

Manzanita Ordinances
AN ORDINANCE PRESCRIBING GENERAL OFFENSES;
PROVIDING PENALTIES; REPEALING ORDINANCE NO. 52;
AND DECLARING AN EMERGENCY

ORDINANCE NO. 94-6

Section 1. Oregon Criminal Code Adopted.

(1) Oregon Revised Statutes, Chapters 161, 162, 163, 164, 165, 166, 167 and 471 all as amended through January 1, 2003, except for any provisions classified as a felony under state law, are adopted by reference. Violation of an adopted provision of those chapters is an offense against this City.

(2) The provisions of Oregon Revised Statutes, Chapter 161 as amended through January 1, 2003 relating to defenses, burden of proof, general principles of criminal liability, parties and general principles of justification apply to offenses defined and made punishable by this Ordinance.

(3) Except where the context clearly indicates a different meaning, definitions appearing in the general definitional and other particular sections of chapters adopted by subsection (1) above are applicable throughout this Ordinance.

Amended March 5, 2003, Ordinance No. 03-01.

Disorderly Conduct and Related Offenses

Section 2. Disorderly Conduct at Fires.

(1) No person at or near a fire shall obstruct or impede fighting of the fire, interfere with fire department personnel or fire department apparatus and equipment; behave in a disorderly manner, or refuse to observe promptly an order of a member of the fire or police department.

(2) For purposes of this section, members of the fire department are endowed with the same powers of arrest as are conferred on peace officers for violations of city ordinances.

Section 3. Drinking or Possessing Open Container in Public Places. No person shall drink, consume or possess an open container of alcoholic liquor in or on a street, alley, mall, parking lot or structure, motor vehicle, public grounds, or other public place unless the place has been licensed for that purpose by the Oregon Liquor Control Commission.

Section 4. Unnecessary Noise. No person shall create, assist in creating, permit, continue, or permit the continuance of unreasonable noise in the city. The following enumerations of violations of this section are not exclusive but are illustrative of some unreasonable noises:

(1) The keeping of any animal which by frequent or loud continued noise shall disturb the comfort and repose of any person in the vicinity.

(2) Using an engine, thing or device out of repair, so loaded, or operated in such manner as to create loud and unnecessary grating, grinding, rattling or other noises. (3) The sounding of any horn or signal device on any automobile, motorcycle, streetcar, or other vehicle on any street or public place of the city, except as a necessary warning of danger to property or person.

(4) The use of any mechanical device operated by compressed air, steam, or otherwise, unless the noise created thereby is effectively muffled.

(5) The erection, including excavation, demolition, alteration, or repair of any building, other than between the hours of 7:00 a.m. and 6:00 p.m., except upon special permit granted by the City Council.

(6) The use of any gong or siren upon any vehicle other than police, fire, or emergency vehicle.

(7) The operation of any gasoline engine without having the same equipped with and using thereupon a muffler.

(8) The use of a "muffler cutout" on any motor vehicle upon any street.

(9) The use or operation of any automatic or electric piano, phonograph, radio, loudspeaker, or any sound-amplifying device so loudly that it disturbs persons in the vicinity thereof or in such manner as renders the same a public nuisance; provided, however, that upon application to the City Council, permits may be granted to responsible persons or organizations to broadcast programs of music, news, speeches, or general entertainment.

(Sections 5 to 10 reserved for expansion)

Section 11. Discharge of weapons.

(1) No person other than a peace officer shall fire or discharge a gun or firearm, including a spring or air activated pellet gun, air gun, BB gun, or other weapon that propels a projectile by use of gunpowder, jet or rocket propulsion.

(2) No person other than a peace officer shall shoot any device commonly known as a bow, causing an arrow to be propelled through the air.

(3) No person other than a peace officer shall shoot any device commonly as a sling shot, causing a projectile to be propelled through the air.

Section 12. Concealed Weapons. Except as provided in ORS 166.260 and 166.290, no person shall carry concealed on his or her person or conceal in a vehicle a revolver, pistol or other firearm, a knife other than an ordinary pocket knife; a dirk; dagger or stiletto; metal knuckles or any weapon that could be used to inflict injury on a person or the property of another. For the purposes of this section, an ordinary pocket knife is one with a maximum blade length of 3 1/2 inches that is not a switchblade or spring blade knife.

Section 13. Fireworks The following sections of the Oregon Fireworks Law are adopted by reference and made a part of this ordinance: ORS 480.110, 480.120, 480.130, 480.140(1), 480.150 and 480.170.

Section 14 of City of Manzanita Ordinance No. 94-6 is hereby amended to read as follows:

Section 14. Overnight camping prohibited. Overnight camping, including overnight sleeping in recreational vehicles, trailers, automobiles, temporary shelters, tents, or sleeping bags on all public property, including, but not limited to, public streets, public sidewalks, public parks and public parking lots, on all premises open to the public and on all ocean shore areas under the jurisdiction of the State Parks and Recreation Department located within the City limits is prohibited.

