

**CHAPTER XI. PUBLIC OFFENSES**

- Article 1. Reserved
- Article 2. Local Regulations
- Article 3. Curfew

---

**ARTICLE 1. RESERVED**

**ARTICLE 2. LOCAL REGULATIONS**  
(Reserved)

**ARTICLE 3. CURFEW**

11-301. CURFEW; PURPOSE. This ordinance is enacted to protect, preserve, and promote the health, safety, and welfare of the citizens of the city through the reduction, control, and prevention of loud and raucous noise, or any noise which reasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of reasonable persons of ordinary sensitivity. (Ord. No. 855, Sec. 1; Code 2012)

11-302. SAME; DEFINITIONS. For the purposes of this article the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in all the present tense include the future, words in the plural number include the singular, and words in the singular include the plural. The word "shall" is always mandatory and not merely directory.

(a) Emergency means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, natural disaster, or automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

(b) Establishment means any privately owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

(c) Juvenile or Minor is an unemancipated, unmarried, person under the age of eighteen (18) or, in equivalent phrasing often herein employed, any person seventeen (17) or less years of age.

(d) Operator is any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

(e) Parent or Guardian mean (1) a person who is a juvenile's biological or adoptive parent and who has legal or physical custody of that juvenile, and may include both parents, if custody is shared under a court order or agreement; (2) a step-parent; (3) a person that has been judicially appointed as the legal guardian of the juvenile; or (4) a person eighteen (18) years of age or older standing in loco parentis (as indicated by the authorization of an individual listed in part(s) (1), (2),

or (3) of this definition, above, for the person to assume the care or physical custody of the juvenile).

(f) Public Place means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, sidewalks, rights of way, schools, shopping centers, parking lots, parks, playground, transportation facilities, theaters, restaurants, shops, bowling alleys, taverns, cafes, arcades, and similar areas that are open to the use of the public. (Ord. No. 855, Sec. 2; Code 2012)

11-303. SAME; ESTABLISHMENT. It is unlawful for a juvenile to be in a public place within the city, to be in any motor vehicle operating or parked in a public place, or to be in or on the premises of any establishment within the city, as follows:

(a) Year round from 11:00 pm to 5:00 am on Sunday through Thursday; and,

(b) Year round from 12:00 am to 5:00 am on Friday and Saturday.

(Ord. No. 855, Sec. 3; Code 2012)

11-304. SAME; EXCEPTIONS. The following shall constitute valid exceptions to the operation of the ordinance:

(a) When a juvenile is accompanied by a parent of that juvenile.

(b) When a juvenile is accompanied by an adult authorized by a parent of that juvenile to take the parent's place in accompanying the juvenile for a designated period of time and purpose within a specific area.

(c) When the juvenile is on an errand as directed by the parent and the juvenile has in his or her possession a writing signed by the parent or guardian containing the following information: the name, signature, address and telephone number of the parent or guardian authorizing the errand, the telephone number where the parent or guardian may be reached during the errand, the name of the juvenile, a brief description of the errand, the juvenile's destination(s), and the hours the juvenile is authorized to be engaged in the errand.

(d) When a juvenile is exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right of assembly, by first delivering to the person designated by the chief of police to receive such information, a written communication, signed by the juvenile and countersigned, if practicable, by a parent of the juvenile with their home address and telephone number, specifying when, where and in what manner the juvenile will be in a public place during hours when the ordinance is applicable to said minor in the exercise of a First Amendment right specified in such communication.

(e) In the case of reasonable necessity for the juvenile remaining in a public place but only after the juvenile's parent has communicated to the chief of police or the person designated by the chief of police to receive such notifications, the facts establishing the reasonable necessity relating to a specified public place at a designated time for a described purpose including points of origin and destination. A copy of the communication, or of the police record thereof, duly certified by the chief of police to be correct, with an appropriate notation of the time it was received and the names and addresses of the parent and juvenile, shall be admissible evidence.

(f) When a juvenile is on the sidewalk or property where the juvenile resides, or on either side of or across the street from the place where the juvenile resides and the adult owner or resident of that property has given permission for the juvenile to be there.

(g) When a juvenile is returning home by a direct route (without any unnecessary detour or stop) from and within one hour of the termination of a school activity or an activity of a religious or other voluntary association, or a place of public entertainment, such as a movie, play, or sporting event. If the event is not commercial in nature or does not have a fixed, publicly known time at which it will or does end, the sponsoring organization must register the event with the chief of police (or his or her assigned representative) at least 24 hours in advance, informing the police department of the time that such event is scheduled to begin, the place at which it shall be held, the time at which it shall end, and the name of the sponsoring organization.

