Trespass by Landlord

A person (including a landlord) is ***guilty of a misdemeanor*** if the person intentionally:

* trespasses on the premises of another (without a claim of right) and refuses to depart from the premises on demand of the lawful possessor OR

* occupies or enters the dwelling of another without a claim of right or consent of the owner, except in emergency situations[62]

Thus a landlord who invades a tenant's privacy[63] probably also has trespassed.[64] In the typical case, a landlord who enters a tenant's home without the required notice has no claim of right to be there and is trespassing. If the landlord enters in an emergency and fails to leave a note, the landlord had a right to enter and would not be criminally liable.

A person is ***guilty of a gross misdemeanor*** if he or she peeps into the home of another with the intent of intruding upon or interfering with their privacy.[65] Thus a landlord who surreptitiously peeps in on a tenant is ***guilty of a gross misdemeanor***.

C. "Trespass" by Tenant's Guest

1. State Law

In the typical situation, a landlord sees a person on the property who she thinks does not

[61]Minn. Stat. §504B.211
[62]Minn. Stat. §609.605
[63]Minn. Stat. §504B.211
[64]Minn. Stat. §609.605
[65]Minn. Stat. §609.746

belong there and gives him a trespass notice. The notice states that he is not to return to the property. If the person returns, the landlord will call the police to have the person arrested for criminal trespass under the statute discussed above.[66]

This seems like a simple rule which would be easy to apply to situations police encounter. The courts have found otherwise. Courts from many jurisdictions,[67] including Minnesota,[68] have found that a person who is a guest of a tenant is not a trespasser, and therefore cannot be convicted of criminal trespass, even if they were previously issued a notice of trespass.

> EXAMPLE 1: In *State v. Hoyt,* 304 N.W.2d 884 (Minn. 1981), a woman visited a patient at a nursing home daily for almost two years.[69] The hospital sent her a notice that she was not to return to the home. She did return and was arrested for trespassing. The court found that because the woman had a reasonable ground for her belief of a claim of right to visit, she was not trespassing. The nursing home was compared to the apartment building in *Commonwealth v. Richardson* (next example), in which the residents consent to having guests, as do tenants.
>
> EXAMPLE 2: In *Commonwealth v. Richardson*[70], a Massachusetts case, the defendants were Jehovah's Witnesses and were in the main corridor of an apartment building ringing buzzers for apartments so they could talk to the tenants about their mission. The property manager found them there and told them to get out of the building. The defendants refused to leave and were eventually let in by an elderly tenant. Meanwhile, the property manager called the police. The police asked the defendants to leave, but the defendants went back to the corridor to ring more buzzers and upon doing so were arrested by the officers for trespassing. The court found that when a tenant unleashes the lock to the front door, it constitutes a license or permission for the defendants to enter, identify themselves, and disclose the purpose of the visit. The court found that the Jehovah's Witnesses were not trespassing and their convictions were reversed.

In *State v. Holiday,*[71] the Minnesota Court of Appeals determined that a trespass notice cannot state that a person is excluded from all public housing in the city. Here, Holiday was given

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[66]Minn. Stat. §609.605

[67]*In re Jason Allen,* 733 A.2d 351 (Md.App.1999). *State v. Dixon,* 725 A.2d 920 (Vt.1999). *City of Kent v. Hermann,* 1996 WL 210780 (Ohio App. 11 Dist.). *State of Ohio v. Hites,* 2000 WL 1114809 (Ohio App. 3 Dist.). *Branish v. NHP Property Management,* 694 A.2d 1106 (Pa.Super.1997). *Souza v. Fall River Housing Authority,* 699 N.E.2d 30 (Mass.App.Ct.1998). *Reed v. Commonwealth,* 366 S.E.2d 274 (Va.App.1988). *Jones v. Commonwealth,* 443 S.E.2d 189 (Va.App.1994). *Diggs v. Housing Authority of the City of Frederick,* 67 F.Supp.2d 522 (D.Md.1999). An excellent law review summarizing the law is Note (Elena Goldstein), Kept Out:Responding to Public Housing No-Trespass Policies 38 Harvard Civil Rights-Civil Liberties Law Review 215 (2003), available at <http://www.law.harvard.edu/students/orgs/crcl/vol38_1/goldstein.pdf>

[68]*State v. Hoyt,* 304 N.W.2d 884 (Minn. 1981).

[69]*State v. Hoyt,* 304 N.W.2d 884 (Minn. 1981).

[70]*Commonwealth v. Richardson,* 48 N.E.2d 678 (Mass. 1943).

[71]*State v. Holiday,* 585 N.W.2d 68 (Minn. Ct. App. 1998).

a trespass notice stating that he could not return to any Minneapolis Public Housing Authority property. The court found that this ordinance must be interpreted to allow only notices to stay off a specific property so as not to infringe on the guest's freedom of association. A trespass notice can only demand that a person may not return to a specific property.

2. Defenses by the Arrestee

A winning defense by the alleged trespasser is that he had a right to be on the property (e.g., he or she was a guest of a tenant). Consent, which can be implied from custom, usage, or conduct, is also a defense.[72] For example, even if the "trespasser" was not invited by a tenant, he can be found not guilty if the landlord has a custom of allowing him on the site.

3. Section 1983 - Civil Rights Suit for Wrongful Arrest Possible

Often police officers receive calls about people who are violating trespass notices. In order for an officer to validly arrest a person, the officer needs to make sure they have a colorable right to arrest a trespasser. An arrest without probable cause could lead to a Section 1983 suit for violation of the arrestee's civil rights.

4. City Ordinances

The city code of Bloomington provides an example of a typical city trespass ordinance.[73] The city code section states that a property manager or tenant may issue a trespass notice only when:

> * there is probable cause to believe that the person has committed an act prohibited by state statute or city ordinance while on the premises, in common areas or on the tenant's space

OR

> * there is probable cause to believe that the person has violated rules of conduct for the property (the rules must be conspicuously posted at all public entrances or personally provided to people in writing by the manager or tenant)[74]

Under the code, if a person returns to the property prohibited in the notice without written

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[72] 75 Am.Jur.2d Trespass §87 (1991).
[73] Bloomington City Code §12.10
[74] Bloomington City Code §12.10

permission of the property manager, tenant, or authorized agent named in the notice, the person can be criminally prosecuted for trespass "as a misdemeanor under Minnesota law."[75] Thus, the trespass statue of Minnesota law applies and should be followed when a trespass notice is given. The ordinance does make clear that a visitor to the common area of an apartment complex without a tenant's invitation can be found guilty of trespass even though visitors in general are common (e.g., a salesman).

D. "Trespass" by Tenant Organizers

A special version of guests visiting tenants is visits from tenant organizers -- people knocking on tenants' doors to encourage them to join together in a tenant's association or the like. These organizers are protected from arrest for trespass in the same way as the Jehovah's Witnesses just discussed in EXAMPLE 2. In some situations, they may have extra protection under federal law or manufactured home law.

The relevant federal law applies to most federally subsidized properties and properties that used to be federally subsidized.[76] HUD regulations specifically allow tenants and tenant organizers to:

1) distribute leaflets in lobby and common areas;
2) place leaflets at or under tenants' doors;
3) conduct door-to-door surveys of tenants;
4) post information on bulletin boards;
5) assist tenants in their organizing;
6) conducting tenant meetings on site.[77]

An organizer (or tenant) engaging in these activities has a claim of right to be on the property and thus is not trespassing.

A tenant organizer at a manufactured home park also has a claim of right under Minn. Stat. § 327C.13 which prohibits park owners from "prohibiting residents or other persons from

[75]Bloomington City Code §12.09 (b)

[76]Those properties include virtually all HUD subsidized properties. They also include formerly subsidized properties that used to have a Section 236 mortgage, Section 221(d)(3) mortgage, Rent Supplement Program assistance, or Section 8 LMSA Program assistance. 24 C.F.R. § 245.10.

[77]24 C.F.R. § 245.115. This regulation lists other protected activities as well, but they are less likely to be the basis for a claim of right to occupy property.

peacefully organizing, assembling, canvassing, leafleting or other wise exercising ... their right of free expression for noncommercial purposes." The park owner may enforce rules setting reasonable limits as to time, place, and manner of speech. Id.

E. Political Campaigning

It is a ***petty misdemeanor*** for a person to either directly or indirectly deny a candidate who has filed for an election to public office (including accompanying campaign workers) access to:[78]

* an apartment house
* a dormitory
* a nursing home
* a manufactured home park
* other multiple unit facilities used as a residence
* an area in which two or more single-family dwellings are located on private roadways

The candidate or campaign workers must only seek admittance for the purpose of campaigning. The following are allowed:

* denial to a particular room or apartment, presumably by the occupant
* requiring identification before admittance
* denial to visit certain persons for valid health reasons
* limiting visits to a reasonable number of persons or reasonable hours
* requiring a prior appointment to gain access
* denial of admittance for good cause

XIII. ACCEPTING APPLICATIONS WITHOUT RENTAL PROPERTY

A "fake" landlord (one who actually has no property to rent or no real intention to rent what he has) who collects application fees is ***guilty of theft*** because "swindling," in which the person tries to obtain property or services from another by tricking or deceiving them, is theft.[79] Assuming the fees are relatively low, the theft is probably ***misdemeanor theft***.[80]

XIV. KARI KOSKINEN ACT – MANAGER BACKGROUND CHECK

The Kari Koskinen Act, Minn. Stat. §§ 299C.66-.71, requires landlords to conduct background checks on “managers”. A “manager” is a person who can enter tenants’ units in the

[78]Minn. Stat. §211B.20
[79]Minn. Stat. §609.52, Subd. 2 (4)
[80]Minn. Stat. §609.52

scope of her duties and is not hired on casual basis.[81] A typical example is a caretaker with a passkey (as opposed to a "casual" entrant like a painter hired on a one-time basis). The background check is done through the Bureau of Criminal Apprehension or by an equivalent method.[82]

The check is for convictions for [a] a variety of homicides, assaults, sexual assaults, burglaries, robberies and stalkings; [b] kidnaping; [c] terroristic threats; or [d] an attempt at one of these crimes. The detailed list is found in Minn. Stat. § 299C.67, subd. 2.

With two exceptions, a person with a conviction for one of these crimes may not be hired as a manager.[83] The first exception is that the person may be hired after the background check is requested but before the Bureau replies;[84] once the reply indicates a conviction of one of the listed crimes, the person must be fired.[85] The second exception is that for a subset of the listed crimes, the person may be hired and retained if she has been discharged from her sentence for more than 10 years.[86]

A landlord who violates the Kari Koskinen Act is guilty of a ***petty misdemeanor.***[87]

XV. DISCRIMINATION

A. Civil Law - Landlord's Duty Not to Discriminate

A landlord may not engage in unfair discriminatory practice by:

1) refusing to rent to a person or group of persons because of race, color, creed, religion, national origin, sec, marital status, status with regard to public assistance, disability, sexual orientation or familial status[88], OR

2) discriminate against any person or group of persons in the terms or lease of any real property on the basis of race, color, creed, religion, national origin, sec, marital status,

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[81]Minn. Stat. § 299C.67, Subd. 4
[82]Minn. Stat. § 299C.68
[83]Minn. Stat. § 299C.68, subd. 1; Minn. Stat. § 299C.69, subd. 1(a)
[84]Minn. Stat. § 299C.68, subd. 1; Minn. Stat. § 299C.69, subd. 1(a)
[85]Minn. Stat. § 299C.69, subd. 1(a)
[86]Minn. Stat. § 299C.69, subd. 1(b)
[87]Minn. Stat. § 299C.70
[88]Minn. Stat. §363A.09, Subd. 1(a)

status with regard to public assistance, disability, sexual orientation or familial status[89], OR

3) print, circulate, or post any advertisement which expresses any limitation, specification or discrimination as to race, color, creed, religion, national origin, sec, marital status, status with regard to public assistance, disability, sexual orientation or familial status.[90]

The following are exemptions to the above:

a) discrimination on the basis of sex is allowable for rooms in a temporary or permanent resident home run by a nonprofit organization.[91]

b) discrimination on the basis of sex, marital status, status with regard to public assistance, sexual orientation, or disability is allowable by a resident owner or occupier of a one-family accommodation.[92]

c) discrimination on the basis of sexual orientation is allowable by a resident owner or occupier of a one-family accommodation.[93]

d) discrimination on the basis of familial status is not to be construed to defeat the applicability of laws regarding restrictions on the maximum number of occupants permitted in a dwelling unit.[94]

e) discrimination on the basis of familial status is allowable by owner-occupied buildings containing four or fewer dwelling units and housing for elderly persons.[95]

If a tenant believes that she is being discriminated against, she may report the landlord to the Minnesota Human Rights Department, the state agency in charge of enforcing Minn. Stat. Chap. 363A, at 651/539-1100. The Department will review and investigate the complaint. If it finds probable cause to believe that illegal discrimination has occurred, it will pursue administrative action (similar to a civil rights lawsuit but in a different forum). The tenant is also free to consult a civil-rights attorney.

B. Criminal Offenses Related to Housing Discrimination

Federal fair housing law makes it ***a crime*** for an individual to use force or threaten to use force to injure, intimidate, or interfere with any person's housing rights because of that person's

[89]Minn. Stat. §363A.09, Subd. 1(b)
[90]Minn. Stat. §363A.09, Subd. 1(c)
[91]Minn. Stat. §363A.21, Subd. 1(a)
[92]Minn. Stat. §363A.21, Subd. 1(b)
[93]Minn. Stat. §363A.21, Subd. 1(ç)
[94]Minn. Stat. §363A.21, Subd. 2(a)
[95]Minn. Stat. §363A.21, Subd. 2(a)-(b)

race, color, religion, sex, disability, familial status or nation origin.[96] Additionally, anyone assisting an individual or group of people to exercise their fair housing rights is protected from force or the threatened use of force.[97] The offense is a ***gross misdemeanor or felony***, with the punishment ranging up to life imprisonment depending on the circumstances of the incident and the injury occurring.[98]

Minnesota law includes a "hate-crime-assault" statute that provides extra punishment for an assault stemming from the victim's race, color, religion, sex, sexual orientation, disability, age or national origin. The crime is a ***gross misdemeanor or felony*** depending on the circumstances.[99]

OTHER TOPICS

XVI. RESTRAINING ORDER/ ORDER FOR PROTECTION

A. Restraining Order

Police are frequently called for violations of restraining orders.[100] A copy of the restraining order must be sent to the local law enforcement agency. Tenants should be treated the same as homeowners.

A violation of a restraining order is a ***misdemeanor*** and a subsequent violation is a ***gross misdemeanor***. If an officer has probable cause to believe a person has violated a restraining order, she must make a warrantless arrest.

B. Order for Protection

Orders for protection pertain to domestic abuse.[101] A court may grant an order for protection which excludes a party from the home they share. The person may not return to the home for any reason, including an invitation by the abused person. The order for protection must

[96] 42 U.S.C. § 3631(a)
[97] 42 U.S.C. § 3631(b)
[98] 42 U.S.C. § 3631(ç)
[99] Minn. Stat. § 609.2231, Subd. 4(a)
[100] Minn. Stat. §609.748
[101] Minn. Stat. §518B.01

be sent to the local law enforcement agency.

Violating an order for protection is a ***misdemeanor*** and constitutes contempt of court. A second violation is a ***gross misdemeanor***. A third violation or violating the order with a dangerous weapon is a ***felony***. If an officer has probable cause to believe a person has violated an order for protection, the officer must make a warrantless arrest.

XVII. AUTOMOBILE TOWING

A. Cars on Public Property

A car can be towed from public property only if an officer has prepared a parking citation and a written towing report describing the car and the reasons for the towing. The citation must be signed by the officer and the tow driver.[102] In general, a car cannot be towed from public property until four hours after the ticket has been issued. A car can be towed immediately if the officer has probable cause to believe the vehicle is stolen or the officer has probable cause to believe the owner has five or more parking citations. A car cannot be towed for having expired tabs.

B. Cars on Private Property

A car may be impounded immediately when it has been left unattended on:

* single-family or duplex residential private property
* any residential private property (properly posted)[103]

Obviously, this does not allow impoundment of a car parked by one with a right to park there, either through ownership or a lease that includes parking.

XVIII. TENANT'S COLD WEATHER NOTICE BEFORE VACATING

A tenant who is moving out needs to give a three-day notice during winter (November 15 - April 15) so the landlord can take steps to make sure the pipes do not freeze.

Exceptions: * the pipes are not subject to freezing OR

[102]Minn. Stat. §169.041
[103]Minn. Stat. §168B.04

* the tenant is leaving on the day the tenancy is supposed to end

A tenant who violates the statute is ***guilty of a misdemeanor***.[104]

XIX. COLD WEATHER RULE

The cold weather rule – a rule of utility law and not criminal law -- states that a tenant has protection against having the heat disconnected during winter (Oct.15 - April 15)[105] if he is unable to pay the utility bill.[106] THIS RULE HAS NOTHING TO DO WITH EVICTING A TENANT OR REFUSING TO RENEW A LEASE BECAUSE IT IS WINTER. A landlord can evict a tenant during any time of the year, regardless of whether the tenant is pregnant or has children (other common myths).

XX. PUBLIC HEALTH

A threat to public health includes:[107]

* public health nuisance
* source of filth
* cause of sickness

The Board of Health must require the owner or occupant to remove or clean up the threat within ten days.

XXI. ABUSE AND NEGLECT

Abuse and neglect are not landlord/tenant issues, but the police do face these problems often. The police should treat tenants the same as homeowners. The criminal statutes for these offenses are: Minn. Stat. §609.233 (Criminal neglect), Minn. Stat. §609.2325 (Criminal abuse and Minn. Stat. §609.378 (Neglect or endangerment of a child).

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[104]Minn. Stat. §504B.155
[105]Minn. Stat. §216B.096, subd. 2(b)
[106]Minn. Stat. §216B.096 & Minn. Stat. §216B.097
[107]Minn. Stat. §145A.04, Subd. 8

REFERENCES

Minnesota Statutes

Minn. Stat. §145A.04
Minn. Stat. §168B.04
Minn. Stat. §169.041
Minn. Stat. §211B.20
Minn. Stat. §216B.096
Minn. Stat. §216B.097
Minn. Stat. §299C.66-.71
Minn. Stat. §327.70
Minn. Stat. §327.72
Minn. Stat. §327.73
Minn. Stat. §363A.09
Minn. Stat. §363A.21
Minn. Stat. §504B.001
Minn. Stat. §504B.101
Minn. Stat. §504B.111
Minn. Stat. §504B.155
Minn. Stat. §504B.165
Minn. Stat. §504B.171
Minn. Stat. §504B.205
Minn. Stat. §504B.211
Minn. Stat. §504B.225
Minn. Stat. §504B.271
Minn. Stat. §504B.365
Minn. Stat. §504B.375
Minn. Stat. §504B.381
Minn. Stat. §513.01
Minn. Stat. §514.18
Minn. Stat. §514.19
Minn. Stat. §514.20
Minn. Stat. §514.21
Minn. Stat. §514.22
Minn. Stat. §518B.01
Minn. Stat. §609.2231
Minn. Stat. §609.2325
Minn. Stat. §609.233
Minn. Stat. §609.378
Minn. Stat. §609.52
Minn. Stat. §609.5317
Minn. Stat. §609.582
Minn. Stat. §609.595
Minn. Stat. §609.605
Minn. Stat. §609.606
Minn. Stat. §609.74
Minn. Stat. §609.746
Minn. Stat. §609.748
Minn. Stat. §617.81
Minn. Stat. §617.82
Minn. Stat. §617.83
Minn. Stat. §617.85

Minnesota Cases
Broszko v. Principal Mutual Life Ins. Co., 533 N.W.2d 656 (Minn. Ct. App. 1995)
Gutierrez v.Eckert Farm Supply, No. C5-02-1900 (Minn. Ct. App. July 1, 2003).
Lee v. Regents of the U. of Minnesota, 672 N.W.2d 366 (Minn. Ct. App. 2003)
McGovern v. City of Minneapolis, 480 N.W.2d 121 (Minn. Ct. App.1992).
Seabloom v. Krier, 18 N.W.2d 88,91, 219 Minn. 362,367 (1945)
State v. Holiday, 585 N.W.2d 68 (Minn. Ct. App. 1998).
State v. Hoyt, 304 N.W.2d 884 (Minn. 1981).
Torgelson v. 17138 - 880th Avenue, 749 N.W.2d 24 (Minn. 2008).
Wegner v. Milwaukee Mutual Insurance Company, 479 N.W.2d 38 (Minn. 1991).

Other Cases
Branish v. NHP Property Management, 694 A.2d 1106 (Pa.Super.1997).
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Commonwealth v. Richardson, 48 N.E.2d 678 (Mass. 1943).
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Law Review
Note (Elena Goldstein), Kept Out:Responding to Public Housing No-Trespass Policies
38 Harvard Civil Rights-Civil Liberties Law Review 215 (2003), available at
<http://www.law.harvard.edu/students/orgs/crcl/v.38/goldstein.pdf>

Other Sources
42 U.S.C. § 1983
42 U.S.C. § 3631
75 Am.Jur.2d Trespass §87
24 C.F.R. § 245.10
24 C.F.R. § 245.115

City Codes
Bloomington Code §12.01-12.12
Brooklyn Center Code §12-911
Brooklyn Park City Code §117.49-117.52
Brooklyn Park City Code §134.03
Burnsville City Code §6-12-1 - 6-12-8
Minneapolis Code §244.2020

Attorney General Handbook
Landlords and Tenants: Rights and Responsibilities, available from AG at 651-296-3353 and at
<http://www.ag.state.mn.us/consumer/housing/lt/default.asp>

APPENDIX I

QUICK REFERENCE CHART

ACTION	CRIMINAL VIOLATION AND FORFEITURE	CIVIL VIOLATION	LOCATION IN THE MANUAL
3-Strike Ordinances/ Numerous Police Calls		City Ordinances	Pages 7-10 Section VII & Appendix
Abuse and Neglect	Minn Stat §609.233, §609.2325, §609.378 ***various crimes***		Page 26 Section XXI
Accepting Applications without Available property	Minn Stat §609.52 ***misdemeanor theft***		Page 21 Section XIII
Automobile Towing		Minn Stat §169.041, §168B.04	Page 25 Section XVII (A, B)
Manager Background Check	Minn Stat §299C.70 ***petty misdemeanor***		Pages 21-22 Section XIV
Cold Weather Issues	Minn Stat §504B.155 ***misdemeanor frozen pipes***	Minn Stat §504B.155 Minn Stat §216B.096 Minn Stat §216B.097	Page 25 Section XVIII & XIX
Damages to Property	Minn Stat §609.595 ***misdemeanor through felony***	Minn Stat §504B.165	Pages 5-6 Section V
Drugs on the Property	Minn Stat §609.5317 ***forfeiture***	Minn Stat §504B.171	Pages 3-5 Section III & IV
Landlord Wants Tenant Out of Rental Property/ Eviction			Pages 13-14 Section X (A)
Lease, Not in Writing	Minn Stat §504B.111 ***petty misdemeanor***	Minn Stat §504B.111 Minn Stat §513.01	Pages 2-3 Section II

Lockout	Minn Stat §609.582 Minn Stat §609.606 Minn Stat §504B.225 ***misdemeanor lockout***	Minn Stat §504B.225 Minn Stat §504B.375	Pages 11-13 Section IX
Lying on Rental Application	Minn Stat §609.52 ***misdemeanor theft***		Page 10 Section VIII
Noise	Minn Stat §609.74 Minn Stat §617.81 ***misdemeanor***		Pages 6-7 Section VI
Order for Protection	Minn Stat §518B.01 ***misdemeanor violating order for protection***		Pages 24-25 Section XVI (B)
Personal Property of the Tenant	Minn Stat §609.52 ***misdemeanor theft through felony***	Minn Stat §504B.271 Minn Stat §504B.365	Pages 15-16 Section XI
Political Campaigning	Minn Stat §211B.20 ***petty misdemeanor***		Pages 21 Section XII (E)
Privacy of the Tenant	Minn Stat §609.746 Minn Stat §609.605 ***misdemeanor trespass & gross misdemeanor peeping tom***	Minn Stat §504B.211	Pages 16-17 Section XII (A, B)
Public Health		Minn Stat §145A.04	Page 26 Section XX
Restraining Orders	Minn Stat §609.748 ***misdemeanor violating restraining order***		Pages 24-25 Section XVI (A)
Tenant Wants Roommate/Guest Out of Rental Property			Pages 14-15 Section X (B)
Trespass Notices to Guests	Minn Stat §609.605 ***misdemeanor trespass***	Case law	Pages 17-20 Section XII (C)

APPENDIX II

Minnesota Statutes[1]

Minn. Stat. §145A.04 *
Minn. Stat. §168B.04
Minn. Stat. §169.041
Minn. Stat. §211B.20
Minn. Stat. §216B.096
Minn. Stat. §216B.097
Minn. Stat. §299C.66-.71
Minn. Stat. §327.70-327.73
Minn. Stat. §363A.09
Minn. Stat. §363A.21
Minn. Stat. §504B.001
Minn. Stat. §504B.101
Minn. Stat. §504B.111
Minn. Stat. §504B.155
Minn. Stat. §504B.165
Minn. Stat. §504B.171
Minn. Stat. §504B.205
Minn. Stat. §504B.211
Minn. Stat. §504B.225
Minn. Stat. §504B.271
Minn. Stat. §504B.361
Minn. Stat. §504B.365
Minn. Stat. §504B.375
Minn. Stat. §504B.381
Minn. Stat. §513.01
Minn. Stat. §514.18
Minn. Stat. §514.19
Minn. Stat. §514.20
Minn. Stat. §514.21
Minn. Stat. §514.22
Minn. Stat. §518B.01 *
Minn. Stat. §609.2231
Minn. Stat. §609.2325
Minn. Stat. §609.233
Minn. Stat. §609.378
Minn. Stat. §609.52
Minn. Stat. §609.5317
Minn. Stat. §609.582
Minn. Stat. §609.595
Minn. Stat. §609.605
Minn. Stat. §609.606
Minn. Stat. §609.74
Minn. Stat. §609.746
Minn. Stat. §609.748
Minn. Stat. §617.81
Minn. Stat. §617.82
Minn. Stat. §617.83
Minn. Stat. §617.85

City Ordinances

Bloomington Ordinances §12.01 to §12.12
Brooklyn Center City Ordinances §12-911
Brooklyn Park City Ordinances §117.49 to §117.52 and §134.03
Burnsville City Ordinances §6-12-1 to §6-12-8
Minneapolis Ordinances §244.2020

Federal Laws

24 C.F.R. §§ 245.10, 245.115
42 USC § 3631

Footnotes

[1]With six exceptions, the Minnesota statutes are shown as the 2010 version because those statutes have not been amended since. This saved time preparing this appendix

One of the statutes was last amended by the 2012 legislature (section 609.52) and in that case the 2012 version is given.

Five others were amended by the 2013 legislature (sections 145A.04, 518B.01, 609.2231, 609.233, and 609.748).

For sections 609.2231, 609.233, and 609.748, the statute has been retyped to show how it will appear in the 2013 Minnesota Statutes when the Revisor of Statutes issues that set of statutes.

For sections 145A.04 and 518B.01, the 2012 version of the statute is given followed by the relevant part of the session laws amending the statute; those two statutes are marked by an asterisk.

2012 Minnesota Statutes

145A.04 POWERS AND DUTIES OF BOARD OF HEALTH.

Subdivision 1. **Jurisdiction; enforcement.** A county or multicounty board of health has the powers and duties of a board of health for all territory within its jurisdiction not under the jurisdiction of a city board of health. Under the general supervision of the commissioner, the board shall enforce laws, regulations, and ordinances pertaining to the powers and duties of a board of health within its jurisdictional area.

Subd. 2. **Appointment of agent.** A board of health must appoint, employ, or contract with a person or persons to act on its behalf. The board shall notify the commissioner of the agent's name, address, and phone number where the agent may be reached between board meetings and submit a copy of the resolution authorizing the agent to act on the board's behalf.

Subd. 3. **Employment; medical consultant.** (a) A board of health may establish a health department or other administrative agency and may employ persons as necessary to carry out its duties.

(b) Except where prohibited by law, employees of the board of health may act as its agents.

(c) Employees of the board of health are subject to any personnel administration rules adopted by a city council or county board forming the board of health unless the employees of the board are within the scope of a statewide personnel administration system.

(d) The board of health may appoint, employ, or contract with a medical consultant to receive appropriate medical advice and direction.

Subd. 4. **Acquisition of property; request for and acceptance of funds; collection of fees.** (a) A board of health may acquire and hold in the name of the county or city the lands, buildings, and equipment necessary for the purposes of sections 145A.03 to 145A.131. It may do so by any lawful means, including gifts, purchase, lease, or transfer of custodial control.

(b) A board of health may accept gifts, grants, and subsidies from any lawful source, apply for and accept state and federal funds, and request and accept local tax funds.

(c) A board of health may establish and collect reasonable fees for performing its duties and providing community health services.

(d) With the exception of licensing and inspection activities, access to community health services provided by or on contract with the board of health must not be denied to an individual or family because of inability to pay.

Subd. 5. **Contracts.** To improve efficiency, quality, and effectiveness, avoid unnecessary duplication, and gain cost advantages, a board of health may contract to provide, receive, or ensure provision of services.

Subd. 6. **Investigation; reporting and control of communicable diseases.** A board of health shall make investigations and reports and obey instructions on the control of communicable diseases as the commissioner may direct under section 144.12, 145A.06, subdivision 2, or 145A.07. Boards of health must cooperate so far as practicable to act together to prevent and control epidemic diseases.

Subd. 6a. **Minnesota Responds Medical Reserve Corps; planning.** A board of health receiving funding for emergency preparedness or pandemic influenza planning from the state or from the United States Department of Health and Human Services shall participate in planning for emergency use of volunteer health professionals through the Minnesota Responds Medical Reserve Corps program of the Department of Health. A board of health shall collaborate on volunteer planning with other public and private partners, including but not limited to local or regional health care providers, emergency medical services, hospitals, tribal governments, state and local emergency management, and local disaster relief organizations.

Subd. 6b. **Minnesota Responds Medical Reserve Corps; agreements.** A board of health participating in the Minnesota Responds Medical Reserve Corps program may enter into written mutual aid agreements for deployment of its paid employees and its Minnesota Responds Medical Reserve Corps volunteers with other boards of health, other political subdivisions within the state, or with tribal governments within the state. A board of health may also enter into agreements with the Indian Health Services of the United States Department of Health and Human Services, and with boards of health, political subdivisions, and tribal governments in bordering states and Canadian provinces.

Subd. 6c. **Minnesota Responds Medical Reserve Corps; when mobilized.** When a board of health finds that the prevention, mitigation, response to, or recovery from an actual or threatened public health event or emergency exceeds its local capacity, it shall use available mutual aid agreements. If the event or emergency exceeds mutual aid capacities, a board of health may request the commissioner of health to mobilize Minnesota Responds Medical Reserve Corps volunteers from outside the jurisdiction of the board of health.

Subd. 7. **Entry for inspection.** To enforce public health laws, ordinances or rules, a member or agent of a board of health may enter a building, conveyance, or place where contagion, infection, filth, or other source or cause of preventable disease exists or is reasonably suspected.

Subd. 8. **Removal and abatement of public health nuisances.** (a) If a threat to the public health such as a public health nuisance, source of filth, or cause of sickness is found on any property, the board of health or its agent shall

order the owner or occupant of the property to remove or abate the threat within a time specified in the notice but not longer than ten days. Action to recover costs of enforcement under this subdivision must be taken as prescribed in section 145A.08.

(b) Notice for abatement or removal must be served on the owner, occupant, or agent of the property in one of the following ways:

(1) by registered or certified mail;

(2) by an officer authorized to serve a warrant; or

(3) by a person aged 18 years or older who is not reasonably believed to be a party to any action arising from the notice.

(c) If the owner of the property is unknown or absent and has no known representative upon whom notice can be served, the board of health or its agent shall post a written or printed notice on the property stating that, unless the threat to the public health is abated or removed within a period not longer than ten days, the board will have the threat abated or removed at the expense of the owner under section 145A.08 or other applicable state or local law.

(d) If the owner, occupant, or agent fails or neglects to comply with the requirement of the notice provided under paragraphs (b) and (c), then the board of health or its agent shall remove or abate the nuisance, source of filth, or cause of sickness described in the notice from the property.

Subd. 9. **Injunctive relief.** In addition to any other remedy provided by law, the board of health may bring an action in the court of appropriate jurisdiction to enjoin a violation of statute, rule, or ordinance that the board has power to enforce, or to enjoin as a public health nuisance any activity or failure to act that adversely affects the public health.

Subd. 10. **Hindrance of enforcement prohibited; penalty.** It is a misdemeanor deliberately to hinder a member of a board of health or its agent from entering a building, conveyance, or place where contagion, infection, filth, or other source or cause of preventable disease exists or is reasonably suspected, or otherwise to interfere with the performance of the duties of the board of health.

Subd. 11. **Neglect of enforcement prohibited; penalty.** It is a misdemeanor for a member or agent of a board of health to refuse or neglect to perform a duty imposed on a board of health by statute or ordinance.

Subd. 12. **Other powers and duties established by law.** This section does not limit powers and duties of a board of health prescribed in other sections.

History: *1987 c 309 s 4; 1Sp2003 c 14 art 8 s 31; 2008 c 202 s 2-4*

2013 Amendment to Minn. Stat. § 145A.04

There was one amendment to this statute made by the 2013 legislature:

2013 Minn. Laws ch. 43, s. 21 amended Minn. Stat. § 145A.04 by adding a new subdivision, subd. 6d, to read as follows:

> Subd. 6d. **Minnesota Responds Medical Reserve Corps; liability coverage**. A Minnesota Responds Medical Reserve Corps volunteer responding to a request for training or assistance at the call of a board of health must be deemed an employee of the jurisdiction for purposes of workers' compensation, tort claim defense, and indemnification.

2010 Minnesota Statutes

168B.04 AUTHORITY TO IMPOUND VEHICLES.

Subdivision 1. **Abandoned or junk vehicles.** Units of government and peace officers may take into custody and impound any abandoned or junk vehicle.

Subd. 2. **Unauthorized vehicles.** (a) Units of government and peace officers may take into custody and impound any unauthorized vehicle under section 169.041.

(b) A vehicle may also be impounded after it has been left unattended in one of the following public or private locations for the indicated period of time:

(1) in a public location not governed by section 169.041:

(i) on a highway and properly tagged by a peace officer, four hours;

(ii) located so as to constitute an accident or traffic hazard to the traveling public, as determined by a peace officer, immediately;

(iii) located so as to constitute an accident or traffic hazard to the traveling public within the Department of Transportation's eight-county metropolitan district, as determined by an authorized employee of the department's freeway service patrol, immediately; or

(iv) that is a parking facility or other public property owned or controlled by a unit of government, properly posted, four hours; or

(2) on private property:

(i) that is single-family or duplex residential property, immediately;

(ii) that is private, nonresidential property, properly posted, immediately;

(iii) that is private, nonresidential property, not posted, 24 hours;

(iv) that is private, nonresidential property of an operator of an establishment for the servicing, repair, or maintenance of motor vehicles, five business days after notifying the vehicle owner by certified mail, return receipt requested, of the property owner's intention to have the vehicle removed from the property; or

(v) that is any residential property, properly posted, immediately.

History: 1971 c 734 s 4*;* 1995 c 137 s 2*;* 2004 c 224 s 5*;* 2008 c 287 art 1 s 32

2010 Minnesota Statutes

169.041 TOWING AUTHORIZED.

Subdivision 1. **Towing authority.** For purposes of this section, "towing authority" means:

(1) any local authority authorized by section 169.04 to enforce the traffic laws, and a private towing company authorized by a local authority; or

(2) an authorized employee of the Department of Transportation's freeway service patrol within the department's eight-county metropolitan district.

Subd. 2. **Towing order required.** A towing authority may not tow a motor vehicle from public property unless a peace officer or parking enforcement officer has prepared, in addition to the parking citation, a written towing report describing the motor vehicle and the reasons for towing. The report must be signed by the officer and the tow driver. Within the Department of Transportation's eight-county metropolitan district, an authorized employee of the department's freeway service patrol may order a tow from a trunk highway after preparing a written towing report provided by the Minnesota State Patrol. A citation need not be issued before the employee orders a tow.

Except in cases where an accident or traffic hazard to the traveling public exists, the department employee shall ensure that if the tower requested to remove the vehicle by the owner arrives before the tower requested by the department, the tower requested by the owner is given the opportunity to actually conduct and complete all towing operations requested.

Subd. 3. [Repealed, 2010 c 351 s 74]

Subd. 4. [Repealed, 2010 c 351 s 74]

Subd. 5. **Towing prohibited.** (a) A towing authority may not tow a motor vehicle because:

(1) the vehicle has expired registration tabs that have been expired for less than 90 days; or

(2) the vehicle is at a parking meter on which the time has expired and the vehicle has fewer than five unpaid parking tickets.

(b) A towing authority may tow a motor vehicle, notwithstanding paragraph (a), if:

(1) the vehicle is parked in violation of snow emergency regulations;

(2) the vehicle is parked in a rush-hour restricted parking area;

(3) the vehicle is blocking a driveway, alley, or fire hydrant;

(4) the vehicle is parked in a bus lane, or at a bus stop, during hours when parking is prohibited;

(5) the vehicle is parked within 30 feet of a stop sign and visually blocking the stop sign;

(6) the vehicle is parked in a disability transfer zone or disability parking space without a disability parking certificate or disability license plates;

(7) the vehicle is parked in an area that has been posted for temporary restricted parking (i) at least 12 hours in advance in a home rule charter or statutory city having a population under 50,000, or (ii) at least 24 hours in advance in another political subdivision;

(8) the vehicle is parked within the right-of-way of a controlled-access highway or within the traveled portion of a public street when travel is allowed there;

(9) the vehicle is unlawfully parked in a zone that is restricted by posted signs to use by fire, police,

public safety, or emergency vehicles;

(10) the vehicle is unlawfully parked on property at the Minneapolis-St. Paul International Airport owned by the Metropolitan Airports Commission;

(11) a law enforcement official has probable cause to believe that the vehicle is stolen, or that the vehicle constitutes or contains evidence of a crime and impoundment is reasonably necessary to obtain or preserve the evidence;

(12) the driver, operator, or person in physical control of the vehicle is taken into custody and the vehicle is impounded for safekeeping;

(13) a law enforcement official has probable cause to believe that the owner, operator, or person in physical control of the vehicle has failed to respond to five or more citations for parking or traffic offenses;

(14) the vehicle is unlawfully parked in a zone that is restricted by posted signs to use by taxicabs;

(15) the vehicle is unlawfully parked and prevents egress by a lawfully parked vehicle;

(16) the vehicle is parked, on a school day during prohibited hours, in a school zone on a public street where official signs prohibit parking; or

(17) the vehicle is a junk, abandoned, or unauthorized vehicle, as defined in section 168B.011, and subject to immediate removal under chapter 168B.

Subd. 5a. **Quick clearance.** (a) For purposes of this subdivision:

(1) "road" includes the roadway, a lane for vehicular traffic, shoulder, on-ramp, and off-ramp of a street or highway, including a parkway; and

(2) "obstructions" includes motor vehicles, debris, personal property, and cargo.

(b) Within the Department of Transportation's eight-county metropolitan district, the department and the State Patrol may move, remove, or cause to remove obstructions from a road if:

(1) there has been a traffic incident involving a collision, accident, or spilled load;

(2) the obstructions block a road or aggravate an emergency on a road; and

(3) the department cooperates with the State Patrol and private towing or recovery companies authorized by the State Patrol concerning towing of the vehicle and removal of other obstructions.

(c) The State Patrol shall make a reasonable effort to contact the owner of the motor vehicle or other obstructions before undertaking an action under this subdivision.

(d) The department shall make a reasonable effort to allow the owner of the motor vehicle to arrange for its removal, taking into account any time delay and safety issues, and shall give due consideration to having the vehicle towed by a licensed towing service capable of safely moving the vehicle.

