

TITLE XIII: GENERAL OFFENSES

Chapter

130. GENERAL OFFENSES

131. SOCIAL HOST ORDINANCE

CHAPTER 130: GENERAL OFFENSES

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Health and Safety; Nuisances, see Ch. 92

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GENERAL PROVISIONS**§ 130.01 CURFEW FOR MINORS.**

(A) *Purpose.* The curfew for minors established by this section is maintained for four primary reasons:

- (1) To protect the public from illegal acts of minors committed during the curfew hours;
- (2) To protect minors from improper influences that prevail during the curfew hours, including involvement with gangs;
- (3) To protect minors from criminal activity that occurs during the curfew hours; and
- (4) To help parents control their minor children.

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

EMERGENCY ERRAND. A task that if not completed promptly threatens the health, safety, or comfort of the minor or a member of the minor's household. The term shall include, but shall not be limited to, seeking urgent medical treatment, seeking urgent assistance from law enforcement or fire department personnel, and seeking shelter from the elements or urgent assistance from a utility company due to a natural or human-made calamity.

OFFICIAL CITY TIME. The time of day as determined by reference to the master clock used by the Police Department.

PLACES OF AMUSEMENT, ENTERTAINMENT OR REFRESHMENT. Those places that include, but are not limited to, movie theaters, pinball arcades, shopping malls, nightclubs catering to minors, restaurants, and pool halls.

PRIMARY CARE or PRIMARY CUSTODY. The person who is responsible for providing food, clothing, shelter, and other basic necessities to the minor. The person providing primary care or custody to the minor shall not be another minor.

SCHOOL ACTIVITY. An event which has been placed on a school calendar by public or parochial school authorities as a school sanctioned event.

(C) *Hours.*

(1) *Minors under the age of 16 years.* No minor under the age of 16 years shall be in or upon or loiter at any public streets, alleys, parks, playgrounds or other public grounds, public places, public buildings; nor in or upon places of amusement, entertainment or refreshment; nor in or upon any vacant lot, between the hours of 11:00 p.m. and 5:00 a.m. the following day, official city time.

(2) *Minors ages 16 or 17 years.* No minor of the ages of 16, but under the age of 18 years, shall be in or upon the public streets, alleys, parks, playgrounds or other public grounds, public places, public buildings; nor in or upon places of amusement, entertainment or refreshment; nor in or upon any vacant lot, between the hours of 12:00 midnight and 5:00 a.m. the following day, official city time.

(D) *Effect on control by adult responsible for minor.* Nothing in this section shall be construed to give a minor the right to stay out until the curfew hours designated in this section if otherwise directed by a parent, guardian, or other adult person having the primary care and custody of the minor; nor shall this section be construed to diminish or impair the control of the adult person having the primary care or custody of the minor.

(E) *Exceptions.* The provisions of this section shall not apply in the following situations:

(1) To a minor accompanied by his or her parent or guardian, or other adult person having the primary care and custody of the minor;

(2) To a minor who is upon an emergency errand at the direction of his or her parent, guardian, or other adult person having the primary care and custody of the minor;

(3) To a minor who is in any of the places described in this section if in connection with or as required by an employer engaged in a lawful business, trade, profession, or occupation; or to a minor traveling directly to or from the location of the business, trade, profession or occupation and the minor's residence. Minors who fall within the scope of this exception shall carry written proof of employment and proof of the hours the employer requires the minor's presence at work.

(4) To a minor who is participating in or traveling directly to or from an event which has been officially designated as a school activity by public or parochial school authorities; or who is participating in or traveling directly to or from an official activity supervised by adults and sponsored by the city, a civic organization, school, religious institution, or similar entity that takes responsibility for the minor and with the permission of the minor's parent, guardian, or other adult person having the primary care and custody of the minor.

(5) To a minor who is passing through the city in the course of interstate travel during the hours of curfew.

(6) To a minor who is attending or traveling directly to or from an activity involving the

exercise of First Amendment rights of free speech, freedom of assembly, or freedom of religion.

(7) To minors on the sidewalk abutting his or her residence or abutting the residence of a next-door neighbor if the neighbor does not complain to the city's designated law enforcement provider about the minor's presence.