Sexual and Related Offenses

Section 15. Public Indecency. No person shall, while in or in view of a public place, perform:

(1) An act of sexual intercourse.

(2) An act of deviate sexual intercourse.

- (3) An act of exposing his genitals with the intent of arousing the sexual desire of himself or another person.
- (4) An act of urination or defecation except in toilets provided for that purpose.

Offenses Relating to Minors

Section 16. Endangering Welfare of Minor.

- (1) No person shall employ a person under 18 years of age in or about a card room, pool room, billiard parlor, dance hall, unless the establishment is a “recreational facility” as defined in Section 17.
- (2) No person shall solicit, aid, or cause a person under 18 years of age to:
 - (a) Violate a law of the United States or a state, or to violate a city or county ordinance.
 - (b) Run away or conceal himself from a person or institution having lawful custody of the minor.

Section 17. Places of Amusement.

- (1) No person under 18 years of age shall enter, visit or loiter in or about a public card room, pool room or billiard parlor.
- (2) No person operating or assisting in the operation of a public card room, pool room, or billiard parlor shall permit a person under 18 years of age to engage in a game of cards, billiards, dice or games of chance, for amusement or otherwise.
- (3) This section shall not apply to playing billiards in a recreational facility. As used in this section, “recreational facility” means an area, enclosure or room in which facilities are offered to the public to play billiards or pool for amusement only and:
 - (a) Is clean, adequately supervised, adequately lighted and ventilated.
 - (b) No alcoholic liquor is sold or consumed.
 - (c) Where access does not require passing through a room where alcoholic liquor is sold or consumed.

Section 18. Providing Liquor to Minors. No person shall sell, give, serve or otherwise make available any alcoholic liquor to a minor except as provided in Section 20 of this ordinance.

Section 19. Purchase or Possession of Liquor by Minor.

- (1) Except as provided in Section 20 of this ordinance, no minor shall attempt to purchase or acquire, or have in his or her possession alcoholic liquor.
- (2) For purposes of this Section, possession of alcoholic liquor includes acceptance or consumption of a bottle of such liquor, or any portion of it, or a drink of such liquor. However, this Section does not prohibit a person from accepting or consuming sacramental wine as part of religious rite or service.

Section 20. Lawful Consumption of Liquor by Minor. Nothing in this ordinance shall be construed as prohibiting a parent or other responsible relative of a minor from giving the minor alcoholic liquor and permitting the minor to consume it within the home of the parent or other responsible relative; or at another private place not in view of the public where the parent or other responsible relative is present.

Section 21. Purchase of Property From Minors. No person shall purchase any property or article of value from a minor, or have dealings respecting the title of property in the possession of a minor without the written consent of the parent or guardian of the minor.

Section 22. Curfew for Minors.

(a) It is unlawful for any minor under the age of 18 years to be in or upon any street, park or other public place between the hours specified in this Section, unless such minor is accompanied by a parent, guardian or other adult person over the age of 21. If the minor is with someone over the age of 21 that adult person must be authorized by a parent or guardian of the minor to be in their care and custody. If the minor is engaged in a school activity or lawful employment that makes it necessary to be in or upon such street, park, or other public place during the hours specified in this Section, the curfew hours described herein shall not apply. For minors under the age of 14 years who have not begun high school, the curfew is between 9:00 p.m. and 6:00 a.m. of the following morning. For minors 14 years of age or older who have begun high school, the curfew is between 10:00 p.m. and 6:00 a.m. of the following morning.

(b) No parent, guardian or person having the care and custody of a minor under the age of 18 years shall allow such minor to be in or upon any street, park or other public place during the hours specified in subsection (a) of this section.

(c) Any minor who violates subsection (a) of this section may be taken into protective custody as provided by ORS 419C.080, 419C.085 and 419C.088.

(Amended by Ord. 99-01.)

Offenses Relating to Animals

Section 23. Poisoning Animals. It shall be unlawful for any person to put out or place any poison where the same is liable to be eaten by any horse, cattle, sheep, hog, dog, or other domestic animals.

Section 24. Cruelty to Animals.

(1) Except as otherwise authorized by law, no person shall intentionally or recklessly:

(a) Subject any animal under human custody or control to cruel mistreatment.

(b) Subject any animal under his or her custody or control to cruel neglect. (c) Kill without legal privilege any animal under the custody or control of another, or any wild bird.

(d) A peace officer may, in the furtherance of his or her duties after all other possible courses of action have been exhausted or attempted, shoot or dispatch an animal for the express purpose of ending pain and suffering.

(2) As used in this section, "animal" includes birds.

Sidewalk and Street Offenses

Section 25. Obstruction of Building Entrances. It shall be unlawful for any person to obstruct any entrance to any building.

Section 26. Vending Goods on Streets or Sidewalks. No person shall use or occupy a portion of a street or sidewalk for the purpose of vending goods, wares or merchandise by public outcry unless a license has been obtained.