(e) Towing charges accrued by the owner or owners of the vehicle must be reasonable for the type of vehicle removed and the circumstances surrounding its removal.

Subd. 6. **Private property.** This section does not restrict the authority of the owner of private property to authorize under chapter 168B the towing of a motor vehicle unlawfully parked on the private property.

Subd. 7. **Damages.** The owner or driver of a motor vehicle towed in violation of this section is entitled to recover from the towing authority the greater of $100 or two times the actual damages sustained as a result of the violation. Damages recoverable under this subdivision include but are not limited to costs of recovering the vehicle, including time spent and transportation costs.

History: 1989 c 256 s 1*;* 1990 c 503 s 1*;* 1992 c 580 s 1*;* 1994 c 536 s 19*;* 1995 c 137 s 10-*12;* 2005 c 56 s 1*;* 2008 c 287 art 1 s 42,*43;* 2010 c 351 s 27,*28*

2010 Minnesota Statutes

211B.20 DENIAL OF ACCESS BY POLITICAL CANDIDATES TO MULTIPLE UNIT DWELLINGS.

Subdivision 1. **Prohibition.** (a) It is unlawful for a person, either directly or indirectly, to deny access to an apartment house, dormitory, nursing home, manufactured home park, other multiple unit facility used as a residence, or an area in which two or more single-family dwellings are located on private roadways to a candidate who has:

(1) organized a campaign committee under applicable federal or state law;

(2) filed a financial report as required by section 211A.02; or

(3) filed an affidavit of candidacy for elected office.

A candidate granted access under this section must be allowed to be accompanied by campaign volunteers.

(b) Access to a facility or area is only required if it is located within the district or territory that will be represented by the office to which the candidate seeks election, and the candidate and any accompanying campaign volunteers seek access exclusively for the purpose of campaigning for a candidate or registering voters. The candidate must be seeking election to office at the next general or special election to be held for that office.

(c) A candidate and any accompanying campaign volunteers granted access under this section must be permitted to leave campaign materials for residents at their doors, except that the manager of a nursing home may direct that the campaign materials be left at a central location within the facility. The campaign materials must be left in an orderly manner.

(d) If a facility or area contains multiple buildings, a candidate and accompanying volunteers must be permitted to access more than one building on a single visit, but access is limited to only one building at a time. If multiple candidates are traveling together, each candidate and that candidate's accompanying volunteers is limited to one building at a time, but all of the candidates and accompanying volunteers traveling together must not be restricted to accessing the same building at the same time.

(e) A violation of this section is a petty misdemeanor.

Subd. 2. **Exceptions.** Subdivision 1 does not prohibit:

(1) denial of admittance into a particular apartment, room, manufactured home, or personal residential unit;

(2) requiring reasonable and proper identification as a necessary prerequisite to admission to a multiple unit dwelling;

(3) in the case of a nursing home or a registered housing with services establishment providing assisted living services meeting the requirements of section 144G.03, subdivision 2, denial of permission to visit certain persons for valid health reasons;

(4) limiting visits by candidates or volunteers accompanied by the candidate to a reasonable number of persons or reasonable hours;

(5) requiring a prior appointment to gain access to the facility; or

(6) denial of admittance to or expulsion from a multiple unit dwelling for good cause.

History: 1988 c 578 art 3 s 20*;* 2010 c 314 s 3

2011 Minnesota Statutes

216B.096 COLD WEATHER RULE; PUBLIC UTILITY.

Subdivision 1. **Scope.** This section applies only to residential customers of a utility.

Subd. 2. **Definitions.** (a) The terms used in this section have the meanings given them in this subdivision.

(b) "Cold weather period" means the period from October 15 through April 15 of the following year.

(c) "Customer" means a residential customer of a utility.

(d) "Disconnection" means the involuntary loss of utility heating service as a result of a physical act by a utility to discontinue service. Disconnection includes installation of a service or load limiter or any device that limits or interrupts utility service in any way.

(e) "Household income" means the combined income, as defined in section 290A.03, subdivision 3, of all residents of the customer's household, computed on an annual basis. Household income does not include any amount received for energy assistance.

(f) "Reasonably timely payment" means payment within five working days of agreed-upon due dates.

(g) "Reconnection" means the restoration of utility heating service after it has been disconnected.

(h) "Summary of rights and responsibilities" means a commission-approved notice that contains, at a minimum, the following:

(1) an explanation of the provisions of subdivision 5;

(2) an explanation of no-cost and low-cost methods to reduce the consumption of energy;

(3) a third-party notice;

(4) ways to avoid disconnection;

(5) information regarding payment agreements;

(6) an explanation of the customer's right to appeal a determination of income by the utility and the right to appeal if the utility and the customer cannot arrive at a mutually acceptable payment agreement; and

(7) a list of names and telephone numbers for county and local energy assistance and weatherization providers in each county served by the utility.

(i) "Third-party notice" means a commission-approved notice containing, at a minimum, the following information:

(1) a statement that the utility will send a copy of any future notice of proposed disconnection of utility heating service to a third party designated by the residential customer;

(2) instructions on how to request this service; and

(3) a statement that the residential customer should contact the person the customer intends to designate as the third-party contact before providing the utility with the party's name.

(j) "Utility" means a public utility as defined in section 216B.02, and a cooperative electric

association electing to be a public utility under section 216B.026. Utility also means a municipally owned gas or electric utility for nonresident consumers of the municipally owned utility and a cooperative electric association when a complaint in connection with utility heating service during the cold weather period is filed under section 216B.17, subdivision 6 or 6a.

(k) "Utility heating service" means natural gas or electricity used as a primary heating source, including electricity service necessary to operate gas heating equipment, for the customer's primary residence.

(l) "Working days" means Mondays through Fridays, excluding legal holidays. The day of receipt of a personally served notice and the day of mailing of a notice shall not be counted in calculating working days.

Subd. 3. **Utility obligations before cold weather period.** Each year, between September 1 and October 15, each utility must provide all customers, personally, by first class mail, or electronically for those requesting electronic billing, a summary of rights and responsibilities. The summary must also be provided to all new residential customers when service is initiated.

Subd. 4. **Notice before disconnection during cold weather period.** Before disconnecting utility heating service during the cold weather period, a utility must provide, personally or by first class mail, a commission-approved notice to a customer, in easy-to-understand language, that contains, at a minimum, the date of the scheduled disconnection, the amount due, and a summary of rights and responsibilities.

Subd. 5. **Cold weather rule.** (a) During the cold weather period, a utility may not disconnect and must reconnect utility heating service of a customer whose household income is at or below 50 percent of the state median income if the customer enters into and makes reasonably timely payments under a mutually acceptable payment agreement with the utility that is based on the financial resources and circumstances of the household; provided that, a utility may not require a customer to pay more than ten percent of the household income toward current and past utility bills for utility heating service.

(b) A utility may accept more than ten percent of the household income as the payment arrangement amount if agreed to by the customer.

(c) The customer or a designated third party may request a modification of the terms of a payment agreement previously entered into if the customer's financial circumstances have changed or the customer is unable to make reasonably timely payments.

(d) The payment agreement terminates at the expiration of the cold weather period unless a longer period is mutually agreed to by the customer and the utility.

(e) Each utility shall use reasonable efforts to restore service within 24 hours of an accepted payment agreement, taking into consideration customer availability, employee availability, and construction-related activity.

Subd. 6. **Verification of income.** (a) In verifying a customer's household income, a utility may:

(1) accept the signed statement of a customer that the customer is income eligible;

(2) obtain income verification from a local energy assistance provider or a government agency;

(3) consider one or more of the following:

(i) the most recent income tax return filed by members of the customer's household;

(ii) for each employed member of the customer's household, paycheck stubs for the last two months or a written statement from the employer reporting wages earned during the preceding two months;

(iii) documentation that the customer receives a pension from the Department of Human Services, the Social Security Administration, the Veteran's Administration, or other pension provider;

(iv) a letter showing the customer's dismissal from a job or other documentation of unemployment; or

(v) other documentation that supports the customer's declaration of income eligibility.

(b) A customer who receives energy assistance benefits under any federal, state, or county government programs in which eligibility is defined as household income at or below 50 percent of state median income is deemed to be automatically eligible for protection under this section and no other verification of income may be required.

Subd. 7. **Prohibitions and requirements.** (a) This subdivision applies during the cold weather period.

(b) A utility may not charge a deposit or delinquency charge to a customer who has entered into a payment agreement or a customer who has appealed to the commission under subdivision 8.

(c) A utility may not disconnect service during the following periods:

(1) during the pendency of any appeal under subdivision 8;

(2) earlier than ten working days after a utility has deposited in first class mail, or seven working days after a utility has personally served, the notice required under subdivision 4 to a customer in an occupied dwelling;

(3) earlier than ten working days after the utility has deposited in first class mail the notice required under subdivision 4 to the recorded billing address of the customer, if the utility has reasonably determined from an on-site inspection that the dwelling is unoccupied;

(4) on a Friday, unless the utility makes personal contact with, and offers a payment agreement consistent with this section to the customer;

(5) on a Saturday, Sunday, holiday, or the day before a holiday;

(6) when utility offices are closed;

(7) when no utility personnel are available to resolve disputes, enter into payment agreements, accept payments, and reconnect service; or

(8) when commission offices are closed.

(d) A utility may not discontinue service until the utility investigates whether the dwelling is actually occupied. At a minimum, the investigation must include one visit by the utility to the dwelling during normal working hours. If no contact is made and there is reason to believe that the dwelling is occupied, the utility must attempt a second contact during nonbusiness hours. If personal contact is made, the utility representative must provide notice required under subdivision 4 and, if the utility representative is not authorized to enter into a payment agreement, the telephone number the customer can call to establish a payment agreement.

(e) Each utility must reconnect utility service if, following disconnection, the dwelling is found to be occupied and the customer agrees to enter into a payment agreement or appeals to the commission because the customer and the utility are unable to agree on a payment agreement.

Subd. 8. **Disputes; customer appeals.** (a) A utility must provide the customer and any designated

third party with a commission-approved written notice of the right to appeal:

(1) a utility determination that the customer's household income is more than 50 percent of state median household income; or

(2) when the utility and customer are unable to agree on the establishment or modification of a payment agreement.

(b) A customer's appeal must be filed with the commission no later than seven working days after the customer's receipt of a personally served appeal notice, or within ten working days after the utility has deposited a first class mail appeal notice.

(c) The commission must determine all customer appeals on an informal basis, within 20 working days of receipt of a customer's written appeal. In making its determination, the commission must consider one or more of the factors in subdivision 6.

(d) Notwithstanding any other law, following an appeals decision adverse to the customer, a utility may not disconnect utility heating service for seven working days after the utility has personally served a disconnection notice, or for ten working days after the utility has deposited a first class mail notice. The notice must contain, in easy-to-understand language, the date on or after which disconnection will occur, the reason for disconnection, and ways to avoid disconnection.

Subd. 9. **Cooperative and municipal disputes.** Complaints in connection with utility heating service during the cold weather period filed against a municipal or a cooperative electric association with the commission under section 216B.17, subdivision 6 or 6a, are governed by section 216B.097.

Subd. 10. **Customers above 50 percent of state median income.** During the cold weather period, a customer whose household income is above 50 percent of state median income:

(1) has the right to a payment agreement that takes into consideration the customer's financial circumstances and any other extenuating circumstances of the household; and

(2) may not be disconnected and must be reconnected if the customer makes timely payments under a payment agreement accepted by a utility.

Subdivision 7, paragraph (b), does not apply to customers whose household income is above 50 percent of state median income.

Subd. 11. **Reporting.** Annually on November 1, a utility must electronically file with the commission a report, in a format specified by the commission, specifying the number of utility heating service customers whose service is disconnected or remains disconnected for nonpayment as of October 1 and October 15. If customers remain disconnected on October 15, a utility must file a report each week between November 1 and the end of the cold weather period specifying:

(1) the number of utility heating service customers that are or remain disconnected from service for nonpayment; and

(2) the number of utility heating service customers that are reconnected to service each week. The utility may discontinue weekly reporting if the number of utility heating service customers that are or remain disconnected reaches zero before the end of the cold weather period.

The data reported under this subdivision are presumed to be accurate upon submission and must be made available through the commission's electronic filing system.

History: *2007 c 57 art 2 s 13,43;* 2008 c 162 s 2,*3;* 2011 c 97 s 7

2010 Minnesota Statutes

216B.097 COLD WEATHER RULE; COOPERATIVE OR MUNICIPAL UTILITY.

Subdivision 1. **Application; notice to residential customer.** (a) A municipal utility or a cooperative electric association must not disconnect and must reconnect the utility service of a residential customer during the period between October 15 and April 15 if the disconnection affects the primary heat source for the residential unit and all of the following conditions are met:

(1) The household income of the customer is at or below 50 percent of the state median household income. A municipal utility or cooperative electric association utility may (i) verify income on forms it provides or (ii) obtain verification of income from the local energy assistance provider. A customer is deemed to meet the income requirements of this clause if the customer receives any form of public assistance, including energy assistance, that uses an income eligibility threshold set at or below 50 percent of the state median household income.

(2) A customer enters into and makes reasonably timely payments under a payment agreement that considers the financial resources of the household.

(3) A customer receives referrals to energy assistance, weatherization, conservation, or other programs likely to reduce the customer's energy bills.

(b) A municipal utility or a cooperative electric association must, between August 15 and October 15 each year, notify all residential customers of the provisions of this section.

Subd. 2. **Notice to residential customer facing disconnection.** Before disconnecting service to a residential customer during the period between October 15 and April 15, a municipal utility or cooperative electric association must provide the following information to a customer:

(1) a notice of proposed disconnection;

(2) a statement explaining the customer's rights and responsibilities;

(3) a list of local energy assistance providers;

(4) forms on which to declare inability to pay; and

(5) a statement explaining available time payment plans and other opportunities to secure continued utility service.

Subd. 3. **Restrictions if disconnection necessary.** (a) If a residential customer must be involuntarily disconnected between October 15 and April 15 for failure to comply with subdivision 1, the disconnection must not occur:

(1) on a Friday, unless the customer declines to enter into a payment agreement offered that day in person or via personal contact by telephone by a municipal utility or cooperative electric association;

(2) on a weekend, holiday, or the day before a holiday;

(3) when utility offices are closed; or

(4) after the close of business on a day when disconnection is permitted, unless a field representative of a municipal utility or cooperative electric association who is authorized to enter into a payment agreement, accept payment, and continue service, offers a payment agreement to the customer.

Further, the disconnection must not occur until at least 20 days after the notice required in subdivision 2 has been mailed to the customer or 15 days after the notice has been personally delivered to the

customer.

(b) If a customer does not respond to a disconnection notice, the customer must not be disconnected until the utility investigates whether the residential unit is actually occupied. If the unit is found to be occupied, the utility must immediately inform the occupant of the provisions of this section. If the unit is unoccupied, the utility must give seven days' written notice of the proposed disconnection to the local energy assistance provider before making a disconnection.

(c) If, prior to disconnection, a customer appeals a notice of involuntary disconnection, as provided by the utility's established appeal procedure, the utility must not disconnect until the appeal is resolved.

Subd. 4. **Application to service limiters.** For the purposes of this section, "disconnection" includes a service or load limiter or any device that limits or interrupts electric service in any way.

History: 1991 c 235 art 2 s 1*;* 2001 c 212 art 4 s 2*;* 1Sp2003 c 11 art 3 s 2*;* 2007 c 57 art 2 s 14,*15*

PROPERTY MANAGER BACKGROUND CHECK

299C.66 CITATION.

Sections 299C.66 to 299C.71 may be cited as the "Kari Koskinen Manager Background Check Act."

History: 1995 c 226 art 4 s 13

299C.67 DEFINITIONS.

Subdivision 1. **Terms.** The definitions in this section apply to sections 299C.66 to 299C.71.

Subd. 2. **Background check crime.** "Background check crime" means:

(a)(1) a felony violation of section 609.185 (first-degree murder); 609.19 (second-degree murder); 609.20 (first-degree manslaughter); 609.221 (first-degree assault); 609.222 (second-degree assault); 609.223 (third-degree assault); 609.25 (kidnapping); 609.342 (first-degree criminal sexual conduct); 609.343 (second-degree criminal sexual conduct); 609.344 (third-degree criminal sexual conduct); 609.345 (fourth-degree criminal sexual conduct); 609.561 (first-degree arson); or 609.749 (stalking);

(2) an attempt to commit a crime in clause (1); or

(3) a conviction for a crime in another jurisdiction that would be a violation under clause (1) or an attempt under clause (2) in this state; or

(b)(1) a felony violation of section 609.195 (third-degree murder); 609.205 (second-degree manslaughter); 609.21 (criminal vehicular homicide and injury); 609.2231 (fourth-degree assault); 609.224 (fifth-degree assault); 609.24 (simple robbery); 609.245 (aggravated robbery); 609.255 (false imprisonment); 609.52 (theft); 609.582, subdivision 1 or 2 (burglary); 609.713 (terroristic threats); or a nonfelony violation of section 609.749 (stalking);

(2) an attempt to commit a crime in clause (1); or

(3) a conviction for a crime in another jurisdiction that would be a violation under clause (1) or an attempt under clause (2) in this state.

Subd. 3. [Repealed, 2009 c 59 art 6 s 25]

Subd. 4. **Manager.** "Manager" means an individual who is hired or is applying to be hired by an owner and who has or would have the means, within the scope of the individual's duties, to enter tenants' dwelling units. "Manager" does not include a person who is hired on a casual basis and not in the ongoing course of the business of the owner.

Subd. 5. **Owner.** "Owner" has the meaning given to "landlord" in section 504B.001, subdivision 7. However, "owner" does not include a person who owns, operates, or is in control of a health care facility or a home health agency licensed by the commissioner of health or human services under chapter 144, 144A, 144B, or 245A, or a board and lodging establishment with special services registered under section 157.17.

Subd. 6. **Superintendent.** "Superintendent" means the superintendent of the Bureau of Criminal Apprehension.

Subd. 7. **Tenant.** "Tenant" has the meaning given to "residential tenant" in section 504B.001, subdivision 12.

History: 1995 c 226 art 4 s 14*;* 1996 c 408 art 10 s 7*;* 1999 c 199 art 2 s 7*,8;* 2001 c 7 s 62*;* 2010 c 299 s 14

299C.68 BACKGROUND CHECK ON RESIDENTIAL BUILDING MANAGER.

Subdivision 1. **When required.** Before hiring a manager, an owner shall request the superintendent to conduct a background check under this section. An owner may employ a manager after requesting a background check under this section before receipt of the background check report, provided that the owner complies with section 299C.69. An owner may request a background check for a currently employed manager under this section. By July 1, 1996, an owner shall request the superintendent to conduct a background check under this section for managers hired before July 1, 1995, who are currently employed.

Subd. 2. **Procedures.** The superintendent shall develop procedures to enable an owner to request a background

check to determine whether a manager is the subject of a reported conviction for a background check crime. The superintendent shall perform the background check by retrieving and reviewing data on background check crimes. The superintendent shall notify the owner in writing of the results of the background check. If the manager has resided in Minnesota for less than ten years or upon request of the owner, the superintendent shall also either: (1) conduct a search of the national criminal records repository, including the criminal justice data communications network; or (2) conduct a search of the criminal justice data communications network records in the state or states where the manager has resided for the preceding ten years. The superintendent is authorized to exchange fingerprints with the Federal Bureau of Investigation for purposes of the criminal history check. The superintendent shall recover the cost of a background check through a fee charged to the owner.

Subd. 3. **Form.** (a) The superintendent shall develop a standardized form to be used for requesting a background check, which must include:

(1) a notification to the manager that the owner will request the superintendent to perform a background check under this section;

(2) a notification to the manager of the manager's rights under subdivision 4; and

(3) a signed consent by the manager to conduct the background check.

(b) If the manager has resided in Minnesota for less than ten years, or if the owner is requesting a search of the national criminal records repository, the form must be accompanied by the fingerprints of the manager on whom the background check is to be performed.

Subd. 4. **Manager's rights.** (a) The owner shall notify the manager of the manager's rights under paragraph (b).

(b) A manager who is the subject of a background check request has the following rights:

(1) the right to be informed that the owner will request a background check on the manager to determine whether the manager has been convicted of a crime specified in section 299C.67, subdivision 2;

(2) the right to be informed by the owner of the superintendent's response to the background check and to obtain from the owner a copy of the background check report;

(3) the right to obtain from the superintendent any record that forms the basis for the report;

(4) the right to challenge the accuracy and completeness of information contained in the report or record under section 13.04, subdivision 4; and

(5) the right to be informed by the owner if the manager's application to be employed by the owner or to continue as an employee has been denied because of the result of the background check.

Subd. 5. **Response of bureau.** The superintendent shall respond in writing to a background check request within a reasonable time not to exceed ten working days after receiving the signed form under subdivision 3. The superintendent's response from the search of the Minnesota computerized criminal history system must clearly indicate whether the manager has ever been convicted of a background check crime and, if so, a description of the crime, date and jurisdiction of the conviction, and date of discharge of sentence. If a search is being done of the national criminal records repository, the superintendent shall determine eligibility based upon national records received. The superintendent shall reply to the owner in writing indicating whether the manager is or is not eligible for employment.

Subd. 6. **Equivalent background check.** (a) An owner may satisfy the requirements of this section: (1) by obtaining a copy of a completed background check that was required to be performed by the Department of Human Services as provided for under section 144.057 and chapter 245C, and then placing the copy on file with the owner; (2) in the case of a background check performed on a manager for one residential setting when multiple residential settings are operated by one owner, by placing the results in a central location; or (3) by obtaining a background check from a private business or a local law enforcement agency rather than the superintendent if the scope of the background check provided by the private business or local law enforcement agency is at least as broad as that of a background check performed by the superintendent and the response to the background check request occurs within a reasonable time not to exceed ten working days after receiving the signed form described in subdivision 3. Local

law enforcement agencies may access the criminal justice data network to perform the background check.

(b) A private business or local law enforcement agency providing a background check under this section must use a notification form similar to the form described in subdivision 3, except that the notification form must indicate that the background check will be performed by the private business or local law enforcement agency using records of the superintendent and other data sources.

History: 1995 c 226 art 4 s 15*;* 1996 c 408 art 10 s 8-*10;* 1Sp2001 c 7 s 1,*2;* 2002 c 321 s 3*;* 2003 c 15 art 1 s 33*;* 2003 c 89 s 1*;* 2009 c 59 art 6 s 17

299C.69 OWNER DUTIES IF MANAGER CONVICTED OF CRIME.

(a) If the superintendent's response indicates that the manager has been convicted of a background check crime defined in section 299C.67, subdivision 2, paragraph (a), the owner may not hire the manager or, if the manager was hired pending completion of the background check, shall terminate the manager's employment. Except as provided in paragraph (c), if an owner otherwise knows that a manager has been convicted of a background check crime defined in section 299C.67, subdivision 2, paragraph (a), the owner shall terminate the manager's employment.

(b) If the superintendent's response indicates that the manager has been convicted of a background check crime defined in section 299C.67, subdivision 2, paragraph (b), the owner may not hire the manager unless more than ten years have elapsed since the date of discharge of the sentence. If the manager was hired pending completion of the background check, the owner shall terminate the manager's employment unless more than ten years have elapsed since the date of discharge of the sentence. Except as provided in paragraph (c), if an owner otherwise knows that a manager has been convicted of a background check crime defined in section 299C.67, subdivision 2, paragraph (b), the owner shall terminate the manager's employment unless more than ten years have elapsed since the date of discharge of the sentence.

(c) If an owner knows that a manager hired before July 1, 1995, was convicted of a background check crime for an offense committed before July 1, 1995, the owner may continue to employ the manager. However, the owner shall notify all tenants and prospective tenants whose dwelling units would be accessible to the manager of the crime for which the manager has been convicted and of the right of a current tenant to terminate the tenancy under this paragraph, if the manager was convicted of a background check crime defined in:

(1) section 299C.67, subdivision 2, paragraph (a); or

(2) section 299C.67, subdivision 2, paragraph (b), unless more than ten years have elapsed since the sentence was discharged.

Notwithstanding a lease provision to the contrary, a current tenant who receives a notice under this paragraph may terminate the tenancy within 60 days of receipt of the notice by giving the owner at least 14 days' advance notice of the termination date.

(d) The owner shall notify the manager of any action taken under this subdivision.

(e) If an owner is required to terminate a manager's employment under paragraph (a) or (b), or terminates a manager's employment in lieu of notifying tenants under paragraph (c), the owner is not liable under any law, contract, or agreement, including liability for unemployment insurance claims, for terminating the manager's employment in accordance with this section. Notwithstanding a lease or agreement governing termination of the tenancy, if the manager whose employment is terminated is also a tenant, the owner may terminate the tenancy immediately upon giving notice to the manager. An eviction action to enforce the termination of the tenancy must be treated as a priority writ under sections 504B.321; 504B.335; 504B.345, subdivision 1; 504B.361, subdivision 2; and 504B.365, subdivision 2.

History: 1995 c 226 art 4 s 16*;* 1999 c 199 art 2 s 9*;* 2004 c 206 s 52

299C.70 PENALTY.

An owner who knowingly fails to comply with the requirements of section 299C.68 or 299C.69 is guilty of a petty misdemeanor.

History: 1995 c 226 art 4 s 17

299C.71 BUREAU IMMUNITY.

The Bureau of Criminal Apprehension is immune from any civil or criminal liability that might otherwise arise under section 299C.68, based on the accuracy or completeness of records it receives from the Federal Bureau of Investigation, if the bureau acts in good faith.

History: 1995 c 226 art 4 s 18

327.67 FILING OF ORDER.

A secured party shall, in the manner provided by the Uniform Commercial Code of this state, record a certified copy of the court order returning possession of a manufactured home to the secured party to perfect title to the manufactured home in the secured party, except in cases of voluntary repossession.

History: 1976 c 250 s 7; 1981 c 365 s 9

HOTELS

327.70 DEFINITIONS.

Subdivision 1. **Terms.** For the purposes of sections 327.70 to 327.76, the terms defined in this section have the meanings given them.

Subd. 2. **Guest.** "Guest" means a person who is registered at a hotel and to whom a bedroom is assigned. The term "guest" includes members of the guest's family who accompany the guest.

Subd. 3. **Hotel.** "Hotel" means a hotel, motel, resort, boarding house, bed and breakfast, furnished apartment house or other building, which is kept, used or advertised as, or held out to the public to be, a place where sleeping or housekeeping accommodations are supplied for pay to guests for transient occupancy.

Subd. 4. **Innkeeper.** "Innkeeper" means an owner or operator of a hotel.

Subd. 5. **Transient occupancy.** "Transient occupancy" means occupancy when it is the intention of the parties that the occupancy will be temporary. There is a rebuttable presumption that, if the unit occupied is the sole residence of the guest, the occupancy is not transient. There is a rebuttable presumption that, if the unit occupied is not the sole residence of the guest, the occupancy is transient.

Subd. 6. **Valuables.** "Valuables" includes money, bank notes, bonds, precious stones, jewelry, ornaments, watches, securities, transportation tickets, photographic cameras, checks, drafts, and other negotiable instruments, business papers, documents, and other papers, and other articles of value.

History: 1982 c 517 s 1; 1993 c 151 s 1

327.71 INNKEEPER LIABILITY FOR THE PERSONAL PROPERTY OF GUESTS.

Subdivision 1. **Valuables.** No innkeeper who has in the establishment a fireproof, metal safe or vault, in good order and fit for the custody of valuables, and who keeps a copy of this subdivision clearly and conspicuously posted at or near the front desk and on the inside of the entrance door of every bedroom, shall be liable for the loss of or injury to the valuables of a guest unless: (1) the guest has offered to deliver the valuables to the innkeeper for custody in the safe or vault; and (2) the innkeeper has omitted or refused to take the valuables and deposit them in the safe or vault for custody and to give the guest a receipt for them. Except as otherwise provided in subdivision 6, the liability of an innkeeper for the loss of or injury to the valuables of a guest shall not exceed $1,000. No innkeeper shall be required to accept valuables for custody in the safe or vault if their value exceeds $1,000, unless the acceptance is in writing.

Subd. 2. **Property in baggage room.** No innkeeper shall be liable for the loss of or damage to baggage, parcels, packages or wearing material of a guest that has been delivered to the innkeeper for custody elsewhere than in the room assigned to the guest, or in the hotel safe or vault, unless the innkeeper has given the guest a check or receipt in writing evidencing the delivery. Except as otherwise

provided in subdivision 6, the liability of an innkeeper for the loss of or damage to property delivered to the innkeeper for custody under this subdivision shall not exceed $1,000.

Subd. 3. **Large items of special value.** No innkeeper shall be liable for the loss of or damage to baggage or other receptacles of a guest, containing property of special value, and not suitable to be placed in the hotel safe or vault unless: (1) the property is delivered to the innkeeper for custody; (2) the guest, prior to the loss or damage, has filed with the innkeeper a written inventory of the property and its approximate value; (3) the innkeeper has been given an opportunity to inspect the property and to check it against the inventory; and (4) the innkeeper has given the guest a check or receipt evidencing the delivery. The liability of an innkeeper for the loss of or damage to property delivered for custody under this subdivision shall not exceed the actual value of the receptacle and its contents or the amount of the actual injury to the receptacle and its contents.

Subd. 4. **Property in assigned room.** Except as otherwise provided in subdivision 6, no innkeeper shall be liable in an amount exceeding $1,000 for the loss of or damage to personal property of a guest that is contained in the bedroom registered to the guest.

Subd. 5. **Abandoned property.** Except as otherwise provided in subdivision 6, no innkeeper shall be liable for the loss of or damage to valuables or personal property of a guest that the guest has allowed to remain in the hotel after the relationship of innkeeper and guest has ceased, or that the guest has forwarded to the hotel before the relationship of innkeeper and guest has begun. If the valuables or personal property remain at the hotel for a period of at least ten days without having been claimed by the owner, the innkeeper has the right to deposit them in a storage warehouse, and to take a warehouse receipt in the name of the owner. An innkeeper who deposits valuables or personal property of a guest in a storage warehouse shall hold the warehouse receipt for the owner, and deliver it to the owner upon demand and upon payment of the costs of storage. The innkeeper may also dispose of abandoned, unclaimed property in the manner provided in sections 345.01 to 345.07.

Subd. 6. **Fault or negligence of innkeeper.** An innkeeper who, intentionally or negligently, causes the loss of or damage to valuables or property delivered for custody as provided in subdivisions 1 and 2, to property contained in the assigned room of a guest as provided in subdivision 4, or to abandoned valuables or property not delivered to a storage warehouse provided in subdivision 5, shall be liable to the guest for either the actual value of the valuables or the property, or the amount of the actual injury to the valuables or the property.

History: 1982 c 517 s 2*; 1986 c 444*

327.72 OVERSTAYING GUESTS.

A guest who intentionally continues to occupy an assigned room in a hotel beyond the scheduled departure date without the prior written approval of the innkeeper shall be deemed to be a trespasser.

History: 1982 c 517 s 3

327.73 UNDESIRABLE GUESTS; EJECTION OF, AND REFUSAL TO ADMIT.

Subdivision 1. **Innkeeper's right to eject.** (a) An innkeeper may remove or cause to be removed from a hotel a guest or other person who:

(1) refuses or is unable to pay for accommodations or services;

(2) while on the premises of the hotel acts in an obviously intoxicated or disorderly manner, destroys or threatens to destroy hotel property, or causes or threatens to cause a disturbance;

(3) the innkeeper reasonably believes is using the premises for the unlawful possession or use of controlled substances by the person in violation of chapter 152, or using the premises for the consumption of alcohol by a person under the age of 21 years in violation of section 340A.503;

(4) the innkeeper reasonably believes has brought property into the hotel that may be dangerous to other persons, such as firearms or explosives;

(5) violates any federal, state, or local laws, ordinances, or rules relating to the hotel; or

(6) violates a rule of the hotel that is clearly and conspicuously posted at or near the front desk and on the inside of the entrance door of every guest room.

(b) If the guest has paid in advance, the innkeeper shall tender to the guest any unused portion of the advance payment at the time of removal.

Subd. 2. **Refusal of admission.** (a) An innkeeper may refuse to admit or refuse service or accommodations to a person who:

(1) while on the premises of the hotel acts in an obviously intoxicated or disorderly manner, destroys or threatens to destroy hotel property, or causes or threatens to cause a public disturbance;

(2) the innkeeper reasonably believes is seeking accommodations for the unlawful possession or use of controlled substances in violation of chapter 152 or the use of the premises for the consumption of intoxicating liquor by a person under the age of 21 years in violation of section 340A.503; or

(3) the innkeeper reasonably believes is bringing property into the hotel that may be dangerous to other persons, such as firearms or explosives.

(b) An innkeeper also may refuse to admit or refuse service or accommodations to a person who refuses or is unable to pay for the accommodations or services. An innkeeper may require the prospective guest to demonstrate an ability to pay. An innkeeper may require a parent or guardian of a minor to accept liability for the proper charges for the minor's accommodation, board, room, lodging, and any damages to the guest room or its furniture or furnishings caused by the minor, and provide a credit card to cover the charges. When the parent or guardian cannot provide a credit card, the innkeeper may require the parent or guardian to make an advance cash deposit to cover the charges for the guest room, plus a cash damage deposit in an amount not exceeding $100 for payment of any additional charges by the minor or any damages to the guest room or its furniture or furnishings. The innkeeper shall refund the damage deposit to the extent it is not used to cover any reasonable charges or damages.

(c) An innkeeper may limit the number of persons who may occupy a particular guest room in the hotel.

Subd. 3. **Penalty.** A guest or person who remains or attempts to remain in a hotel after having been requested to leave for the reason or reasons specified in this section is guilty of a misdemeanor.

Subd. 4. **Discrimination prohibited.** Notwithstanding the above, the removal of or the refusal to admit a guest or person under this section shall not be based on a discriminatory reason otherwise deemed unlawful by section 363A.11 or 363A.19.

History: 1982 c 517 s 4*;* 1993 c 151 s 2,*3*

327.731 LIABILITY; NOTICE.

Subdivision 1. **Liability.** (a) A person who negligently or intentionally causes damage to the hotel

or any furniture or furnishings within the hotel, is liable for damages sustained by the innkeeper, including the hotel's loss of revenue resulting from the inability to rent or lease rooms while the damage is being repaired.

(b) A person who negligently or intentionally causes injury to any person or damage to any personal property of the person on the hotel premises is liable for the injury or damage.

(c) A parent or guardian of a minor also is liable for acts of the minor described in paragraphs (a) and (b), if the parent or guardian provides a credit card or an advance cash deposit under section 327.73, subdivision 2, paragraph (b).

Subd. 2. **Notice required.** An innkeeper shall keep a copy of section 327.73 and this section clearly and conspicuously posted at or near the front desk and on the inside of the entrance door of every guest room.

History: 1993 c 151 s 4

327.74 SETTING FIRE TO HOTEL BELONGINGS.

Subdivision 1. **Penalty.** A person in a hotel who, by smoking or attempting to light or smoke cigarettes, cigars, pipes, or other smoking material, in any manner in which lighters or matches are used, negligently sets fire to a part of the building, or any furniture or furnishings within the building, so as to endanger life or property in any way or to any extent, is guilty of a gross misdemeanor.

Subd. 2. **Notice required.** In every sleeping room of every hotel, a notice shall be posted in a conspicuous place, advising the occupant of the provisions of this section.

History: 1982 c 517 s 5*;* 1993 c 151 s 5

327.742 SMOKING IN DESIGNATED NONSMOKING ROOMS.

Subdivision 1. **Smoking prohibited.** No person shall smoke cigarettes, cigars, pipes, or other smoking material in a hotel sleeping room designated nonsmoking.

Subd. 2. **Penalty.** A person who violates this section is guilty of a petty misdemeanor. Upon conviction, the court may require a person who violates this section to reimburse the innkeeper for actual costs incurred to restore the room to its previolation condition.

Subd. 2a. **Civil penalty and service charge.** Unless a court orders reimbursement under subdivision 2, a person who violates this section is liable to the innkeeper for the cost of restoring the damaged room to its previolation condition and a service charge of $30. The service charge may be imposed immediately upon the mailing of the notice required under subdivision 4, if the notice of the charge was displayed according to subdivision 3. If the person does not reimburse the innkeeper within 30 days after the innkeeper has mailed notice under subdivision 4, the innkeeper may seek a civil judgment for the cost of restoring the room to previolation condition, the service charge, and a civil penalty not to exceed $100. If the innkeeper prevails, the court shall order payment of:

(1) interest at the legal rate for judgments under section 549.09 from the date of nonpayment; and

(2) reasonable attorney fees, not to exceed $500.

A court may not impose a civil penalty under 30 days after the mailing of the notice under subdivision 4.

Subd. 3. **Notice.** Innkeepers shall post signs conspicuously in all nonsmoking sleeping rooms stating that smoking is not permitted and advising occupants of the provisions of this section including the

2010 Minnesota Statutes

363A.09 UNFAIR DISCRIMINATORY PRACTICES RELATING TO REAL PROPERTY.

Subdivision 1. **Real property interest; action by owner, lessee, and others.** It is an unfair discriminatory practice for an owner, lessee, sublessee, assignee, or managing agent of, or other person having the right to sell, rent or lease any real property, or any agent of any of these:

(1) to refuse to sell, rent, or lease or otherwise deny to or withhold from any person or group of persons any real property because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, sexual orientation, or familial status; or

(2) to discriminate against any person or group of persons because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, sexual orientation, or familial status in the terms, conditions or privileges of the sale, rental or lease of any real property or in the furnishing of facilities or services in connection therewith, except that nothing in this clause shall be construed to prohibit the adoption of reasonable rules intended to protect the safety of minors in their use of the real property or any facilities or services furnished in connection therewith; or

(3) in any transaction involving real property, to print, circulate or post or cause to be printed, circulated, or posted any advertisement or sign, or use any form of application for the purchase, rental or lease of real property, or make any record or inquiry in connection with the prospective purchase, rental, or lease of real property which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, sexual orientation, or familial status, or any intent to make any such limitation, specification, or discrimination except that nothing in this clause shall be construed to prohibit the advertisement of a dwelling unit as available to adults-only if the person placing the advertisement reasonably believes that the provisions of this section prohibiting discrimination because of familial status do not apply to the dwelling unit.

Subd. 2. **Real property interest; action by brokers, agents, and others.** It is an unfair discriminatory practice for a real estate broker, real estate salesperson, or employee, or agent thereof:

(1) to refuse to sell, rent, or lease or to offer for sale, rental, or lease any real property to any person or group of persons or to negotiate for the sale, rental, or lease of any real property to any person or group of persons because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, sexual orientation, or familial status or represent that real property is not available for inspection, sale, rental, or lease when in fact it is so available, or otherwise deny or withhold any real property or any facilities of real property to or from any person or group of persons because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, sexual orientation, or familial status; or

(2) to discriminate against any person because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, sexual orientation, or familial status in the terms, conditions or privileges of the sale, rental or lease of real property or in the furnishing of facilities or services in connection therewith; or

(3) to print, circulate, or post or cause to be printed, circulated, or posted any advertisement or sign, or use any form of application for the purchase, rental, or lease of any real property or make any record or inquiry in connection with the prospective purchase, rental or lease of any real property, which expresses directly or indirectly, any limitation, specification or discrimination as to race, color,

creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, sexual orientation, or familial status or any intent to make any such limitation, specification, or discrimination except that nothing in this clause shall be construed to prohibit the advertisement of a dwelling unit as available to adults-only if the person placing the advertisement reasonably believes that the provisions of this section prohibiting discrimination because of familial status do not apply to the dwelling unit.