(8) To a minor who is married or has been married, or is otherwise legally emancipated.

(F) *Duties of person legally responsible for minor.* No parent, guardian, or other adult having the primary care or custody of any minor shall permit any violation of the requirements of this section by the minor.

(G) *Duties of other persons.* No person operating or in charge of any place of amusement, entertainment, or refreshment shall permit any minor to enter or remain in his or her place of business during the hours prohibited by this section unless the minor is accompanied by his or her parent, guardian or other adult person having primary care or custody of the minor, or unless one of the exceptions to this section applies.

(H) *Defense.* It shall be a defense to prosecution under this section that the owner, operator, or employee of an establishment promptly notified the city's designated law enforcement provider that a minor was present on the premises of the establishment during curfew hours and refused to leave.

(I) A law enforcement officer must look into whether a minor has an affirmative defense before making an arrest.

(J) *Curfew penalties.*

(1) *Minors.* Any minor found to be in violation of this section may be adjudicated delinquent and shall be subject to the dispositional alternatives set forth in M.S. Chapter 260B, as it may be amended from time to time.

(2) *Adults.* Any adult person found to be in violation of this section shall be guilty of a misdemeanor.

§ 130.02 FIREWORKS.

(A) The use, display, possession, discharge or sale of any fireworks not expressly permitted by M.S. § 624.20, subd. 1(c), as it may be amended from time to time, 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 M.S. § 624.20, subd. 1(c), as it may be amended from time to time, hereinafter referred to as “permitted consumer fireworks,” is strictly prohibited in:

(1) The area on, below, above or within or in close proximity to: 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, the county in which the city is located, the State of Minnesota or the federal government and 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 300 feet of any consumer fireworks retail sales facility or storage area that has posted a written sign or notice that no fireworks discharge is allowed; and

(4) Any property, area, or structure that, by its physical condition or the physical conditions in which it is set, would constitute a fire or personal safety hazard.

(C) 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.

Penalty, see § 130.99

§ 130.03 DAMAGE TO PUBLIC PROPERTY.

Any person driving any vehicle, equipment, object or contrivance upon any street, road, highway or structure shall be liable for all damages which the surface or structure thereof may sustain as a result of any illegal operation, or driving or moving of such vehicle, equipment or object or contrivance; or as a result of operating, driving or moving of such vehicle, equipment or object or contrivance; or as a result of operating, driving or moving any vehicle, equipment, object or contrivance weighing in excess of the maximum weight permitted by statute or this code. When such driver is not the owner of such vehicle, equipment, object or contrivance, but is so operating, driving or moving the same with the express or implied permission of the owner, then the owner and driver shall be jointly and severally liable for any such damage. Any person who willfully acts or fails to exercise due care and by that act damages any public property shall be liable for the amount thereof, which amount shall be collectible by action or as a lien under M.S. § 514.67, as it may be amended from time to time.

§ 130.04 BREEDING OF ANIMALS.

No person shall permit the copulation of horses or asses, or either with the steer or any bull with any cow, within the limits of the City of Olivia, unless in some enclosed place out of public view.
(1957 Code, § 510:06) Penalty, see § 130.99

§ 130.05 BREACH OF PEACE.

No person shall make, aid, or assist in making any noise, riot, breach of the peace, use obscene, abusive, or indecent language to another person or persons or language tending or having a tendency to provoke a breach of the peace; or any other disorderly conduct whatever within the limits of the City of Olivia.
(1957 Code, § 510:07) Penalty, see § 130.99

§ 130.07 ABUSE OF ANIMALS.

No person shall unnecessarily, cruelly, or wantonly beat, torture, mutilate, injure, overload, or otherwise abuse any domestic or dumb animal within the limits of the City of Olivia.
(1957 Code, § 510:13) Penalty, see § 130.99

§ 130.08 OBSTRUCTING TRAFFIC.

No person shall obstruct the streets or street crossings or the sidewalks within the City of Olivia, or shall store or leave upon the sidewalk any kerosene, gasoline, or other inflammable substance.

(1957 Code, § 510:18) Penalty, see § 130.99

§ 130.09 INJURY TO SURVEY MONUMENTS.