Section 27. Obstruction of Fire Hydrants. No owner of property adjacent to a street upon which a

fire hydrant is located shall place or maintain a bush, shrub or tree or other obstruction within eight feet of the fire hydrant.

Section 28. Skateboard and Skating Operating Rules. No person shall ride a skateboard, roller skates or rollerblades on any city basketball or tennis facilities or on any sidewalk, public street, walkway, pedestrian area or parking lot within the C-1 zone of the city. Skateboards, roller skates or rollerblades operated, parked or left in violation of this ordinance may be immediately impounded by the police department, in addition to a citation issued.

Miscellaneous

Section 29. Fire Alarms. It shall be unlawful for any person to turn in any false fire alarm.

Section 30. Notices and Advertisements.

(1) No person shall attach or cause to be attached a placard, bill advertisement or poster upon real or personal property without first obtaining permission of the owner or proper public authority. This section shall not be construed as an amendment to or a repeal of any city regulation of the use and location of signs.

(2) No banners, flags or streamers of any kind shall be placed across a street or avenue without first securing the permission of the City Recorder.

Section 31. Begging. No person shall accost another in a public place to solicit alms.

Section 32. Lodging. No person shall lodge in a car, outbuilding or other place not intended for that purpose without permission of the owner or person entitled to possession.

Section 33. Hauling. No person shall haul sand, gravel, rock, wood or other substance in a vehicle or conveyance that is so constructed or in such condition to allow the sand, gravel, rock, wood or other substance to fall on and litter public streets.

Section 34. Loitering. A person commits the crime of loitering if he:

(1) Loiters in or near a school building or grounds, any reason or relationship involving custody or responsibility for a student; or, upon inquiry by a peace officer or school official, not having a specific, legitimate reason for being there; or

(2) Loiters or prowls in a public place without apparent reason and under circumstances which warrant justifiable alarm for the safety of persons or property in the vicinity and, upon inquiry by a peace officer, refuses to identify himself and give a reasonably credible account of presence and purposes.

Section 35. Parental Responsibility.

(a) The parent, legal guardian or person with legal responsibility for the safety and welfare of a minor under the age of 18 years, hereinafter "supervisor," shall have the legal responsibility for the actions of such minor which are in violation of any provision of any Ordinance of the City of Manzanita occurring on private property or property which is open to public use.

(b) It shall be a defense to the charge of failure to supervise if:

(i) the offense occurred in the presence of the supervisor, or

(ii) the offense occurred on property owned by the supervisor, and

(iii) the supervisor took reasonable steps to control the action of the minor or

reported the action to the appropriate authorities.

(c) In addition to any fine or penalty imposed pursuant to this Ordinance, the Court may order the person to pay restitution to the victim of the minor's unlawful conduct. The amount of restitution ordered pursuant to this Ordinance shall not exceed \$2,500.

(d) If a violation of subsection (a) of this section occurs where the minor is 11 years of age or younger, any citation shall be issued to the supervisor and not to the minor.

(e) The first time a person is convicted of violating subsection (a) of this section, the person shall not be required to pay a fine exceeding \$100.00 if the person successfully participates and completes a parent effectiveness program to the satisfaction of the Court. (Amended by Ord. 99-01.)

(Sections 36 to 40 reserved for expansion)

General

Section 41. Offenses Outside City Limits. This ordinance applies to acts committed on property owned or leased by the city that is outside the corporate limits of the city.

Section 42. Soliciting or Confederating to Violate Ordinances. No person shall solicit, aid, employ or engage another, or confederate with another to violate a provision of any city ordinance.

Section 43. Separate Violations. When in any city ordinance, an act is prohibited or is made or declared to be unlawful or an offense, or doing an act is required, or the failure to do an act is declared to be unlawful or an offense, each day a violation continues constitutes a separate offense.

Section 44. Penalties. Violation of a provision of this ordinance is punishable by a fine not to exceed \$500.00. However, if a violation of a provision is identical to a state statute with a lesser penalty, punishment shall be limited to the lesser penalty prescribed in state law.

Section 45. Nuisance Abatement. No provision in this ordinance shall preclude abatement of a nuisance as provided in the city's general nuisance ordinance.

Section 46. Severability. Invalidity of a section or part of a section of this ordinance shall not affect the validity of the remaining sections or parts of sections.

Section 47. Application of State Statutes. Provisions of the Oregon Criminal Code of 1994, as now constituted, relating to defenses, burden of proof, general principles of criminal liability, parties, and general principles of justification apply to offenses defined and made punishable by this ordinance.

Section 48. Repeal. Ordinance No. 52, passed September 3, 1965, is hereby repealed.

Section 49. Emergency Clause. Inasmuch as it is necessary for the health, safety, comfort and convenience of the people of the City of Manzanita that this Ordinance have immediate effect, an emergency is hereby declared to exist, and this ordinance shall be in full force and effect from and after its passage and approval.

Passed by the Council on September 7, 1994 and signed by the Mayor on September 9, 1994.