Subd. 3. **Real property interest; action by financial institution.** It is an unfair discriminatory practice for a person, bank, banking organization, mortgage company, insurance company, or other financial institution or lender to whom application is made for financial assistance for the purchase, lease, acquisition, construction, rehabilitation, repair or maintenance of any real property or any agent or employee thereof:

(1) to discriminate against any person or group of persons because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, sexual orientation, or familial status of the person or group of persons or of the prospective occupants or tenants of the real property in the granting, withholding, extending, modifying or renewing, or in the rates, terms, conditions, or privileges of the financial assistance or in the extension of services in connection therewith; or

(2) to use any form of application for the financial assistance or make any record or inquiry in connection with applications for the financial assistance which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, sexual orientation, or familial status or any intent to make any such limitation, specification, or discrimination; or

(3) to discriminate against any person or group of persons who desire to purchase, lease, acquire, construct, rehabilitate, repair, or maintain real property in a specific urban or rural area or any part thereof solely because of the social, economic, or environmental conditions of the area in the granting, withholding, extending, modifying, or renewing, or in the rates, terms, conditions, or privileges of the financial assistance or in the extension of services in connection therewith.

Subd. 4. **Real property transaction.** It is an unfair discriminatory practice for any real estate broker or real estate salesperson, for the purpose of inducing a real property transaction from which the person, the person's firm, or any of its members may benefit financially, to represent that a change has occurred or will or may occur in the composition with respect to race, creed, color, national origin, sex, marital status, status with regard to public assistance, sexual orientation, or disability of the owners or occupants in the block, neighborhood, or area in which the real property is located, and to represent, directly or indirectly, that this change will or may result in undesirable consequences in the block, neighborhood, or area in which the real property is located, including but not limited to the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools or other public facilities.

Subd. 5. **Real property full and equal access.** It is an unfair discriminatory practice for a person to deny full and equal access to real property provided for in sections 363A.08 to 363A.19, and 363A.28, subdivision 10, to a person who is totally or partially blind, deaf, or has a physical or sensory disability and who uses a service animal, if the service animal can be properly identified as being from a recognized program which trains service animals to aid persons who are totally or partially blind or deaf or have physical or sensory disabilities. The person may not be required to pay extra compensation for the service animal but is liable for damage done to the premises by the service animal.

Subd. 6. **Real property interest; interference with.** It is an unfair discriminatory practice for a person to coerce, intimidate, threaten, or interfere with a person in the exercise or enjoyment of, or on account of that person having exercised or enjoyed, or on account of that person having aided or encouraged a third person in the exercise or enjoyment of, any right granted or protected by this section.

History: 1955 c 516 s 5*;* 1961 c 428 s 5*;* 1965 c 585 s 2*;* 1965 c 586 s 1*;* 1967 c 897 s 12-*16;* 1969 c 9 s 80*;* 1969 c 975 s 3-*5;* 1973 c 296 s 1*;* 1973 c 729 s 3,*16;* 1974 c 354 s 1*;* 1975 c 206 s 2-*5;* 1977 c 351 s 5-*7;* 1977 c 408 s 3*;* 1980 c 531 s 4*;* 1980 c 540 s 1,*2;* 1981 c 330 s 1*;* 1982 c 517 s 8*;* 1983 c 216 art 1 s 59*;* 1983 c 276 s 7-*10;* 1984 c 533 s 2,*3;* 1985 c 248 s 70*;* 1986 c 444*;* 1987 c 23 s 3*;* 1987 c 129 s 3*;* 1987 c 141 s 2*;* 1987 c 245 s 1*;* 1988 c 660 s 4*;* 1989 c 280 s 9-*14,21;* 1990 c 567 s 3-*6;* 1992 c 527 s 12-*16;* 1993 c 22 s 8-*15;* 1993 c 277 s 5-*7;* 1994 c 630 art 12 s 1*;* 1995 c 212 art 2 s 10*;* 1997 c 171 s 1*;* 2001 c 186 s 1*;* 2001 c 194 s 2

NOTE: Any statutory exemptions to this section are covered under sections 363A.21, 363A.22, and 363A.26.

2010 Minnesota Statutes

363A.21 EXEMPTION BASED ON REAL PROPERTY.

Subdivision 1. **Housing.** The provisions of section 363A.09 shall not apply to:

(1) rooms in a temporary or permanent residence home run by a nonprofit organization, if the discrimination is by sex;

(2) the rental by a resident owner or occupier of a one-family accommodation of a room or rooms in the accommodation to another person or persons if the discrimination is by sex, marital status, status with regard to public assistance, sexual orientation, or disability. Except as provided elsewhere in this chapter or other state or federal law, no person or group of persons selling, renting, or leasing property is required to modify the property in any way, or exercise a higher degree of care for a person having a disability than for a person who does not have a disability; nor shall this chapter be construed to relieve any person or persons of any obligations generally imposed on all persons regardless of any disability in a written lease, rental agreement, or contract of purchase or sale, or to forbid distinctions based on the inability to fulfill the terms and conditions, including financial obligations of the lease, agreement, or contract; or

(3) the rental by a resident owner of a unit in a dwelling containing not more than two units, if the discrimination is on the basis of sexual orientation.

Subd. 2. **Familial status.** (a) The provisions of section 363A.09 prohibiting discrimination because of familial status shall not be construed to defeat the applicability of any local, state, or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling unit and shall not apply to any owner-occupied building containing four or fewer dwelling units or housing for elderly persons.

(b) "Housing for elderly persons" means housing:

(1) provided under any state or federal program that the commissioner determines is specifically designed and operated to assist elderly persons, as defined in the state or federal program;

(2) intended for, and solely occupied by, persons 62 years of age or older; or

(3) intended and operated for occupancy by at least one person 55 years of age or older per unit, provided that at least 80 percent of the units are occupied by at least one person 55 years of age or older per unit, and there is publication of, and adherence to, policies and procedures that demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.

(c) Housing does not fail to meet the requirements for housing for elderly persons by reason of persons residing in the housing as of August 1, 1989, who do not meet the age requirements of paragraph (b), clauses (2) and (3), if new occupants of the housing meet the age requirements of paragraph (b), clause (2) or (3). In addition, housing does not fail to meet the requirements by reason of unoccupied units if unoccupied units are reserved for occupancy by persons who meet the age requirements of paragraph (b), clause (2) or (3).

Subd. 3. **Age.** Notwithstanding the provisions of any law, ordinance, or home rule charter to the contrary, no person shall be deemed to have committed an unfair discriminatory practice based upon age if the unfair discriminatory practice alleged is attempted or accomplished for the purpose of obtaining or maintaining one of the exemptions provided for a dwelling unit provided for in this section.

2010 Minnesota Statutes

504B.001 DEFINITIONS.

Subdivision 1. **Applicability.** For the purposes of this chapter, the terms defined in this section have the meanings given them.

Subd. 2. **Controlled substance.** "Controlled substance" means a drug, substance, or immediate precursor in Schedules I through V of section 152.02. The term does not include distilled spirits, wine, malt beverages, intoxicating liquors, or tobacco.

Subd. 3. **Distress for rent.** "Distress for rent" means the act of a landlord seizing personal property of the tenant or other person to enforce payment of rent.

Subd. 4. **Evict or eviction.** "Evict" or "eviction" means a summary court proceeding to remove a tenant or occupant from or otherwise recover possession of real property by the process of law set out in this chapter.

Subd. 5. **Housing-related neighborhood organization.** "Housing-related neighborhood organization" means a nonprofit corporation incorporated under chapter 317A that:

(1) designates in its articles of incorporation or bylaws a specific geographic community to which its activities are limited; and

(2) is formed for the purposes of promoting community safety, crime prevention, and housing quality in a nondiscriminatory manner.

For purposes of this chapter, an action taken by a neighborhood organization with the written permission of a residential tenant means, with respect to a building with multiple dwelling units, an action taken by the neighborhood organization with the written permission of the residential tenants of a majority of the occupied units.

Subd. 6. **Inspector.** "Inspector" means the person charged by the governing body of the political subdivision in which a residential building is situated, with the responsibility of enforcing provisions of local law, the breach of which could constitute a violation as defined in subdivision 14, clause (1). If there is no such person, "inspector" means the county agent of a board of health as authorized under section 145A.04 or the chair of the board of county commissioners, and in the case of a manufactured home park, the state Department of Health or its designee.

Subd. 7. **Landlord.** "Landlord" means an owner of real property, a contract for deed vendee, receiver, executor, trustee, lessee, agent, or other person directly or indirectly in control of rental property.

Subd. 8. **Lease.** "Lease" means an oral or written agreement creating a tenancy in real property.

Subd. 9. **License.** "License" means a personal privilege to do a particular act or series of acts on real property without possessing any estate or interest in real property. It may be created in writing or orally.

Subd. 10. **Person.** "Person" means a natural person, corporation, limited liability company, partnership, joint enterprise, or unincorporated association.

Subd. 11. **Residential building.** "Residential building" means:

(1) a building used in whole or in part as a dwelling, including single-family homes, multiple-family units such as apartments, and structures containing both dwelling units and units used for nondwelling purposes, and includes a manufactured home park; or

(2) an unoccupied building which was previously used in whole or in part as a dwelling and which constitutes a nuisance under section 561.01.

Subd. 12. **Residential tenant.** "Residential tenant" means a person who is occupying a dwelling in a residential building under a lease or contract, whether oral or written, that requires the payment of money or exchange of services, all other regular occupants of that dwelling unit, or a resident of a manufactured home park.

Subd. 13. **Tenancy at will.** "Tenancy at will" means a tenancy in which the tenant holds possession by permission of the landlord but without a fixed ending date.

Subd. 14. **Violation.** "Violation" means:

(1) a violation of any state, county or city health, safety, housing, building, fire prevention, or housing maintenance code applicable to the building;

(2) a violation of any of the covenants set forth in section 504B.161, subdivision 1, clause (1) or (2), or in section 504B.171, subdivision 1; or

(3) a violation of an oral or written agreement, lease, or contract for the rental of a dwelling in a building.

Subd. 15. **Writ of recovery of premises and order to vacate.** "Writ of recovery of premises and order to vacate" means the writ set out in section 504B.361.

History: 1999 c 199 art 1 s 1

Subd. 12. **Residential tenant.** "Residential tenant" means a person who is occupying a dwelling in a residential building under a lease or contract, whether oral or written, that requires the payment of money or exchange of services, all other regular occupants of that dwelling unit, or a resident of a manufactured home park.

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(3) a violation of an oral or written agreement, lease, or contract for the rental of a dwelling in a building.

Subd. 15. **Writ of recovery of premises and order to vacate.** "Writ of recovery of premises and order to vacate" means the writ set out in section 504B.361.

History: 1999 c 199 art 1 s 1

LEASING AND RENT

504B.101 DISTRESS FOR RENT.

The remedy of distress for rent is abolished.

History: 1999 c 199 art 1 s 2

504B.111 WRITTEN LEASE REQUIRED; PENALTY.

A landlord of a residential building with 12 or more residential units must have a written lease for each unit rented to a residential tenant. Notwithstanding any other state law or city ordinance to the contrary, a landlord may ask for the tenant's full name and date of birth on the lease and application. A landlord who fails to provide a lease, as required under this section, is guilty of a petty misdemeanor.

History: 1999 c 199 art 1 s 3

504B.115 TENANT TO BE GIVEN COPY OF LEASE.

Subdivision 1. **Copy of written lease to tenant.** Where there is a written lease, a landlord must give a copy to a tenant occupying a dwelling unit whose signature appears on the lease agreement. The landlord may obtain a signed and dated receipt, either as a separate document or an acknowledgment included in the lease agreement itself, from the tenant acknowledging that the tenant has received a copy of the lease. This signed receipt or acknowledgment is prima facie evidence that the tenant has received a copy of the lease.

Subd. 2. **Legal action to enforce lease.** In any legal action to enforce a written lease, except for nonpayment of rent, disturbing the peace, malicious destruction of property, or a violation of section 504B.171, it is a defense for the tenant to prove that the landlord failed to comply with subdivision 1. This defense may be overcome if the landlord proves that the tenant had actual knowledge of the term

2010 Minnesota Statutes

504B.155 TENANT MUST GIVE COLD WEATHER NOTICE BEFORE VACATION OF BUILDING.

Except upon the termination of the tenancy, a tenant who, between November 15 and April 15, removes from, abandons, or vacates a building or any part thereof that contains plumbing, water, steam, or other pipes liable to injury from freezing, without first giving to the landlord three days' notice of intention so to remove is guilty of a misdemeanor.

History: 1999 c 199 art 1 s 12

implementing that measure, including interest, amortized over the ten-year period following the incurring of the cost; and

(4) to maintain the premises in compliance with the applicable health and safety laws of the state, and of the local units of government where the premises are located during the term of the lease or license, except when violation of the health and safety laws has been caused by the willful, malicious, or irresponsible conduct of the tenant or licensee or a person under the direction or control of the tenant or licensee.

(b) The parties to a lease or license of residential premises may not waive or modify the covenants imposed by this section.

Subd. 2. **Tenant maintenance.** The landlord or licensor may agree with the tenant or licensee that the tenant or licensee is to perform specified repairs or maintenance, but only if the agreement is supported by adequate consideration and set forth in a conspicuous writing. No such agreement, however, may waive the provisions of subdivision 1 or relieve the landlord or licensor of the duty to maintain common areas of the premises.

Subd. 3. **Liberal construction.** This section shall be liberally construed, and the opportunity to inspect the premises before concluding a lease or license shall not defeat the covenants established in this section.

Subd. 4. **Covenants are in addition.** The covenants contained in this section are in addition to any covenants or conditions imposed by law or ordinance or by the terms of the lease or license.

Subd. 5. **Injury to third parties.** Nothing in this section shall be construed to alter the liability of the landlord or licensor of residential premises for injury to third parties.

Subd. 6. **Application.** The provisions of this section apply only to leases or licenses of residential premises concluded or renewed on or after June 15, 1971. For the purposes of this section, estates at will shall be deemed to be renewed at the commencement of each rental period.

History: 1999 c 199 art 1 s 13*;* 2000 c 260 s 70*;* 2007 c 136 art 3 s 5

504B.165 UNLAWFUL DESTRUCTION; DAMAGES.

(a) An action may be brought for willful and malicious destruction of leased residential rental property. The prevailing party may recover actual damages, costs, and reasonable attorney fees, as well as other equitable relief as determined by the court.

(b) The remedies provided in this section are in addition to and shall not limit other rights or remedies available to landlords and tenants. Any provision, whether oral or written, of any lease or other agreement, whereby any provision of this section is waived by a tenant, is contrary to public policy and void.

History: 1999 c 199 art 1 s 14

504B.171 COVENANT OF LANDLORD AND TENANT NOT TO ALLOW UNLAWFUL ACTIVITIES.

Subdivision 1. **Terms of covenant.** In every lease or license of residential premises, whether in writing or parol, the landlord or licensor and the tenant or licensee covenant that:

(1) neither will:

(i) unlawfully allow controlled substances in those premises or in the common area and curtilage of

the premises;

(ii) allow prostitution or prostitution-related activity as defined in section 617.80, subdivision 4, to occur on the premises or in the common area and curtilage of the premises;

(iii) allow the unlawful use or possession of a firearm in violation of section 609.66, subdivision 1a, 609.67, or 624.713, on the premises or in the common area and curtilage of the premises; or

(iv) allow stolen property or property obtained by robbery in those premises or in the common area and curtilage of the premises; and

(2) the common area and curtilage of the premises will not be used by either the landlord or licensor or the tenant or licensee or others acting under the control of either to manufacture, sell, give away, barter, deliver, exchange, distribute, purchase, or possess a controlled substance in violation of any criminal provision of chapter 152. The covenant is not violated when a person other than the landlord or licensor or the tenant or licensee possesses or allows controlled substances in the premises, common area, or curtilage, unless the landlord or licensor or the tenant or licensee knew or had reason to know of that activity.

Subd. 2. **Breach voids right to possession.** A breach of the covenant created by subdivision 1 voids the tenant's or licensee's right to possession of the residential premises. All other provisions of the lease or license, including but not limited to the obligation to pay rent, remain in effect until the lease is terminated by the terms of the lease or operation of law. If the tenant or licensee breaches the covenant created by subdivision 1, the landlord may bring, or assign to the county or city attorney of the county or city in which the residential premises are located, the right to bring an eviction action against the tenant or licensee. The assignment must be in writing on a form provided by the county or city attorney, and the county or city attorney may determine whether to accept the assignment. If the county or city attorney accepts the assignment of the landlord's right to bring an eviction action:

(1) any court filing fee that would otherwise be required in an eviction action is waived; and

(2) the landlord retains all the rights and duties, including removal of the tenant's or licensee's personal property, following issuance of the writ of recovery of premises and order to vacate and delivery of the writ to the sheriff for execution.

Subd. 3. **Waiver not allowed.** The parties to a lease or license of residential premises may not waive or modify the covenant imposed by this section.

History: 1999 c 199 art 1 s 15*;* 2003 c 52 s 1

504B.172 RECOVERY OF ATTORNEY FEES.

If a residential lease specifies an action, circumstances, or an extent to which a landlord, directly, or through additional rent, may recover attorney fees in an action between the landlord and tenant, the tenant is entitled to attorney fees if the tenant prevails in the same type of action, under the same circumstances, and to the same extent as specified in the lease for the landlord.

History: 2010 c 315 s 3

NOTE: This section, as added by Laws 2010, chapter 315, section 3, is effective for leases entered into on or after August 1, 2011, and for leases renewed on or after August 1, 2012. Laws 2010, chapter 315, section 3, the effective date.

504B.173 APPLICANT SCREENING FEE.

2010 Minnesota Statutes

504B.205 RESIDENTIAL TENANT'S RIGHT TO SEEK POLICE AND EMERGENCY ASSISTANCE.

Subdivision 1. **Definitions.** In this section, "domestic abuse" has the meaning given in section 518B.01, subdivision 2.

Subd. 2. **Emergency calls permitted.** (a) A landlord may not:

(1) bar or limit a residential tenant's right to call for police or emergency assistance in response to domestic abuse or any other conduct; or

(2) impose a penalty on a residential tenant for calling for police or emergency assistance in response to domestic abuse or any other conduct.

(b) A residential tenant may not waive and a landlord may not require the residential tenant to waive the residential tenant's right to call for police or emergency assistance.

Subd. 3. **Local preemption.** This section preempts any inconsistent local ordinance or rule including, without limitation, any ordinance or rule that:

(1) requires an eviction after a specified number of calls by a residential tenant for police or emergency assistance in response to domestic abuse or any other conduct; or

(2) provides that calls by a residential tenant for police or emergency assistance in response to domestic abuse or any other conduct may be used to penalize or charge a fee to a landlord.

This subdivision shall not otherwise preempt any local ordinance or rule that penalizes a landlord for, or requires a landlord to abate, conduct on the premises that constitutes a nuisance or other disorderly conduct as defined by local ordinance or rule.

Subd. 4. **Residential tenant responsibility.** This section shall not be construed to condone or permit any breach of a lease or of law by a residential tenant including, but not limited to, disturbing the peace and quiet of other tenants, damage to property, and disorderly conduct.

Subd. 5. **Residential tenant remedies.** A residential tenant may bring a civil action for a violation of this section and recover from the landlord $250 or actual damages, whichever is greater, and reasonable attorney's fees.

Subd. 6. **Attorney general authority.** The attorney general has authority under section 8.31 to investigate and prosecute violations of this section.

History: 1999 c 199 art 1 s 22

2010 Minnesota Statutes

504B.211 RESIDENTIAL TENANT'S RIGHT TO PRIVACY.

Subdivision 1. **Definitions.** For purposes of this section, "landlord" has the meaning defined in section 504B.001, subdivision 7, and also includes the landlord's agent or other person acting under the landlord's direction and control.

Subd. 2. **Entry by landlord.** Except as provided in subdivision 5, a landlord may enter the premises rented by a residential tenant only for a reasonable business purpose and after making a good faith effort to give the residential tenant reasonable notice under the circumstances of the intent to enter. A residential tenant may not waive and the landlord may not require the residential tenant to waive the residential tenant's right to prior notice of entry under this section as a condition of entering into or maintaining the lease.

Subd. 3. **Reasonable purpose.** For purposes of subdivision 2, a reasonable business purpose includes, but is not limited to:

(1) showing the unit to prospective residential tenants during the notice period before the lease terminates or after the current residential tenant has given notice to move to the landlord or the landlord's agent;

(2) showing the unit to a prospective buyer or to an insurance representative;

(3) performing maintenance work;

(4) allowing inspections by state, county, or city officials charged in the enforcement of health, housing, building, fire prevention, or housing maintenance codes;

(5) the residential tenant is causing a disturbance within the unit;

(6) the landlord has a reasonable belief that the residential tenant is violating the lease within the residential tenant's unit;

(7) prearranged housekeeping work in senior housing where 80 percent or more of the residential tenants are age 55 or older;

(8) the landlord has a reasonable belief that the unit is being occupied by an individual without a legal right to occupy it; or

(9) the residential tenant has vacated the unit.

Subd. 4. **Exception to notice requirement.** Notwithstanding subdivision 2, a landlord may enter the premises rented by a residential tenant to inspect or take appropriate action without prior notice to the residential tenant if the landlord reasonably suspects that:

(1) immediate entry is necessary to prevent injury to persons or property because of conditions relating to maintenance, building security, or law enforcement;

(2) immediate entry is necessary to determine a residential tenant's safety; or

(3) immediate entry is necessary in order to comply with local ordinances regarding unlawful activity occurring within the residential tenant's premises.

Subd. 5. **Entry without residential tenant's presence.** If the landlord enters when the residential tenant is not present and prior notice has not been given, the landlord shall disclose the entry by placing a written disclosure of the entry in a conspicuous place in the premises.

Subd. 6. **Penalty.** If a landlord substantially violates subdivision 2, the residential tenant is entitled to a penalty which may include a rent reduction up to full rescission of the lease, recovery of any damage deposit less any amount retained under section 504B.178, and up to a $100 civil penalty for each violation. If a landlord violates subdivision 5, the residential tenant is entitled to up to a $100 civil penalty for each violation. A residential tenant shall follow the procedures in sections 504B.381, 504B.385, and 504B.395 to 504B.471 to enforce the provisions of this section.

Subd. 7. **Exemption.** This section does not apply to residential tenants and landlords of manufactured home parks as defined in section 327C.01.

History: 1999 c 199 art 1 s 23

2010 Minnesota Statutes

504B.225 INTENTIONAL OUSTER AND INTERRUPTION OF UTILITIES; MISDEMEANOR.

A landlord, an agent, or person acting under the landlord's direction or control who unlawfully and intentionally removes or excludes a tenant from lands or tenements or intentionally interrupts or causes the interruption of electrical, heat, gas, or water services to the tenant with intent to unlawfully remove or exclude the tenant from lands or tenements is guilty of a misdemeanor. In any trial under this section, it shall be presumed that the landlord, agent, or other person acting under the landlord's direction or control interrupted or caused the interruption of the service with intent to unlawfully remove or exclude the tenant from lands or tenements, if it is established by evidence that the landlord, an agent, or other person acting under the landlord's direction or control intentionally interrupted or caused the interruption of the service to the tenant. The burden is upon the landlord to rebut the presumption.

The remedies provided in this section are in addition to and shall not limit other rights or remedies available to landlords and tenants. Any provision, whether oral or written, of any lease or other agreement, whereby any provision of this section is waived by a tenant, is contrary to public policy and void. The provisions of this section also apply to occupants and owners of residential real property which is the subject of a mortgage foreclosure or contract for deed cancellation and as to which the period for redemption or reinstatement of the contract has expired.

History: 1999 c 199 art 1 s 26

2010 Minnesota Statutes

504B.271 TENANT'S PERSONAL PROPERTY REMAINING IN PREMISES.

Subdivision 1. **Abandoned property.** (a) If a tenant abandons rented premises, the landlord may take possession of the tenant's personal property remaining on the premises, and shall store and care for the property. The landlord has a claim against the tenant for reasonable costs and expenses incurred in removing the tenant's property and in storing and caring for the property.

(b) The landlord may sell or otherwise dispose of the property 28 days after the landlord receives actual notice of the abandonment, or 28 days after it reasonably appears to the landlord that the tenant has abandoned the premises, whichever occurs last.

(c) The landlord may apply a reasonable amount of the proceeds of a sale to the removal, care, and storage costs and expenses or to any claims authorized pursuant to section 504B.178, subdivision 3, paragraphs (a) and (b). Any remaining proceeds of any sale shall be paid to the tenant upon written demand.

(d) Prior to a sale, the landlord shall make reasonable efforts to notify the tenant of the sale at least 14 days prior to the sale, by personal service in writing or sending written notification of the sale by first class and certified mail to the tenant's last known address or usual place of abode, if known by the landlord, and by posting notice of the sale in a conspicuous place on the premises at least two weeks prior to the sale. If notification by mail is used, the 14-day period shall be deemed to start on the day the notices are deposited in the United States mail.

Subd. 2. **Landlord's punitive damages.** If a landlord, an agent, or other person acting under the landlord's direction or control, in possession of a tenant's personal property, fails to allow the tenant to retake possession of the property within 24 hours after written demand by the tenant or the tenant's duly authorized representative or within 48 hours, exclusive of weekends and holidays, after written demand by the tenant or a duly authorized representative when the landlord, the landlord's agent or person acting under the landlord's direction or control has removed and stored the personal property in accordance with subdivision 1 in a location other than the premises, the tenant shall recover from the landlord punitive damages in an amount not to exceed twice the actual damages or $1,000, whichever is greater, in addition to actual damages and reasonable attorney's fees.

In determining the amount of punitive damages the court shall consider (1) the nature and value of the property; (2) the effect the deprivation of the property has had on the tenant; (3) if the landlord, an agent, or other person acting under the landlord's direction or control unlawfully took possession of the tenant's property; and (4) if the landlord, an agent, or other person under the landlord's direction or control acted in bad faith in failing to allow the tenant to retake possession of the property.

The provisions of this subdivision do not apply to personal property which has been sold or otherwise disposed of by the landlord in accordance with subdivision 1, or to landlords who are housing authorities, created, or authorized to be created by sections 469.001 to 469.047, and their agents and employees, in possession of a tenant's personal property, except that housing authorities must allow the tenant to retake possession of the property in accordance with this subdivision.

Subd. 3. **Storage.** If the landlord, an agent, or other person acting under the landlord's direction or control has unlawfully taken possession of a tenant's personal property the landlord shall be responsible for paying the cost and expenses relating to the removal, storage, or care of the property.

Subd. 4. **Remedies additional.** The remedies provided in this section are in addition to and shall not

limit other rights or remedies available to landlords and tenants. Any provision, whether oral or written, of any lease or other agreement, whereby any provision of this section is waived by a tenant, is contrary to public policy and void. The provisions of this section also apply to occupants and owners of residential real property which is the subject of a mortgage foreclosure or contract for deed cancellation and as to which the period for redemption or reinstatement of the contract has expired.

History: 1999 c 199 art 1 s 35*;* 2010 c 315 s 8,*9*

2010 Minnesota Statutes

504B.361 FORMS OF SUMMONS AND WRIT.

Subdivision 1. **Summons and writ.** The state court administrator shall develop a uniform form for the summons and writ of recovery of premises and order to vacate.

Subd. 2. **Priority writ.** The court shall identify a writ of recovery of premises and order to vacate property that is issued pursuant to an eviction action under section 504B.171, or on the basis that the tenant is causing a nuisance or seriously endangers the safety of other residents, their property, or the landlord's property and clearly note on the order to vacate that it is a priority order. Notice that it is a priority order must be made in a manner that is obvious to an officer who must execute the order under section 504B.365.

History: 1999 c 199 art 1 s 52*;* 2005 c 10 art 2 s 4*;* 2007 c 54 art 5 s 12

2010 Minnesota Statutes

504B.365 EXECUTION OF THE WRIT OF RECOVERY OF PREMISES AND ORDER TO VACATE.

Subdivision 1. **General.** (a) The officer who holds the order to vacate shall execute it by demanding that the defendant, if found in the county, any adult member of the defendant's family who is occupying the premises, or any other person in charge, relinquish possession and leave, taking family and all personal property from the premises within 24 hours.

(b) If the defendant fails to comply with the demand, then the officer shall bring, if necessary, the force of the county and any necessary assistance, at the cost of the plaintiff. The officer shall remove the defendant, family, and all personal property from the premises and place the plaintiff in possession.

(c) If the defendant cannot be found in the county, and there is no person in charge of the premises, then the officer shall enter the premises, breaking in if necessary, and remove and store the personal property of the defendant at a place designated by the plaintiff as provided in subdivision 3.

(d) The order may also be executed by a licensed police officer or community crime prevention licensed police officer.

Subd. 2. **Priority; execution of priority order.** An officer shall give priority to the execution, under this section, of any order to vacate that is based on an eviction action under section 504B.171, or on the basis that the defendant is causing a nuisance or seriously endangers the safety of other residents, their property, or the plaintiff's property.

Subd. 3. **Removal and storage of property.** (a) If the defendant's personal property is to be stored in a place other than the premises, the officer shall remove all personal property of the defendant at the expense of the plaintiff.

(b) The defendant must make immediate payment for all expenses of removing personal property from the premises. If the defendant fails or refuses to do so, the plaintiff has a lien on all the personal property for the reasonable costs and expenses incurred in removing, caring for, storing, and transporting it to a suitable storage place.

(c) The plaintiff may enforce the lien by detaining the personal property until paid. If no payment has been made for 60 days after the execution of the order to vacate, the plaintiff may hold a public sale as provided in sections 514.18 to 514.22.

(d) If the defendant's personal property is to be stored on the premises, the officer shall enter the premises, breaking in if necessary, and the plaintiff may remove the defendant's personal property. Section 504B.271 applies to personal property removed under this paragraph. The plaintiff must prepare an inventory and mail a copy of the inventory to the defendant's last known address or, if the defendant has provided a different address, to the address provided. The inventory must be prepared, signed, and dated in the presence of the officer and must include the following:

(1) a list of the items of personal property and a description of their condition;

(2) the date, the signature of the plaintiff or the plaintiff's agent, and the name and telephone number of a person authorized to release the personal property; and

(3) the name and badge number of the officer.

(e) The officer must retain a copy of the inventory.

(f) The plaintiff is responsible for the proper removal, storage, and care of the defendant's personal property and is liable for damages for loss of or injury to it caused by the plaintiff's failure to exercise the same care that a reasonably careful person would exercise under similar circumstances.

(g) The plaintiff shall notify the defendant of the date and approximate time the officer is scheduled to remove the defendant, family, and personal property from the premises. The notice must be sent by first class mail. In addition, the plaintiff must make a good faith effort to notify the defendant by telephone. The notice must be mailed as soon as the information regarding the date and approximate time the officer is scheduled to enforce the order is known to the plaintiff, except that the scheduling of the officer to enforce the order need not be delayed because of the notice requirement. The notice must inform the defendant that the defendant and the defendant's personal property will be removed from the premises if the defendant has not vacated the premises by the time specified in the notice.

Subd. 4. **Motions concerning removal or storage of personal property.** The court hearing the eviction action shall retain jurisdiction in matters relating to removal of personal property under this section. If the plaintiff refuses to return the property after proper demand is made as provided in section 504B.271, the court shall enter an order requiring the plaintiff to return the property to the defendant and awarding reasonable expenses including attorney fees to the defendant.

Subd. 5. **Penalty; waiver not allowed.** Unless the premises has been abandoned, a plaintiff, an agent, or other person acting under the plaintiff's direction or control who enters the premises and removes the defendant's personal property in violation of this section is guilty of an unlawful ouster under section 504B.231 and is subject to penalty under section 504B.225. This section may not be waived or modified by lease or other agreement.

History: 1999 c 199 art 1 s 53*;* 2001 c 7 s 81*;* 2010 c 315 s 15

2010 Minnesota Statutes

504B.375 UNLAWFUL EXCLUSION OR REMOVAL; ACTION FOR RECOVERY OF POSSESSION.

Subdivision 1. **Unlawful exclusion or removal.** (a) This section applies to actual or constructive removal or exclusion of a residential tenant which may include the termination of utilities or the removal of doors, windows, or locks. A residential tenant to whom this section applies may recover possession of the premises as described in paragraphs (b) to (e).

(b) The residential tenant shall present a verified petition to the district court of the judicial district of the county in which the premises are located that:

(1) describes the premises and the landlord;

(2) specifically states the facts and grounds that demonstrate that the exclusion or removal was unlawful, including a statement that no writ of recovery of the premises and order to vacate has been issued under section 504B.345 in favor of the landlord and against the residential tenant and executed in accordance with section 504B.365; and

(3) asks for possession.

(c) If it clearly appears from the specific grounds and facts stated in the verified petition or by separate affidavit of the residential tenant or the residential tenant's attorney or agent that the exclusion or removal was unlawful, the court shall immediately order that the residential tenant have possession of the premises.

(d) The residential tenant shall furnish security, if any, that the court finds is appropriate under the circumstances for payment of all costs and damages the landlord may sustain if the order is subsequently found to have been obtained wrongfully. In determining the appropriateness of security, the court shall consider the residential tenant's ability to afford monetary security.

(e) The court shall direct the order to the sheriff of the county in which the premises are located and the sheriff shall execute the order immediately by making a demand for possession on the landlord, if found, or the landlord's agent or other person in charge of the premises. If the landlord fails to comply with the demand, the officer shall take whatever assistance may be necessary and immediately place the residential tenant in possession of the premises. If the landlord, the landlord's agent, or other person in control of the premises cannot be found and if there is no person in charge, the officer shall immediately enter into and place the residential tenant in possession of the premises. The officer shall also serve the order and verified petition or affidavit immediately upon the landlord or agent, in the same manner as a summons is required to be served in a civil action in district court.

Subd. 2. **Motion for dissolution or modification of order.** The landlord may, by written motion and notice served by mail or personally on the residential tenant or the residential tenant's attorney at least two days before the hearing date on the motion, obtain dissolution or modification of the order for possession issued under subdivision 1, paragraph (c), unless the residential tenant proves the facts and grounds on which the order is issued. A landlord bringing a motion under this subdivision may recover possession of the premises only by an eviction action or otherwise provided by law. Upon the dissolution of the order, the court shall assess costs against the residential tenant, subject to the provisions of section 563.01, and may allow damages and reasonable attorney fees for the wrongful granting of the order for possession. If the order is affirmed, the court shall tax costs against the landlord and may allow

the residential tenant reasonable attorney's fees.

Subd. 3. **Finality of order.** An order issued under subdivision 1, paragraph (c), or affirmed, modified, or dissolved under subdivision 2, is a final order for purposes of appeal. Either party may appeal the order within ten days after entry. If the party appealing remains in possession of the premises, bond must be given to:

(1) pay all costs of the appeal;

(2) obey the court's order; and

(3) pay all rent and other damages that justly accrue to the party excluded from possession during the pendency of the appeal.

Subd. 4. **Waiver not allowed.** A provision of an oral or written lease or other agreement in which a residential tenant waives this section is contrary to public policy and void.

Subd. 5. **Purpose.** The purpose of this section is to provide an additional and summary remedy for residential tenants unlawfully excluded or removed from rental property and, except where expressly provided in this section, sections 504B.285 to 504B.371 do not apply to proceedings under this section.

Subd. 6. **Application.** In addition to residential tenants and landlords, this section applies to:

(1) occupants and owners of residential real property that is the subject of a mortgage foreclosure or contract for deed cancellation for which the period for redemption or reinstatement of the contract has expired; and

(2) mortgagees and contract for deed vendors.

History: 1999 c 199 art 1 s 55*;* 2005 c 10 art 2 s 4

2010 Minnesota Statutes

504B.381 EMERGENCY TENANT REMEDIES ACTION.

Subdivision 1. **Petition.** A person authorized to bring an action under section 504B.395, subdivision 1, may petition the court for relief in cases of emergency involving the loss of running water, hot water, heat, electricity, sanitary facilities, or other essential services or facilities that the landlord is responsible for providing.

Subd. 2. **Venue.** The venue of the action authorized by this section is the county where the residential building alleged to contain the emergency condition is located.

Subd. 3. **Petition information.** The petitioner must present a verified petition to the district court that contains:

(1) a description of the premises and the identity of the landlord;

(2) a statement of the facts and grounds that demonstrate the existence of an emergency caused by the loss of essential services or facilities; and

(3) a request for relief.

Subd. 4. **Notice.** The petitioner must attempt to notify the landlord, at least 24 hours before application to the court, of the petitioner's intent to seek emergency relief. An order may be granted without notice to the landlord if the court finds that reasonable efforts, as set forth in the petition or by separate affidavit, were made to notify the landlord but that the efforts were unsuccessful.

Subd. 5. **Relief; service of order.** The court may order relief as provided in section 504B.425. The petitioner shall serve the order on the landlord personally or by mail as soon as practicable.

Subd. 6. **Limitation.** This section does not extend to emergencies that are the result of the deliberate or negligent act or omission of a residential tenant or anyone acting under the direction or control of the residential tenant.

Subd. 7. **Effect of other laws.** Section 504B.395, subdivisions 3 and 4, do not apply to a petition for emergency relief under this section.

History: 1999 c 199 art 1 s 56

2010 Minnesota Statutes

513.01 NO ACTION ON AGREEMENT.

No action shall be maintained, in either of the following cases, upon any agreement, unless such agreement, or some note or memorandum thereof, expressing the consideration, is in writing, and subscribed by the party charged therewith:

(1) every agreement that by its terms is not to be performed within one year from the making thereof;

(2) every special promise to answer for the debt, default or doings of another;

(3) every agreement, promise, or undertaking made upon consideration of marriage, except mutual promises to marry;

(4) every agreement, promise or undertaking to pay a debt which has been discharged by bankruptcy or insolvency proceedings.

History: *(*8456*)* RL s 3483

contractor with either, shall have a lien for the value thereof upon the interest of such owner or lessee, as the case may be, in the mine and its appurtenances, which lien may be asserted and enforced as in this chapter prescribed in respect to other liens upon real estate.

History: *(*8506*)* RL s 3520

PERSONALTY IN POSSESSION

514.18 RETAINING.

Subdivision 1. **Mechanics' lien on personal property.** Whoever, at the request of the owner or legal possessor of any personal property, shall store or care for or contribute in any of the modes mentioned in section 514.19 to its preservation, care, or to the enhancement of its value, shall have a lien upon such property for the price or value of such storage, care, or contribution, and for any legal charges against the same paid by such person to any other person, and the right to retain possession of the property until such lien is lawfully discharged.

Subd. 1a. **Towed motor vehicles.** A person who tows and stores a motor vehicle at the request of a law enforcement officer shall have a lien on the motor vehicle for the value of the storage and towing and the right to retain possession of the motor vehicle until the lien is lawfully discharged. This section does not apply to tows of vehicles parked in violation of snow emergency regulations.

Subd. 2. **Nonpossessory lien; notice.** Notwithstanding the voluntary surrender or other loss of possession of the property on which the lien is claimed, the person entitled thereto may preserve the lien upon giving notice of the lien at any time within 60 days after the surrender or loss of possession, by filing in the appropriate filing office under the Uniform Commercial Code, Minnesota Statutes, section 336.9-501 a verified statement and notice of intention to claim a lien. The statement shall contain a description of the property upon which the lien is claimed, the work performed or materials furnished and the amount due.

Subd. 3. **Priority; security; interest; foreclosure.** The lien shall be valid against everyone except a purchaser or encumbrancer in good faith without notice and for value whose rights were acquired prior to the filing of the lien statement and who has filed a statement of interest in the appropriate filing office. The lien shall be considered a security interest under the Uniform Commercial Code and foreclosure thereon shall be in the manner prescribed for security interests under article 9 of the Uniform Commercial Code.

Subd. 4. **Motor vehicles excluded.** Subdivisions 2 and 3 shall apply to machinery, implements and tools of all kinds but shall not apply to motor vehicles.

History: *(*8507*)* RL s 3521*;* 1905 c 328 s 1*;* 1907 c 114 s 1*;* 1984 c 479 s 1*;* 1986 c 444*;* 1989 c 256 s 2*;* 2001 c 195 art 2 s 22*;* 2010 c 351 s 63

514.19 RIGHT OF DETAINER.

A lien and right of detainer exists for:

(1) transporting property, other than harvested crops or livestock, from one place to another but not as a carrier under article 7 of the Uniform Commercial Code;

(2) keeping or storing property, other than harvested crops or livestock, as a bailee but not as a warehouse operator under article 7 of the Uniform Commercial Code;

(3) the use and storage of molds and patterns in the possession of the fabricator belonging to the customer for the balance due from the customer for fabrication work;

(4) making, altering or repairing any article, other than livestock, or expending any labor, skill or material on it;

(5) reasonable charges for a vehicle rented as a replacement for a vehicle serviced or repaired and being retained as provided by this section.

