

## § 10.05 CURFEW.

Subd. 1. *Purpose.* The curfew for minors established by this section is maintained for four primary reasons:

- A. To protect the public from illegal acts of minors committed during the curfew hours;
- B. To protect minors from improper influences that prevail during the curfew hours, including involvement with gangs;
- C. To protect minors from criminal activity that occurs during the curfew hours; and
- D. To help parents control their minor children.

Subd. 2. *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

A. **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.

B. **OFFICIAL CITY TIME.** The time of day as determined by reference to the master clock contained by the joint County-City Dispatcher.

C. **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.

D. **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.

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

Subd. 3. *Hours.*

A. *Minors under the age of 16 years.* No minor under the age of 16 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 10:30 p.m. and 5:00 a.m. the following day, official city time.

B. *Minors ages 16 years to 18 years.* No minor of the ages of 16 or 17 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 a.m. and 5:00 a.m. the following day, official city time.

Subd. 4. *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.

Subd. 5. *Exceptions.* The provisions of this section shall not apply in the following situations:

A. To a minor accompanied by his or her parent or guardian or other adult person having the primary care and custody of the minor;

B. 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;

C. 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.)

D. 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;

E. To a minor who is passing through the city in the course of interstate travel during the hours of curfew;

F. 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;

G. 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; and/or

H. To a minor who is married, has been married or is otherwise legally emancipated.

Subd. 6. *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.

Subd. 7. *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 apply.

Subd. 8. *Penalties.*

A. *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. § 260.185, as amended.

B. *Adults.* Any adult person found to be in violation of this section shall be guilty of a misdemeanor and may be sentenced up to the maximum penalty authorized by state law for a misdemeanor.

Subd. 9. *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.

Penalty, see § 1.99

### **§ 10.34 HOSTING AN EVENT OR GATHERING WHERE ALCOHOL IS PRESENT AND BEING POSSESSED AND CONSUMED BY PERSONS UNDER 21 YEARS OF AGE PROHIBITED.**

Subd. 1. *Purpose and findings.* The 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 City Council finds that:

A. Events and gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of 21 are harmful to those persons and constitute a potential threat to public, from injuries related to alcohol consumption, such as alcohol overdose or alcohol-related traffic collisions.

B. 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.

C. Alcohol is an addictive drug which, if used irresponsibly, could have drastic effects on those who use it as well as those who are affected by the actions of an irresponsible user.

D. 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.

E. 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.

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

Subd. 2. *Authority.* This section is enacted pursuant to M.S. § 145A.05, Subd. 1.

Subd. 3. *Definitions.* For purposes of this section, the following terms have the following meanings:

A. **ALCOHOL.** 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.** Alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, liquor, wine, or beer, and which contains one-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.** Any group of three or more persons who have assembled or gathered together for a social occasion or other activity.

D. **HOST.** To aid, conduct, allow, entertain, organize, supervise, control, or permit a gathering or event.

E. **PARENT.** 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.** Any individual, partnership, co-partnership, corporation, or any association of one or more individuals.

G. **RESIDENCE OR PREMISES.** Any home, yard, farm, field, land, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, park or any other place of assembly, public or private, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party or other social function, and whether owned, leased, rented, or used with or without permission or compensation.

H. **UNDERAGE PERSON.** Any individual under 21 years of age.

Subd. 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 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 Subd. 4.A. above if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit the prohibited act.

C. A person who hosts an event or gathering does not have to be present at the event or gathering to be criminally responsible.

Subd. 5. *Exceptions.*

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

B. This section does not apply to legally protected religious observances.

C. This section 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 M.S. § 340A.503, Subd. 1 (a) (1).

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

Subd. 6. *Enforcement.* This section can be enforced by any police officer.

(Ord. 578, passed 11-16-09) Penalty, see § 1.99