(h) When authorized, by special permit from the chief of police carried on the person of the juvenile thus authorized, as follows: When necessary nighttime activities of a juvenile may be inadequately provided for by other provisions of this ordinance, then recourse may be had to the chief of police, either for a regulation as provided in subsection (i) or for a special permit as the circumstances warrant. Upon the findings of reasonable necessity for the use of a public place to the extent warranted by a written application signed by a juvenile and by a parent of the juvenile, if feasible, stating (1) the name, age and address of the juvenile; (2) the name, address and telephone number of a parent thereof; (3) the height, weight, sex, color of eyes and hair and other physical characteristics of the juvenile; (4) the necessity that requires the juvenile to remain upon a public place during the curfew hours otherwise applicable; (5) the public place; and (6) the beginning and ending of the period of time involved by date and hour, the chief of police may grant a permit in writing for the juvenile's use of a public place at such hours as in the opinion of the chief of police may reasonably be necessary and consistent with the purposes of this ordinance. In an emergency this may be handled by telephone or other effective communication, with a corresponding record being made contemporaneously to the chief of police or to the person designated by the chief of police to act on his or her behalf in an emergency, at the police station.

(i) When authorized, by regulation issued by the chief of police in other similar cases of reasonable necessity, similarly handled but adapted to reasonably necessary nighttime activities of more juveniles that can readily be dealt with on an individual special permit basis. Normally such regulation by the chief of police permitting use of public places should be issued sufficiently in advance to permit appropriate publicity through news media and through other agencies such as schools, and shall define the activity, the scope of the use of the public places permitted, the period of time involved not to extend more than one hour beyond the time for termination of the activity, and the reason for finding that the regulation is reasonably necessary and is consistent with the purposes of this ordinance.

(j) When the juvenile is legally employed and carries a certified card of employment, renewable each calendar month when the current facts so warrant, dated or re-issued not more than 45 days previously, signed by the chief of police

and briefly identifying the juvenile, the address of the juvenile's home and of the juvenile's place of employment, and the juvenile's hours of employment.

(k) When the juvenile is, with parental consent, engaged in normal interstate or intrastate travel through the city or originating or terminating in the city.

(l) When the juvenile is married or has been married pursuant to law.

(m) In the case of an operator of an establishment, when the operator has notified the police that a juvenile was present on the premises of the establishment during curfew hours and refused to leave.

(n) Each of the foregoing exceptions, and their several limitations such as provisions for notification, are severable, as hereinafter provided but here reemphasized, and will be considered by the council when warranted by future experience illuminated by the views of student government associations, school personnel, citizens, associations, parents, officers and persons in authority concerned positively with juveniles as well as with juvenile delinquency. (Ord. No. 855, Sec. 4; Code 2012)

11-305. SAME; PARENTAL RESPONSIBILITY. It shall be unlawful for a parent having legal custody of a juvenile knowingly to permit or by inefficient control to allow the juvenile to be in any public place within the city under circumstances not constituting an exception to, or otherwise beyond the scope of the ordinance. The term "knowingly" includes knowledge that a parent should reasonably be expected to have concerning the whereabouts of a juvenile in that parent's legal custody. This requirement is intended to hold a neglectful or careless parent up to a reasonable community standard of parental responsibility through an objective test. It shall, therefore, be no defense that a parent was completely indifferent to the activities or conduct or whereabouts of such juvenile. (Ord. No. 855, Sec. 5; Code 2012)

11-306. SAME; ESTABLISHMENT OPERATOR RESPONSIBILITY. It shall be unlawful for any operator of an establishment to knowingly permit a juvenile to remain at the establishment under circumstances not constituting an exception to, or otherwise beyond the scope of, the ordinance. The term "knowingly" shall be applied through an objective test: whether a reasonable person in the operator's position should have known that the patron was a juvenile in violation of the ordinance. (Ord. No. 855, Sec. 6; Code 2012)

11-307. SAME; VEHICLE OPERATOR. It is unlawful for a person who is the owner or operator of any motor vehicle to knowingly permit, allow or encourage a violation of section 11-303, and amendments thereto (Ord. No. 855, Sec. 7; Code 2012)

11-308. SAME; ENFORCEMENT. (a) If a police officer reasonably believes that a juvenile is in a public place in violation of the ordinance, the officer shall notify the persons suspected of being a juvenile that the officer believes the person is in violation of the ordinance and shall require the person to provide his or her name, age, address, telephone number and how to contact his or her parent or guardian. In determining the age of the suspected juvenile and in the absence of convincing evidence such as a driver's license, passport, birth certificate, a police officer shall, in the first instance of violation of the ordinance, use the officer's best judgment in determining age.

(b) The police officer shall issue the juvenile a written warning that the juvenile is in violation of the ordinance and order the juvenile to go promptly home.

(c) Police procedures shall constantly be refined in the light of experience and may provide that the police officer may transport and deliver a juvenile to a parent or guardian under appropriate circumstances.