The liens embrace all lawful charges against the property paid to any other person by the person claiming the lien, and the price or value of the care, storage or contribution and all reasonable disbursements occasioned by the detention or sale of the property.

If the property subject to the lien is a motor vehicle registered in this state and subject to a certificate of title and one or more secured creditors is listed on the certificate of title, a lien for storage charges for a period greater than 15 days accrues only after written notice is sent by certified mail to all listed secured creditors. The notice must state the name, address, and telephone number of the lienholder, the amount of money owed, and the rate at which storage charges are accruing. The notice provided in this section fulfills the notice to secured creditors required in section 514.20, subject to the time period required under that section.

History: *(*8508*)* RL s 3522*;* 1905 c 328 s 2*;* 1907 c 114 s 2*;* 1965 c 812 s 12*;* 1983 c 301 s 217*;* 1986 c 444*;* 1999 c 78 s 1*;* 2001 c 57 s 1*;* 2006 c 228 s 3

514.20 SALE.

If any sum secured by such lien be not paid within 90 days after it becomes due, the lienholder may sell the property and out of the proceeds of such sale there shall be paid, first, the disbursements aforesaid; second, all charges against the property paid by such person to any other person; and, third, the total indebtedness then secured by the lien. The remainder, if any, shall be paid on demand to the owner or other person entitled thereto. If the property subject to the lien is a motor vehicle registered in this state and subject to a certificate of title, then the lienholder must provide written notice, by certified mail, to all secured creditors listed on the certificate of title 45 days before the lienholder's right to sell the motor vehicle is considered effective. The notice must state the name, address, and telephone number of the lienholder, the amount of money owed, and the rate at which storage charges, if any, are accruing. Costs for certified mail and other reasonable costs related to complying with this notice provision constitute "lawful charges" pursuant to section 514.19. Failure to comply with the notice provision in this section renders any lien created by this chapter ineffective against any secured party listed on the certificate of title of the motor vehicle involved.

History: *(*8509*)* RL s 3523*;* 1905 c 328 s 3*;* 1907 c 114 s 3*;* 1992 c 395 s 1*;* 2010 c 384 s 98

514.21 SALE, WHEN AND WHERE MADE; NOTICE.

The sale herein provided for shall be made at public auction between nine o'clock in the morning and five o'clock in the afternoon in the county where the property or some part thereof is situated. A notice stating the time and place of sale, the amount which will be due on the date of sale exclusive of the expenses of advertising and sale, and the grounds of the lien, giving a general description of the property to be sold, shall be served personally upon the owner of the property if the owner can be found within the county in which the property is stored, and if not, then it shall be mailed to the owner thereof at least three weeks before the time fixed for such sale if the place of residence or post office address of

such owner is known by, or with due diligence can be learned by, the person claiming such lien, and shall be published once in each week for three successive weeks in a newspaper printed and published in the county where the property, or some part thereof, is situated, the last publication of such notice to be at least one week prior to the date of sale; or, if there is no newspaper printed and published in the county, then the notice of sale shall be posted in three of the most public places in the county at least three weeks before the time of sale. In case neither the place of residence nor the post office address of such owner is known to the person claiming such lien and cannot with reasonable diligence be learned, the publication or posting of notice, as herein provided, shall be sufficient to authorize such sale.

History: *(*8510*)* 1905 c 328 s 4*;* 1907 c 114 s 4*; 1986 c 444*

514.22 CONDUCT OF SALE.

The property sold, as herein provided, shall be in view at the time of the sale. Under the power of sale hereby given enough of the property may be sold to satisfy the amount due at the time of sale, including expenses, and the property, if under cover, may be offered for sale and sold in the original packages in the form and condition that the same was received by the lienholder; but, after sufficient property has been so sold to satisfy the amount so due, no more shall be sold. The lienholder, the lienholder's representatives or assigns, may fairly and in good faith purchase any property sold under the provisions of sections 514.18 to 514.22, provided the sale is conducted by the sheriff or the sheriff's deputy of the county where such sale is made.

History: *(*8511*)* 1905 c 328 s 5*;* 1986 c 444*;* 2005 c 10 art 2 s 4

NONPOSSESSORY AIRCRAFT MECHANICS' LIEN

514.221 CREATION; PERFECTION; ENFORCEABILITY.

Subdivision 1. **Lien created.** Upon compliance with the requirements of subdivision 2, any person who makes, alters, repairs, or otherwise enhances the value of any aircraft at the request of the owner or legal possessor, and who parts with possession of the aircraft, has a lien upon the aircraft for that person's reasonable or agreed charges and for work done or materials furnished.

Subd. 2. **Perfection of lien.** A person claiming a lien created by this section shall, within 90 days after performing the work or furnishing the materials, file in the appropriate filing office under the Uniform Commercial Code, section 336.9-501, a verified statement and description of the aircraft and the work done or material furnished. The lien shall be in force from and after the date on which it is filed.

Subd. 3. **Priority, foreclosure; limitation.** A lien created by this section is prior and paramount to all other liens upon the aircraft except those previously filed in the appropriate filing office. The lien shall be treated in all respects as a secured transaction under the Uniform Commercial Code, sections 336.9-501 to 336.9-628, except that:

(a) any foreclosure proceedings must be instituted within one year of the date the lien was filed; and

(b) the lien is subject to the rights of a purchaser of the aircraft in cases where the purchaser acquired the aircraft prior to the filing of the lien without knowledge or notice of the rights of the person performing the work or furnishing the material.

2012 Minnesota Statutes

518B.01 DOMESTIC ABUSE ACT.

Subdivision 1. **Short title.** This section may be cited as the "Domestic Abuse Act."

Subd. 2. **Definitions.** As used in this section, the following terms shall have the meanings given them:

(a) "Domestic abuse" means the following, if committed against a family or household member by a family or household member:

(1) physical harm, bodily injury, or assault;

(2) the infliction of fear of imminent physical harm, bodily injury, or assault; or

(3) terroristic threats, within the meaning of section 609.713, subdivision 1; criminal sexual conduct, within the meaning of section 609.342, 609.343, 609.344, 609.345, or 609.3451; or interference with an emergency call within the meaning of section 609.78, subdivision 2.

(b) "Family or household members" means:

(1) spouses and former spouses;

(2) parents and children;

(3) persons related by blood;

(4) persons who are presently residing together or who have resided together in the past;

(5) persons who have a child in common regardless of whether they have been married or have lived together at any time;

(6) a man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time; and

(7) persons involved in a significant romantic or sexual relationship.

Issuance of an order for protection on the ground in clause (6) does not affect a determination of paternity under sections 257.51 to 257.74. In determining whether persons are or have been involved in a significant romantic or sexual relationship under clause (7), the court shall consider the length of time of the relationship; type of relationship; frequency of interaction between the parties; and, if the relationship has terminated, length of time since the termination.

(c) "Qualified domestic violence-related offense" has the meaning given in section 609.02, subdivision 16.

Subd. 3. **Court jurisdiction.** An application for relief under this section may be filed in the court having jurisdiction over dissolution actions, in the county of residence of either party, in the county in which a pending or completed family court proceeding involving the parties or their minor children was brought, or in the county in which the alleged domestic abuse occurred. There are no residency requirements that apply to a petition for an order for protection. In a jurisdiction which utilizes referees in dissolution actions, the court or judge may refer actions under this section to a referee to take and report the evidence in the action in the same manner and subject to the same limitations provided in section 518.13. Actions under this section shall be given docket priorities by the court.

Subd. 3a. **Filing fee.** The filing fees for an order for protection under this section are waived for the petitioner. The court administrator, the sheriff of any county in this state, and other law enforcement and corrections officers shall perform their duties relating to service of process without charge to the petitioner. The court shall direct payment of the reasonable costs of service of process if served by a private process server when the sheriff or other law enforcement or corrections officer is unavailable or if service is made by publication, without requiring the petitioner to make application under section 563.01. The court may direct a respondent to pay to the court administrator the petitioner's filing fees and reasonable costs of service of process if the court determines that the respondent has the ability to pay the petitioner's fees and costs.

Subd. 3b. **Information on petitioner's location or residence.** Upon the petitioner's request, information maintained by the court regarding the petitioner's location or residence is not accessible to the public and may be disclosed only to court personnel or law enforcement for purposes of service of process, conducting an investigation, or enforcing an order.

Subd. 4. **Order for protection.** There shall exist an action known as a petition for an order for protection in cases of domestic abuse.

(a) A petition for relief under this section may be made by any family or household member personally or by a family or household member, a guardian as defined in section 524.1-201, clause (20), or, if the court finds that it is in the best interests of the minor, by a reputable adult age 25 or older on behalf of minor family or household members. A minor age 16 or older may make a petition on the minor's own behalf against a spouse or former spouse, or a person with whom the minor has a child in common, if the court determines that the minor has sufficient maturity and judgment and that it is in the best interests of the minor.

(b) A petition for relief shall allege the existence of domestic abuse, and shall be accompanied by an affidavit made under oath stating the specific facts and circumstances from which relief is sought.

(c) A petition for relief must state whether the petitioner has ever had an order for protection in effect against the respondent.

(d) A petition for relief must state whether there is an existing order for protection in effect under this chapter governing both the parties and whether there is a pending lawsuit, complaint, petition or other action between the parties under chapter 257, 518, 518A, 518B, or 518C. The court administrator shall verify the terms of any existing order governing the parties. The court may not delay granting relief because of the existence of a pending action between the parties or the necessity of verifying the terms of an existing order. A subsequent order in a separate action under this chapter may modify only the provision of an existing order that grants relief authorized under subdivision 6, paragraph (a), clause (1). A petition for relief may be granted, regardless of whether there is a pending action between the parties.

(e) The court shall provide simplified forms and clerical assistance to help with the writing and filing of a petition under this section.

(f) The court shall advise a petitioner under paragraph (e) of the right to file a motion and affidavit and to sue in forma pauperis pursuant to section 563.01 and shall assist with the writing and filing of the motion and affidavit.

(g) The court shall advise a petitioner under paragraph (e) of the right to serve the respondent by published notice under subdivision 5, paragraph (b), if the respondent is avoiding personal service by concealment or otherwise, and shall assist with the writing and filing of the affidavit.

(h) The court shall advise the petitioner of the right to seek restitution under the petition for relief.

(i) The court shall advise the petitioner of the right to request a hearing under subdivision 7, paragraph (c). If the petitioner does not request a hearing, the court shall advise the petitioner that the respondent may request a hearing and that notice of the hearing date and time will be provided to the petitioner by mail at least five days before the hearing.

(j) The court shall advise the petitioner of the right to request supervised parenting time, as provided in section 518.175, subdivision 1a.

Subd. 5. **Hearing on application; notice.** (a) Upon receipt of the petition, the court shall order a hearing which shall be held not later than 14 days from the date of the order for hearing unless an ex parte order is issued.

(b) If an ex parte order has been issued under subdivision 7 and the petitioner seeks only the relief under subdivision 7, paragraph (a), a hearing is not required unless:

(1) the court declines to order the requested relief; or

(2) one of the parties requests a hearing.

(c) If an ex parte order has been issued under subdivision 7 and the petitioner seeks relief beyond that specified in subdivision 7, paragraph (a), or if the court declines to order relief requested by the petitioner, a hearing must be held within seven days. Personal service of the ex parte order may be made upon the respondent at any time up to 12 hours prior to the time set for the hearing, provided that the respondent at the hearing may request a continuance of up to five days if served fewer than five days prior to the hearing which continuance shall be granted unless there are compelling reasons not to.

(d) If an ex parte order has been issued only granting relief under subdivision 7, paragraph (a), and the respondent requests a hearing, the hearing shall be held within ten days of the court's receipt of the respondent's request. Service of the notice of hearing must be made upon the petitioner not less than five days prior to the hearing. The court shall serve the notice of hearing upon the petitioner by mail in the manner provided in the Rules of Civil Procedure for pleadings subsequent to a complaint and motions and shall also mail notice of the date and time of the hearing to the respondent. In the event that service cannot be completed in time to give the respondent or petitioner the minimum notice required under this subdivision, the court may set a new hearing date no more than five days later.

(e) If for good cause shown either party is unable to proceed at the initial hearing and requests a continuance and the court finds that a continuance is appropriate, the hearing may be continued. Unless otherwise agreed by the parties and approved by the court, the continuance shall be for no more than five days. If the court grants the requested continuance, the court shall also issue a written order continuing all provisions of the ex parte order pending the issuance of an order after the hearing.

(f) Notwithstanding the preceding provisions of this subdivision, service on the respondent may be made by one week published notice, as provided under section 645.11, provided the petitioner files with the court an affidavit stating that an attempt at personal service made by a sheriff or other law enforcement or corrections officer was unsuccessful because the respondent is avoiding service by concealment or otherwise, and that a copy of the petition and notice of hearing has been mailed to the respondent at the respondent's residence or that the residence is not known to the petitioner. Service under this paragraph is complete seven days after publication. The court shall set a new hearing date if necessary to allow the respondent the five-day minimum notice required under paragraph (d).

Subd. 6. **Relief by court.** (a) Upon notice and hearing, the court may provide relief as follows:

(1) restrain the abusing party from committing acts of domestic abuse;

(2) exclude the abusing party from the dwelling which the parties share or from the residence of the petitioner;

(3) exclude the abusing party from a reasonable area surrounding the dwelling or residence, which area shall be described specifically in the order;

(4) award temporary custody or establish temporary parenting time with regard to minor children of the parties on a basis which gives primary consideration to the safety of the victim and the children. In addition to the primary safety considerations, the court may consider particular best interest factors that are found to be relevant to the temporary custody and parenting time award. Findings under section 257.025, 518.17, or 518.175 are not required with respect to the particular best interest factors not considered by the court. If the court finds that the safety of the victim or the children will be jeopardized by unsupervised or unrestricted parenting time, the court shall condition or restrict parenting time as to time, place, duration, or supervision, or deny parenting time entirely, as needed to guard the safety of the victim and the children. The court's decision on custody and parenting time shall in no way delay the issuance of an order for protection granting other relief provided for in this section. The court must not enter a parenting plan under section 518.1705 as part of an action for an order for protection;

(5) on the same basis as is provided in chapter 518 or 518A, establish temporary support for minor children or a spouse, and order the withholding of support from the income of the person obligated to pay the support according to chapter 518A;

(6) provide upon request of the petitioner counseling or other social services for the parties, if married, or if there are minor children;

(7) order the abusing party to participate in treatment or counseling services, including requiring the abusing party to successfully complete a domestic abuse counseling program or educational program under section 518B.02;

(8) award temporary use and possession of property and restrain one or both parties from transferring, encumbering, concealing, or disposing of property except in the usual course of business or for the necessities of life, and to account to the court for all such transfers, encumbrances, dispositions, and expenditures made after the order is served or communicated to the party restrained in open court;

(9) exclude the abusing party from the place of employment of the petitioner, or otherwise limit access to the petitioner by the abusing party at the petitioner's place of employment;

(10) order the abusing party to have no contact with the petitioner whether in person, by telephone, mail, or electronic mail or messaging, through a third party, or by any other means;

(11) order the abusing party to pay restitution to the petitioner;

(12) order the continuance of all currently available insurance coverage without change in coverage or beneficiary designation;

(13) order, in its discretion, other relief as it deems necessary for the protection of a family or household member, including orders or directives to the sheriff or other law enforcement or corrections officer as provided by this section;

(14) direct the care, possession, or control of a pet or companion animal owned, possessed, or kept by the petitioner or respondent or a child of the petitioner or respondent; and

(15) direct the respondent to refrain from physically abusing or injuring any pet or companion animal, without legal justification, known to be owned, possessed, kept, or held by either party or a minor child residing in the residence or household of either party as an indirect means of intentionally threatening the safety of such person.

(b) Any relief granted by the order for protection shall be for a period not to exceed two years, except when the court determines a longer period is appropriate. When a referee presides at the hearing on the petition, the order granting relief becomes effective upon the referee's signature.

(c) An order granting the relief authorized in paragraph (a), clause (1), may not be vacated or modified in a proceeding for dissolution of marriage or legal separation, except that the court may hear a motion for modification of an order for protection concurrently with a proceeding for dissolution of marriage upon notice of motion and motion. The notice required by court rule shall not be waived. If the proceedings are consolidated and the motion to modify is granted, a separate order for modification of an order for protection shall be issued.

(d) An order granting the relief authorized in paragraph (a), clause (2) or (3), is not voided by the admittance of the abusing party into the dwelling from which the abusing party is excluded.

(e) If a proceeding for dissolution of marriage or legal separation is pending between the parties, the court shall provide a copy of the order for protection to the court with jurisdiction over the dissolution or separation proceeding for inclusion in its file.

(f) An order for restitution issued under this subdivision is enforceable as civil judgment.

Subd. 6a. **Subsequent orders and extensions.** (a) Upon application, notice to all parties, and hearing, the court

may extend the relief granted in an existing order for protection or, if a petitioner's order for protection is no longer in effect when an application for subsequent relief is made, grant a new order. The court may extend the terms of an existing order or, if an order is no longer in effect, grant a new order upon a showing that:

(1) the respondent has violated a prior or existing order for protection;

(2) the petitioner is reasonably in fear of physical harm from the respondent;

(3) the respondent has engaged in the act of stalking within the meaning of section 609.749, subdivision 2; or

(4) the respondent is incarcerated and about to be released, or has recently been released from incarceration.

A petitioner does not need to show that physical harm is imminent to obtain an extension or a subsequent order under this subdivision.

(b) Relief granted by the order for protection may be for a period of up to 50 years, if the court finds:

(1) the respondent has violated a prior or existing order for protection on two or more occasions; or

(2) the petitioner has had two or more orders for protection in effect against the same respondent.

An order issued under this paragraph may restrain the abusing party from committing acts of domestic abuse; or prohibit the abusing party from having any contact with the petitioner, whether in person, by telephone, mail or electronic mail or messaging, through electronic devices, through a third party, or by any other means.

Subd. 7. **Ex parte order.** (a) Where an application under this section alleges an immediate and present danger of domestic abuse, the court may grant an ex parte order for protection and granting relief as the court deems proper, including an order:

(1) restraining the abusing party from committing acts of domestic abuse;

(2) excluding any party from the dwelling they share or from the residence of the other, including a reasonable area surrounding the dwelling or residence, which area shall be described specifically in the order, except by further order of the court;

(3) excluding the abusing party from the place of employment of the petitioner or otherwise limiting access to the petitioner by the abusing party at the petitioner's place of employment;

(4) ordering the abusing party to have no contact with the petitioner whether in person, by telephone, mail, e-mail, through electronic devices, or through a third party;

(5) continuing all currently available insurance coverage without change in coverage or beneficiary designation;

(6) directing the care, possession, or control of a pet or companion animal owned, possessed, or kept by a party or a child of a party; and

(7) directing the respondent to refrain from physically abusing or injuring any pet or companion animal, without legal justification, known to be owned, possessed, kept, or held by either party or a minor child residing in the residence or household of either party as an indirect means of intentionally threatening the safety of such person.

(b) A finding by the court that there is a basis for issuing an ex parte order for protection constitutes a finding that sufficient reasons exist not to require notice under applicable court rules governing applications for ex parte relief.

(c) Subject to paragraph (d), an ex parte order for protection shall be effective for a fixed period set by the court, as provided in subdivision 6, paragraph (b), or until modified or vacated by the court pursuant to a hearing. When signed by a referee, the ex parte order becomes effective upon the referee's signature. Upon request, a hearing, as provided by this section, shall be set. Except as provided in paragraph (d), the respondent shall be personally served forthwith a copy of the ex parte order along with a copy of the petition and, if requested by the petitioner, notice of the date set for the hearing. If the petitioner does not request a hearing, an order served on a respondent under this subdivision must include a notice advising the respondent of the right to request a hearing, must be accompanied by a form that can be used by the respondent to request a hearing and must include a conspicuous notice that a hearing will not be held unless requested by the respondent within five days of service of the order.

(d) Service of the ex parte order may be made by published notice, as provided under subdivision 5, provided that the petitioner files the affidavit required under that subdivision. If personal service is not made or the affidavit is not filed within 14 days of issuance of the ex parte order, the order expires. If the petitioner does not request a hearing, the petition mailed to the respondent's residence, if known, must be accompanied by the form for requesting a hearing and notice described in paragraph (c). Unless personal service is completed, if service by published notice is not completed within 28 days of issuance of the ex parte order, the order expires.

(e) If the petitioner seeks relief under subdivision 6 other than the relief described in paragraph (a), the petitioner must request a hearing to obtain the additional relief.

(f) Nothing in this subdivision affects the right of a party to seek modification of an order under subdivision 11.

Subd. 8. **Service; alternate service; publication; notice.** (a) The petition and any order issued under this section other than orders for dismissal shall be served on the respondent personally. Orders for dismissal may be served personally or by certified mail. In lieu of personal service of an order for protection, a law enforcement officer may

serve a person with a short form notification as provided in subdivision 8a.

(b) When service is made out of this state and in the United States, it may be proved by the affidavit of the person making the service. When service is made outside the United States, it may be proved by the affidavit of the person making the service, taken before and certified by any United States minister, charge d'affaires, commissioner, consul, or commercial agent, or other consular or diplomatic officer of the United States appointed to reside in the other country, including all deputies or other representatives of the officer authorized to perform their duties; or before an office authorized to administer an oath with the certificate of an officer of a court of record of the country in which the affidavit is taken as to the identity and authority of the officer taking the affidavit.

(c) If personal service cannot be made, the court may order service of the petition and any order issued under this section by alternate means, or by publication, which publication must be made as in other actions. The application for alternate service must include the last known location of the respondent; the petitioner's most recent contacts with the respondent; the last known location of the respondent's employment; the names and locations of the respondent's parents, siblings, children, and other close relatives; the names and locations of other persons who are likely to know the respondent's whereabouts; and a description of efforts to locate those persons.

The court shall consider the length of time the respondent's location has been unknown, the likelihood that the respondent's location will become known, the nature of the relief sought, and the nature of efforts made to locate the respondent. The court shall order service by first class mail, forwarding address requested, to any addresses where there is a reasonable possibility that mail or information will be forwarded or communicated to the respondent.

The court may also order publication, within or without the state, but only if it might reasonably succeed in notifying the respondent of the proceeding. Service shall be deemed complete 14 days after mailing or 14 days after court-ordered publication.

(d) A petition and any order issued under this section, including the short form notification, must include a notice to the respondent that if an order for protection is issued to protect the petitioner or a child of the parties, upon request of the petitioner in any parenting time proceeding, the court shall consider the order for protection in making a decision regarding parenting time.

Subd. 8a. **Short form notification.** (a) In lieu of personal service of an order for protection under subdivision 8, a law enforcement officer may serve a person with a short form notification. The short form notification must include the following clauses: the respondent's name; the respondent's date of birth, if known; the petitioner's name; the names of other protected parties; the date and county in which the ex parte order for protection or order for protection was filed; the court file number; the hearing date and time, if known; the conditions that apply to the respondent, either in checklist form or handwritten; and the name of the judge who signed the order.

The short form notification must be in bold print in the following form:

The order for protection is now enforceable. You must report to your nearest sheriff office or county court to obtain a copy of the order for protection. You are subject to arrest and may be charged with a misdemeanor, gross misdemeanor, or felony if you violate any of the terms of the order for protection or this short form notification.

(b) Upon verification of the identity of the respondent and the existence of an unserved order for protection against the respondent, a law enforcement officer may detain the respondent for a reasonable time necessary to complete and serve the short form notification.

(c) When service is made by short form notification, it may be proved by the affidavit of the law enforcement officer making the service.

(d) For service under this section only, service upon an individual may occur at any time, including Sundays, and legal holidays.

(e) The superintendent of the Bureau of Criminal Apprehension shall provide the short form to law enforcement agencies.

Subd. 9. **Assistance of sheriff in service or execution.** When an order is issued under this section upon request of the petitioner, the court shall order the sheriff to accompany the petitioner and assist in placing the petitioner in possession of the dwelling or residence, or otherwise assist in execution or service of the order of protection. If the application for relief is brought in a county in which the respondent is not present, the sheriff shall forward the pleadings necessary for service upon the respondent to the sheriff of the county in which the respondent is present. This transmittal must be expedited to allow for timely service.

Subd. 9a. **Service by others.** Peace officers licensed by the state of Minnesota and corrections officers, including, but not limited to, probation officers, court services officers, parole officers, and employees of jails or correctional facilities, may serve an order for protection.

Subd. 10. **Right to apply for relief.** (a) A person's right to apply for relief shall not be affected by the person's leaving the residence or household to avoid abuse.

(b) The court shall not require security or bond of any party unless it deems necessary in exceptional cases.

Subd. 11. **Modifying or vacating order.** (a) Upon application, notice to all parties, and hearing, the court may modify the terms of an existing order for protection.

(b) If the court orders relief under subdivision 6a, paragraph (b), the respondent named in the order for protection may request to have the order vacated or modified if the order has been in effect for at least five years and the respondent has not violated the order during that time. Application for relief under this subdivision must be made in the county in which the order for protection was issued. Upon receipt of the request, the court shall set a hearing date. Personal service must be made upon the petitioner named in the order for protection not less than 30 days before the date of the hearing. At the hearing, the respondent named in the order for protection has the burden of proving by a preponderance of the evidence that there has been a material change in circumstances and that the reasons upon which the court relied in granting or extending the order for protection no longer apply and are unlikely to occur. If the court finds that the respondent named in the order for protection has met the burden of proof, the court may vacate or modify the order. If the court finds that the respondent named in the order for protection has not met the burden of proof, the court shall deny the request and no request may be made to vacate or modify the order for protection until five years have elapsed from the date of denial. An order vacated or modified under this paragraph must be personally served on the petitioner named in the order for protection.

Subd. 12. **Real estate.** Nothing in this section shall affect the title to real estate.

Subd. 13. **Copy to law enforcement agency.** (a) An order for protection and any continuance of an order for protection granted pursuant to this section shall be forwarded by the court administrator within 24 hours to the local law enforcement agency with jurisdiction over the residence of the applicant.

Each appropriate law enforcement agency shall make available to other law enforcement officers through a system for verification, information as to the existence and status of any order for protection issued pursuant to this section.

(b) If the applicant notifies the court administrator of a change in the applicant's residence so that a different local law enforcement agency has jurisdiction over the residence, the order for protection and any continuance of an order for protection must be forwarded by the court administrator to the new law enforcement agency within 24 hours of the notice. If the applicant notifies the new law enforcement agency that an order for protection has been issued under this section and the applicant has established a new residence within that agency's jurisdiction, within 24 hours the local law enforcement agency shall request a copy of the order for protection from the court administrator in the county that issued the order.

(c) When an order for protection is granted, the applicant for an order for protection must be told by the court that:

(1) notification of a change in residence should be given immediately to the court administrator and to the local law enforcement agency having jurisdiction over the new residence of the applicant;

(2) the reason for notification of a change in residence is to forward an order for protection to the proper law enforcement agency; and

(3) the order for protection must be forwarded to the law enforcement agency having jurisdiction over the new residence within 24 hours of notification of a change in residence, whether notification is given to the court administrator or to the local law enforcement agency having jurisdiction over the applicant's new residence.

An order for protection is enforceable even if the applicant does not notify the court administrator or the appropriate law enforcement agency of a change in residence.

Subd. 14. **Violation of an order for protection.** (a) A person who violates an order for protection issued by a judge or referee is subject to the penalties provided in paragraphs (b) to (d).

(b) Except as otherwise provided in paragraphs (c) and (d), whenever an order for protection is granted by a judge or referee or pursuant to a similar law of another state, the United States, the District of Columbia, tribal lands, or United States territories, and the respondent or person to be restrained knows of the existence of the order, violation of the order for protection is a misdemeanor. Upon a misdemeanor conviction under this paragraph, the defendant must be sentenced to a minimum of three days imprisonment and must be ordered to participate in counseling or other appropriate programs selected by the court. If the court stays imposition or execution of the jail sentence and the defendant refuses or fails to comply with the court's treatment order, the court must impose and execute the stayed jail sentence. A violation of an order for protection shall also constitute contempt of court and be subject to the penalties provided in chapter 588.

(c) A person is guilty of a gross misdemeanor who knowingly violates this subdivision within ten years of a previous qualified domestic violence-related offense conviction or adjudication of delinquency. Upon a gross misdemeanor conviction under this paragraph, the defendant must be sentenced to a minimum of ten days imprisonment and must be ordered to participate in counseling or other appropriate programs selected by the court. Notwithstanding section 609.135, the court must impose and execute the minimum sentence provided in this paragraph for gross misdemeanor convictions.

(d) A person is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both, if the person knowingly violates this subdivision:

(1) within ten years of the first of two or more previous qualified domestic violence-related offense convictions or adjudications of delinquency; or

(2) while possessing a dangerous weapon, as defined in section 609.02, subdivision 6.

Upon a felony conviction under this paragraph in which the court stays imposition or execution of sentence, the court shall impose at least a 30-day period of incarceration as a condition of probation. The court also shall order that the defendant participate in counseling or other appropriate programs selected by the court. Notwithstanding section 609.135, the court must impose and execute the minimum sentence provided in this paragraph for felony convictions.

(e) A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order granted pursuant to this section or a similar law of another state, the United States, the District of Columbia, tribal lands, or United States territories restraining the person or excluding the person from the residence or the petitioner's place of employment, even if the violation of the order did not take place in the presence of the peace officer, if the existence of the order can be verified by the officer. The probable cause required under this paragraph includes probable cause that the person knows of the existence of the order. If the order has not been served, the officer shall immediately serve the order whenever reasonably safe and possible to do so. An order for purposes of this subdivision, includes the short form order described in subdivision 8a. When the order is first served upon the person at a location at which, under the terms of the order, the person's presence constitutes a violation, the person shall not be arrested for violation of the order without first being given a reasonable opportunity to leave the location in the presence of the peace officer. A person arrested under this paragraph shall be held in custody for at least 36 hours, excluding the day of arrest, Sundays, and holidays, unless the person is released earlier by a judge or judicial officer. A peace officer acting in good faith and exercising due care in making an arrest pursuant to this paragraph is immune from civil liability that might result from the officer's actions.

(f) If the court finds that the respondent has violated an order for protection and that there is reason to believe that the respondent will commit a further violation of the provisions of the order restraining the respondent from committing acts of domestic abuse or excluding the respondent from the petitioner's residence, the court may require the respondent to acknowledge an obligation to comply with the order on the record. The court may require a bond sufficient to deter the respondent from committing further violations of the order for protection, considering the financial resources of the respondent, and not to exceed $10,000. If the respondent refuses to comply with an order to acknowledge the obligation or post a bond under this paragraph, the court shall commit the respondent to the county jail during the term of the order for protection or until the respondent complies with the order under this paragraph. The warrant must state the cause of commitment, with the sum and time for which any bond is required. If an order is issued under this paragraph, the court may order the costs of the contempt action, or any part of them, to be paid by the respondent. An order under this paragraph is appealable.

(g) Upon the filing of an affidavit by the petitioner, any peace officer, or an interested party designated by the court, alleging that the respondent has violated any order for protection granted pursuant to this section or a similar law of another state, the United States, the District of Columbia, tribal lands, or United States territories, the court may issue an order to the respondent, requiring the respondent to appear and show cause within 14 days why the respondent should not be found in contempt of court and punished therefor. The hearing may be held by the court in any county in which the petitioner or respondent temporarily or permanently resides at the time of the alleged violation, or in the county in which the alleged violation occurred, if the petitioner and respondent do not reside in this state. The court also shall refer the violation of the order for protection to the appropriate prosecuting authority for possible prosecution under paragraph (b), (c), or (d).

(h) If it is alleged that the respondent has violated an order for protection issued under subdivision 6 or a similar law of another state, the United States, the District of Columbia, tribal lands, or United States territories, and the court finds that the order has expired between the time of the alleged violation and the court's hearing on the violation, the court may grant a new order for protection under subdivision 6 based solely on the respondent's alleged violation of the prior order, to be effective until the hearing on the alleged violation of the prior order. If the court finds that the respondent has violated the prior order, the relief granted in the new order for protection shall be extended for a fixed period, not to exceed one year, except when the court determines a longer fixed period is appropriate.

(i) The admittance into petitioner's dwelling of an abusing party excluded from the dwelling under an order for protection is not a violation by the petitioner of the order for protection.

A peace officer is not liable under section 609.43, clause (1), for a failure to perform a duty required by paragraph (e).

(j) When a person is convicted under paragraph (b) or (c) of violating an order for protection and the court determines that the person used a firearm in any way during commission of the violation, the court may order that the person is prohibited from possessing any type of firearm for any period longer than three years or for the remainder of the person's life. A person who violates this paragraph is guilty of a gross misdemeanor. At the time of the conviction, the court shall inform the defendant whether and for how long the defendant is prohibited from possessing a firearm and that it is a gross misdemeanor to violate this paragraph. The failure of the court to provide this information to a defendant does not affect the applicability of the firearm possession prohibition or the gross misdemeanor penalty to that defendant.

(k) Except as otherwise provided in paragraph (j), when a person is convicted under paragraph (b) or (c) of violating an order for protection, the court shall inform the defendant that the defendant is prohibited from possessing

a pistol for three years from the date of conviction and that it is a gross misdemeanor offense to violate this prohibition. The failure of the court to provide this information to a defendant does not affect the applicability of the pistol possession prohibition or the gross misdemeanor penalty to that defendant.

(l) Except as otherwise provided in paragraph (j), a person is not entitled to possess a pistol if the person has been convicted under paragraph (b) or (c) after August 1, 1996, of violating an order for protection, unless three years have elapsed from the date of conviction and, during that time, the person has not been convicted of any other violation of this section. Property rights may not be abated but access may be restricted by the courts. A person who possesses a pistol in violation of this paragraph is guilty of a gross misdemeanor.

(m) If the court determines that a person convicted under paragraph (b) or (c) of violating an order for protection owns or possesses a firearm and used it in any way during the commission of the violation, it shall order that the firearm be summarily forfeited under section 609.5316, subdivision 3.

Subd. 15. **Admissibility of testimony in criminal proceeding.** Any testimony offered by a respondent in a hearing pursuant to this section is inadmissible in a criminal proceeding.

Subd. 16. **Other remedies available.** Any proceeding under this section shall be in addition to other civil or criminal remedies.

Subd. 17. **Effect on custody proceedings.** In a subsequent custody proceeding the court must consider a finding in a proceeding under this chapter or under a similar law of another state that domestic abuse has occurred between the parties.

Subd. 18. **Notices.** (a) Each order for protection granted under this chapter must contain a conspicuous notice to the respondent or person to be restrained that:

(1) violation of an order for protection is either (i) a misdemeanor punishable by imprisonment for up to 90 days or a fine of up to $1,000, or both, (ii) a gross misdemeanor punishable by imprisonment of up to one year or a fine of up to $3,000, or both, or (iii) a felony punishable by imprisonment of up to five years or a fine of up to $10,000, or both;

(2) the respondent is forbidden to enter or stay at the petitioner's residence, even if invited to do so by the petitioner or any other person; in no event is the order for protection voided;

(3) a peace officer must arrest without warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order for protection restraining the person or excluding the person from a residence; and

(4) pursuant to the Violence Against Women Act of 1994, United States Code, title 18, section 2265, the order is enforceable in all 50 states, the District of Columbia, tribal lands, and United States territories, that violation of the order may also subject the respondent to federal charges and punishment under United States Code, title 18, sections 2261 and 2262, and that if a final order is entered against the respondent after the hearing, the respondent may be prohibited from possessing, transporting, or accepting a firearm under the 1994 amendment to the Gun Control Act, United States Code, title 18, section 922(g)(8).

(b) If the court grants relief under subdivision 6a, paragraph (b), the order for protection must also contain a conspicuous notice to the respondent or person to be restrained that the respondent must wait five years to seek a modification of the order.

Subd. 19. **Recording required.** Proceedings under this section must be recorded.

Subd. 19a. **Entry and enforcement of foreign protective orders.** (a) As used in this subdivision, "foreign protective order" means an order for protection entered by a court of another state; an order by an Indian tribe or United States territory that would be a protective order entered under this chapter; a temporary or permanent order or protective order to exclude a respondent from a dwelling; or an order that establishes conditions of release or is a protective order or sentencing order in a criminal prosecution arising from a domestic abuse assault if it had been entered in Minnesota.

(b) A person for whom a foreign protection order has been issued or the issuing court or tribunal may provide a certified or authenticated copy of a foreign protective order to the court administrator in any county that would have venue if the original action was being commenced in this state or in which the person in whose favor the order was entered may be present, for filing and entering of the same into the state order for protection database.

(c) The court administrator shall file and enter foreign protective orders that are not certified or authenticated, if supported by an affidavit of a person with personal knowledge, subject to the penalties for perjury. The person protected by the order may provide this affidavit.

(d) The court administrator shall provide copies of the order as required by this section.

(e) A valid foreign protective order has the same effect and shall be enforced in the same manner as an order for protection issued in this state whether or not filed with a court administrator or otherwise entered in the state order for protection database.

(f) A foreign protective order is presumed valid if it meets all of the following:

(1) the order states the name of the protected individual and the individual against whom enforcement is sought;

(2) the order has not expired;

(3) the order was issued by a court or tribunal that had jurisdiction over the parties and subject matter under the law of the foreign jurisdiction; and

(4) the order was issued in accordance with the respondent's due process rights, either after the respondent was provided with reasonable notice and an opportunity to be heard before the court or tribunal that issued the order, or in the case of an ex parte order, the respondent was granted notice and an opportunity to be heard within a reasonable time after the order was issued.

(g) Proof that a foreign protective order failed to meet all of the factors listed in paragraph (f) is an affirmative defense in any action seeking enforcement of the order.

(h) A peace officer shall treat a foreign protective order as a valid legal document and shall make an arrest for a violation of the foreign protective order in the same manner that a peace officer would make an arrest for a violation of a protective order issued within this state.

(i) The fact that a foreign protective order has not been filed with the court administrator or otherwise entered into the state order for protection database shall not be grounds to refuse to enforce the terms of the order unless it is apparent to the officer that the order is invalid on its face.

(j) A peace officer acting reasonably and in good faith in connection with the enforcement of a foreign protective order is immune from civil and criminal liability in any action arising in connection with the enforcement.

(k) Filing and service costs in connection with foreign protective orders are waived.

Subd. 20. **Statewide application.** An order for protection granted under this section applies throughout this state.

Subd. 21. **Order for protection forms.** The state court administrator, in consultation with the Advisory Council on Battered Women and Domestic Abuse, city and county attorneys, and legal advocates who work with victims, shall develop a uniform order for protection form that will facilitate the consistent enforcement of orders for protection throughout the state.

Subd. 22. [Repealed, 2010 c 299 s 15]

Subd. 23. **Prohibition against employer retaliation.** (a) An employer shall not discharge, discipline, threaten, otherwise discriminate against, or penalize an employee regarding the employee's compensation, terms, conditions, location, or privileges of employment, because the employee took reasonable time off from work to obtain or attempt to obtain relief under this chapter. Except in cases of imminent danger to the health or safety of the employee or the employee's child, or unless impracticable, an employee who is absent from the workplace shall give 48 hours' advance notice to the employer. Upon request of the employer, the employee shall provide verification that supports the employee's reason for being absent from the workplace. All information related to the employee's leave pursuant to this section shall be kept confidential by the employer.

(b) An employer who violates paragraph (a) is guilty of a misdemeanor and may be punished for contempt of court. In addition, the court shall order the employer to pay back wages and offer job reinstatement to any employee discharged from employment in violation of paragraph (a).

(c) In addition to any remedies otherwise provided by law, an employee injured by a violation of paragraph (a) may bring a civil action for recovery of damages, together with costs and disbursements, including reasonable attorneys fees, and may receive such injunctive and other equitable relief, including reinstatement, as determined by the court.