No person shall willfully or maliciously displace, remove, injure, or destroy any tree, rock, post, marker, or other monument which has been erected or marked for the purpose of designating a point in the boundary of the City of Olivia, or of any tract, block, or lot of land in the city, or any mark or inscription thereon.

(1957 Code, § 510:21) Penalty, see § 130.99

§ 130.10 DISORDERLY CONDUCT.

(A) Every person who shall do the following shall be guilty of the crime of disorderly conduct:

(1) Willfully disturb any assembly or meeting not unlawful in its character, or the peace and quiet of any family or neighborhood;

(2) Willfully and lewdly expose his or her person or the private parts thereof, or procure another to so expose himself or herself, or commit any open and gross lewdness or lascivious behavior, or any act of public indecency;

(3) Strike or attempt to strike, or in any unlawful manner offer to do, or do, any bodily harm to another person, or unlawfully make any attempt to apply any degree of force or violence to the person of another; or in a violent, rude, angry, or insolent manner, touch or lay hands upon the person of another;

(4) In any manner willfully damage any building or part thereof, or throw any stone or other missile at, or break any window therein, or aid, counsel, hire, or procure any person to do so;

(5) Willfully resist, delay, or obstruct a public officer or police officer discharging or attempting to discharge his or her duty, and or any duty of his or her office;

(6) Directly or indirectly address any threat or intimidation to a police officer with intent to induce him or her, contrary to his or her duty, to do or make, or to omit or delay any act, decision, or determination; or resist arrest, or strike or attempt to strike, or in any unlawful manner offer to do or do badly harm, or unlawfully make and attempt to apply any degree of force or violence, or in a violent, rude, angry, or insolent manner, touch or lay hands upon any police officer, while the police officer is performing the duties of his or her office;

(7) Without the consent of the owner, in case of private property, or public authority in the case of public property, drive, lead, or ride, or cause to be driven, led, or ridden, any horse, or other animal, without authority of law, into any private or publicly owned property or premises;

(8) Use in reference to and in the presence of another, or in reference to or in the presence of any member of the family of another, abusive or obscene language, intended, or naturally intending to

provoke an assault or any breach of the peace;

(9) During the hours of darkness, peek or attempt to peek in the window or windows of any dwelling; and/or

(10) Unlawfully threaten, frighten, or molest any other person.
(1957 Code, § 511:01)

(B) Disorderly conduct as herein defined is hereby prohibited, and anyone doing or committing any of the above acts shall be guilty of a misdemeanor.
(1957 Code, § 511:03)
Penalty, see § 130.99

FIREARMS AND OTHER DANGEROUS WEAPONS

§ 130.25 UNLAWFUL DISCHARGE.

It shall be unlawful for any person to discharge any pistol, rifle, gun, or other firearm, or fire or explosives, bows and arrows, or other weapon within or into the city limits except as permitted otherwise. It shall further be unlawful to throw any deadly missile into or within any public or private place where there is any person, livestock or property to be endangered, even if no injury actually results.

§ 130.26 CONCEALED WEAPONS.

(A) *Generally.* It shall be unlawful for any person to carry concealed in any manner on his or her person any weapon of the kind commonly known as a sling-shot, sand-club, metal knuckles, switch-blade, dagger, dirk, revolver, pistol, firearm or other dangerous weapon.

(B) *Concealed or dangerous weapons.* No person shall carry any concealed or dangerous weapon within the limits of the City of Olivia. This section does not apply to sheriffs, constables, and police officers while in discharge of their duty, or others authorized by law to so carry.
(1957 Code, § 510:14) Penalty, see § 130.99

§ 130.27 SILENCERS.

No person shall use, own or possess any firearm equipped so that a silencer may be attached to the firearm. No person shall have in his or her possession any device designed to silence or muffle the discharge of a firearm.

§ 130.28 PROHIBITED WEAPONS.

It shall be unlawful for any person to manufacture or cause to be manufactured, sell, keep for sale, offer or dispose of any instrument or weapon of the kind usually known as a sling-shot, sand club or metal knuckles.

§ 130.29 MINORS.