(d) Notwithstanding paragraph (b) of this section, when (i) a juvenile has received one previous written warning for violation of this ordinance; or (ii) a police officer has reasonable grounds to believe that the juvenile has engaged in delinquent conduct, the procedure shall then be to take the juvenile to the police station where a parent or guardian shall immediately be notified to come for the juvenile whereupon the parent or guardian and the juvenile shall be questioned. This is intended to permit ascertainment, under constitutional safeguards, of relevant facts, and to centralize responsibility in the person designated there and then on duty for accurate, effective, fair, impartial and uniform enforcement, and recording, thus, making available experienced personnel and access to information and records.

(e) If a juvenile is detained pursuant to (d), once a parent or guardian has come to take charge of the juvenile, and the appropriate information has been recorded, the juvenile shall be released to the custody of such parent. If the parent cannot be located or fails to take charge of the juvenile, then the juvenile shall be released to the juvenile authorities, except to the extent that in accordance with police regulations, approved in advance by juvenile authorities, the juvenile may temporarily be entrusted to an adult, neighbor or other person who will on behalf of a parent or guardian assume the responsibility of caring for the juvenile pending the availability or arrival of a parent or guardian.

(f) In the case of a first violation of the ordinance by a juvenile, the chief of police shall by certified mail send to a parent or guardian written notice of the violation with a warning that any subsequent violation will result in full enforcement of the ordinance, including enforcement of parental responsibility and of applicable penalties.

(g) For the first violation of the ordinance by an operator of an establishment who permits a juvenile to remain on the premises, a police officer shall issue a written notice of the violation with a warning that any subsequent violation will result in full enforcement of the ordinance, including enforcement of operator responsibility and of applicable penalties.

(h) In any event the police shall, within 24 hours, file a written report with the chief of police or shall participate to the extent of the information for which he or she is responsible in the preparation of a report on the curfew violation, it is not the intention of this section to require extensive reports that will prevent police officers from performing their primary duties. The reports shall be as simple as is reasonably possible and may be completed by police departmental personnel other than sworn police officers. (Ord. No. 855, Sec. 8; Code 2012)

11-309.

SAME; PENALTIES. (a) If after a written warning notice pursuant to section 11-308 of a first violation by a juvenile, a parent violates section 11-305 (in connection with a second violation by a juvenile), this shall be treated as a first offense by the parent. For the first offense by a parent the fine shall be \$50, and for each subsequent offense by the parent the fine may be increased up to \$250.

The judge of the municipal court, upon finding a parent guilty, shall sentence the parent to pay this fine and costs of prosecution.

(b) The parent or legal guardian having custody of a juvenile subject to this section shall be liable for all costs incurred by the city for providing personnel to remain in the company of a juvenile who has been detained as a curfew violator if the parent or guardian does not pick up the juvenile within one hour after receiving notice from the city that the city is detaining the juvenile for a curfew violation. The amount to be paid by the parent or guardian shall be based on the hourly wage of the city employee who is assigned to remain with the juvenile plus the cost of benefits for that employee.

(c) The parent or legal guardian having custody of a juvenile subject to this section shall be liable for any fine or condition of restitution or reparation imposed by a court upon a curfew violator, provided that the curfew violator has not paid the fine or made restitution or reparation within the time ordered by the court, and further provided that the parent or legal guardian has been made a party defendant in all enforcement proceedings against the curfew violator and shall be served with all citations, summons, complaints, notices, and other documents required to be served on the curfew violator defendant.

(d) Any juvenile who shall violate any of the provisions of the ordinance more than 3 times shall be reported by the chief of police to the juvenile authorities as a juvenile in need of supervision.

(e) If, after the warning notice pursuant to section 11-308 of a violation of this ordinance, an operator of an establishment violates section 11-306 a second time, this shall be treated as a first offense by an operator, and the fine shall be \$50, and for each subsequent offense by the operator the fine may be increased to \$250. The judge of the municipal court of the city, upon finding an operator guilty, shall sentence the operator to pay this fine and costs of prosecution. (Ord. No. 855, Sec. 10; Code 2012)

11-311. SAME; NOTICE. Notice of the existence of this ordinance and of curfew regulations established by it shall be posted in, on or about such public or quasi-public places as may be determined by the chief of police in order that the public may be constantly informed of the existence of this ordinance and its regulations. (Ord. No. 855, Sec. 11; Code 2012)

11-312. SAME; CONSTRUCTION AND SEVERABILITY. Severability is intended throughout and within the provisions of this article. If any provision, including any exception, part, phrase, or term, or the application thereof to any person or circumstances is held invalid, the application to other persons or circumstances shall not be affected thereby and the validity of the article in any and all other respects shall not be affected thereby. (Ord. No. 855, Sec. 13; Code 2012)