History: *1979 c 214 s 1; 1981 c 273 s 2; 1983 c 52 s 1-3; 1983 c 308 s 26,27; 1985 c 195 s 1-4; 1986 c 351 s 4; 1986 c 444; 1Sp1986 c 3 art 1 s 69,82; 1987 c 106 s 2; 1987 c 237 s 2-5; 1988 c 638 s 3; 1990 c 583 s 1-3; 1991 c 271 s 7; 1991 c 272 s 2-5; 1992 c 464 art 1 s 56; 1992 c 571 art 6 s 2-9; 1993 c 322 s 17-20; 1993 c 326 art 2 s 4-9; 1Sp1993 c 5 s 1; 1994 c 630 art 12 s 5; 1994 c 636 art 2 s 11,12; 1995 c 142 s 2-5; 1995 c 226 art 7 s 3-7; 1995 c 259 art 3 s 6; 1996 c 408 art 4 s 1; 1997 c 96 s 3; 1997 c 239 art 7 s 11-15; 1998 c 367 art 5 s 1-5; 2000 c 437 s 1-4; 2000 c 444 art 1 s 7; art 2 s 42,43; 2000 c 445 art 2 s 8; 1Sp2001 c 8 art 10 s 1-5; 2002 c 282 s 1,2; 2002 c 304 s 9-11; 2004 c 145 s 1; 2004 c 164 s 1; 2004 c 228 art 1 s 72; 2005 c 10 art 2 s 4; 2005 c 76 s 1; 2005 c 136 art 8 s 20; art 17 s 5; 2005 c 164 s 29; 1Sp2005 c 7 s 28; 2006 c 260 art 1 s 10,11; art 5 s 48; 2006 c 280 s 45; 2007 c 54 art 2 s 1; 2008 c 316 s 1-5; 2010 c 299 s 4,5,14; 2011 c 116 art 1 s 8*

2013 Amendments to Minn. Stat. § 518B.01

There were two amendments to this statute made by the 2013 legislature:

First, 2013 Minn. Laws ch. 47, s. 1 amended Minn. Stat. § 518B.01 by deleting the word "knowingly" in both places it appeared in subdivision 14.

Second, 2013 Minn. Laws ch. 47, s. 2 amended Minn. Stat. § 518B.01 by adding a new subdivision, subd. 14a to read as follows:

> Subd. 14a. **Venue**. A person may be prosecuted under subdivision 14 at the place where any call is made or received or, in the case of wireless or electronic communication or any communication made through any available technologies, where the actor or victim resides, or in the jurisdiction of the victim's designated address if the victim participates in the address confidentiality program established under chapter 5B.

Minn. Stat. § 609.2231 (2013)

2013 Minn. Laws ch. 96, s. 2 and ch. 133, s. 1 amended Minnesota Statutes section 609.2231to read in its entirety as follows.

609.2231 ASSAULT IN THE FOURTH DEGREE.

Subdivision 1. **Peace officers**. Whoever physically assaults a peace officer licensed under section 626.845, subdivision 1, when that officer is effecting a lawful arrest or executing any other duty imposed by law is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both. If the assault inflicts demonstrable bodily harm or the person intentionally throws or otherwise transfers bodily fluids or feces at or onto the officer, the person is guilty of a felony and may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than $6,000, or both. .

Subd. 2. **Firefighters and emergency medical personnel**. Whoever assaults any of the following persons and inflicts demonstrable bodily harm is guilty of a felony and may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than $4,000, or both::

(1) a member of a municipal or volunteer fire department or emergency medical services personnel unit in the performance of the member's duties; or

(2) a physician, nurse, or other person providing health care services in a hospital emergency department.

Subd. 2a. **Certain Department of Natural Resources employees**. Whoever assaults and inflicts demonstrable bodily harm on an employee of the Department of Natural Resources who is engaged in forest fire activities is guilty of a gross misdemeanor.

Subd. 3. **Correctional employees; probation officers**. Whoever commits either of the following acts against an employee of a correctional facility as defined in section 241.021, subdivision 1, paragraph (f), or against a probation officer or other qualified person employed in supervising offenders while the employee, officer, or person is engaged in the performance of a duty imposed by law, policy, or rule is guilty of a felony and may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than $4,000, or both:

(1) assaults the employee and inflicts demonstrable bodily harm; or

(2) intentionally throws or otherwise transfers bodily fluids or feces at or onto the employee.

Subd. 3a. **Secure treatment facility personnel**. (a) As used in this subdivision, "secure treatment facility" has the meaning given in section 253B.02, subdivision 18a.

(b) Whoever, while committed under section 253B.185 or Minnesota Statutes 1992, section 526.10, commits either of the following acts against an employee or other individual who provides care or treatment at a secure treatment facility while the person is engaged in the performance of a duty imposed by law, policy, or rule is guilty of a felony and may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than $4,000, or both:

(1) assaults the person and inflicts demonstrable bodily harm; or

(2) intentionally throws or otherwise transfers bodily fluids or feces at or onto the person.

(c) The court shall commit a person convicted of violating paragraph (b) to the custody of the commissioner of corrections for not less than one year and one day. The court may not, on its own motion or the prosecutor's motion, sentence a person without regard to this paragraph. A person convicted and sentenced as required by this paragraph is not eligible for probation, parole, discharge, work release, or supervised release, until that person has served the full term of imprisonment as provided by law, notwithstanding the provisions of sections 241.26, 242.19, 243.05, 244.04, 609.12, and 609.135.

(d) Notwithstanding the statutory maximum sentence provided in paragraph (b), when a court sentences a person to the custody of the commissioner of corrections for a violation of paragraph (b), the court shall provide that after the person has been released from prison, the commissioner shall place the person on conditional release for five years. The terms of conditional release are governed by sections 244.05 and 609.3455, subdivision 6, 7, or 8; and Minnesota Statutes 2004, section 609.109.

Subd. 4. **Assaults motivated by bias**. (a) Whoever assaults another because of the victim's or another's actual or perceived race, color, religion, sex, sexual orientation, disability as defined in section 363A.03, age, or national origin may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

(b) Whoever violates the provisions of paragraph (a) within five years of a previous conviction under paragraph (a) is guilty of a felony and may be sentenced to imprisonment for not more than one year and a day or to payment of a fine of not more than $3,000, or both.

Subd. 5. **School official.** Whoever assaults a school official while the official is engaged in the performance of the official's duties, and inflicts demonstrable bodily harm, is guilty of a gross misdemeanor. As used in this subdivision, "school official" includes teachers, school administrators, and other employees of a public or private school.

Subd. 6. **Public employees with mandated duties.** A person is guilty of a gross misdemeanor who:

(1) assaults an agricultural inspector, occupational safety and health investigator, child protection worker, public health nurse, animal control officer, or probation or parole officer while the employee is engaged in the performance of a duty mandated by law, court order, or ordinance;

(2) knows that the victim is a public employee engaged in the performance of the official public duties of the office; and

(3) inflicts demonstrable bodily harm.

Subd. 7. **Community crime prevention group members**. (a) A person is guilty of a gross misdemeanor who:

(1) assaults a community crime prevention group member while the member is engaged in neighborhood patrol;

(2) should reasonably know that the victim is a community crime prevention group member engaged in neighborhood patrol; and

(3) inflicts demonstrable bodily harm.

(b) As used in this subdivision, "community crime prevention group" means a community group focused on community safety and crime prevention that:

(1) is organized for the purpose of discussing community safety and patrolling community neighborhoods for criminal activity;

(2) is designated and trained by the local law enforcement agency as a community crime prevention group; or

(3) interacts with local law enforcement regarding community safety issues.

Subd. 8. **Vulnerable adults**. (a) As used in this subdivision, "vulnerable adult" has the meaning given in section 609.232, subdivision 11.

(b) Whoever assaults and inflicts demonstrable bodily harm on a vulnerable adult, knowing or having reason to know that the person is a vulnerable adult, is guilty of a gross misdemeanor.

Subd. 9. Reserve officer. A person is guilty of a gross misdemeanor who:

(1) assaults a reserve officer as defined in section 626.84, subdivision 1, paragraph (e), who is engaged in the performance of official public duties at the direction of, under the control of, or on behalf of a peace officer or supervising law enforcement officer or agency; and

(2) should reasonably know that the victim is a reserve officer engaged in the performance of official public duties of the peace officer, or supervising law enforcement officer or agency.

Subd. 10. **Utility and postal service employees and contractors**. (a) A person is guilty of a gross misdemeanor who:

(1) assaults an employee or contractor of a utility or the United States Postal Service while the employee or contractor is engaged in the performance of the employee's or contractor's duties;

(2) should reasonably know that the victim is an employee or contractor of a utility or the postal service who is:

(i) performing duties of the victim's employment; or

(ii) fulfilling the victim's contractual obligations; and

(3) inflicts demonstrable bodily harm.

(b) As used in this subdivision, "utility" has the meaning given it in section 609.594, subdivision 1, clause (3).

Subd. 11. **Transit operators**. (a) A person is guilty of a gross misdemeanor if (1) the person assaults a transit operator, or intentionally throws or otherwise transfers bodily fluids onto a transit operator; and (2) the transit operator is acting in the course of the operator's duties and is operating a transit vehicle, aboard a transit vehicle, or otherwise responsible for a transit vehicle. A person convicted under this paragraph may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

(b) For the purposes of this subdivision, "transit operator" means a driver or operator of a transit vehicle that is used to provide any of the following services:

(1) public transit, as defined in section 174.22, subdivision 7;

(2) light rail transit service;

(3) special transportation service under section 473.386, whether provided by the Metropolitan Council or by other providers under contract with the council; or

(4) commuter rail service.

2010 Minnesota Statutes

609.2325 CRIMINAL ABUSE.

Subdivision 1. **Crimes.** (a) A caregiver who, with intent to produce physical or mental pain or injury to a vulnerable adult, subjects a vulnerable adult to any aversive or deprivation procedure, unreasonable confinement, or involuntary seclusion, is guilty of criminal abuse and may be sentenced as provided in subdivision 3.

This paragraph does not apply to therapeutic conduct.

(b) A caregiver, facility staff person, or person providing services in a facility who engages in sexual contact or penetration, as defined in section 609.341, under circumstances other than those described in sections 609.342 to 609.345, with a resident, patient, or client of the facility is guilty of criminal abuse and may be sentenced as provided in subdivision 3.

Subd. 2. **Exemptions.** For the purposes of this section, a vulnerable adult is not abused for the sole reason that:

(1) the vulnerable adult or a person with authority to make health care decisions for the vulnerable adult under sections 144.651, 144A.44, chapter 145B, 145C, or 252A, or sections 253B.03 or 524.5-101 to 524.5-502, refuses consent or withdraws consent, consistent with that authority and within the boundary of reasonable medical practice, to any therapeutic conduct, including any care, service, or procedure to diagnose, maintain, or treat the physical or mental condition of the vulnerable adult or, where permitted under law, to provide nutrition and hydration parenterally or through intubation; this paragraph does not enlarge or diminish rights otherwise held under law by:

(i) a vulnerable adult or a person acting on behalf of a vulnerable adult, including an involved family member, to consent to or refuse consent for therapeutic conduct; or

(ii) a caregiver to offer or provide or refuse to offer or provide therapeutic conduct;

(2) the vulnerable adult, a person with authority to make health care decisions for the vulnerable adult, or a caregiver in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the vulnerable adult in lieu of medical care, provided that this is consistent with the prior practice or belief of the vulnerable adult or with the expressed intentions of the vulnerable adult; or

(3) the vulnerable adult, who is not impaired in judgment or capacity by mental or emotional dysfunction or undue influence, engages in consensual sexual contact with: (i) a person, including a facility staff person, when a consensual sexual personal relationship existed prior to the caregiving relationship; or (ii) a personal care attendant, regardless of whether the consensual sexual personal relationship existed prior to the caregiving relationship.

Subd. 3. **Penalties.** (a) A person who violates subdivision 1, paragraph (a), may be sentenced as follows:

(1) if the act results in the death of a vulnerable adult, imprisonment for not more than 15 years or payment of a fine of not more than $30,000, or both;

(2) if the act results in great bodily harm, imprisonment for not more than ten years or payment of a fine of not more than $20,000, or both;

(3) if the act results in substantial bodily harm or the risk of death, imprisonment for not more than

five years or payment of a fine of not more than $10,000, or both; or

(4) in other cases, imprisonment for not more than one year or payment of a fine of not more than $3,000, or both.

(b) A person who violates subdivision 1, paragraph (b), may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

History: 1995 c 229 art 2 s 3*;* 1996 c 408 art 10 s 11*;* 2004 c 146 art 3 s 43

Minn. Stat. § 609.233 (2013)

2013 Minn. Laws ch. 125, art. 1, s. 85 amended Minnesota Statutes section 609.233 to read in its entirety as follows.

609.233 CRIMINAL NEGLECT.

Subdivision 1. **Gross misdemeanor crime**. A caregiver or operator who intentionally neglects a vulnerable adult or knowingly permits conditions to exist that result in the abuse or neglect of a vulnerable adult is guilty of a gross misdemeanor. For purposes of this section, "abuse" has the meaning given in section 626.5572, subdivision 2, and "neglect" means a failure to provide a vulnerable adult with necessary food, clothing, shelter, health care, or supervision.

Subd. 1a. **Felony deprivation**. A caregiver or operator who intentionally deprives a vulnerable adult of necessary food, clothing, shelter, health care, or supervision, when the caregiver or operator is reasonably able to make the necessary provisions, is guilty of a felony and may be sentenced as provided in subdivision 3 if:

(1) the caregiver or operator knows or has reason to know the deprivation could likely result in substantial bodily harm or great bodily harm to the vulnerable adult; or

(2) the deprivation occurred over an extended period of time.

Subd. 2. **Exemptions**. A vulnerable adult is not neglected or deprived under subdivision 1 or 1a for the sole reason that:

(1) the vulnerable adult or a person with authority to make health care decisions for the vulnerable adult under sections 144.651, 144A.44, 253B.03, or 524.5-101 to 524.5-502, or chapter 145B, 145C, or 252A, refuses consent or withdraws consent, consistent with that authority and within the boundary of reasonable medical practice, to any therapeutic conduct, including any care, service, or procedure to diagnose, maintain, or treat the physical or mental condition of the vulnerable adult or, where permitted under law, to provide nutrition and hydration parenterally or through intubation; this paragraph does not enlarge or diminish rights otherwise held under law by:

(i) a vulnerable adult or a person acting on behalf of a vulnerable adult, including an involved family member, to consent to or refuse consent for therapeutic conduct; or

(ii) a caregiver to offer or provide or refuse to offer or provide therapeutic conduct;

(2) the vulnerable adult, a person with authority to make health care decisions for the vulnerable adult, or a caregiver in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the vulnerable adult in lieu of

medical care, provided that this is consistent with the prior practice or belief of the vulnerable adult or with the expressed intentions of the vulnerable adult; or

(3) the vulnerable adult, who is not impaired in judgment or capacity by mental or emotional dysfunction or undue influence, engages in consensual sexual contact with: (i) a person including a facility staff person when a consensual sexual personal relationship existed prior to the caregiving relationship; or (ii) a personal care attendant, regardless of whether the consensual sexual personal relationship existed prior to the caregiving relationship.

Subd. 3. **Penalties**. A person who violates subdivision 1a may be sentenced as follows:

(1) if the conduct results in great bodily harm to the vulnerable adult, imprisonment for not more than ten years or payment of a fine of not more than $10,000, or both; or

(2) if the conduct results in substantial bodily harm to the vulnerable adult, imprisonment for not more than five years or payment of a fine of not more than $5,000, or both.

Subd. 4. **Affirmative defenses**. It shall be an affirmative defense to a prosecution under subdivision 1 or 1a, if proven by a preponderance of evidence, that:

(1) the defendant is an individual employed by a facility or operator and does not have managerial or supervisory authority, and was unable to reasonably make the necessary provisions because of inadequate staffing levels, inadequate supervision, or institutional policies;

(2) the defendant is a facility, an operator, or an employee of a facility or operator in a position of managerial or supervisory authority, and did not knowingly, intentionally, or recklessly permit criminal acts by its employees or agents that resulted in the harm to the vulnerable adult; or

(3) the defendant is a caregiver and failed to perform acts necessary to prevent the applicable level of harm, if any, to the vulnerable adult because the caregiver was acting reasonably and necessarily to provide care to another identified vulnerable adult.

For these affirmative defenses, a defendant bears only the burden of production. A defendant's failure to meet the burden of production does not relieve the state of its burden of persuasion as to all elements of the offense.

2010 Minnesota Statutes

609.378 NEGLECT OR ENDANGERMENT OF CHILD.

Subdivision 1. **Persons guilty of neglect or endangerment.** (a)(1) A parent, legal guardian, or caretaker who willfully deprives a child of necessary food, clothing, shelter, health care, or supervision appropriate to the child's age, when the parent, guardian, or caretaker is reasonably able to make the necessary provisions and the deprivation harms or is likely to substantially harm the child's physical, mental, or emotional health is guilty of neglect of a child and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both. If the deprivation results in substantial harm to the child's physical, mental, or emotional health, the person may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both. If a parent, guardian, or caretaker responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child, this treatment or care is "health care," for purposes of this clause.

(2) A parent, legal guardian, or caretaker who knowingly permits the continuing physical or sexual abuse of a child is guilty of neglect of a child and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

(b) A parent, legal guardian, or caretaker who endangers the child's person or health by:

(1) intentionally or recklessly causing or permitting a child to be placed in a situation likely to substantially harm the child's physical, mental, or emotional health or cause the child's death; or

(2) knowingly causing or permitting the child to be present where any person is selling, manufacturing, possessing immediate precursors or chemical substances with intent to manufacture, or possessing a controlled substance, as defined in section 152.01, subdivision 4, in violation of section 152.021, 152.022, 152.023, 152.024, or 152.0262; is guilty of child endangerment and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

If the endangerment results in substantial harm to the child's physical, mental, or emotional health, the person may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

This paragraph does not prevent a parent, legal guardian, or caretaker from causing or permitting a child to engage in activities that are appropriate to the child's age, stage of development, and experience, or from selecting health care as defined in subdivision 1, paragraph (a).

(c) A person who intentionally or recklessly causes a child under 14 years of age to be placed in a situation likely to substantially harm the child's physical health or cause the child's death as a result of the child's access to a loaded firearm is guilty of child endangerment and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

If the endangerment results in substantial harm to the child's physical health, the person may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

Subd. 2. **Defenses.** It is a defense to a prosecution under subdivision 1, paragraph (a), clause (2), or paragraph (b), that at the time of the neglect or endangerment there was a reasonable apprehension in the mind of the defendant that acting to stop or prevent the neglect or endangerment would result in substantial bodily harm to the defendant or the child in retaliation.

2012 Minnesota Statutes

609.52 THEFT.

Subdivision 1. **Definitions.** In this section:

(1) "Property" means all forms of tangible property, whether real or personal, without limitation including documents of value, electricity, gas, water, corpses, domestic animals, dogs, pets, fowl, and heat supplied by pipe or conduit by municipalities or public utility companies and articles, as defined in clause (4), representing trade secrets, which articles shall be deemed for the purposes of Extra Session Laws 1967, chapter 15 to include any trade secret represented by the article.

(2) "Movable property" is property whose physical location can be changed, including without limitation things growing on, affixed to, or found in land.

(3) "Value" means the retail market value at the time of the theft, or if the retail market value cannot be ascertained, the cost of replacement of the property within a reasonable time after the theft, or in the case of a theft or the making of a copy of an article representing a trade secret, where the retail market value or replacement cost cannot be ascertained, any reasonable value representing the damage to the owner which the owner has suffered by reason of losing an advantage over those who do not know of or use the trade secret. For a check, draft, or other order for the payment of money, "value" means the amount of money promised or ordered to be paid under the terms of the check, draft, or other order. For a theft committed within the meaning of subdivision 2, clause (5), items (i) and (ii), if the property has been restored to the owner, "value" means the value of the use of the property or the damage which it sustained, whichever is greater, while the owner was deprived of its possession, but not exceeding the value otherwise provided herein. For a theft committed within the meaning of subdivision 2, clause (9), if the property has been restored to the owner, "value" means the rental value of the property, determined at the rental rate contracted by the defendant or, if no rental rate was contracted, the rental rate customarily charged by the owner for use of the property, plus any damage that occurred to the property while the owner was deprived of its possession, but not exceeding the total retail value of the property at the time of rental.

(4) "Article" means any object, material, device or substance, including any writing, record, recording, drawing, sample specimen, prototype, model, photograph, microorganism, blueprint or map, or any copy of any of the foregoing.

(5) "Representing" means describing, depicting, containing, constituting, reflecting or recording.

(6) "Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique, or process, that:

(i) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use, and

(ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

(7) "Copy" means any facsimile, replica, photograph or other reproduction of an article, and any note, drawing, or sketch made of or from an article while in the presence of the article.

(8) "Property of another" includes property in which the actor is co-owner or has a lien, pledge, bailment, or lease or other subordinate interest, property transferred by the actor in circumstances which are known to the actor and which make the transfer fraudulent as defined in section 513.44, property possessed pursuant to a short-term rental contract, and property of a partnership of which the actor is a member, unless the actor and the victim are husband and wife. It does not include property in which the actor asserts in good faith a claim as a collection fee or commission out of property or funds recovered, or by virtue of a lien, setoff, or counterclaim.

(9) "Services" include but are not limited to labor, professional services, transportation services, electronic computer services, the supplying of hotel accommodations, restaurant services, entertainment services, advertising services, telecommunication services, and the supplying of equipment for use including rental of personal property or equipment.

(10) "Motor vehicle" means a self-propelled device for moving persons or property or pulling implements from one place to another, whether the device is operated on land, rails, water, or in the air.

(11) "Motor fuel" has the meaning given in section 604.15, subdivision 1.

(12) "Retailer" has the meaning given in section 604.15, subdivision 1.

Subd. 2. **Acts constituting theft.** (a) Whoever does any of the following commits theft and may be sentenced as provided in subdivision 3:

(1) intentionally and without claim of right takes, uses, transfers, conceals or retains possession of movable property of another without the other's consent and with intent to deprive the owner permanently of possession of the property; or

(2) with or without having a legal interest in movable property, intentionally and without consent, takes the property out of the possession of a pledgee or other person having a superior right of possession, with intent thereby to deprive the pledgee or other person permanently of the possession of the property; or

(3) obtains for the actor or another the possession, custody, or title to property of or performance of services by a third person by intentionally deceiving the third person with a false representation which is known to be false, made with intent to defraud, and which does defraud the person to whom it is made. "False representation" includes without limitation:

(i) the issuance of a check, draft, or order for the payment of money, except a forged check as defined in section 609.631, or the delivery of property knowing that the actor is not entitled to draw upon the drawee therefor or to order the payment or delivery thereof; or

(ii) a promise made with intent not to perform. Failure to perform is not evidence of intent not to perform unless corroborated by other substantial evidence; or

(iii) the preparation or filing of a claim for reimbursement, a rate application, or a cost report used to establish a rate or claim for payment for medical care provided to a recipient of medical assistance under chapter 256B, which intentionally and falsely states the costs of or actual services provided by a vendor of medical care; or

(iv) the preparation or filing of a claim for reimbursement for providing treatment or supplies required to be furnished to an employee under section 176.135 which intentionally and falsely states the costs of or actual treatment or supplies provided; or

(v) the preparation or filing of a claim for reimbursement for providing treatment or supplies required to be furnished to an employee under section 176.135 for treatment or supplies that the provider knew were medically unnecessary, inappropriate, or excessive; or

(4) by swindling, whether by artifice, trick, device, or any other means, obtains property or services from another person; or

(5) intentionally commits any of the acts listed in this subdivision but with intent to exercise temporary control only and:

(i) the control exercised manifests an indifference to the rights of the owner or the restoration of the property to the owner; or

(ii) the actor pledges or otherwise attempts to subject the property to an adverse claim; or

(iii) the actor intends to restore the property only on condition that the owner pay a reward or buy back or make other compensation; or

(6) finds lost property and, knowing or having reasonable means of ascertaining the true owner, appropriates it to the finder's own use or to that of another not entitled thereto without first having made reasonable effort to find the owner and offer and surrender the property to the owner; or

(7) intentionally obtains property or services, offered upon the deposit of a sum of money or tokens in a coin or token operated machine or other receptacle, without making the required deposit or otherwise obtaining the consent of the owner; or

(8) intentionally and without claim of right converts any article representing a trade secret, knowing it to be such, to the actor's own use or that of another person or makes a copy of an article representing a trade secret, knowing it to be such, and intentionally and without claim of right converts the same to the actor's own use or that of another person. It shall be a complete defense to any prosecution under this clause for the defendant to show that information

comprising the trade secret was rightfully known or available to the defendant from a source other than the owner of the trade secret; or

(9) leases or rents personal property under a written instrument and who:

(i) with intent to place the property beyond the control of the lessor conceals or aids or abets the concealment of the property or any part thereof; or

(ii) sells, conveys, or encumbers the property or any part thereof without the written consent of the lessor, without informing the person to whom the lessee sells, conveys, or encumbers that the same is subject to such lease or rental contract with intent to deprive the lessor of possession thereof; or

(iii) does not return the property to the lessor at the end of the lease or rental term, plus agreed-upon extensions, with intent to wrongfully deprive the lessor of possession of the property; or

(iv) returns the property to the lessor at the end of the lease or rental term, plus agreed-upon extensions, but does not pay the lease or rental charges agreed upon in the written instrument, with intent to wrongfully deprive the lessor of the agreed-upon charges.

For the purposes of items (iii) and (iv), the value of the property must be at least $100.

Evidence that a lessee used a false, fictitious, or not current name, address, or place of employment in obtaining the property or fails or refuses to return the property or pay the rental contract charges to lessor within five days after written demand for the return has been served personally in the manner provided for service of process of a civil action or sent by certified mail to the last known address of the lessee, whichever shall occur later, shall be evidence of intent to violate this clause. Service by certified mail shall be deemed to be complete upon deposit in the United States mail of such demand, postpaid and addressed to the person at the address for the person set forth in the lease or rental agreement, or, in the absence of the address, to the person's last known place of residence; or

(10) alters, removes, or obliterates numbers or symbols placed on movable property for purpose of identification by the owner or person who has legal custody or right to possession thereof with the intent to prevent identification, if the person who alters, removes, or obliterates the numbers or symbols is not the owner and does not have the permission of the owner to make the alteration, removal, or obliteration; or

(11) with the intent to prevent the identification of property involved, so as to deprive the rightful owner of possession thereof, alters or removes any permanent serial number, permanent distinguishing number or manufacturer's identification number on personal property or possesses, sells or buys any personal property knowing or having reason to know that the permanent serial number, permanent distinguishing number or manufacturer's identification number has been removed or altered; or

(12) intentionally deprives another of a lawful charge for cable television service by:

(i) making or using or attempting to make or use an unauthorized external connection outside the individual dwelling unit whether physical, electrical, acoustical, inductive, or other connection; or by

(ii) attaching any unauthorized device to any cable, wire, microwave, or other component of a licensed cable communications system as defined in chapter 238. Nothing herein shall be construed to prohibit the electronic video rerecording of program material transmitted on the cable communications system by a subscriber for fair use as defined by Public Law 94-553, section 107; or

(13) except as provided in clauses (12) and (14), obtains the services of another with the intention of receiving those services without making the agreed or reasonably expected payment of money or other consideration; or

(14) intentionally deprives another of a lawful charge for telecommunications service by:

(i) making, using, or attempting to make or use an unauthorized connection whether physical, electrical, by wire, microwave, radio, or other means to a component of a local telecommunication system as provided in chapter 237; or

(ii) attaching an unauthorized device to a cable, wire, microwave, radio, or other component of a local telecommunication system as provided in chapter 237.

The existence of an unauthorized connection is prima facie evidence that the occupier of the premises:

(A) made or was aware of the connection; and

(B) was aware that the connection was unauthorized;

(15) with intent to defraud, diverts corporate property other than in accordance with general business purposes or for purposes other than those specified in the corporation's articles of incorporation; or

(16) with intent to defraud, authorizes or causes a corporation to make a distribution in violation of section 302A.551, or any other state law in conformity with it; or

(17) takes or drives a motor vehicle without the consent of the owner or an authorized agent of the owner, knowing or having reason to know that the owner or an authorized agent of the owner did not give consent; or

(18) intentionally, and without claim of right, takes motor fuel from a retailer without the retailer's consent and with intent to deprive the retailer permanently of possession of the fuel by driving a motor vehicle from the premises of the retailer without having paid for the fuel dispensed into the vehicle.

(b) Proof that the driver of a motor vehicle into which motor fuel was dispensed drove the vehicle from the premises of the retailer without having paid for the fuel permits the factfinder to infer that the driver acted intentionally and without claim of right, and that the driver intended to deprive the retailer permanently of possession of the fuel. This paragraph does not apply if: (1) payment has been made to the retailer within 30 days of the receipt of notice of nonpayment under section 604.15; or (2) a written notice as described in section 604.15, subdivision 4, disputing the retailer's claim, has been sent. This paragraph does not apply to the owner of a motor vehicle if the vehicle or the vehicle's license plate has been reported stolen before the theft of the fuel.

Subd. 3. **Sentence.** Whoever commits theft may be sentenced as follows:

(1) to imprisonment for not more than 20 years or to payment of a fine of not more than $100,000, or both, if the property is a firearm, or the value of the property or services stolen is more than $35,000 and the conviction is for a violation of subdivision 2, clause (3), (4), (15), or (16), or section 609.2335, subdivision 1, clause (1) or (2), item (i); or

(2) to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both, if the value of the property or services stolen exceeds $5,000, or if the property stolen was an article representing a trade secret, an explosive or incendiary device, or a controlled substance listed in Schedule I or II pursuant to section 152.02 with the exception of marijuana; or

(3) to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both, if any of the following circumstances exist:

(a) the value of the property or services stolen is more than $1,000 but not more than $5,000; or

(b) the property stolen was a controlled substance listed in Schedule III, IV, or V pursuant to section 152.02; or

(c) the value of the property or services stolen is more than $500 but not more than $1,000 and the person has been convicted within the preceding five years for an offense under this section, section 256.98; 268.182; 609.24; 609.245; 609.53; 609.582, subdivision 1, 2, or 3; 609.625; 609.63; 609.631; or 609.821, or a statute from another state, the United States, or a foreign jurisdiction, in conformity with any of those sections, and the person received a felony or gross misdemeanor sentence for the offense, or a sentence that was stayed under section 609.135 if the offense to which a plea was entered would allow imposition of a felony or gross misdemeanor sentence; or

(d) the value of the property or services stolen is not more than $1,000, and any of the following circumstances exist:

(i) the property is taken from the person of another or from a corpse, or grave or coffin containing a corpse; or

(ii) the property is a record of a court or officer, or a writing, instrument or record kept, filed or deposited according to law with or in the keeping of any public officer or office; or

(iii) the property is taken from a burning, abandoned, or vacant building or upon its removal therefrom, or from an area of destruction caused by civil disaster, riot, bombing, or the proximity of battle; or

(iv) the property consists of public funds belonging to the state or to any political subdivision or agency thereof; or

(v) the property stolen is a motor vehicle; or

(4) to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both, if the

value of the property or services stolen is more than $500 but not more than $1,000; or

(5) in all other cases where the value of the property or services stolen is $500 or less, to imprisonment for not more than 90 days or to payment of a fine of not more than $1,000, or both, provided, however, in any prosecution under subdivision 2, clauses (1), (2), (3), (4), and (13), the value of the money or property or services received by the defendant in violation of any one or more of the above provisions within any six-month period may be aggregated and the defendant charged accordingly in applying the provisions of this subdivision; provided that when two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the offenses was committed for all of the offenses aggregated under this paragraph.

Subd. 3a. **Enhanced penalty.** If a violation of this section creates a reasonably foreseeable risk of bodily harm to another, the penalties described in subdivision 3 are enhanced as follows:

(1) if the penalty is a misdemeanor or a gross misdemeanor, the person is guilty of a felony and may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than $5,000, or both; and

(2) if the penalty is a felony, the statutory maximum sentence for the offense is 50 percent longer than for the underlying crime.

Subd. 4. **Wrongfully obtained public assistance; consideration of disqualification.** When determining the sentence for a person convicted of theft by wrongfully obtaining public assistance, as defined in section 256.98, subdivision 1, the court shall consider the fact that, under section 256.98, subdivision 8, the person will be disqualified from receiving public assistance as a result of the person's conviction.

History: *1963 c 753 art 1 s 609.52; 1967 c 178 s 1; Ex1967 c 15 s 1-3; 1971 c 23 s 55; 1971 c 25 s 92; 1971 c 697 s 1; 1971 c 717 s 1; 1971 c 796 s 1; 1971 c 845 s 14; 1975 c 244 s 1; 1976 c 112 s 1; 1976 c 188 s 6; 1977 c 396 s 1; 1978 c 674 s 60; 1979 c 258 s 15; 1981 c 120 s 1; 1981 c 299 s 1; 1983 c 238 s 1; 1983 c 331 s 10; 1984 c 419 s 1; 1984 c 466 s 1; 1984 c 483 s 1; 1984 c 628 art 3 s 5; 1985 c 243 s 7,8; 1986 c 378 s 1; 1986 c 435 s 10; 1986 c 444; 1987 c 254 s 9; 1987 c 329 s 8-10; 1988 c 712 s 7; 1989 c 290 art 7 s 5; 1991 c 279 s 32; 1991 c 292 art 5 s 80; 1992 c 510 art 2 s 14; 1994 c 636 art 2 s 41; 1995 c 244 s 20; 1996 c 408 art 3 s 31,32; 1997 c 66 s 79; 1997 c 239 art 3 s 17; 1998 c 367 art 2 s 18; 1999 c 76 s 1,2; 1999 c 218 s 2; 2004 c 228 art 1 s 72; 2005 c 136 art 17 s 31; 2007 c 54 art 2 s 8,9; 2009 c 119 s 9; 2012 c 173 s 5,6*

2010 Minnesota Statutes

609.5317 REAL PROPERTY; SEIZURES.

Subdivision 1. **Rental property.** (a) When contraband or a controlled substance manufactured, distributed, or acquired in violation of chapter 152 is seized on residential rental property incident to a lawful search or arrest, the county attorney shall give the notice required by this subdivision to (1) the landlord of the property or the fee owner identified in the records of the county assessor, and (2) the agent authorized by the owner to accept service pursuant to section 504B.181. The notice is not required during an ongoing investigation. The notice shall state what has been seized and specify the applicable duties and penalties under this subdivision. The notice shall state that the landlord who chooses to assign the right to bring an eviction action retains all rights and duties, including removal of a tenant's personal property following issuance of the writ of restitution and delivery of the writ to the sheriff for execution. The notice shall also state that the landlord may contact the county attorney if threatened by the tenant. Notice shall be sent by certified letter, return receipt requested, within 30 days of the seizure. If receipt is not returned, notice shall be given in the manner provided by law for service of summons in a civil action.

(b) Within 15 days after notice of the first occurrence, the landlord shall bring, or assign to the county attorney of the county in which the real property is located, the right to bring an eviction action against the tenant. The assignment must be in writing on a form prepared by the county attorney. Should the landlord choose to assign the right to bring an eviction action, the assignment shall be limited to those rights and duties up to and including delivery of the writ of restitution to the sheriff for execution.

(c) Upon notice of a second occurrence on any residential rental property owned by the same landlord in the same county and involving the same tenant, and within one year after notice of the first occurrence, the property is subject to forfeiture under sections 609.531, 609.5311, 609.5313, and 609.5315, unless an eviction action has been commenced as provided in paragraph (b) or the right to bring an eviction action was assigned to the county attorney as provided in paragraph (b). If the right has been assigned and not previously exercised, or if the county attorney requests an assignment and the landlord makes an assignment, the county attorney may bring an eviction action rather than an action for forfeiture.

(d) The Department of Corrections Fugitive Apprehension Unit shall not seize real property for the purposes of forfeiture as described in paragraphs (a) to (c).

Subd. 2. **Additional remedies.** Nothing in subdivision 1 prevents the county attorney from proceeding under section 609.5311 whenever that section applies.

Subd. 3. **Defenses.** It is a defense against a proceeding under subdivision 1, paragraph (b), that the tenant had no knowledge or reason to know of the presence of the contraband or controlled substance or could not prevent its being brought onto the property.

It is a defense against a proceeding under subdivision 1, paragraph (c), that the landlord made every reasonable attempt to evict a tenant or to assign the county attorney the right to bring an eviction action against the tenant, or that the landlord did not receive notice of the seizure.

Subd. 4. **Limitations.** This section shall not apply if the retail value of the controlled substance is less than $100, but this section does not subject real property to forfeiture under section 609.5311 unless the retail value of the controlled substance is: (1) $1,000 or more; or (2) there have been two previous controlled substance seizures involving the same tenant.

2010 Minnesota Statutes

609.582 BURGLARY.

Subdivision 1. **Burglary in the first degree.** Whoever enters a building without consent and with intent to commit a crime, or enters a building without consent and commits a crime while in the building, either directly or as an accomplice, commits burglary in the first degree and may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than $35,000, or both, if:

(a) the building is a dwelling and another person, not an accomplice, is present in it when the burglar enters or at any time while the burglar is in the building;

(b) the burglar possesses, when entering or at any time while in the building, any of the following: a dangerous weapon, any article used or fashioned in a manner to lead the victim to reasonably believe it to be a dangerous weapon, or an explosive; or

(c) the burglar assaults a person within the building or on the building's appurtenant property.

Subd. 1a. **Mandatory minimum sentence for burglary of occupied dwelling.** A person convicted of committing burglary of an occupied dwelling, as defined in subdivision 1, clause (a), must be committed to the commissioner of corrections or county workhouse for not less than six months.

Subd. 2. **Burglary in the second degree.** (a) Whoever enters a building without consent and with intent to commit a crime, or enters a building without consent and commits a crime while in the building, either directly or as an accomplice, commits burglary in the second degree and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both, if:

(1) the building is a dwelling;

(2) the portion of the building entered contains a banking business or other business of receiving securities or other valuable papers for deposit or safekeeping and the entry is with force or threat of force;

(3) the portion of the building entered contains a pharmacy or other lawful business or practice in which controlled substances are routinely held or stored, and the entry is forcible; or

(4) when entering or while in the building, the burglar possesses a tool to gain access to money or property.

(b) Whoever enters a government building, religious establishment, historic property, or school building without consent and with intent to commit a crime under section 609.52 or 609.595, or enters a government building, religious establishment, historic property, or school building without consent and commits a crime under section 609.52 or 609.595 while in the building, either directly or as an accomplice, commits burglary in the second degree and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both.

Subd. 3. **Burglary in the third degree.** Whoever enters a building without consent and with intent to steal or commit any felony or gross misdemeanor while in the building, or enters a building without consent and steals or commits a felony or gross misdemeanor while in the building, either directly or as an accomplice, commits burglary in the third degree and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

Subd. 4. **Burglary in the fourth degree.** Whoever enters a building without consent and with intent to commit a misdemeanor other than to steal, or enters a building without consent and commits a misdemeanor other than to steal while in the building, either directly or as an accomplice, commits

burglary in the fourth degree and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

History: 1983 c 321 s 2*;* 1984 c 628 art 3 s 6*;* 1986 c 470 s 19*;* 1988 c 712 s 9-*12;* 1993 c 326 art 13 s 33*;* 1995 c 244 s 22*;* 1998 c 367 art 2 s 21*;* 2007 c 54 art 2 s 15

2010 Minnesota Statutes

609.595 DAMAGE TO PROPERTY.

Subdivision 1. **Criminal damage to property in the first degree.** Whoever intentionally causes damage to physical property of another without the latter's consent may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both, if:

(1) the damage to the property caused a reasonably foreseeable risk of bodily harm; or

(2) the property damaged belongs to a common carrier and the damage impairs the service to the public rendered by the carrier; or

(3) the damage reduces the value of the property by more than $1,000 measured by the cost of repair and replacement; or

(4) the damage reduces the value of the property by more than $500 measured by the cost of repair and replacement and the defendant has been convicted within the preceding three years of an offense under this subdivision or subdivision 2.

