

Chapter 9.12

CURFEW*

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* Prior history: Prior code Section 4203 as amended by Ords. 261, 281, 306, 311, 316, 328, 367, 374 and 433.

9.12.010 Purpose. The purpose of this chapter is to assure the safety of minors by restricting their unsupervised activities during the late night hours. (Ord. 541 §1(part), 1997).

9.12.020 Definitions. For purposes of this chapter:

"Curfew hours" means the period from eleven p.m. any Sunday through Thursday evening, until five a.m. the following morning, or from twelve-thirty a.m. any Friday, Saturday, or federally recognized holiday morning, until five a.m. that same day.

"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, an automobile accident or any situation requiring immediate action to prevent serious bodily injury or loss of life.

"Establishment" means any privately owned place of business operated for a profit to which the public is invited, including without limitations, any place of amusement or entertainment.

"Guardian" means (1) a person who, under court order, is the guardian of the person of a minor; or (2) a public or private agency with whom a minor has been placed by the court.

"Minor" means any person under eighteen years of age.

"Parent" means the person who is a natural parent, adoptive parent, or stepparent of another person.

"Permitting" is not limited to its affirmative meaning but includes abstaining from preventive action. It means to allow, to acquiesce, or to acquiesce by failing to prevent.

"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, street, streets (whether accepted or unaccepted), highways and the common areas of schools, apartment houses, office buildings, transport facilities and shops.

"Responsible adult" means a person at least twenty-one years of age, authorized by a parent or guardian to have the care and custody of a minor.

"Serious bodily injury" means bodily injury that creates a substantial risk of death or that causes death, serious disfigurement or protracted loss or impairment of the function of any bodily member or organ. (Ord. 573, 2003; Ord. 541 §1(part), 1997).

(Ross, Supp. No. 2, 10/04)

9.12.030 Curfew restrictions. (a) It is unlawful for any minor to be present at any public place or on the premises of any establishment within the town during curfew hours.

(b) It is unlawful for any parent or guardian of a minor knowingly to permit, or by insufficient control to allow, the minor to be present in any public place or on the premises of any establishment within the town during curfew hours.

(c) It is a defense to prosecution under subsections (a) or (b) of this section that the minor was:

- (1) Accompanied by the minor's parent or guardian, or by a responsible adult;
- (2) On an errand at the direction of the minor's parent or guardian, or the responsible adult without any detour or stop;
- (3) In a motor vehicle involved in interstate travel;
- (4) Engaged in any employment activity, or going to or returning home from any employment activity, without any detour or stop;
- (5) Involved in an emergency;
- (6) On the sidewalk abutting the minor's residence;
- (7) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the town, a civic organization or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the town, a civic organization or another similar entity that takes responsibility for the minor;
- (8) Exercising First Amendment rights protected by the United States Constitution; or
- (9) Emancipated pursuant to law.

(d) Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place or on the premises of the establishment during curfew hours. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes an offense has occurred, and that based on any responses and other circumstances, no defense under this section is present or applicable.

(e) Each violation of this section shall constitute a separate offense. (Ord. 541 §1(part), 1997).

9.12.040 Violation--Penalty. Any person violating the provisions of Section 9.12.030 or any person assisting, aiding, abetting, permitting or encouraging any minor to violate any of the provisions of Section 9.12.030 shall be guilty of an infraction or a misdemeanor. Minors shall be dealt with in accordance with the juvenile court law and procedure. (Ord. 541 §1(part), 1997).