No minor age 14 or under shall handle, or have in his or her possession or under his or her control, except while accompanied by or under the immediate charge of a parent or guardian, any firearm of any kind for hunting or target practice or any other purpose. Any minor having attained the age of 15 shall be the holder of a valid firearm safety permit. Anyone born on or after January 1, 1980, must have a safety certificate, or equivalent, or other evidence of successfully completing a hunter safety course to hunt or trap in the City.

§ 130.30 EXCEPTIONS.

The provisions of this section shall not apply to any of the armed forces of the United States of America, or to any member thereof, while engaged in the performance of duty in compliance with any of the articles of war of the United States, a statute of the United States, or any regulation, rule or order duly promulgated and issued under authority of the United States; nor to the militia of the State of Minnesota, or any member thereof, while in the performance of duty prescribed by law; nor to any sheriff, police officer, constable, marshal, highway patrol officer or any other officer or individual authorized by law to possess and carry firearms; nor to any gun club or shooting gallery of duly licensed as such by the city nor to the holding of exhibitions of sportsmanship or to other contests involving the use of firearms where the exhibitions or contests shall be held in and upon public grounds owned by the city under the regulations, restrictions and safeguards as the city may provide.

HUNTING**§ 130.40 HUNTING BY BOW AND ARROW.**

The provisions of this chapter shall prohibit the use of any bow and arrow for archery except for school or community education sponsors training.

OBSTRUCTION OF AND FLEEING A POLICE OFFICER**§ 130.50 DEFINITIONS.**

(A) The term ***PEACE OFFICER*** or ***PUBLIC OFFICIAL*** means any duly authorized individual authorized by law or a department, agency, municipality to conduct or engage in investigations of or prosecutions of the laws of United States, State of Minnesota, or the Code of Ordinances of the City of Olivia.

(B) The term ***MISLEADING CONDUCT*** means:

- (1) Knowingly making a false statement;
- (2) Intentionally omitting information from a statement and thereby causing a portion of such statement to be misleading, or intentionally concealing a material fact, and thereby creating a false impression by such statement;
- (3) With the intent to mislead, knowingly submitting or inviting reliance on a writing or recording that is false, forged, altered, or otherwise lacking in authenticity;
- (4) Knowingly using a trick, scheme, or device with intent to mislead.

§ 130.51 OFFENSES.

(A) No person shall intentionally do an act which he or she should reasonably expect will obstruct or interfere with, or induce another to obstruct or interfere with a peace officer or other public official in discharging or attempting to discharge a duty of his or her office. For purposes of this section, the duties of the public officer shall include, but not necessarily be limited to:

- (1) Apprehending a criminal or suspected criminal;
- (2) Serving legal process, executing or serving an arrest warrant or search warrant;

(3) Transferring a criminal or suspected criminal;

(4) Investigating a crime which has been committed or conduct which the police officer or public official reasonably believes may constitute a crime or violation of the Olivia City Code or other regulation; and,

(5) Directing vehicular or pedestrian traffic or controlling a crowd of people.

(B) No person shall flee from a police officer or police vehicle in disregard of any visible or audible notice to halt given by or from such police officer or police vehicle when such person knows or reasonably should know the same to be a police officer or police vehicle.

(C) No person shall physically resist arrest by a peace officer or aid another in physically resisting an arrest by a peace officer, regardless of whether or not such arrest is lawful.

(D) No person shall resist, obstruct, interfere with, or induce another to resist, obstruct or interfere with, a lawful citizen arrest.

(E) No person shall intentionally engage in misleading conduct directed at a police officer or public official in the course of an investigation or the exercise of the police officer's or public official's official duties.

§ 130.99 PENALTY.

(A) Any provision of this chapter for which no penalty is set out, shall be subject to § 10.99.

(B) Any persons convicted of violating §§ 130.50 *et seq.* is guilty of an ordinance violation and shall be punished by a fine of \$300 together with the appropriate surcharge and library fee or other fine as recommended by the City Council from time to time in adopting by resolution a recommended fine schedule for single and multiple occurrence offenses of the Olivia City Code.