In any prosecution under clause (3), the value of any property damaged by the defendant in violation of that clause within any six-month period may be aggregated and the defendant charged accordingly in applying the provisions of this section; provided that when two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the offenses was committed for all of the offenses aggregated under this paragraph.

Subd. 1a. **Criminal damage to property in the second degree.** (a) Whoever intentionally causes damage described in subdivision 2, paragraph (a), because of the property owner's or another's actual or perceived race, color, religion, sex, sexual orientation, disability as defined in section 363A.03, age, or national origin is guilty of a felony and may be sentenced to imprisonment for not more than one year and a day or to payment of a fine of not more than $3,000, or both.

(b) In any prosecution under paragraph (a), the value of property damaged by the defendant in violation of that paragraph within any six-month period may be aggregated and the defendant charged accordingly in applying this section. When two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the offenses was committed for all of the offenses aggregated under this paragraph.

Subd. 2. **Criminal damage to property in the third degree.** (a) Except as otherwise provided in subdivision 1a, whoever intentionally causes damage to another person's physical property without the other person's consent may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both, if the damage reduces the value of the property by more than $500 but not more than $1,000 as measured by the cost of repair and replacement.

(b) Whoever intentionally causes damage to another person's physical property without the other person's consent because of the property owner's or another's actual or perceived race, color, religion, sex, sexual orientation, disability as defined in section 363A.03, age, or national origin may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both, if the damage reduces the value of the property by not more than $500.

(c) In any prosecution under paragraph (a), the value of property damaged by the defendant in violation of that paragraph within any six-month period may be aggregated and the defendant charged accordingly in applying this section. When two or more offenses are committed by the same person in

two or more counties, the accused may be prosecuted in any county in which one of the offenses was committed for all of the offenses aggregated under this paragraph.

Subd. 3. **Criminal damage to property in the fourth degree.** Whoever intentionally causes damage described in subdivision 2 under any other circumstances is guilty of a misdemeanor.

History: 1963 c 753 art 1 s 609.*595;* 1971 c 23 s 60*;* 1977 c 355 s 11*;* 1979 c 258 s 18*;* 1984 c 421 s 1*;* 1984 c 628 art 3 s 11*;* 1987 c 329 s 11*;* 1989 c 261 s 2-*4;* 2002 c 401 art 1 s 17*;* 2007 c 54 art 2 s 17,*18*

2010 Minnesota Statutes

609.605 TRESPASS.

Subdivision 1. **Misdemeanor.** (a) The following terms have the meanings given them for purposes of this section.

(1) "Premises" means real property and any appurtenant building or structure.

(2) "Dwelling" means the building or part of a building used by an individual as a place of residence on either a full-time or a part-time basis. A dwelling may be part of a multidwelling or multipurpose building, or a manufactured home as defined in section 168.002, subdivision 16.

(3) "Construction site" means the site of the construction, alteration, painting, or repair of a building or structure.

(4) "Owner or lawful possessor," as used in paragraph (b), clause (9), means the person on whose behalf a building or dwelling is being constructed, altered, painted, or repaired and the general contractor or subcontractor engaged in that work.

(5) "Posted," as used:

(i) in paragraph (b), clause (4), means the placement of a sign at least 8-1/2 inches by 11 inches in a conspicuous place on the exterior of the building, or in a conspicuous place within the property on which the building is located. The sign must carry a general notice warning against trespass;

(ii) in paragraph (b), clause (9), means the placement of a sign at least 8-1/2 inches by 11 inches in a conspicuous place on the exterior of the building that is under construction, alteration, or repair, or in a conspicuous place within the area being protected. If the area being protected is less than three acres, one additional sign must be conspicuously placed within that area. If the area being protected is three acres but less than ten acres, two additional signs must be conspicuously placed within that area. For each additional full ten acres of area being protected beyond the first ten acres of area, two additional signs must be conspicuously placed within the area being protected. The sign must carry a general notice warning against trespass; and

(iii) in paragraph (b), clause (10), means the placement of signs that:

(A) carry a general notice warning against trespass;

(B) display letters at least two inches high;

(C) state that Minnesota law prohibits trespassing on the property; and

(D) are posted in a conspicuous place and at intervals of 500 feet or less.

(6) "Business licensee," as used in paragraph (b), clause (9), includes a representative of a building trades labor or management organization.

(7) "Building" has the meaning given in section 609.581, subdivision 2.

(b) A person is guilty of a misdemeanor if the person intentionally:

(1) permits domestic animals or fowls under the actor's control to go on the land of another within a city;

(2) interferes unlawfully with a monument, sign, or pointer erected or marked to designate a point of a boundary, line or a political subdivision, or of a tract of land;

(3) trespasses on the premises of another and, without claim of right, refuses to depart from the premises on demand of the lawful possessor;

(4) occupies or enters the dwelling or locked or posted building of another, without claim of right or consent of the owner or the consent of one who has the right to give consent, except in an emergency situation;

(5) enters the premises of another with intent to take or injure any fruit, fruit trees, or vegetables growing on the premises, without the permission of the owner or occupant;

(6) enters or is found on the premises of a public or private cemetery without authorization during hours the cemetery is posted as closed to the public;

(7) returns to the property of another with the intent to abuse, disturb, or cause distress in or threaten another, after being told to leave the property and not to return, if the actor is without claim of right to the property or consent of one with authority to consent;

(8) returns to the property of another within one year after being told to leave the property and not to return, if the actor is without claim of right to the property or consent of one with authority to consent;

(9) enters the locked or posted construction site of another without the consent of the owner or lawful possessor, unless the person is a business licensee;

(10) enters the locked or posted aggregate mining site of another without the consent of the owner or lawful possessor, unless the person is a business licensee; or

(11) crosses into or enters any public or private area lawfully cordoned off by or at the direction of a peace officer engaged in the performance of official duties. As used in this clause: (i) an area may be "cordoned off" through the use of tape, barriers, or other means conspicuously placed and identifying the area as being restricted by a peace officer and identifying the responsible authority; and (ii) "peace officer" has the meaning given in section 626.84, subdivision 1. It is an affirmative defense to a charge under this clause that a peace officer permitted entry into the restricted area.

Subd. 2. **Gross misdemeanor.** Whoever trespasses upon the grounds of a facility providing emergency shelter services for battered women, as defined under section 611A.31, subdivision 3, or of a facility providing transitional housing for battered women and their children, without claim of right or consent of one who has right to give consent, and refuses to depart from the grounds of the facility on demand of one who has right to give consent, is guilty of a gross misdemeanor.

Subd. 3. [Repealed, 1993 c 326 art 2 s 34]

Subd. 4. **Trespasses on school property.** (a) It is a misdemeanor for a person to enter or be found in a public or nonpublic elementary, middle, or secondary school building unless the person:

(1) is an enrolled student in, a parent or guardian of an enrolled student in, or an employee of the school or school district;

(2) has permission or an invitation from a school official to be in the building;

(3) is attending a school event, class, or meeting to which the person, the public, or a student's family is invited; or

(4) has reported the person's presence in the school building in the manner required for visitors to the school.

(b) It is a misdemeanor for a person to be on the roof of a public or nonpublic elementary, middle, or secondary school building unless the person has permission from a school official to be on the roof of the building.

(c) It is a gross misdemeanor for a group of three or more persons to enter or be found in a public or nonpublic elementary, middle, or secondary school building unless one of the persons:

(1) is an enrolled student in, a parent or guardian of an enrolled student in, or an employee of the school or school district;

(2) has permission or an invitation from a school official to be in the building;

(3) is attending a school event, class, or meeting to which the person, the public, or a student's family is invited; or

(4) has reported the person's presence in the school building in the manner required for visitors to the school.

(d) It is a misdemeanor for a person to enter or be found on school property within one year after being told by the school principal or the principal's designee to leave the property and not to return, unless the principal or the principal's designee has given the person permission to return to the property. As used in this paragraph, "school property" has the meaning given in section 152.01, subdivision 14a, clauses (1) and (3).

(e) A school principal or a school employee designated by the school principal to maintain order on school property, who has reasonable cause to believe that a person is violating this subdivision may detain the person in a reasonable manner for a reasonable period of time pending the arrival of a peace officer. A school principal or designated school employee is not civilly or criminally liable for any action authorized under this paragraph if the person's action is based on reasonable cause.

(f) A peace officer may arrest a person without a warrant if the officer has probable cause to believe the person violated this subdivision within the preceding four hours. The arrest may be made even though the violation did not occur in the peace officer's presence.

Subd. 5. **Certain trespass on agricultural land.** (a) A person is guilty of a gross misdemeanor if the person enters the posted premises of another on which cattle, bison, sheep, goats, swine, horses, poultry, farmed cervidae, farmed ratitae, aquaculture stock, or other species of domestic animals for commercial production are kept, without the consent of the owner or lawful occupant of the land.

(b) "Domestic animal," for purposes of this section, has the meaning given in section 609.599.

(c) "Posted," as used in paragraph (a), means the placement of a sign at least 11 inches square in a conspicuous place at each roadway entry to the premises. The sign must provide notice of a biosecurity area and wording such as: "Biosecurity measures are in force. No entrance beyond this point without authorization." The sign may also contain a telephone number or a location for obtaining such authorization.

(d) The provisions of this subdivision do not apply to employees or agents of the state or county when serving in a regulatory capacity and conducting an inspection on posted premises where domestic animals are kept.

History: 1963 c 753 art 1 s 609.*605;* 1971 c 23 s 62*;* 1973 c 123 art 5 s 7*;* 1976 c 251 s 1*;* 1978 c 512 s 1*;* 1981 c 365 s 9*;* 1982 c 408 s 2*;* 1985 c 159 s 2*;* 1986 c 444*;* 1987 c 307 s 3*;* 1989 c 5 s 9*;* 1989 c 261 s 5*;* 1990 c 426 art 1 s 54*;* 1993 c 326 art 1 s 14*; art 2 s 13; art 4 s 32;* 1993 c 366 s 13*;* 1994 c

2010 Minnesota Statutes

609.606 UNLAWFUL OUSTER OR EXCLUSION.

A landlord, agent of the landlord, or person acting under the landlord's direction or control who unlawfully and intentionally removes or excludes a tenant from lands or tenements or intentionally interrupts or causes the interruption of electrical, heat, gas, or water services to the tenant with intent to unlawfully remove or exclude the tenant from lands or tenements is guilty of a misdemeanor.

History: 1992 c 376 art 1 s 16

2010 Minnesota Statutes

609.74 PUBLIC NUISANCE.

Whoever by an act or failure to perform a legal duty intentionally does any of the following is guilty of maintaining a public nuisance, which is a misdemeanor:

(1) maintains or permits a condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort, or repose of any considerable number of members of the public; or

(2) interferes with, obstructs, or renders dangerous for passage, any public highway or right-of-way, or waters used by the public; or

(3) is guilty of any other act or omission declared by law to be a public nuisance and for which no sentence is specifically provided.

History: 1963 c 753 art 1 s 609.*74;* 1971 c 23 s 74*; 1986 c 444*

2010 Minnesota Statutes

609.746 INTERFERENCE WITH PRIVACY.

Subdivision 1. **Surreptitious intrusion; observation device.** (a) A person is guilty of a gross misdemeanor who:

(1) enters upon another's property;

(2) surreptitiously gazes, stares, or peeps in the window or any other aperture of a house or place of dwelling of another; and

(3) does so with intent to intrude upon or interfere with the privacy of a member of the household.

(b) A person is guilty of a gross misdemeanor who:

(1) enters upon another's property;

(2) surreptitiously installs or uses any device for observing, photographing, recording, amplifying, or broadcasting sounds or events through the window or any other aperture of a house or place of dwelling of another; and

(3) does so with intent to intrude upon or interfere with the privacy of a member of the household.

(c) A person is guilty of a gross misdemeanor who:

(1) surreptitiously gazes, stares, or peeps in the window or other aperture of a sleeping room in a hotel, as defined in section 327.70, subdivision 3, a tanning booth, or other place where a reasonable person would have an expectation of privacy and has exposed or is likely to expose their intimate parts, as defined in section 609.341, subdivision 5, or the clothing covering the immediate area of the intimate parts; and

(2) does so with intent to intrude upon or interfere with the privacy of the occupant.

(d) A person is guilty of a gross misdemeanor who:

(1) surreptitiously installs or uses any device for observing, photographing, recording, amplifying, or broadcasting sounds or events through the window or other aperture of a sleeping room in a hotel, as defined in section 327.70, subdivision 3, a tanning booth, or other place where a reasonable person would have an expectation of privacy and has exposed or is likely to expose their intimate parts, as defined in section 609.341, subdivision 5, or the clothing covering the immediate area of the intimate parts; and

(2) does so with intent to intrude upon or interfere with the privacy of the occupant.

(e) A person is guilty of a felony and may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than $5,000, or both, if the person:

(1) violates this subdivision after a previous conviction under this subdivision or section 609.749; or

(2) violates this subdivision against a minor under the age of 18, knowing or having reason to know that the minor is present.

(f) Paragraphs (b) and (d) do not apply to law enforcement officers or corrections investigators, or to those acting under their direction, while engaged in the performance of their lawful duties. Paragraphs (c) and (d) do not apply to conduct in: (1) a medical facility; or (2) a commercial establishment if the owner of the establishment has posted conspicuous signs warning that the premises are under

surveillance by the owner or the owner's employees.

Subd. 2. [Repealed, 1993 c 326 art 2 s 34]

Subd. 3. [Repealed, 1993 c 326 art 2 s 34]

History: 1979 c 258 s 19*;* 1987 c 307 s 4*;* 1989 c 261 s 6*;* 1992 c 571 art 6 s 14*;* 1994 c 636 art 2 s 47*;* 1995 c 226 art 2 s 22*;* 1997 c 239 art 5 s 11*;* 2005 c 136 art 17 s 43

Minn. Stat. § 609.748 (2013)

2013 Minn. Laws ch. 47, s. 4 amended Minnesota Statutes section 609.748 to read in its entirety as follows.

609.748 HARASSMENT; RESTRAINING ORDER.

Subdivision 1. **Definition**. For the purposes of this section, the following terms have the meanings given them in this subdivision.

(a) "Harassment" includes:

(1) a single incident of physical or sexual assault or repeated incidents of intrusive or unwanted acts, words, or gestures that have a substantial adverse effect or are intended to have a substantial adverse effect on the safety, security, or privacy of another, regardless of the relationship between the actor and the intended target;

(2) targeted residential picketing; and

(3) a pattern of attending public events after being notified that the actor's presence at the event is harassing to another.

(b) "Respondent" includes any adults or juveniles alleged to have engaged in harassment or organizations alleged to have sponsored or promoted harassment.

(c) "Targeted residential picketing" includes the following acts when committed on more than one occasion:

(1) marching, standing, or patrolling by one or more persons directed solely at a particular residential building in a manner that adversely affects the safety, security, or privacy of an occupant of the building; or

(2) marching, standing, or patrolling by one or more persons which prevents an occupant of a residential building from gaining access to or exiting from the property on which the residential building is located.

Subd. 2. **Restraining order; court jurisdiction**. A person who is a victim of harassment may seek a restraining order from the district court in the manner provided in this section. The parent, guardian, or stepparent of a minor who is a victim of harassment may seek a restraining order from the district court on behalf of the minor. An application for relief under this section may be filed in the county of residence of either party or in the county in which the alleged harassment occurred. There are no residency requirements that apply to a petition for a harassment restraining order.

Subd. 3. **Contents of petition; hearing; notice**. (a) A petition for relief must allege facts

sufficient to show the following:

(1) the name of the alleged harassment victim;

(2) the name of the respondent; and

(3) that the respondent has engaged in harassment.

A petition for relief must state whether the petitioner has had a previous restraining order in effect against the respondent. The petition shall be accompanied by an affidavit made under oath stating the specific facts and circumstances from which relief is sought. The court shall provide simplified forms and clerical assistance to help with the writing and filing of a petition under this section and shall advise the petitioner of the right to sue in forma pauperis under section 563.01. The court shall advise the petitioner of the right to request a hearing. If the petitioner does not request a hearing, the court shall advise the petitioner that the respondent may request a hearing and that notice of the hearing date and time will be provided to the petitioner by mail at least five days before the hearing. Upon receipt of the petition and a request for a hearing by the petitioner, the court shall order a hearing. Personal service must be made upon the respondent not less than five days before the hearing. If personal service cannot be completed in time to give the respondent the minimum notice required under this paragraph, the court may set a new hearing date. Nothing in this section shall be construed as requiring a hearing on a matter that has no merit.

(b) Notwithstanding paragraph (a), the order for a hearing and a temporary order issued under subdivision 4 may be served on the respondent by means of a one-week published notice under section 645.11, if:

(1) the petitioner files an affidavit with the court stating that an attempt at personal service made by a sheriff was unsuccessful because the respondent is avoiding service by concealment or otherwise; and

(2) a copy of the petition and order for hearing and any temporary restraining order has been mailed to the respondent at the respondent's residence or place of business, if the respondent is an organization, or the respondent's residence or place of business is not known to the petitioner.

(c) Regardless of the method of service, if the respondent is a juvenile, whenever possible, the court also shall have notice of the pendency of the case and of the time and place of the hearing served by mail at the last known address upon any parent or guardian of the juvenile respondent who is not the petitioner.

(d) A request for a hearing under this subdivision must be made within 45 days of the filing or receipt of the petition.

Subd. 3a. **Filing fee; cost of service**. The filing fees for a restraining order under this section are waived for the petitioner if the petition alleges acts that would constitute a violation of section

609.749, subdivision 2, 3, 4, or 5, or sections 609.342 to 609.3451. The court administrator and the sheriff of any county in this state shall perform their duties relating to service of process without charge to the petitioner. The court shall direct payment of the reasonable costs of service of process if served by a private process server when the sheriff is unavailable or if service is made by publication. The court may direct a respondent to pay to the court administrator the petitioner's filing fees and reasonable costs of service of process if the court determines that the respondent has the ability to pay the petitioner's fees and costs.

Subd. 4. **Temporary restraining order; relief by court**. (a) The court may issue a temporary restraining order that provides any or all of the following:

(1) orders the respondent to cease or avoid the harassment of another person; or

(2) orders the respondent to have no contact with another person.

(b) The court may issue an order under paragraph (a) if the petitioner files a petition in compliance with subdivision 3 and if the court finds reasonable grounds to believe that the respondent has engaged in harassment. When a petition alleges harassment as defined by subdivision 1, paragraph (a), clause (1), the petition must further allege an immediate and present danger of harassment before the court may issue a temporary restraining order under this section. When signed by a referee, the temporary order becomes effective upon the referee's signature.

(c) Notice need not be given to the respondent before the court issues a temporary restraining order under this subdivision. A copy of the restraining order must be served on the respondent along with the order for hearing and petition, as provided in subdivision 3. If the respondent is a juvenile, whenever possible, a copy of the restraining order, along with notice of the pendency of the case and the time and place of the hearing, shall also be served by mail at the last known address upon any parent or guardian of the juvenile respondent who is not the petitioner. A temporary restraining order may be entered only against the respondent named in the petition.

(d) The temporary restraining order is in effect until a hearing is held on the issuance of a restraining order under subdivision 5. The court shall hold the hearing on the issuance of a restraining order if the petitioner requests a hearing. The hearing may be continued by the court upon a showing that the respondent has not been served with a copy of the temporary restraining order despite the exercise of due diligence or if service is made by published notice under subdivision 3 and the petitioner files the affidavit required under that subdivision.

(e) If the temporary restraining order has been issued and the respondent requests a hearing, the hearing shall be scheduled by the court upon receipt of the respondent's request. Service of the notice of hearing must be made upon the petitioner not less than five days prior to the hearing. The court shall serve the notice of the hearing upon the petitioner by mail in the manner provided in the Rules of Civil Procedure for pleadings subsequent to a complaint and motions and shall also mail notice of the date and time of the hearing to the respondent. In the event that service cannot be completed in time to give the respondent or petitioner the minimum notice required under this subdivision, the court may set a new hearing date.

(f) A request for a hearing under this subdivision must be made within 45 days after the temporary restraining order is issued.

Subd. 5. **Restraining order**. (a) The court may issue a restraining order that provides any or all of the following:

(1) orders the respondent to cease or avoid the harassment of another person; or

(2) orders the respondent to have no contact with another person.

(b) The court may issue an order under paragraph (a) if all of the following occur:

(1) the petitioner has filed a petition under subdivision 3;

(2) the sheriff has served respondent with a copy of the temporary restraining order obtained under subdivision 4, and with notice of the right to request a hearing, or service has been made by publication under subdivision 3, paragraph (b); and

(3) the court finds at the hearing that there are reasonable grounds to believe that the respondent has engaged in harassment.

A restraining order may be issued only against the respondent named in the petition; except that if the respondent is an organization, the order may be issued against and apply to all of the members of the organization. If the court finds that the petitioner has had two or more previous restraining orders in effect against the same respondent or the respondent has violated a prior or existing restraining order on two or more occasions, relief granted by the restraining order may be for a period of up to 50 years. In all other cases, relief granted by the restraining order must be for a fixed period of not more than two years. When a referee presides at the hearing on the petition, the restraining order becomes effective upon the referee's signature.

(c) An order issued under this subdivision must be personally served upon the respondent.

(d) If the court orders relief for a period of up to 50 years under paragraph (a), the respondent named in the restraining order may request to have the restraining order vacated or modified if the order has been in effect for at least five years and the respondent has not violated the order. Application for relief under this paragraph must be made in the county in which the restraining order was issued. Upon receipt of the request, the court shall set a hearing date. Personal service must be made upon the petitioner named in the restraining order not less than 30 days before the date of the hearing. At the hearing, the respondent named in the restraining order has the burden of proving by a preponderance of the evidence that there has been a material change in circumstances and that the reasons upon which the court relied in granting the restraining order no longer apply and are unlikely to occur. If the court finds that the respondent named in the restraining order has met the burden of proof, the court may vacate or modify the order. If the court finds that the respondent named in the restraining order has not met the burden of proof, the court shall deny the request and no request may be made to vacate or modify the restraining order until five years have

elapsed from the date of denial. An order vacated or modified under this paragraph must be personally served on the petitioner named in the restraining order.

Subd. 6. **Violation of restraining order.** (a) A person who violates a restraining order issued under this section is subject to the penalties provided in paragraphs (b) to (d).

(b) Except as otherwise provided in paragraphs (c) and (d), when a temporary restraining order or a restraining order is granted under this section and the respondent knows of the order, violation of the order is a misdemeanor.

(c) A person is guilty of a gross misdemeanor who violates the order within ten years of a previous qualified domestic violence-related offense conviction or adjudication of delinquency.

(d) A person is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both, if the person violates the order:

(1) within ten years of the first of two or more previous qualified domestic violence-related offense convictions or adjudications of delinquency;

(2) because of the victim's or another's actual or perceived race, color, religion, sex, sexual orientation, disability as defined in section 363A.03, age, or national origin;

(3) by falsely impersonating another;

(4) while possessing a dangerous weapon;

(5) with an intent to influence or otherwise tamper with a juror or a judicial proceeding or with intent to retaliate against a judicial officer, as defined in section 609.415, or a prosecutor, defense attorney, or officer of the court, because of that person's performance of official duties in connection with a judicial proceeding; or

(6) against a victim under the age of 18, if the respondent is more than 36 months older than the victim.

(e) A person who commits violations in two or more counties may be prosecuted in any county in which one of the acts was committed for all acts in violation of this section.

(f) A person may be prosecuted at the place where any call is made or received or, in the case of wireless or electronic communication or any communication made through any available technologies, where the actor or victim resides, or in the jurisdiction of the victim's designated address if the victim participates in the address confidentiality program established under chapter 5B.

(g) A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order issued under subdivision 4 or 5 if

the existence of the order can be verified by the officer.

(h) A violation of a temporary restraining order or restraining order shall also constitute contempt of court.

(i) Upon the filing of an affidavit by the petitioner, any peace officer, or an interested party designated by the court, alleging that the respondent has violated an order issued under subdivision 4 or 5, the court may issue an order to the respondent requiring the respondent to appear within 14 days and show cause why the respondent should not be held in contempt of court. The court also shall refer the violation of the order to the appropriate prosecuting authority for possible prosecution under paragraph (b), (c), or (d).

Subd. 7. **Copy to law enforcement agency**. An order granted under this section shall be forwarded by the court administrator within 24 hours to the local law enforcement agency with jurisdiction over the residence of the applicant. Each appropriate law enforcement agency shall make available to other law enforcement officers through a system for verification, information as to the existence and status of any order issued under this section.

Subd. 8. **Notice**. (a) An order granted under this section must contain a conspicuous notice to the respondent:

(1) of the specific conduct that will constitute a violation of the order;

(2) that violation of an order is either (i) a misdemeanor punishable by imprisonment for up to 90 days or a fine of up to $1,000, or both, (ii) a gross misdemeanor punishable by imprisonment for up to one year or a fine of up to $3,000, or both, or (iii) a felony punishable by imprisonment for up to five years or a fine of up to $10,000, or both; and

(3) that a peace officer must arrest without warrant and take into custody a person if the peace officer has probable cause to believe the person has violated a restraining order.

(b) If the court grants relief for a period of up to 50 years under subdivision 5, the order must also contain a conspicuous notice to the respondent that the respondent must wait five years to seek a modification of the order.

Subd. 9. **Effect on local ordinances**. Nothing in this section shall supersede or preclude the continuation or adoption of any local ordinance which applies to a broader scope of targeted residential picketing conduct than that described in subdivision 1.

Subd. 10. **Prohibition against employer retaliation**. (a) An employer shall not discharge, discipline, threaten, otherwise discriminate against, or penalize an employee regarding the employee's compensation, terms, conditions, location, or privileges of employment, because the employee took reasonable time off from work to obtain or attempt to obtain relief under this section. Except in cases of imminent danger to the health or safety of the employee or the employee's child, or unless impracticable, an employee who is absent from the workplace shall give

48 hours' advance notice to the employer. Upon request of the employer, the employee shall provide verification that supports the employee's reason for being absent from the workplace. All information related to the employee's leave pursuant to this section shall be kept confidential by the employer.

(b) An employer who violates paragraph (a) is guilty of a misdemeanor and may be punished for contempt of court. In addition, the court shall order the employer to pay back wages and offer job reinstatement to any employee discharged from employment in violation of paragraph (a).

(c) In addition to any remedies otherwise provided by law, an employee injured by a violation of paragraph (a) may bring a civil action for recovery of damages, together with costs and disbursements, including reasonable attorneys fees, and may receive such injunctive and other equitable relief, including reinstatement, as determined by the court.

only the portion of the building within or outside the structure in which a nuisance is maintained or permitted, such as a dwelling unit, room, suite of rooms, office, common area, storage area, garage, or parking area.

Subd. 3. **Movable property.** "Movable property" means furniture and fixtures.

Subd. 4. **Prostitution; prostitution-related activity.** "Prostitution" or "prostitution-related activity" means conduct that would violate sections 609.321 to 609.324.

Subd. 5. **Gambling; gambling-related activity.** "Gambling" or "gambling-related activity" means conduct that would violate sections 609.75 to 609.762.

Subd. 6. [Repealed, 1997 c 100 s 5]

Subd. 7. **Owner.** "Owner," for purposes of sections 617.80 to 617.87, means a person having legal title to the premises, a mortgagee or vendee in possession, a trustee in bankruptcy, a receiver, or any other person having legal ownership or control of the premises.

Subd. 7a. **Occupant.** "Occupant" means a person who occupies or resides in a building or rental unit with the permission of the owner or a tenant or lessee.

Subd. 8. **Interested party.** "Interested party," for purposes of sections 617.80 to 617.87, means any known lessee or tenant of a building or affected portion of a building; any known agent of an owner, lessee, or tenant; or any other person who maintains or permits a nuisance and is known to the city attorney, county attorney, or attorney general.

Subd. 9. **Prosecuting attorney.** "Prosecuting attorney" means the attorney general, county attorney, city attorney, or attorney serving the jurisdiction where the nuisance is located.

History: 1987 c 283 s 1*;* 1991 c 193 s 5*;* 1995 c 244 s 26-*30;* 2009 c 123 s 15,*16*

617.81 NUISANCE; ACTS CONSTITUTING; INJUNCTION; NOTICE.

Subdivision 1. **Injunction.** In order to obtain a temporary injunction under section 617.82 or a permanent injunction or order of abatement under section 617.83, the provisions of sections 617.80 to 617.87 must be followed.

Subd. 2. **Acts constituting a nuisance.** (a) For purposes of sections 617.80 to 617.87, a public nuisance exists (1) upon proof of one or more separate behavioral incidents described in item (i), (v), (viii), or (ix), or (2) upon proof of two or more separate behavioral incidents described in item (ii), (iii), (iv), (vi), (vii), or (x), committed within the previous 12 months within the building:

(i) prostitution or prostitution-related activity committed within the building;

(ii) gambling or gambling-related activity committed within the building;

(iii) maintaining a public nuisance in violation of section 609.74, clause (1) or (3);

(iv) permitting a public nuisance in violation of section 609.745;

(v) unlawful sale, possession, storage, delivery, giving, manufacture, cultivation, or use of controlled substances committed within the building;

(vi) unlicensed sales of alcoholic beverages committed within the building in violation of section 340A.401;

(vii) unlawful sales or gifts of alcoholic beverages by an unlicensed person committed within the building in violation of section 340A.503, subdivision 2, clause (1);

(viii) unlawful sales or gifts of alcoholic beverages committed within the building in violation of

section 340A.401 or 340A.503, subdivision 2, clause (1), if multiple violations occur during the same behavioral incident when the building is not occupied by the owner or a tenant, lessee, or occupant;

(ix) unlawful use or possession of a dangerous weapon as defined in section 609.02, subdivision 6, committed within the building; or

(x) violation by a commercial enterprise of local or state business licensing regulations, ordinances, or statutes prohibiting the maintenance of a public nuisance as defined in section 609.74 or the control of a public nuisance as defined in section 609.745.

(b) If the building contains more than one rental unit, two or more behavioral incidents must consist of conduct:

(1) anywhere in the building by the same tenant, lessee, occupant, or persons acting in conjunction with or under the control of the same tenant, lessee, or occupant;

(2) by any persons within the same rental unit while occupied by the same tenant, lessee, or occupant, or within two or more rental units while occupied by the same tenant, lessee, or occupant; or

(3) by the owner of the building or persons acting in conjunction with or under the control of the owner.

(c) Proof of a nuisance exists if each of the elements of the conduct constituting the nuisance is established by clear and convincing evidence.

Subd. 2a. [Repealed, 1995 c 244 s 42]

Subd. 3. [Repealed, 1995 c 244 s 42]

Subd. 4. **Notice.** (a) If a prosecuting attorney has reason to believe that a nuisance is maintained or permitted in the jurisdiction the prosecuting attorney serves, and intends to seek abatement of the nuisance, the prosecuting attorney shall provide the written notice described in paragraph (b), by personal service or certified mail, return receipt requested, to all owners and interested parties known to the prosecuting attorney.

(b) The written notice must:

(1) state that a nuisance as defined in subdivision 2 is maintained or permitted in the building and must specify the kind or kinds of nuisance being maintained or permitted;

(2) summarize the evidence that a nuisance is maintained or permitted in the building, including the date or dates on which nuisance-related activity or activities are alleged to have occurred;

(3) inform the recipient that failure to abate the conduct constituting the nuisance or to otherwise resolve the matter with the prosecuting attorney within 30 days of service of the notice may result in the filing of a complaint for relief in district court that could, among other remedies, result in enjoining the use of the building for any purpose for one year or, in the case of a tenant, lessee, or occupant, could result in cancellation of the lease; and

(4) inform the owner of the options available under section 617.85.

History: 1987 c 283 s 2*;* 1989 c 112 s 1*;* 1991 c 193 s 6-*8;* 1995 c 244 s 31,*32;* 1996 c 322 s 1*;* 1997 c 100 s 1*;* 1997 c 122 s 1*;* 2005 c 136 art 7 s 17*;* 2008 c 218 s 1*;* 2009 c 123 s 17,*18*

617.82 AGREED ABATEMENT PLANS; TEMPORARY ORDER.

(a) If the recipient of a notice under section 617.81, subdivision 4, either abates the conduct constituting

the nuisance or enters into an agreed abatement plan within 30 days of service of the notice and complies with the agreement within the stipulated time period, the prosecuting attorney may not file a nuisance action on the specified property regarding the nuisance activity described in the notice.

(b) If the recipient fails to comply with the agreed abatement plan, the prosecuting attorney may initiate a complaint for relief in the district court consistent with paragraph (c).

(c) Whenever a prosecuting attorney has cause to believe that a nuisance described in section 617.81, subdivision 2, exists within the jurisdiction the attorney serves, the prosecuting attorney may by verified petition seek a temporary injunction in district court in the county in which the alleged public nuisance exists, provided that at least 30 days have expired since service of the notice required under section 617.81, subdivision 4. No temporary injunction may be issued without a prior show cause notice of hearing to the respondents named in the petition and an opportunity for the respondents to be heard. Upon proof of a nuisance described in section 617.81, subdivision 2, the court shall issue a temporary injunction. Any temporary injunction issued must describe the conduct to be enjoined.

History: 1987 c 283 s 3*;* 1995 c 244 s 33*;* 1997 c 100 s 2*;* 1997 c 239 art 12 s 9

617.83 INJUNCTION; ORDER OF ABATEMENT.

Upon proof of a nuisance described in section 617.81, subdivision 2, the court shall issue a permanent injunction and enter an order of abatement, except as otherwise provided by section 617.85. The permanent injunction must describe the conduct permanently enjoined. The order of abatement must direct the closing of the building or a portion of it for one year, except as otherwise provided in section 617.84 or 617.85, unless sooner released pursuant to section 617.87. Before an abatement order is enforced against a building or portion of it, the owner must be served with the abatement order and a notice of the right to file a motion under section 617.85 in the same manner that a summons is served under the Rules of Civil Procedure. A copy of the abatement order shall also be posted in a conspicuous place on the building or affected portion.

History: 1987 c 283 s 4*;* 1997 c 100 s 3

617.84 MOVABLE PROPERTY.

The order of abatement may direct the removal of movable property used in conducting or maintaining the nuisance and direct the sale of property belonging to a respondent who was notified or appeared. The sale shall be conducted pursuant to the provisions of chapter 550 on the sale of property on execution. A person appointed by the court as receiver of the building may use a building or portion of it which is the subject of an abatement order in a manner approved by the court. Costs of the sale on execution, moving and storage fees, and any receivership must be paid out of the receipts from the sale of the movable property or any rents collected during the receivership. The balance from the sale of movable property must be paid to the owner of the property. The balance from any rents collected during any receivership shall be paid to the treasury of the unit of government which brought the abatement action.

History: 1987 c 283 s 5

617.85 NUISANCE; MOTION TO CANCEL LEASE.

Where notice is provided under section 617.81, subdivision 4, that an abatement of a nuisance is sought and the circumstances that are the basis for the requested abatement involved the acts of a commercial or residential tenant or lessee of part or all of a building, the owner of the building that is subject to the

abatement proceeding may file before the court that has jurisdiction over the abatement proceeding a motion to cancel the lease or otherwise secure restitution of the premises from the tenant or lessee who has maintained or conducted the nuisance. The owner may assign to the prosecuting attorney the right to file this motion. In addition to the grounds provided in chapter 566, the maintaining or conducting of a nuisance as defined in section 617.81, subdivision 2, by a tenant or lessee, is an additional ground authorized by law for seeking the cancellation of a lease or the restitution of the premises. Service of motion brought under this section must be served in a manner that is sufficient under the Rules of Civil Procedure and chapter 566.

It is no defense to a motion under this section by the owner or the prosecuting attorney that the lease or other agreement controlling the tenancy or leasehold does not provide for eviction or cancellation of the lease upon the ground provided in this section.

Upon a finding by the court that the tenant or lessee has maintained or conducted a nuisance in any portion of the building, the court shall order cancellation of the lease or tenancy and grant restitution of the premises to the owner. The court must not order abatement of the premises if the court:

(1) cancels a lease or tenancy and grants restitution of that portion of the premises to the owner; and

(2) further finds that the act or acts constituting the nuisance as defined in section 617.81, subdivision 2, were committed by the tenant or lessee whose lease or tenancy has been canceled pursuant to this section and the tenant or lessee was not committing the act or acts in conjunction with or under the control of the owner.

History: 1987 c 283 s 6*;* 1995 c 244 s 34*;* 1997 c 100 s 4*;* 1997 c 239 art 12 s 10*;* 2005 c 136 art 7 s 18

617.86 CONTEMPT.

Whoever violates a temporary injunction, permanent injunction, or abatement order granted under sections 617.80 to 617.87 may be adjudged in contempt of court.

History: 1987 c 283 s 7

617.87 RELEASE OF PROPERTY.

If, after an order of abatement has been entered, the owner appears and pays the costs of the action and files a bond in an amount determined by the court, but not to exceed $50,000, conditioned that the owner will immediately abate the nuisance for a period of one year, the court may, if satisfied of the owner's good faith, order the release of the building or portion of it which is subject to the order of abatement. If the premises are released, for each day during the term of the bond that the owner knowingly permits any part of the premises to be used for any activity which was the basis of the abatement order, the owner shall forfeit $1,000 under the bond. Forfeiture under the bond does not relieve the owner from prosecution for contempt. Release of the property pursuant to this section does not release it from an injunction issued under section 617.83 or any other judgment, penalty, lien, or liability to which it may be subject by law.

History: 1987 c 283 s 8

617.88 [Repealed, 1996 c 453 s 3]

617.89 [Repealed, 1996 c 453 s 3]

617.90 GRAFFITI DAMAGE ACTION.

Subdivision 1. **Definition.** For purposes of this section, "graffiti" means unauthorized markings of paint, dye, or other similar substance that have been placed on real or personal property such as buildings, fences, transportation equipment, or other structures, or the unauthorized etching or scratching of the surfaces of such real or personal property, any of which markings, scratchings, or etchings are visible from premises open to the public.

Subd. 2. **Cause of action.** An action for damage to property caused by graffiti may be brought by the owner of public or private property on which graffiti has been placed. Damages may be recovered for three times the cost of restoring the property, or the court may order a defendant to perform the work of restoring the property. Damages may be recovered from an individual who placed graffiti on public or private real or personal property or from the parent of a minor individual. The liability of the parent is limited to the amount specified in section 540.18. The court may award attorney fees and costs to a prevailing plaintiff.

History: 2004 c 149 s 1

617.91 DEFINITIONS.

Subdivision 1. **General.** The definitions in this section apply to sections 617.91 to 617.97.

Subd. 2. **Continuously or regularly.** "Continuously or regularly" means at least three separate incidents or occurrences in a period of not more than 12 months.

Subd. 3. **Criminal gang.** "Criminal gang" has the meaning given in section 609.229.

Subd. 4. **Gang activity.** "Gang activity" means the commission of one or more of the offenses listed in section 609.11, subdivision 9; criminal damage to property in the first or second degree under section 609.595, subdivision 1 or 1a; trespass under section 609.605; or disorderly conduct under section 609.72.

Subd. 5. **Place.** "Place" means:

(1) a structure suitable for human shelter, a commercial structure that is maintained for business activities, a portion of the structure, or the land surrounding the structure that is under the control of the person who owns or is responsible for maintaining the structure. If the place is a multiunit dwelling, a hotel or motel, or a commercial or office building, "place" means only the portion of the place in which a public nuisance is maintained or permitted, including a dwelling unit, room, suite of rooms, office, common area, storage area, garage, parking area, or the land surrounding the place that is under the control of the person who owns or is responsible for maintaining the structure; or

(2) a parcel of land that does not include a structure and is under the control of the person who owns or is responsible for maintaining the land.

History: 2007 c 150 s 1

617.92 PUBLIC NUISANCE.

Subdivision 1. **Gang activities.** A criminal gang that continuously or regularly engages in gang activities is a public nuisance.

Subd. 2. **Use of place.** The continuous or regular use of a place by a lessee or tenant to engage in or allow gang activity by a criminal gang that is knowingly permitted by the owner or a person who is responsible for maintaining the place on behalf of the owner is a public nuisance.

History: 2007 c 150 s 2

617.93 SUIT TO ABATE NUISANCE.

(a) A county or city attorney or the attorney general may sue to enjoin a public nuisance under sections 617.91 to 617.97.

(b) A person who continuously or regularly engages in gang activity as a member of a criminal gang may be made a defendant in a suit.

(c) If the public nuisance involves the use of a place as provided in section 617.92, subdivision 2, the owner or a person who is responsible for maintaining the place on behalf of the owner may be made a defendant in the suit pursuant to the procedures applicable to owners under sections 617.81 to 617.87.

History: 2007 c 150 s 3

617.94 COURT ORDER.

(a) If the court finds, by a preponderance of the evidence, that a criminal gang constitutes a public nuisance, the court may enter a temporary or permanent order:

(1) enjoining a defendant in the suit from engaging in the gang activities; and

(2) imposing other reasonable requirements to prevent the defendant from engaging in future gang activities.

(b) "Reasonable requirement" as specified in paragraph (a), clause (2), means an injunctive limitation on gang behavior and social interaction that reduces the opportunity for gang activity. The court in imposing reasonable requirements must balance state interests in public safety against constitutional freedoms.

(c) If the court finds, by a preponderance of the evidence, that a place is continuously or regularly used in a manner that constitutes a public nuisance, the court may include in its order reasonable requirements to prevent the use of the place for gang activity. This may include cancellation of any applicable lease pursuant to the procedures in section 617.85 that may involve any tenant or lessee who has maintained or conducted the public nuisance, or other reasonable requirements established in the order.

History: 2007 c 150 s 4

617.95 VIOLATION OF COURT ORDER; FINE AND CRIMINAL PENALTY.

Subdivision 1. **Fine for civil contempt.** A person who violates a temporary or permanent injunctive order issued under section 617.94 is subject to a fine for civil contempt of not less than $1,000 nor more than $10,000.

Subd. 2. **Criminal penalty.** A person who knowingly violates a temporary or permanent injunctive order issued under section 617.94 is guilty of a misdemeanor.

History: 2007 c 150 s 5

617.96 ATTORNEY FEES.

In an action brought under sections 617.91 to 617.97, the court may award a prevailing party reasonable attorney fees and costs.

History: 2007 c 150 s 6

617.97 USE OF PLACE; EVIDENCE.

(a) In an action brought under sections 617.91 to 617.97, proof that gang activity by a member of a criminal gang is continuously or regularly committed at a place or proof that a place is continuously or regularly used for engaging in gang activity by a member of a criminal gang is prima facie evidence that the person who owns or is responsible for maintaining the place knowingly permitted the act.

(b) Paragraph (a) does not apply if the person who owns or is responsible for maintaining the place proves, by a preponderance of the evidence, that the person has made reasonable efforts to prevent the occurrence of the gang activity, which may include cancellation of or an attempt to cancel the lease.

History: 2007 c 150 s 7

BLOOMINGTON CITY CODE

SEC. 12.01. FINDINGS AND PURPOSE.

The purpose of this Chapter of the City Code is to prohibit certain conduct that is harmful to the health, safety, and welfare of the community and to prevent and abate nuisance conduct, events, characteristics or conditions and their deleterious effects on City neighborhoods by maximizing the means and methods by which public officers can efficiently and effectively enforce the law and by imposing and collecting service call fees from the owner or occupant, or both, of real property to which public officers are repeatedly called to respond to nuisance violations as set forth in this Article of City Code. The City Council finds that excessive noise, disruption and other public nuisance activities are injurious to the public health, safety and welfare and interfere with the quiet enjoyment of life and property and that excessive nuisance service calls unduly divert law enforcement resources from general crime prevention and law enforcement. The excessive nuisance service call fee is intended as a cost recovery mechanism for excessive law enforcement services, over and above the cost of normal law enforcement services to the public, attributable to unabated nuisance conduct, conditions or characteristics occurring, maintained or permitted to exist on the private property. It is not intended to constitute punishment separate from or in addition to any criminal prosecution for the conduct underlying the nuisance or excessive nuisance service calls. Nothing herein is meant to limit constitutional rights under the federal or state constitution.

(Code, 1958 S 160.01; Village Ord. No. 17; Recodified by Ord. No. 98-53, 11-16-98; Ord. No. 99-14, 7-6-99; Ord. No. 2006-13, 4-17-2006)

SEC. 12.01.01. DEFINITIONS.

When used in this Chapter, the following words, terms, and phrases shall have the following meanings, unless the context clearly indicates otherwise:

(a) Abatement notice - notice served upon property owner and/or interested party by the City Manager or the Manager’s designee of law enforcement responses to two (2) or more nuisance service calls within a 365-day period on property in which they have an interest pursuant to Section 12.15(c) of this City Code.

(b) Alcoholic beverage - any beverage containing more than one-half of one (1) percent alcohol by volume.

(ç) Clandestine lab site - any structure of conveyance or outdoor location occupied or affected by conditions or chemicals typically associated with the manufacture of methamphetamine or any other unlawful manufacture of a controlled substance.

(d) Disorderly house - any residential property which due to the following nuisance conduct, events, characteristics or conditions is likely to disturb, injure or endanger the peace, comforts, health, welfare, safety or character of the neighborhood or community:

(1) The unlawful sale, furnishing, use, or possession of intoxicating liquor or non-intoxicating malt liquor in violation of Minnesota law or Chapter 13 of this Code;

(2) The possession or use of gambling devices or the conduct of any gambling in violation of Minnesota law;

(3) Prostitution in violation of Minnesota law or acts relating to prostitution, or the conduct of unlicensed escort services, sexually-oriented business or massage or massage services, in violation of Minnesota law or Chapters 14 and 19 of this Code;

(4) The unlawful sale, use, or possession of controlled substances as defined in Minnesota Statutes, Section 152.02; or

(5) Three (3) or more verified incidents or unlawful gatherings, as set forth in subsection (n) of this Section within a 365-day period.

(e) False report to public officer - a report to any public officer that a violation of City Code or state law has been committed, knowing that the conduct or conditions reported do not constitute a crime or that the report is false and intending that the public officer act in reliance upon the report.

(f)Incident - single behavioral incident as defined by Minnesota Statutes Section 609.035, as may be amended from time to time. In the case of property conditions or characteristics constituting a nuisance, a single behavioral incident constitutes those violations, the existence of which is the result of a single illegal objective or coincident errors of judgment.

(g) Interested party - any known lessee or tenant of the residential property or affected portion of the residential property; any known agent of an owner, lessee, or tenant; any known mortgage holder or holder of any secured interest in the residential property; any known person holding an unrecorded contract for deed, being a mortgagee or vendee in physical possession of the residential property, insurer of the property; or, any other person who maintains or permits a nuisance on the residential property and is known to the City.

(h) Nuisance incident notice - notice served upon property owner and/or interested party by the City Manager or the Manager’s designee of a law enforcement response to a nuisance service call to property in which they have an interest pursuant to Section 12.15 (a) of this City Code.

(i) Nuisance service call - public officer response to a verified incident of any activity, conduct or condition occurring on private property that is likely to unreasonably interfere with the quiet enjoyment of neighboring properties or the safety, health, morals, welfare, comfort, or repose of the residents therein, including without limitation:

(1) Unlawful gathering, as defined in subsection (o) of this Section.

(2) Disorderly conduct, as defined by Minnesota Statutes Section 609.72, as may be

amended from time to time.

(3) Assault, as defined by Minnesota Statutes Sections 609.221, 609.222, 609.223, 609.2231, and 609.224, as may be amended from time to time, excluding domestic assaults.

(4) Public nuisance, as defined by Section 12.03 of this City Code or Minnesota Statutes Sections 609.74 - .745, as may be amended from time to time.

(5) Noise in violation of Section 10.30 of this City Code.

(6) Unlawful consumption of alcoholic beverages in violation of Section 12.69 of this City Code.

(7) The unlawful furnishing, sale, use, or possession of intoxicating liquor or non-intoxicating malt liquor in violation of Minnesota law or Chapter 13 of this City Code.

(8) The possession or use of gambling devices or the conduct of any gambling in violation of Minnesota law.

(9) Prostitution in violation of Minnesota law or acts relating to prostitution, or the conduct of unlicensed escort services, sexually oriented business or massage or massage services, in violation of Minnesota law or Chapters 14 and 19 of this City Code.

(10)The unlawful sale, use, or possession of controlled substances as defined in Minnesota Statutes Section 152.02, as may be amended from time to time.

(11) Indecent exposure in violation of Minnesota Statutes Section 617.23, as may be amended from time to time.

(12) Unlawful use or possession of a firearm in violation of Minnesota law or Section 12.27 of this City Code.

(13) Failure to comply with dangerous animal requirements in violation of Division B of Chapter 12 of this City Code or Minnesota Statutes Chapter 347.

(14) Failure to comply with animal noise regulations in violation of Section 12.99 of this City Code.

(15) Failure to restrain a domestic animal in violation of Section 12.102 of this City Code.

(16) Cruelty to animals in violation of Section 12.93 of this City Code or Minnesota Statutes Chapter 343, as may be amended from time to time.

(17) Excess number of domestic animals in violation of Section 12.101 of this City Code.

(18) Illegal possession of a wild animal in violation of Section 12.120 of this City Code.

(19) Failure to obtain a license for a dog, cat or ferret in violation of Section 14.88 of this City Code.

(20) Excess number of chickens, farm animals or farm poultry in violation of Sections 12.115 and 12.116 of this City Code.

(21) Nuisance conditions associated with chickens, farm animals or farm poultry in violation of Division D. of Chapter 12.

(22) Illegal open burning, in violation of Section 6.32 of this City Code.

(23) Illegal refuse, in violation of Section 10.05 of this City Code.

(24) Illegal litter, in violation of Section 10.25 of this City Code.

(25) Abandoned or junk vehicles, in violation of Sections 8.46 - 8.48 of this City Code.

(26) Illegal exterior storage in violation of Section 19.50 of this City Code.

(27) Illegal parking or storage of recreational vehicles in violation of Section 19.50.03 of this City Code.

(28) Illegal parking or storage of vehicles in violation of Section 19.45 of this City Code.

(29) False report to public officer in violation of Section 12.14 of this City Code.

(30) Rental of a dwelling unit without a license or in violation of the conditions of licensure in violation of Sections 14.510 or 14.515 of this City Code.

(31) Illegal home occupation in violation of Sections 19.27 - .28 or 19.63.09(a)(2) of this City Code.

(j) Private property - any real property the legal ownership of which, as officially recorded by Hennepin County, is held by one or more natural persons, a partnership, including a limited partnership, a corporation, including a foreign, domestic or non-profit corporation, a trust, or any other organization, but not including the State of Minnesota or any of its political subdivisions, the federal government or any other governmental agency or entity. The existence of any public easement, right-of-way or other limited right of access on the property not, for the purpose of this Article of the City Code, be deemed to transform private property to public property.

(k) Property - means a parcel or contiguous parcels of real property, including buildings and other

structures thereon owned by the same legal entity and under common management. In the case of multi-unit residential or commercial property, the term shall apply to the entire complex.

(l) Public officer - a police officer, fire marshal or inspector, animal control officer, building inspector, or environmental health inspector, each of whom, for the purposes of this Article, shall be considered law enforcement officers.

(m) Public place - 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 buildings in which food or drink is served or entertainment or lodging is provided.

(n) Residential property - any real property containing a structure suitable for affording shelter for human beings, including any appurtenant or connected structure, including trailers, mobile homes, multiple family dwellings, buildings containing multiple dwelling units, and any property situated within a residential zoning district as defined by this City Code.

(o) Unlawful gathering - any party or gathering where there is any of the following conduct or behavior:

(1) The unlawful sale, furnishing, use, or possession of intoxicating liquor or 3.2 percent malt liquor in violation of Minnesota law and Chapter 13 of this Code;

(2) The unlawful sale, use, or possession of controlled substances as defined in Minnesota Statutes, Section 152.02, as may be amended from time to time;

(3) The unlawful sale, use, or possession of tobacco-related products in violation of Minnesota law or Sections 12.81 - .82 of this City Code;

(4) Any conduct, activity or condition constituting a violation of Minnesota laws or this City Code prohibiting or regulating prostitution, gambling, firearms, disorderly conduct, public nuisance, or permitting a public nuisance;

(5) Any conduct or activities likely to disturb non-participating persons by:

(A) Noise of sufficient volume, or of such nature by virtue of its type, persistence, time of day or location, to disturb; the peace, quiet, or repose of non-participating persons nearby in the manner and according to the standards set forth in Section 10.30 of this City Code;

(B) Assaultive behavior;

(C) Unlawful consumption of alcoholic beverages in violation of Section 12.69 of this City Code;

(D) Urinating in public;

(E) Public indecency as defined in Sections 12.14 - 12.15 of this Code or indecent exposure, in violation of Minnesota Statutes Section 617.23, as may be amended from time to time.

(F) Excessive pedestrian or vehicular traffic and parking problems or congestion.

(p) Verified incident - an incident where there is a law enforcement response and a public officer, having completed a timely investigation, is able to find evidence of nuisance conduct, conditions or characteristics as set forth in Section 12.01.01(i) of this City Code. It shall not be necessary that criminal charges be brought or convictions obtained relative to the incident. Multiple offenses verified during a single response shall count as one response for the purpose of imposing an excessive nuisance call service fee. Verified incidents shall be attributable separately to the source of the nuisance conduct, condition or activity, as follows:

(1) The same tenant or lessee or persons acting in conjunction with or under the control the same tenant or lessee;

(2) The same rental unit while occupied by the same tenant or lessee or within two or more rental units by the same tenant or lessee;

(3) The property owner or persons acting in conjunction with or under the control of the property owner who either actively participated in the creation of the nuisance conduct, condition or characteristic or who knew or should have known of the ongoing nuisance conduct, condition or characteristic and failed to take reasonable steps to abate it.

(q) Verified incident follow-up - where there has been a prior verified incident of property conditions or characteristics constituting a nuisance, the second and each subsequent response to those same conditions or characteristics initiated by the City as necessary follow-up on one or more orders to Correct Conditions that have not been completed by the dates specified in the Order or Orders, shall constitute an additional verified incident whether or not additional nuisance conditions or characteristics constituting additional incidents are found to exist.

(Recodified by Ord. No. 98-53, 11-16-98; Ord. No. 99-14, 7-6-99; Ord. No. 2006-13, 4-17-2006; Ord. No. 2009-21, 7-20-2009; Ord. No. 2010-28, 11-1-2010)

SEC. 12.02. PUBLIC NUISANCE PROHIBITED.

Any person who shall knowingly commit, cause or create a Public Nuisance or permits a Public Nuisance condition to be created or placed upon or to remain upon any Private Property owned, under the control of, or occupied by that person, or any publicly-owned property, including tax-forfeited property under public control, shall be guilty of a misdemeanor. In addition, the City may enforce this Division by injunctive action or other appropriate civil remedy, including civil penalties issued pursuant to Section 12.15 of the City Charter and Section 1.19 of this City Code

(Code, 1958 S 160.02; Village Ord. No. 17; Recodified by Ord. No. 98-53, 11-16-98; Ord. No. 2006-13, 4-17-2006; Ord. No. 2013-6, 3-18-2013)

SEC. 12.03. PROPERTY CONDITIONS CONSTITUTING A PUBLIC NUISANCE.

The following property conditions are declared to be nuisances affecting public peace, welfare and safety ("Public Nuisance"):

(1) All snow and ice not removed from public sidewalks within twelve (12) hours after the snow and ice has ceased to be deposited thereon.

(2) All limbs of trees which are less than eight (8) feet above the surface of any public sidewalk, or nine (9) feet above the surface of any street.

(3) All electrical wires that are strung less than the minimum required distance above the surface of the ground pursuant to the National Electrical Code requirements.

(4) All buildings, walls, and other structures which have been damaged by fire, decay, or otherwise to an extent exceeding one-half (1/2) their original value, and which are so situated as to endanger the safety of the public.

(5) All explosives, inflammable liquids, and other dangerous substances stored in any manner or in any amount contrary to state law, federal law or this Code.

(6) All use or display of fireworks except as permitted by this Code and state law.

(7) Noises prohibited under Bloomington City Code Sections 10.29-10.32.

(8) The allowing of rain water, ice or snow to repeatedly fall from any building or structure upon any street or sidewalk or to flow across any sidewalk.

(9) All barbed wire fences except for barbed wire on top of non-residential fences, where barbed wire is at least six (6) feet above grade.

(10) All dangerous unguarded machinery or materials, in any public place, or so situated or operated on private property to attract the public.

(11) Any condition that interferes with, obstructs, or renders dangerous for passage a public roadway, highway or right-of-way or waters used by the public.

(12) The intentional or negligent discharge of items such as leaves, grass clippings, solvents, antifreeze, oil, fireplace ashes, paint, or cement reinstate into a street, storm sewer system, or water resource such as a wetland, creek, pond or lake.

(13) Encroachments onto publicly-owned property, including tax-forfeited property under public

control, such as the placement of structures, materials, recreational equipment, lawn chairs, fire pits, the dumping of organic materials, the storing of privately-owned items, the undertaking of activities affecting the physical nature of the property, such as mowing, vegetation removal or the application of fertilizer, pesticides or herbicides without the express, written permission of the City.

(14) Uncompleted exterior construction and finishes (including but not limited to structures, additions, accessory structures, siding, facia work, windows, roofing, driveways, sidewalks, decks, patios, pools and retaining walls) on a single family or two-family site beyond one (1) year after issuance of a permit or commencement of the construction project, whichever occurs first. A construction project is considered to commence when the first exterior evidence of the project is visible (for example, delivery of materials or removal of soil cover). In the case of demonstrated hardship due to sources beyond the control of the property owner (including but not limited to extreme weather conditions; reasonably unforeseen material, equipment or labor shortages; vandalism; or theft), the time allowed for exterior construction and finishes may be extended at the sole discretion of the Manager of Building and Inspection upon written appeal filed as soon as the need for an extension becomes known.

(15) Construction materials and equipment (including but not limited to piles of dirt, rock, landscaping materials, sod, scaffolding, forms, dumpsters, portable toilets, debris and construction trailers) left in the open:

> (A) on a single family or two-family residential site beyond one (1) year after issuance of a permit or commencement of the construction project, whichever occurs first. A construction project is considered to commence when the first exterior evidence of the project is visible (for example, delivery of materials or removal of soil cover).
>
> (B) on a multi-family residential site or on a non-residential site beyond one hundred eighty (180) days after issuance of the first temporary or permanent certificate of occupancy.

In the case of demonstrated hardship due to sources beyond the control of the property owner (including but not limited to extreme weather conditions; reasonably unforeseen material, equipment or labor shortages; vandalism; or theft), the time allowed for exterior construction and finishes may be extended at the sole discretion of the Manager of Building and Inspection upon written appeal filed as soon as the need for an extension becomes known.

(16) Discarded construction material or other litter at a construction site that is not placed in an adequate waste container or that is allowed to blow around or off the site.

(17) Buildings, fences, and other structures that have been so poorly maintained that their physical condition and appearance detract from the surrounding neighborhood are declared to be public nuisances because they are unsightly, decrease adjoining landowners' and occupants' enjoyment of their property and neighborhood, and adversely affect property values and neighborhood patterns. Standards to be considered in this determination shall include:

(A) All exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration.

(B) All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

(C) Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight. All glazing materials shall be maintained free from cracks and holes.

(D) All exterior doors, door assemblies and hardware shall be maintained in good condition. Locks at all entrances to dwelling units, rooming units and guestrooms shall tightly secure the door.

(E) All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

(F) The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water may not be discharged in a manner that creates a public nuisance.

(G) All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

(H) All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.

(18) A Clandestine Lab Site.

(19) Improper sewage disposal to such degree that sewage or effluent is discharging onto the surface of the ground, backing up into a structure or discharging into a body of water.

(20) An unsecured hole or opening caused by improperly abandoned cistern, well pit, sewage treatment system, unused or non-maintained swimming pool, foundation, mine shaft or tunnel, or any other hole or opening in the ground of sufficient size or depth to pose a danger to the public or an attractive nuisance.

(21) All uncontained refuse shall be kept in an enclosed building and accumulations of garbage shall be properly contained in a closed, insect and rodent proof container designed or reasonably adapted for such purpose, except for the 12 hours immediately preceding pick-up by a refuse hauler. These requirements do not apply to dumpsters used for construction debris, or refuse as part of an active project or clean up of that property..

(22) Accumulation of carcasses of animals, birds, or fish by failing to bury or otherwise dispose of in a sanitary manner within twenty-four (24) hours after death. This provision shall not apply if the animals, birds, or fish are intended for human consumption.

(23) Accumulation of decaying animal or plant material, animal or human feces, trash, refuse, yard waste, rubbish, garbage, rotting lumber, packing material, scrap metal, tires or any other substances in which flies, mosquitoes, other disease carrying insects, rodents or other vermin can harbor; this definition does not include compost bins or compost sites which are being managed in accordance with the standards in Section 10.05.

(24) Accumulations of animal feces, rubbish or junk remaining in any place as to become dangerous or injurious to the health and safety of any individual or to the public.

(25) Accumulations of personal property, rubbish, or debris in any Residence to such an extent preventing emergency egress.

(26) Any structure that has become dangerous for further occupancy because of structural or sanitary defects or grossly unsanitary conditions.

(27) Infestations of flies, fleas, cockroaches, lice, rats, mice, fly larvae, or hookworm larvae.

(28) Unnatural breeding grounds which support mosquito larvae and mosquitoes carrying West Nile Virus, La Crosse Encephalitis Virus, or any other disease causing microorganism.

(29) At single-family and two-family dwelling units, the parking or storage of more than four vehicles per unit outside of a garage or on street.

> (A) Counting of vehicles. Vehicles temporarily parked at the residence for visitation or business service reasons, Class I recreational vehicles (as defined in Section 19.50.03 of this Code), or any vehicle parked or stored within a garage shall not be counted for the purposes of this numerical limitations. All other vehicles, whether screened or not, including “abandoned vehicles” and “junk vehicles” as defined in Section 8.45 of this Code shall be counted as vehicles for purposes of determining the number of vehicles parked or stored outside of a garage or on the street. Nothing in this Section shall be interpreted as

permitting the storage of vehicles if such storage is not otherwise permitted by this Code. Only one vehicle per unit may be a vehicle with a snowplow attached or other Type II vehicle. Type II vehicles will be counted as a vehicle for the purposes of this section.

(30) Outdoor burners of fuel producing excessive smoke, including, but not limited to, wood, trash, corn, pellets and biomass, that are detached from or exterior to a principal building and intended for use as a water or space heating source.

(31) The ground feeding of wild animals prohibited under Bloomington City Code Section 12.122.

(32) Excess number of domestic animals, chickens, farm poultry or farm animals in violation of Section 12.101, 12.115 or 12.116.

(33) Failure to locate or maintain animal shelter or enclosure in violation of Section 12.104, 12.115 or 12.116.

(Code, 1958 S 162.01; Recodified by Ord. No. 98-53, 11-16-98; Ord. No. 99-14, 7-6-99; Ord. No. 2006-13, 4-17-2006; Ord. No. 2006-54, 12-18-2006; Ord. No. 2007-21, 6-25-2007; Ord. No. 2008-43, 12-1-2008; Ord. No. 2009-2, 2-2-2009; Ord. No. 2009-4, 2-2-2009; Ord. No. 2010-28, 11-1-2010; Ord. No. 2012-2, 1-23-2012; Ord. No. 2013-6, 3-18-2013; Ord. No. 2013-9, 4-1-2013)

SEC. 12.04. DECLARATION AND NOTICE OF PUBLIC NUISANCE.

It shall be the duty of the City Manager or the Manager's designee to determine and declare the existence of a public nuisance. However, for purposes of inspecting and securing the site, removing and collecting evidence, or removing immediate hazards, any public officer may determine that a structure, property or portion of a property constitutes a public nuisance, including but not limited to the determination that the site constitutes a clandestine lab site. The City Manager or the Manager's designee may at any time modify conditions of the declaration or dismiss the declaration of a public nuisance. Where deemed necessary by the City in furtherance of the public health and safety, a warning sign shall be posted on the entrance to the structure or property containing information sufficient to alert visitors or returning occupants to the site that it may be dangerous to enter and that entry is prohibited unless authorized by the City. No person, except as authorized by the City, shall remove a warning sign posted in accordance with this Section of City Code. Where a public nuisance is found to exist upon private property, the City Manager, or the Manager's designee, may cause a declaration of public nuisance and notice to abate such nuisance to be served personally upon the owner of said premises, and provide a copy thereof to any other interested party. Such notice may be served by mail in all cases where such owner or other interested party is not in the city or cannot be found therein, and if the post office address thereof is known. Such notice may likewise be served by posting, for at least twenty-four (24) hours, a copy of such notice upon the premises where the nuisance exists, whenever the owner or agent thereof is not known or cannot be found, and the post office address thereof is unknown. The City Manager, or the Manager's designee, shall, in providing for the service and

posting of such notice, designate therein the following:

(a) Property location by street address, and property identification number or legal property description.

(b) Information identifying the nature of the public nuisance on the property.

(ç) A summary of the owner or other interested party's responsibilities under this Division of City Code.

(d) Specific orders for abatement or remediation of the public health nuisance.

(e) A date for completion of the abatement not less than ten (10) business days following the receipt of the Notice unless a shorter period of time is determined necessary by the City to protect the public health and safety.

(f) Notice that unless the public nuisance condition is abated or removed in accordance with the terms of the Notice of Public Nuisance, the City may, in its discretion have the nuisance abated or removed at the expense of the owner under the provisions of Minn. Stat. §145A.008, this City Code, or other applicable law and that the cost thereof will constitute a charge against the property which shall be collected in the manner of a tax.

(g) Notice of the right of appeal as provided in Sections 1.17 and 12.05.01 of this City Code.

(Code, 1958 S 174.01; Village Ord. No. 22, 9-1-53; Village Ord. No. 205, 9-21-59; Village Ord. No. 261, 12-8-60; Ord. No. 70-29, 7-6-70; Ord. No. 94-3, 1-24-94; Recodified by Ord. No. 98-53, 11-16-98; Ord. No. 2006-13, 4-17-2006)

SEC. 12.05. ACCESS TO PROPERTY AND RESPONSIBILITY TO ABATE PUBLIC NUISANCE.

The owner or other Interested Party of Private Property on which a Public Nuisance has been declared must, upon the demand of a Public Officer, permit access to all portions of the Private Property and structures thereon at any reasonable time for the purposes of inspection, remediation and abatement as often as the Public Officer deems necessary and shall exhibit and allow the copying of all records necessary to ascertain compliance with this Division of City Code. Any Public Nuisance upon Private Property shall be removed and abated by the owner or other Interested Party at their own cost after notice, as provided in Section 12.04. If such notice is not complied with, the city shall cause removal or abatement of such Public Nuisance, and the cost thereof shall be charged against the Private Property in the manner provided in Section 12.06 and collected in the manner set forth in Section 1.19 of this City Code.

(Code, 1958 S 174.02; Added by Village Ord. No. 22, 9-1-53; Recodified by Ord. No. 98-53, 11-16-98; Ord. No. 2006-13, 4-17-2006; Ord. No. 2013-6, 3-18-2013)

Sec. 12.05.01. APPEALS, SUMMARY ABATEMENT.

When a Public Nuisance is declared, the owner of the Private Property may appeal the declaration, including Abatement Order, by filing a written request for an administrative hearing with the City Attorney's Office within ten (10) calendar days of the issuance of the Notice of Public Nuisance. A hearing shall be held within forty-five (45) calendar days thereof following the procedures set forth in Section 1.17 of this City Code. Where a declared Public Nuisance constitutes, in the sole determination of the City, an imminent threat to the public health or safety, an immediate threat of serious property damage, or the Public Nuisance has been caused by the actions of private parties on public property, the City may order the immediate abatement thereof notwithstanding this provision. Where there has been summary abatement, any properly filed appeal thereafter will be limited to the issue of cost recovery by the City.

(Added by Ord. No. 2006-13, 4-17-2006; Amended by Ord. No. 2013-6, 3-18-2013)

SEC. 12.06. FAILURE TO ABATE; ABATEMENT BY CITY; ASSESSMENT THEREOf.

If, at the end of the period fixed by the City for the abatement or removal of a Public Nuisance, the Public Nuisance has not been abated or removed by the owner or other Interested Party and no appeal has been filed pursuant to Section 12.05.01 of this City Code, the City may cause the same to be abated or removed by the City or in any other manner deemed appropriate, and the costs and expenses of such abatement and departmental costs and expenses, including overheads and allowances for time of City employees with a minimum inspection charge of $100, expenses of equipment, if used, and sums of money necessarily paid out if done by other than City departments, shall be computed and reported to the City Council. Thereupon, the City Council may adopt an assessment roll levying a special assessment upon such lands and premises, which shall be transmitted to the county auditor and included with the next tax levy upon such lands and premises and collected in the manner provided by law for the levy and collection of other special assessments.

(Added by Ord. No. 86-13, 3-17-86; Recodified by Ord. No. 98-53, 11-16-98; Ord. No. 2006-13, 4-17-2006; Ord. No. 2009-2, 2-2-2009; Ord. No. 2013-6, 3-18-2013)

SEC. 12.06.01. RESERVED.

(Added by Ord. No. 2002-21, 6-3-2002; Deleted by Ord. No. 2013-6, 3-18-2013)

SEC. 12.07. PURPOSE.

To enable Public Officers to address nuisance conduct in the City that adversely impacts the quiet enjoyment of property within the City, or the public health and safety.

(Code, 1958 S 174.04; Added by Ord. No. 69-26, 4-14-69; Ord. No. 69-89, 11-10-69; Ord. No. 77-31, 5-16-77; Ord. No. 77-46, 8-8-77; Ord. No. 78-71, 12-4-78; Ord. No. 87-37, 6-1-87; Recodified by Ord. No. 98-53, 11-16-98; Ord. No. 2007-24, 8-6-2007; Ord. No. 2013-6,

3-18-2013)

SEC. 12.08. DEFINITIONS.

The following words and terms when used in this Section shall have the following meanings, unless the context clearly indicates otherwise:

Covered premises - any real property, or portion thereof, to which the public has an implicit right of access including, but not limited to places of worship, shopping malls, retail sales facilities, hotels, motels, nursing homes, restaurants, multiple-family residential buildings, hospitals, medical and dental offices, clubs, lodges, office buildings, banks and financial institutions, transit stations, athletic and recreational facilities, personal service establishments, theaters, parks, libraries, aquatic facilities and day care facilities.

Tenant - any authorized occupant of a covered premises, or the agent thereof.

Property manager - any owner of a covered premises or the agent thereof who is authorized to exercise control over the property, including common areas. The term "property manager" includes any tenant who is an owner of the property or agent of the owner and authorized to exercise control over the property, including common areas.

Common areas - all areas of the property which are maintained for the common use of its tenants or the general public incidental to the conduct of the normal and legitimate activities upon the premises, including but not limited to parking lots and ramps, private roadways, reception areas, rotunda, waiting areas, hallways, restroom facilities, elevators, escalators, and staircases.

Trespass notice - a written notice which contains minimally the following information:

(a) a verbatim copy of Section 12.09 of this Code;

(b) the name, date of birth, and address of the person to whom the notice is issued and the name of the person's custodial parent or guardian where that person is a juvenile;

(ç) a description of the specific conduct which serves as a basis for the notice's issuance;

(d) a description of the specific property to which the trespass notice applies;

(e) the period during which the trespass notice is in effect, including the date of its expiration;

(f) the name, title and telephone number of a person with authority to modify, amend or rescind the trespass notice prior to its normal expiration;

(g) the method by which the trespass notice was served upon the person to whom it was issued.

(Code, 1958 S 174.05; Added by Ord. No. 69-57, 7-14-69; Ord. No. 92-59, 11-9-92; Recodified by Ord. No. 98-53, 11-16-98; Ord. No. 2007-24, 8-6-2007)

SEC. 12.09. PROHIBITED CONDUCT.

(a) No person shall trespass in or upon any real property and, without claim of right, refuse to depart therefrom on demand of the property manager or tenant.

(b) No person who has been served with a trespass notice in conformity with this ordinance shall enter the premises described therein during its effective period without the written permission of the issuing property manager or tenant or the authorized agent thereof named in the notice. Violation of the terms of the notice will result in criminal prosecution as a misdemeanor under Minnesota law.

(ç) No person shall enter any area of a public facility, or other property in violation of conspicuously posted signs prohibiting or restricting access thereto, including but not limited to the following signs, "No Trespassing", "Authorized Personnel Only", "Private", "Employees Only", "Emergency Exit Only".

(Code, 1958 S 170.02; Recodified by Ord. No. 98-53, 11-16-98; Ord. No. 2007-24, 8-6-2007)

SEC. 12.10. ISSUANCE OF TRESPASS NOTICE.

(a) A property manager, the property manager’s authorized agent or tenant may issue a trespass notice as provided under this ordinance only under the following circumstances:

> (1) where there is probable cause to believe that the person has committed an act prohibited by state statute or city ordinance while on the covered premises, whether on common areas or a tenant's space; or
>
> (2) where there is probable cause to believe that the person has violated the rules of conduct for the property which have been conspicuously posted at all public entrances to the property or have been personally provided to the person in writing by the property manager or tenant.

(Code, 1958 S 170.01; Recodified by Ord. No. 98-53, 11-16-98; Ord. No. 2007-24, 8-6-2007)

SEC. 12.11. ADDITIONAL PROVISIONS.

(a) Where a trespass notice is issued by a tenant, who is not the property manager or property manager’s authorized agent, the notice is effective only as to that portion of the premises over which the tenant is entitled to exercise control.

(b) No trespass notice shall be effective for more than one year from the date of its original issuance.

(ç) All trespass notices issued pursuant to this Section must be properly served upon the person named therein as follows:

(1) personal service documented by either a receipt signed by the person to whom it was issued or a written statement of the issuer;

(2) where the person named in the trespass notice is arrested by a police officer for an act prohibited by state statute or city ordinance, the arresting officer may personally serve the notice on behalf of the property manager or tenant and so document that fact in the officer's official police report detailing the incident.

(Code, 1958 S 170.03; Recodified by Ord. No. 98-53, 11-16-98; Ord. No. 2007-24, 8-6-2007)

SEC. 12.11.05. RESTRICTIONS ON THE DISCHARGE OF FIREWORKS.

(a)The use, display, possession, discharge or sale of any fireworks not expressly permitted by Minnesota Statutes Section 624.20, subd. 1(c) is strictly prohibited.

(b)All use, display or discharge of those non-explosive, non-aerial pyrotechnic entertainment devices only containing the limited amounts of pyrotechnic chemical compositions described in and permitted by Minnesota Statutes Section 624.20, subd. 1(c) (hereinafter "Permitted Consumer Fireworks") is strictly prohibited in the area on, below, above, within or in close proximity to:

(1)Recreational areas, roadways, streets, highways, bicycle lanes, pedestrian paths, sidewalks, rights of way, lakes, rivers, waterways and all other property owned or leased by the City of Bloomington, County of Hennepin, Suburban Hennepin Regional Park District, State of Minnesota or federal government and is located in whole or in part within the City limits;

(2)Private Property within the City limits that has conspicuously posted a written sign or notice that no fireworks discharge is allowed;

(3)Within three hundred (300) feet of any consumer fireworks retail sales facility or storage area that has properly posted a written sign or notice that no fireworks discharge is allowed; and

(4)Any property, area, structure or material that, by its physical condition or the physical conditions or the physical conditions in which it is set, would constitute a fire or personal safety hazard.

(ç) All other use, display or discharge of Permitted Consumer Fireworks must be conducted in a manner that minimizes the risk of fire or injury to other persons or property.

(Recodified by Ord. No. 98-53, 11-16-98; Added by Ord. No. 2013-6, 3-18-2013)

SEC. 12.11.06. PARTICIPATION IN UNLAWFUL GATHERINGS.

(a)No person shall congregate because of, or participate in, any Unlawful Gathering.

(b)No person shall keep or permit an Unlawful Gathering on any Private Property owned, leased, controlled or occupied by that person.

(ç)Any person who is the Private Property owner, or other Interested Party in the Private Property, who has actual or imputed knowledge of an Unlawful Gathering thereon and who fails to immediately abate the Unlawful Gathering shall be guilty of a misdemeanor.

(d)Any person, other than the Private Property owner, tenant, or person in control of the Private Property, who refuses to leave an Unlawful Gathering thereon after being ordered to do so by a police officer or by an owner, tenant, person in control of any building or other Interested Party in the Private Party where an Unlawful Gathering is occurring shall be guilty of a misdemeanor.

(e)Any person who is the property owner, tenant, or person in control of a building and refuses to admit Public Officers attempting to gain reasonable access to the premises for the purpose of investigating a suspected Unlawful Gathering on the Private Property or any structure thereon or refuses to disperse an Unlawful Gathering at the building after being ordered to do so by a police officer shall be guilty of a misdemeanor.

(f)A police officer, who has probable cause to believe an Unlawful Gathering is occurring on Private Property may make reasonable entry onto the property or structure thereon in a manner consistent with law for the purpose of investigating suspected law violations.

(g)A police officer may order all persons present at any public or private place or building where an Unlawful Gathering is occurring to immediately disperse.

(Added by Ord. No. 91-13, 2-25-91; Recodified by Ord. No. 98-53, 11-16-98; Added by Ord. No. 2013-6, 2-25-2013)

SEC. 12.11.07. DISORDERLY HOUSE AND FALSE REPORT TO PUBLIC OFFICER PROHIBITED.

(a)No person shall permit, maintain, or be present in, a Disorderly House.

(b)Any person who is the Private Property owner, or other Interested Party who knows, or should know under the circumstances, that the Private Property is being used as a Disorderly House has a duty to immediately abate the underlying illegal activity of the Disorderly House.

(ç)Any person, other than the Private Property owner, Interested Party, or person in control of the Private Property, must leave a Disorderly House after being ordered to do so by a police officer or by an owner, tenant, Interested Party or person in control of the Private Property on which the Disorderly House is located.

(d)Any person who is the Private Property owner, Interested Party or person in control of the building must admit Public Officers attempting to gain reasonable access to the premises for the purpose of investigating a suspected Disorderly House and must disperse people present at the Disorderly House after being ordered to do so by a police officer.

(e)A police officer who has probable cause to believe that the underlying illegal activity of a Disorderly House is occurring on Private Property may make reasonable entry onto the Private Property or structure thereon in a manner consistent with law for the purpose of investigating the suspected law violations.

(f)A police officer may order all persons present at a Disorderly House to immediately disperse.

(g)False report to Public Officer - a report to any Public Officer that a violation of City Code or state law has been committed, knowing that the conduct or conditions reported do not constitute a crime or that the report is false and intending that the Public Officer act in reliance upon the report.

(h)Penalties. It shall constitute a misdemeanor under Minnesota law to do the following:

(1)To keep, permit or be present in a Disorderly House;

(2)Be an owner or person in control of any Residential Property and to permit the building to be used as a Disorderly House; or

(3)To provide a false report to any Public Officer.

(Added by Ord. No. 91-13, 2-25-91; Recodified by Ord. No. 98-53, 11-16-98; Amended by Ord. No. 2013-6, 3-18-2013)

SEC. 12.12. PENALTY.

A violation of Division B of this Article II of Chapter 12 shall be punishable as a misdemeanor. Civil penalties may also be issued pursuant to Section 12.15 of the City Charter and Section 1.19 of this City Code. However, nothing in this Division shall be constructed to limit the City's other available legal remedies for any violation of the law, including without limitation, criminal, civil and injunctive actions.

(Code, 1958 S 161.01; Recodified by Ord. No. 98-53, 11-16-98; Amended by Ord. No. 2013-6, 3-18-2013)

City of Brooklyn Center Ordinance

Section 12-911. CONDUCT ON LICENSED PREMISES.