CHAPTER 131: SOCIAL HOST

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Section 1. Title and Authority. The City of Olivia desires to protect the health, safety and welfare of all persons living in and visiting the City. The use of alcohol by persons under the age of twenty-one (21) is prohibited by State statute. This ordinance prohibits, and establishes penalties for any person hosting an event or gathering where alcohol is present and being possessed or consumed by persons less than twenty-one (21) years of age. This ordinance is enacted pursuant to Minn. Stat. § 412.221, subdivision 32.

Section 2. Purpose and Findings. The Olivia City Council intends to discourage underage possession and consumption of alcohol, even if done within the confines of a private residence, and intends to hold persons criminally responsible who host events or gatherings where persons under 21 years of age possess or consume alcohol regardless of whether the person hosting the event or gathering supplied the alcohol. The Olivia City Council finds that:

(a) Prohibiting underage consumption acts to protect underage persons, as well as the general public, from injuries related to alcohol consumption, such as alcohol overdose or alcohol-related traffic collisions.

(b) Often, events or gatherings involving underage possession and consumption occur outside the presence of parents. However, there are times when the parent(s) is/are present and, condone the activity, and in some circumstances provide the alcohol.

(c) Even though giving or furnishing alcohol to an underage person is a crime, it is difficult to prove, and an ordinance is necessary to help further combat underage consumption.

(d) A deterrent effect will be created by holding a person criminally responsible for hosting an event or gathering where underage possession or consumption occurs.

Section 3. Definitions. For purposes of this ordinance, the following terms have the following meanings:

(a) Alcohol. "alcohol" means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, whiskey, rum, brandy, gin, or any other distilled spirits including dilutions and mixtures thereof from whatever source or by whatever process produced.

(b) Alcoholic Beverage. "Alcoholic beverage" means alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, and which contains on-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.

(c) Event or Gathering. "Event or gathering" means any group of three or more persons who have assembled or gathered together for a social occasion or other activity.

(d) Host. "Host" means to aid, conduct, allow, entertain, organize, supervise, control, or permit a gathering or event, whether that host is present or not.

(e) Parent." "Parent" means any person having legal custody of a juvenile:

- (1) As natural, adoptive parent, or step-parent;
- (2) As a legal guardian; or
- (3) As a person to whom legal custody has been given by order of the court.

(f) Person. "Person" means any individual, partnership, co-partnership, corporation, or any association of one or more individuals.

(g) Residence or Premises. "residence or premises" means any home, land, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, or any other places of assembly, public or private, whether occupied as a dwelling or for any social function, and whether owned, leased, or rented.

(h) Underage Person. "Underage person" is any individual under twenty-one (21) years of age.

Section 4. Prohibited Acts.

(a) It is unlawful for any person(s) to;

- (1) Host or allow an event or gathering;
- (2) at any residence, premises, or on any other private or public property;
- (3) where alcohol or alcoholic beverages are present;
- (4) when the person knows or reasonably should know that an underage person will or does
 - (a) consume any alcohol or alcoholic beverage; or
 - (b) possess any alcohol or alcoholic beverage with the intent to consume it; and

(5) the person fails to take reasonable steps to prevent possession or consumption by the underage person(s).

(b) A person is criminally responsible for violating this Section of this ordinance if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit

the prohibited act.

Section 5. Exceptions.

(a) This ordinance does not apply to conduct solely between an underage person and his or her parents while present in the parent's household.

(b) This ordinance does not apply to legally protected religious observances.

(c) This ordinance does not apply to retail intoxicating liquor or 3.2 percent malt liquor licensees, municipal liquor stores, or bottle club permit holders who are regulated by Minn. Stat. § 340A.503, subd. 1(a)(1).

(d) This ordinance does not apply to situations where underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.

Section 6. Enforcement. This ordinance can be enforced by any MN licensed police officer.

Section 7. Severability. If any section, subsection, sentence, clause, phrase, word, or other portion of this ordinance is for any reason, held to be unconstitutional or invalid, in whole, or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this law, which remaining portions shall continue to in full force and effect.

Section 8. Penalty. Violation of Section 4 of this ordinance is a misdemeanor and is punishable by a maximum of 90 days jail and/or a \$1,000 fine.

Section. 9. Effective Date. This ordinance shall be in full force and effective upon its publication.

(Ord. 295, passed 4-4-2011, Codified by Ordinance 2017-04, passed 9-18-2017)