1. Conduct, Disorderly Activities, Nuisances Defined. It shall be the responsibility of the licensee to see that persons occupying the licensed premises conduct themselves in such a manner as not to cause the premises to be disorderly. For purposes of this Chapter, disorderly activities are considered nuisances and defined as follows:

a. Noise cats/dogs -- City Code Section 1-110; horns/radios -- City Code Sections 19-1201, 1202, and 1203

b. Violation of City Code Section 19-1121 (Unlawful Possession, Delivery, or Purchase) or violation of laws relating to the possession of controlled substances as defined in Minnesota Statutes, Section 152.01, Subdivision 4, and drug paraphernalia as defined in Minnesota Statutes, Section 152.092.

c. Public disturbance -- City Code Section 19-202.

d. The unlawful sale of intoxicating liquor or 3.2 percent malt liquor.

e. Violation of laws relating to gambling.

f. Violation of laws relating to prostitution as defined in Minnesota Statutes, Section 609.321, Subdivision 9, or acts relating to prostitution.

g. Unlawful use or possession of a weapon. Violation of Minnesota Statutes, Sections 609.66, Subdivision 1a; 609.67; 609.02, Subdivision 6; or 624.713; and City Code Section 19-402.

h. Loud parties/persons -- City Code Section 19-1201.

i. Fights -- City Code Section 19-203.

j. Allowing curfew/status offenses/underage drinking -- City Code Sections 19-301 and 19-304.

k. Disorderly conduct (Minnesota Statutes, Section 609.72).

l. Property damage -- City Code Section 19-211.

m. Assaults 5th degree non-domestic -- City Code Section 19-204.

n. Interference with a peace officer (Minnesota Statutes, Section 609.50).

o. Unlawful assembly (Minnesota Statutes, Section 609.705) -- City Code Section 19-1105.

p. Presence at unlawful assembly (Minnesota Statutes, Section 609.175).

q. Terrorist threats (Minnesota Statutes, Section 609.713).

r. Loitering -- City Code Section 19-201.

2. Violations, Actions. Upon determination by the City Manager authorized designee that a licensed premises was used in a disorderly manner, as described in paragraph 1, the City Manager shall take the following actions:

a. For a first instance of disorderly use of licensed premise a notice shall be provided to the licensee of the violation directing the licensee to take steps to prevent further violations.

b. If a second instance of disorderly use of the licensed premises occurs within a twelve (12) month time period for the same tenancy, the City Manager or the shall notify the licensee of the violation and require the licensee to submit a written report of the actions taken, and proposed actions to be taken by the licensee to prevent further disorderly use of the premises. The licensee shall submit a written report to the City Manager within five (5) days of receipt of the notice of disorderly use of the premises and shall detail all actions taken by the licensee in response to all notices of disorderly use of the premises.

c. If a third instance of disorderly use of the licensed premises occurs within a twelve (12) month time period from the first disorderly violation for the same tenancy, the rental dwelling license for the premises may be denied, revoked, suspended, or not renewed. An action to deny, revoke, suspend, or not renew a license under this Section shall be initiated by the City Manager or the who shall give the licensee written notice of a hearing before the City Council to consider such denial, revocation suspension, or nonrenewal. The written notice shall specify all violations of this Section, and shall state the date, time, place, and purpose of the hearing.

3. Hearing. The hearing shall be held no less than ten (10) days and no more than forty-five (45) days after giving such notice.

Following the hearing, the Council may deny, revoke, suspend, or decline to renew the license for all or any part or parts of the licensed premises or may grant a license upon such terms and conditions as it deems necessary to accomplish the purposes of this Section.

4. Eviction Actions. No adverse license action shall be imposed where the instance of disorderly use of the licensed premises occurred during the pendency of eviction proceedings (unlawful detainer) or within thirty (30) days of notice given by the licensee to a tenant to vacate the premises where the disorderly use was related to

conduct by that tenant or by other occupants or guests of the tenant's unit. Eviction proceedings shall not be a bar to adverse license action, however, unless they are diligently pursued by the licensee. Further, an action to deny, revoke, suspend, or not renew a license based upon violations of this Section may be postponed or discontinued at any time if it appears that the licensee has taken appropriate measures which will prevent further instances of disorderly use.

5. Determining Disorderly Conduct. A determination that the licensed premises have been used in a disorderly manner as described in paragraph 1 shall be made upon substantial evidence to support such a determination. It shall not be necessary that criminal charges be brought in order to support a determination of disorderly use, nor shall the fact of dismissal or acquittal of such a criminal charge operate as a bar to adverse license action under this Section.

6. Notices. All notices given by the City under this Section shall be personally served on the licensee, sent by First Class mail to the licensee's last known address or, if neither method of service effects notice, by posting on a conspicuous place on the licensed premises.

7. Enforcement. Enforcement actions provided in this Section shall not be exclusive, and the City Council may take any action with respect to a licensee, a tenant, guests, or the licensed premises as is authorized by this Code or state law.

City of Brooklyn Park Ordinances

SECTION 117.49 CONDUCT ON RENTAL PROPERTY

(A) It is the responsibility of the owner/licensee to see that persons occupying a rental dwelling conduct themselves in such a manner as not to cause the premises to be disorderly. For purposes of this section, a rental dwelling is disorderly when any of the following types of conduct occur under any of the following provisions:

(1) §§ 92.05 and 92.06 of this code (animal noise and public nuisances).

(2) § 134.03 of this code (noisy parties).

(3) Chapter 135 of this code (unlawful possession, delivery or purchase) or violation of laws relating to the possession of controlled substances as defined in M.S. §§ 152.01 et seq.

(4) §§ 134.15 et seq. of this code (disorderly conduct) or laws relating to disorderly conduct as defined in M.S. § 609.72.

(5) §§ 112.030 through 112.069 of this code (unlawful sale of intoxicating liquor or 3.2 malt liquor) or laws relating to the sale of intoxicating liquor as defined in M.S. §§ 340A.701, 340A.702 or 340A.703.

(6) Laws relating to prostitution or acts relating to prostitution as defined in M.S. § 609.321, Subdivision 9 and 609.324, housing individuals engaged in prostitution.

(7) Chapter 136 of this code (weapons) or laws relating to unlawful use or possession of a firearm as defined in M.S. §§ 609.66 et seq., on the licensed premises.

(8) § 134.01 of this code (assaults) or laws relating to assault.

(9) Laws relating to contributing to the need for protection or services or delinquency of a minor as defined in M.S. § 260C, et seq.

(10) M.S. § 609.33, relating to owning, leasing, operating, managing, maintaining or conducting a disorderly house or inviting or attempting to invite others to visit or remain in a disorderly house.

(11) M.S. § 609.50 which prohibits interference with a police officer.

(12) M.S. § 609.713 which prohibits terroristic threats.

(13) M.S. § 609.715 which prohibits presence of unlawful assembly.

(14) M.S. § 609.71 which prohibits riot.

(15) M.S. §§ 609.226 and 347.56, relating to dangerous dogs.

(16) M.S. § 609.78 which prohibits interfering with "911" phone calls.

(17) M.S. §§ 609.75 through 609.76, which prohibits gambling.

(18) M.S. § 243.166 (Predatory Offender Registration).

(19) M.S. § 609.229 (Crime committed for benefit of a gang).

(20) M.S. § 609.26, subdivision 1(8) (causing or contributing to a child being a runaway).

(21) M.S. § 609.903 (Racketeering).

(B) Conduct enforcement. The City Manager is responsible for enforcement and administration of this section.

(C) Upon determination by the City Manager that a rental dwelling was used in a disorderly manner, as described in paragraph (A) of this section, the City Manager must give notice to the owner/licensee of the violation and direct that steps be taken to prevent further violations.

(D) If a second instance of disorderly use of a rental dwelling occurs within the 12-month period following an incident for which a notice in paragraph (C) of this section was given, the City Manager must notify the owner/licensee of the violation and must also require the owner/licensee to submit a written report of the actions taken, and proposed to be taken to prevent further disorderly use. This written report must be submitted to the City Manager within ten business days of receipt of the notice of disorderly use and must detail all actions taken by the owner/licensee in response to all notices of disorderly use within the preceding 12 months.

(E) (1) If a third instance of disorderly use of a rental dwelling occurs within the 12-month period following any two previous instances of disorderly use for which notices were given, the City Manager must notify the owner/licensee of the violation and must also require the owner/licensee to submit a written report of the actions taken, and proposed to be taken, to prevent further disorderly use. The 12-month period begins on the date of the police report generated in response to the first instance of disorderly use. The written report must be submitted to the City Manager within ten business days of receipt of the notice of disorderly use and must detail all actions taken in response to all notices of disorderly use within the preceding 12 months.

(2) After the third instance of disorderly use, the City Manager may deny, revoke, suspend or not renew the license for the premises. Before such an action, the City Manager must give to the owner/licensee written notice of a hearing before the City Hearing Officer to consider such denial, revocation, suspension or non-renewal. Such written notice must specify all

violations of this section, and must state the date, time, place and purpose of the hearing. The hearing must be held no less than ten days and no more than 30 days after giving such notice.

(3) Following the hearing, the City Manager may deny, revoke, suspend or decline to renew the license for all or any part or parts of the rental dwelling or may grant a license upon such terms and conditions as it deems necessary to accomplish the purposes of this section.

(4) Appeal. Following receipt of a decision by the City Manager to deny, revoke, suspend, or not renew a license, the owner/licensee may request a hearing before the City Council. The request must be made in writing to the City Manager within ten days of the City Manager's decision.

(5) Upon a decision to revoke, suspend, deny or not renew a license for violations of this section, the owner/licensee will not be eligible for any new rental licenses for a period determined by the City Manager, but not to exceed one year. Any person who has had two or more licenses revoked, suspended, denied or not renewed for violations of this section, will not be eligible for any new rental licenses for a period determined by the City Manager, but not to exceed two years.

(F) No adverse license action shall be imposed where the instance of disorderly use occurred during the pendency of eviction proceedings (unlawful detainer) or within 30 days of notice given to a tenant to vacate the premises where the disorderly use was related to conduct by that tenant or by other occupants or guests of the tenant's unit. Eviction proceedings are not a bar to adverse license action, however, unless they are diligently pursued by the licensee.

(G) A determination that a rental dwelling has been used in a disorderly manner as described in paragraph (A) of this section shall be made upon a fair preponderance of the evidence to support such a determination. It is not necessary that criminal charges be brought in order to support a determination of disorderly use nor does the fact of dismissal or acquittal of such a criminal charge operate as a bar to adverse license action under this section.

(H) All notices given by the city under this section must be personally served on the owner/licensee, sent by certified mail to the owner/licensee's last known address or, if neither method of service effects notice, by posting on a conspicuous place on the rental dwelling.

(I) Enforcement actions provided in this section are not exclusive, and the City Manager may take any action with respect to a licensee, a tenant, or a rental dwelling as is authorized by the city code, state or federal law. The City Manager may postpone or discontinue any enforcement action, including an action to deny, revoke, suspend, or not renew a license, if it appears that the owner/licensee has taken appropriate measures to prevent further instances of disorderly use.

('72 Code, § 455:50) (Ord. 1992-710, passed - - ; Am. Ord. 2002-975, passed 6-10-02; Am. Ord. 2008-1090, passed 7-7-08) Penalty, see § 10.99

§ 117.491 MINNESOTA CRIME FREE MULTI-HOUSING PROGRAM.

(A) The city has established a rental owner educational program consistent with the Minnesota Crime Free Multi-housing Program. This educational program will include, but is not limited to information such as: applicant screening, rental agreements, identification of illegal activity, eviction process, the roles of working with the police, crime prevention, code enforcement and public health, licensing and inspections, and active property management. The following are requirements of the program:

(1) All owners or operators must attend one of these regularly-scheduled seminars within two years of the issuance of a new rental license.

(2) Owners or operators possessing rental licenses issued prior to the enactment of this section will be required to attend the Crime Free Housing Program within one year of the renewal their rental license.

(3) The owner or operator of a property notified of a third instance of disorderly use under § 117.49 will be required to attend the next available Brooklyn Park Crime Free Housing Program to maintain their rental license.

(4) Program attendees will be required to pay a participation fee in an amount determined to cover the direct cost of the program.

(B) An owner whose only rental dwelling is a single-family dwelling homesteaded by a relative is exempted from the program.

(C) All tenant leases signed following the enactment of this section, except for state-licensed residential facilities and subject to all preemptory state and federal laws, shall contain the following Crime Free Housing Addendum language:

(1) Resident, any members of the resident's household or a guest or other person affiliated with resident shall not engage in criminal activity, including drug-related criminal activity, on or near the premises.

(2) Resident, any members of the resident 's household or a guest or other person affiliated with resident shall not engage in any act intended to facilitate criminal activity, including drug-related criminal activity, on or near the premises.

(3) Resident or members of the household will not permit the dwelling unit to be used for, or to facilitate criminal activity, including drug-related criminal activity, regardless of whether the individual engaging in such activity is a member of the household, or a guest.

(4) Resident, any member of the resident's household or a guest, or other person affiliated with the resident shall not engage in the unlawful manufacturing, selling, using, storing, keeping, or giving of a controlled substance at any locations, whether on or near the premises or

otherwise.

(5) Violation of the above provisions shall be a material and irreparable violation of the lease and good cause for immediate termination of tenancy.

(6) The term DRUG RELATED CRIMINAL ACTIVITY means the illegal manufacture sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use of a controlled substance or any substance represented to be drugs (as defined in Section 102 of the Controlled Substance Act [21 U.S.C. 802]).

(7) Non-exclusive remedies. The Crime Free Housing Addendum language is in addition to all other terms of the lease and does not limit or replace any other provisions.

(D) Upon determination by the City Manager that a licensed premises or unit within a licensed premises was used in violation of the Crime Free Housing Addendum language, the City Manager shall notify the owner and property manager of the violation. The owner or property manager shall notify the tenant or tenants within ten days of the notice of violation of the Crime Free Housing Addendum language and proceed with the termination of the tenancy of all tenants occupying the unit. The owner shall not enter into a new lease with the evicted tenant for a period of one year after the eviction. If the owner or property manager fails to comply with this section, the City Manager may initiate an action to deny, revoke, suspend, or not renew the license as outlined in § 117.49(E).

(Ord. 208-1090, passed 7-7-08)

§ 117.50 LANDSCAPE CONDITION.

Each rental dwelling must be maintained by its owner, occupant, or operator so that the yards, open spaces and parking facilities are kept in a safe and attractive condition. Where a conditional use permit has been granted, the landscaping shown on the approved landscaping plan is considered as minimal and must be maintained accordingly. Any deviation to species or material shall be equal to or better than originally approved. In addition, adequate lighting facilities must be provided and operated between the hours of sunset and sunrise; and snow plowing or snow shoveling must be regularly accomplished to maintain all sidewalk and parking areas in a safe and passable condition.

('72 Code, § 455:70) (Am. Ord. 1983-421(A), passed 5-9-83; Am. Ord. 2002-975, passed 6-10-02) Penalty, see § 10.99

§ 117.51 SAFETY FROM FIRE.

An owner or operator of a rental dwelling is responsible to comply with the applicable provisions of the Fire Prevention Code of the city in keeping open all fire lanes established by the city.

('72 Code, § 455:75) (Am. Ord. 1983-421(A), passed 5-9-83; Am. Ord. 2002-975, passed 6-10-02) Penalty, see § 10.99

§ 117.52 ENFORCEMENT.

(A) Responsibility. It is the responsibility of the owner and operator/manager to be in compliance with this subchapter, other city ordinances and state laws.

(B) Maintenance standards. Every rental dwelling must maintain the standards in the city property maintenance code, Chapter 106 of this code, in addition to any other requirement of the ordinances of the city or special permits issued by the city, or the laws of the State of Minnesota.

(C) Inspections and investigations.

(1) The City Manager is authorized to make inspections to enforce this subchapter.

(2) All designated agents authorized to inspect have the authority to enter, at all reasonable times, any rental dwelling. Prior to entering a rental dwelling, the designated agent must first present proper credentials and request entry. If any owner, operator, occupant or other person(s) in charge of a rental dwelling fails or refuses to permit access and entry to the rental dwelling, or any part thereof, the designated agent may, upon showing that probable cause exists for the inspection and for the issuance of an order directing compliance with the inspection requirements of this section, petition and obtain such order from a court of competent jurisdiction in order to secure entry.

(3) Compliance orders must be written in accordance with § 107.00 of the International Property Maintenence Code.

(4) There is no fee charged for an initial inspection to determine the existence of a housing maintenance code violation, nor any fee for the first reinspection to determine compliance with an order to correct a housing maintenance code violation.

(a) A fee will be charged for each subsequent re-inspection occurring after the due date for compliance with an order, as determined by the City Manager. The amount of the re-inspection fee will be set by resolution of the council as listed in the Appendix of this code.

(b) The re-inspection fees prescribed above are to be billed directly to the owner or operator/manager for the property upon completion of any re-inspection for which a fee is required. Failure to pay such fees is grounds for revocation, suspension, or non-issuance of a rental dwelling license. This subdivision is not to be considered the exclusive method of collecting re-inspection fees and does not preclude collection by other lawful means.

(c) Every notice of violation and order to correct housing code violations must contain a clear and conspicuous explanation of the policy in this section requiring re-inspection fees for subsequent re-inspection.

(d) The City Manager may waive a re-inspection fee in case of error, mistake, injustice, or other good cause.

(D) Revocation, suspension, denial or non-renewal of license.

(1) The City Manager may revoke, suspend, deny or decline to renew any license issued under this subchapter for part or all of a rental dwelling upon any of the following grounds:

(a) False statements on any application or other information or report required by this subchapter to be given by the applicant or licensee;

(b) Failure to pay any application, penalty, reinspection or reinstatement fee required either by this section or City Council resolution;

(c) Failure to correct deficiencies in the time specified in a compliance order;

(d) Failure to allow an authorized inspection of a rental dwelling;

(e) Violation of an owner's duties under M.S. §§ 299C.66 to 299C.71 ("Kari Koskinen Manager Background Check Act");

(f) Failure to comply with the Minnesota Crime Free Multi-housing Program requirements in § 117.491.

(g) Any other violation of this subchapter.

(2) Before the City Manager may revoke, suspend, deny or not renew a license, written notice must be sent to the applicant or owner/licensee setting forth the alleged grounds for the potential action. The notice must also specify a date for a hearing before the Hearing Officer, which must not be less than ten days from the date of the notice. At the hearing, the owner/licensee may present witnesses in their defense. The Hearing Officer may give due regard to the frequency and seriousness of violations, the ease with which such violations could have been cured or avoided and good faith efforts to comply and shall issue written findings.

(3) Upon a decision to revoke, deny or not renew a license, the owner/licensee will not be eligible for any new rental licenses for a period determined by the City Manager, but not to exceed one year.

(4) A decision to revoke, suspend, deny or not renew a license or application will specify the part or parts of the rental dwelling to which it applies. Until a license is reissued or reinstated, no rental units becoming vacant in such part or parts of the rental dwelling may be relet or occupied. Revocation, suspension or non-renewal of a license will not excuse the owner/licensee from compliance with all terms of this section for as long as any units in the rental dwelling are occupied.

(5) Failure to comply with all terms of this section during the term of revocation, suspension or non-renewal is a misdemeanor and grounds for extension of the term of revocation, suspension or continuation of non-renewal of the license.

(6) Appeal. Following receipt of a decision by the City Manager to deny, revoke, suspend, or not renew a license, the owner/licensee may request a hearing before the City Council. The request must be made in writing to the City Manager within ten days of the City Manager's decision.

(E) [Reserved].

(F) Summary action.

(1) When the conduct of any owner/licensee or their agent, representative, employee or lessee or the condition of their rental dwelling is detrimental to the public health, sanitation, safety and general welfare of the community at large or residents of the rental dwelling as to constitute a nuisance, fire hazard or other unsafe or dangerous condition and thus give rise to an emergency, the City Manager has the authority to summarily condemn or close off individual units or such areas of the rental dwelling. Notice of summary condemnation must be posted at the location of the rental dwelling license and at the units or areas affected and shall indicate the units or areas affected. Upon notice of summary condemnation, the City Manager may deny, revoke, suspend or decline to renew the license for all or any part or parts of the rental dwelling or may impose terms and conditions as necessary to remedy the nuisance, fire hazard, or other unsafe or dangerous condition.

(2) Any person aggrieved by a decision or action of the City Manager under paragraph (F) shall be entitled to appeal to the City Council by filing a notice of appeal in the office of the City Manager. The appeal must be filed within ten days of the City Manager's decision. The City Manager will schedule a date for a hearing before the City Council and notify the aggrieved person of the date.

(3) The hearing must be conducted in the same manner as if the aggrieved person had not received summary action.

(4) The decision of the City Manager is not voided by the filing of such appeal. Only after the Council has held its hearing will the decision or action of the City Manager be affected.

(G) Posting of unlicensed properties. Any dwelling found in violation of § 117.43 of this subchapter may be posted with a placard near or upon the main entrance of the dwelling and must be substantially in the following form:

NOTICE
Property Address
This property is in violation of Brooklyn Park Ordinance Section 117:43, License Required. Failure to obtain a rental license will result in legal action. Any unauthorized

person removing or defacing this notice will be prosecuted.
Division...Designated Agent...Date

('72 Code, § 455:78) (Ord. 1996-795, passed 1-22-96; Am. Ord. 2001-956, passed 8-13-01; Am. Ord. 2002-975, passed 6-10-02; Am. Ord. 2003-1007, passed 10-27-03; Am. Ord. 2004-1021, passed 11-15-04; Am. Ord. 2005-1036, passed 5-23-05; Am. Ord. 2008-1090, passed 7-7-08)

§ 117.521 ASSESSMENT OF UNPAID ADMINISTRATIVE PENALTIES.

Any unpaid administrative penalty for failure to comply with the rental licensing provisions in §§ 117.40 through 117.52 of this code may be assessed against the property in the manner set forth in § 37.08 of this code.

(Ord. 2009-1103, passed 9-8-09)

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§ 134.03 NOISY PARTIES.

(A) It is unlawful, between the hours of 10:00 p.m. and 7:00 a.m., to congregate because of or participate in any party or gathering of people from which noise emanates of a sufficient volume so as to disturb the peace, quiet or repose of persons residing in any residential area.

(B) It is unlawful to visit or remain within any residential dwelling unit wherein such party or gathering is taking place except persons who have gone there for the sole purpose of abating the disturbance.

('72 Code, § 965:00) Penalty, see § 10.99

City of Burnsville Ordinances - Chapter 12 (Trespass)

6-12-1: PURPOSE:

The purpose of this Chapter is to allow an owner or their agent of a covered premises to which the public has an implicit right of access to exclude a person from that property if the person has committed a crime on the property or has violated the properly posted or otherwise provided rules of conduct for the property. (Ord. 700, 12-15-1997)

6-12-2: DEFINITIONS:

For the purposes of this Chapter, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise:

COVERED PREMISES: Any improved real property, or portion thereof, within the City of Burnsville, to which the public has an implicit right of access, including, but not limited to, places of worship, shopping malls, retail sales facilities, hotels, motels, nursing homes, restaurants, multiple dwellings, manufactured home communities, hospitals, medical and dental offices, clubs, lodges, office buildings, banks and financial institutions, transit stations, athletic and recreational facilities including ice rinks, personal service establishments, theaters, daycare facilities and the parking lots appurtenant to any covered premises.

PRIVATE AREAS: Areas within the covered premises not normally accessible to members of the public without explicit permission of the person in direct control of the area, including, but not limited to, individual apartment units, manufactured homes, employee rest areas and facilities, banquet halls, meeting rooms, and private offices.

PROPERTY MANAGER: Any owner of a covered premises, or the agent of the owner or any tenant who is authorized by the owner to exercise control over the covered premises, including its public commons areas.

PUBLIC COMMON AREAS: Other common areas within the covered premises normally within the exclusive control of a tenant but subject to reasonable regulation by the property manager, including, but not limited to, sales floors, store restroom facilities accessible to customers or clients, checkout lanes, and customer service areas.

TENANT: Any authorized occupant of a covered premises, or the agent thereof, but excluding an occupant of a domestic use, such as a renter or lessee of a dwelling or apartment, owner or renter of a manufactured home, resident in a nursing home, or a hotel or motel guest.

TRESPASS NOTICE: A written notice that contains minimally the following information:

(A) Verbatim copies of Sections 6-12-5 and 6-12-6 of this Chapter.

(B) The name, date of birth, and address of the person to whom the notice is issued and the name of the person's custodial parent or guardian if the person is a juvenile. False, misleading or inaccurate information provided by the person, their parent or guardian, shall not render the trespass notice void. A good faith effort on the part of the issuer to ascertain the correct identity of the person shall be sufficient to give force and effect to the trespass notice.

(C) A description of the conduct that forms the basis for the issuance of the notice.

(D) A description of the covered premises or portion thereof to which the notice applies.

(E) The period during which the notice is in effect, including the date of its expiration.

(F) The name, title, address and telephone number of a person with authority to modify, amend or rescind the notice.

(G) The method by which the notice was served upon the person to whom it was issued. (Ord. 700, 12-15-1997)

6-12-3: ISSUANCE OF TRESPASS NOTICE:

A property manager or tenant may issue a trespass notice to a person only if there is probable cause to believe the person has, within thirty (30) days before the issuance of the notice:

(A) Committed an act prohibited by State statute or Cityordinance while on the covered premises; or

(B) Violated any rule of conduct for the covered premises that has been conspicuously posted at public entrances to the covered premises or that the property manager or tenant has provided to the person in writing or that the person has actual knowledge of. (Ord. 700, 12-15-1997)

6-12-4: COVERAGE OF TRESPASS NOTICE:

(A) If issued by a property manager or its agent, a trespass notice is effective only as to those public common areas and private areas within the property manager's exclusive control, except that a trespass notice may also cover private common areas and other private areas provided the tenant or tenants in control of such areas have agreed to be precluded from inviting onto the premises any person to whom a trespass notice has been issued under this Chapter. Such a trespass notice must state that the tenant or tenants of the covered premises are precluded from inviting onto the covered premises any person to whom a trespass notice has been issued under this Chapter.

(B) If issued by a tenant, the trespass notice is effective only as to those private common areas and private areas over which the tenant has control.

(C) A notice broader in coverage than authorized by this Section shall not be invalid, but shall be

valid to the extent authorized by this Section. (Ord. 700, 12-15-1997)

6-12-5: PROHIBITED CONDUCT:

(A) No person shall trespass in or upon any covered premises of another and, without claim of right, refuse to depart therefrom on demand of the property manager or its agent, or a tenant authorized to exercise control over the covered premises or portion involved.

(B) No person served with a trespass notice in conformity with this Chapter shall enter in or upon the premises described therein during its effective period without the written permission of the notice issuer, agent or assign.

(C) No person shall enter any public facility, utility, or ground thereto, or any covered premises or portion thereof in violation of conspicuously posted signs prohibiting or restricting access thereto, including, but not limited to, the following: "No Trespassing", "Authorized Personnel Only", "Private", "Employees Only", "Emergency Exit Only". (Ord. 700, 12-15-1997)

6-12-6: VIOLATIONS:

Any person violating any of the provisions of this Chapter is guilty of a misdemeanor. (Ord. 700, 12-15-1997)

6-12-7: ADDITIONAL PROVISIONS:

(A) No trespass notice shall be effective for more than one year.

(B) All trespass notices issued pursuant to this Chapter must be properly served upon the person named therein as follows:

1. Personal service documented by either a receipt signed by the person to whom it was issued or an affidavit of the issuer; or

2. If the person is arrested or detained by a police officer, the officer may personally serve the notice on behalf of the property manager or tenant and document service in the officer's report detailing the incident. (Ord. 700, 12-15-1997)

6-12-8: SEVERABILITY:

If any section or portion of any section of this Chapter is deemed invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of other sections or portions of sections of this Chapter. (Ord. 700, 12-15-1997)

Attachment 1

Title 12 HOUSING*\ Chapter 244. MAINTENANCE CODE\ Article XVI. RENTAL DWELLING LICENSES

244.2020. Conduct on licensed premises.

(a) It shall be the responsibility of the licensee to take appropriate action, with the assistance of the community crime prevention/SAFE unit and other units of the Minneapolis Police Department, following conduct by tenants and/or their guests on the licensed premises which is determined to be disorderly, in violation of any of the following statutes or ordinances, to prevent further violations.

(1) Minnesota Statutes, Sections 609.75 through 609.76, which prohibit gambling;
(2) Minnesota Statutes, Section 609.321 through 609.324, which prohibits prostitution and acts relating thereto;
(3) Minnesota Statutes, Sections 152.01 through 152.025, and Section 152.027, Subdivisions 1 and 2, which prohibit the unlawful sale or possession of controlled substances;
(4) Minnesota Statutes, Section 340A.401, which prohibits the unlawful sale of alcoholic beverages;
(5) Section 389.65 of this Code, which prohibits noisy assemblies;
(6) Minnesota Statutes, Sections 97B.021, 97B.045, 609.66 through 609.67 and 624.712 through 624.716, and section 393.40, 393.50, 393.70, 393.80, 393.90 and 393.150 of this Code, which prohibit the unlawful possession, transportation, sale or use of a weapon; or
(7) Minnesota Statutes, Section 609.72, and Section 385.90 of this Code, which prohibit disorderly conduct, when the violation disturbs the peace and quiet of the occupants of at least two (2) units on the licensed premises or other premises, other than the unit occupied by the person(s) committing the violation.

(b) The community crime prevention/SAFE unit and the inspections division shall be jointly responsible for enforcement and administration of Section 244.2020.

(c) Upon determination by the community crime prevention/SAFE unit utilizing established procedures, that a licensed premises was used in a disorderly manner, as described in subsection (a), the responsible SAFE team shall notify the licensee by mail of the violation and direct the licensee to take appropriate action with the assistance of the community crime prevention/SAFE unit and other units of the Minneapolis Police Department to prevent further violations.

(d) The established procedures manual is available to the public from the community services bureau of the Minneapolis Police Department.

(e) If another instance of disorderly use of the licensed premises occurs within eighteen (18) months, if the premises contains between one (1) and six (6) distinct and separate residential units, or within twelve (12) months, if the premises contains more than six (6) distinct and separate residential units, of an incident for which a notice in subsection (c) was given, the responsible SAFE team shall notify the licensee by mail of the violation. The licensee shall submit a written management plan to the SAFE team within ten (10) days of receipt of the notice of disorderly use of the premises. The written management plan shall detail all actions taken by the licensee in response to all notices of disorderly use of the premises within the preceding twelve (12) months. The written management plan shall also detail all actions taken and proposed to be taken by the licensee to prevent further disorderly use of the premises. The notice provided to the licensee of the violation shall inform the licensee of the requirement of submitting a written management plan. That notice shall further inform the licensee that failure to submit a written management plan may result in the city council taking action to deny, refuse to renew, revoke, or suspend the license. The licensee or the listed

agent/contact person for the licensee shall also successfully complete a property owner's workshop at the direction of and in accordance with a schedule set forth by the SAFE team. Any costs associated with that workshop will be the sole responsibility of the licensee.

(f) When required by paragraph (d), the rental dwelling license for the premises may be denied, revoked, suspended, or not renewed if the licensee fails to submit a written management plan that satisfies the requirements set forth in paragraph (d). An action to deny, revoke, suspend, or not renew a license under this section shall be initiated by the director of inspections in the manner described in Section 244.1940, and shall proceed according to the procedures established in Sections 244.1950, 244.1960, and 244.1970.

(g) If another instance of disorderly use of the licensed premises occurs within eighteen (18) months, if the premises contains between one (1) and six (6) distinct and separate residential units, or within twelve (12) months, if the premises contains more than six (6) distinct and separate residential units, after the second of any two (2) previous instances of disorderly use for which notices were sent to the licensee pursuant to this section, the rental dwelling license for the premises may be denied, revoked, suspended, or not renewed. An action to deny, revoke, suspend, or not renew a license under this section shall be initiated by the director of inspections in the manner described in Section 244.1940, and shall proceed according to the procedures established in Sections 244.1950, 244.1960, and 244.1970.

(h) No adverse license action shall be imposed where the instance of disorderly use of the licensed premises occurred during the pendency of eviction proceedings (unlawful detainer) or within thirty (30) days after a notice is given by the licensee to a tenant to vacate the premises, where the disorderly use was related to conduct by that tenant or his/her guests. Eviction proceedings shall not be a bar to adverse license action, however, unless they are diligently pursued by the licensee. A notice to vacate shall not be a bar to adverse license action unless a copy of the notice is submitted to the SAFE team within ten (10) days of receipt of the violation notice. Further, an action to deny, revoke, suspend, or not renew a license based upon violations of this section may be postponed or discontinued by the director of inspections at any time if it appears that the licensee has taken appropriate action to prevent further instances of disorderly use.

(i) A determination that the licensed premises have been used in a disorderly manner as described in subsection (a) shall be made upon substantial evidence to support such a determination. It shall not be necessary that criminal charges be brought to support a determination of disorderly use, nor shall the fact of dismissal or acquittal of such a criminal charge operate as a bar to adverse license action under this section.

(a) The public safety and regulatory services committee shall review Section 244.2020 three (3) years after the effective date of these revisions to determine its impact upon both landlords and tenants, and to recommend any changes which may be appropriate. The directors of regulatory services and the community services bureau shall keep records of all actions and proposed actions under Section 244.2020 to facilitate the committee review required herein. (90-Or-235, § 6, 9-14-90; 91-Or-071, § 1, 4-26-91; 92-Or-019, §§ 1, 2, 2-21-92; 95-Or-097, § 5, 6-30-95; Ord. No. 98-Or-142, § 1, 12-4-98; 99-Or-163, § 13, 12-17-99; 2004-Or-112, § 2, 10-8-04; 2005-Or-142, § 1, 12-23-05)

24 C.F.R. Section 245.10 Applicability of part.

(a) Except as otherwise expressly limited in this section, this part applies in its entirety to a mortgagor of any multifamily housing project that meets the following—

(1) Project subject to HUD insured or held mortgage under the National Housing Act. The project has a mortgage that—

(i) Has received final endorsement on behalf of the Secretary and is insured or held by the Secretary under the National Housing Act (12 U.S.C. 1701—1715z-20); and

(ii) Is assisted under:

(A) Section 236 of the National Housing Act (12 U.S.C. 1715z-1);

(B) The Section 221(d)(3) BMIR Program;

(C) The Rent Supplement Program;

(D) The Section 8 Loan Management Set-Aside Program following conversion to such assistance from the Rent Supplement Program assistance;

(2) Formerly HUD-owned project. The project—

(i) Before being acquired by the Secretary, was assisted under:

(A) Section 236 of the National Housing Act (12 U.S.C. 1715z-1);

(B) The Section 221(d)(3) BMIR Program;

(C) The Rent Supplement Program; or

(D) The Section 8 LMSA Program following conversion to such assistance from assistance under the Rent Supplement Program; and

(ii) Was sold by the Secretary subject to a mortgage insured or held by the Secretary and an agreement to maintain the low- and moderate-income character of the project;

(3) State or local housing finance agency project. The project receives assistance under section 236 of the National Housing Act (12 U.S.C. 1715z-1) or the Rent Supplement Program (12 U.S.C. 1701s) administered through a state or local housing finance agency, but does not have a mortgage insured under the National Housing Act or held by the

Secretary. Subject to the further limitation in paragraph (b) of this section, only the provisions of subparts A, B and C of this part, and of subpart E of this part for requests for approval of a conversion of a project from project-paid utilities to tenant-paid utilities or of a reduction in tenant utility allowances, apply to a mortgagor of such a project;

(4) The project receives project-based assistance under section 8 of the United States Housing Act of 1937 (this regulation does not cover tenant participation in PHAs that administer such project-based assistance);

(5) The project receives enhanced vouchers under the Low-Income Housing Preservation and Resident Homeownership Act of 1990, the provisions of the Emergency Low Income Housing Preservation Act of 1987, or the Multifamily Assisted Housing Reform and Affordability Act of 1997, as amended;

(6) The project receives assistance under the Section 202 Direct Loan program or the Section 202 Supportive Housing for the Elderly program; or

(7) The project receives assistance under the Section 811 Supportive Housing for Persons with Disabilities program.

(b) Limitation for cooperative mortgagor. Only the provisions of subparts A and C of this part apply to a mortgagor of any multifamily housing project described in paragraph (a) of this section if the mortgagor is a cooperative housing corporation or association.

(c) Definitions.

Rent Supplement Program means the assistance program authorized by section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s).

Section 8 LMSA Program means the Section 8 Loan Management Set-Aside Program implemented under 24 CFR part 886, subpart A.

Section 221(d)(3) BMIR Program means the below-market interest rate mortgage insurance program under section 221(d)(3) and the proviso of section 221(d)(5) of the National Housing Act (12 U.S.C. 1715l(d)(3) and 1715l(d)(5)).

24 C.F.R. Section 245.115 Protected activities.

(a) Owners of multifamily housing projects covered under § 245.10, and their agents, must allow tenants and tenant organizers to conduct the following activities related to the establishment or operation of a tenant organization:

(1) Distributing leaflets in lobby areas;

(2) Placing leaflets at or under tenants' doors;

(3) Distributing leaflets in common areas;

(4) Initiating contact with tenants;

(5) Conducting door-to-door surveys of tenants to ascertain interest in establishing a tenant organization and to offer information about tenant organizations;

(6) Posting information on bulletin boards;

(7) Assisting tenants to participate in tenant organization activities;

(8) Convening regularly scheduled tenant organization meetings in a space on site and accessible to tenants, in a manner that is fully independent of management representatives. In order to preserve the independence of tenant organizations, management representatives may not attend such meetings unless invited by the tenant organization to specific meetings to discuss a specific issue or issues; and

(9) Formulating responses to owner's requests for:

(i) Rent increases;

(ii) Partial payment of claims;

(iii) The conversion from project-based paid utilities to tenant-paid utilities;

(iv) A reduction in tenant utility allowances;

(v) Converting residential units to non-residential use, cooperative housing, or condominiums;

(vi) Major capital additions; and

(vii) Prepayment of loans.

(b) In addition to the activities listed in paragraph (a) of this section, owners of multifamily

housing projects covered under § 245.10, and their agents, must allow tenants and tenant organizers to conduct other reasonable activities related to the establishment or operation of a tenant organization.

(c) Owners of multifamily housing projects and their agents shall not require tenants and tenant organizers to obtain prior permission before engaging in the activities permitted under paragraphs (a) and (b) of this section.

42 U.S.C. § 3631 - Violations; penalties

Whoever, whether or not acting under color of law, by force or threat of force willfully injuries, intimidates or interferes with, or attempts to injure, intimidate or interfere with—

> (a) any person because of his race, color, religion, sex, handicap (as such term is defined in section 3602 of this title), familial status (as such term is defined in section 3602 of this title), or national origin and because he is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling, or applying for or participating in any service, organization, or facility relating to the business of selling or renting dwellings; or
>
> (b) any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from—
>
> > (1) participating, without discrimination on account of race, color, religion, sex, handicap (as such term is defined in section 3602 of this title), familial status (as such term is defined in section 3602 of this title), or national origin, in any of the activities, services, organizations or facilities described in subsection (a) of this section; or
> >
> > (2) affording another person or class of persons opportunity or protection so to participate; or
>
> (c) any citizen because he is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, handicap (as such term is defined in section 3602 of this title), familial status (as such term is defined in section 3602 of this title), or national origin, in any of the activities, services, organizations or facilities described in subsection (a) of this section, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate—

shall be fined under title 18 or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire shall be fined under title 18 or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under title 18 or imprisoned for any term of years or for life, or both.

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About HOME Line

HOME Line is a Minnesota non-profit corporation. HOME Line's programs include a hotline that receives approximately 11,000 calls per year from tenants throughout the state; a litigation program providing legal representation to tenants, mostly in eviction and lack-of-repair cases; a program of presentations to local high schools to educate the students on becoming knowledgeable and responsible renters; presentations to police officers on criminal aspects of landlord-tenant law; presentations to social workers, landlords, and law students on landlord-tenant law; an organizing program, providing staff to facilitate organization of residential tenants; and various programs designed to help tenants in buildings being foreclosed. HOME Line also participates in housing policy advocacy at the state and national levels.

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