

ORDINANCE NUMBER O- 18415 (NEW SERIES)

ADOPTED ON JUN 18 1997

AN EMERGENCY ORDINANCE PURSUANT TO SECTION 17  
OF THE CHARTER OF THE CITY OF SAN DIEGO  
AMENDING CHAPTER V, ARTICLE 8 OF THE SAN DIEGO  
MUNICIPAL CODE BY ADDING DIVISION 1, AND BY  
AMENDING AND RENUMBERING SECTIONS 58.01, 58.01.1  
AND 58.01.2 PERTAINING TO JUVENILE CURFEW

WHEREAS, the City of San Diego, under the police power delegated to it by the Constitution of the State of California, has the authority to react when the potential exists for jeopardy to the public health, safety and general welfare of its citizens; and

WHEREAS, the Council of the City of San Diego is concerned with the level of juvenile violence, juvenile gang activity, and juvenile crime in the City of San Diego; and

WHEREAS, the crimes being committed by juveniles include serious offenses such as murders, drive-by shootings, drug-related crimes and other gang-related activities; and

WHEREAS, juveniles are particularly susceptible by their lack of maturity and experience to participate in unlawful and gang-related activities and to be victims of older perpetrators of crime; and

WHEREAS, recent local statistics regarding juvenile crime and victimization indicate that enforcement of a curfew for juveniles decreases the percentage of juvenile victimization and increases the number of arrests for violent crimes during curfew hours; and

WHEREAS, on June 9, 1997, the United States Court of Appeals for the Ninth Circuit ruled that the City's current juvenile curfew ordinance was unconstitutionally vague; and

WHEREAS, the City Council believes that having an enforceable juvenile curfew ordinance is critical to preserving the public health, safety and welfare, NOW, THEREFORE,

BE IT ORDAINED, by the Council of The City of San Diego, as follows:

Section 1. That Chapter V, Article 8, of the San Diego Municipal Code, be and the same is hereby amended by adding Division 1, entitled "Curfew."

Section 2. That Chapter V, Article 8, of the San Diego Municipal Code be and the same is hereby amended by amending and renumbering Sections 58.01, 58.01.1 and 58.01.2, to read as follows:

**SEC. 58.0101            Definitions for Curfew Provisions**

For purposes of Sections 58.0101 and 58.0102:

"Curfew hours" means the period from 10:00 p.m. any evening of the week, until 6:00 a.m. the following 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 but not limited to, 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 (18) years of age.

“Parent” means a person who is a natural parent, adoptive parent, or step-parent of another person.

“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, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.

“Responsible adult” means a person at least eighteen (18) 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 permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

**SEC. 58.0102 Curfew restrictions**

(a) It is unlawful for any minor to be present in any public place or on the premises of any establishment within the City of San Diego 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 City during curfew hours.

(c) It is a defense to prosecution under Section 58.0102(a) or (b) 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 an employment activity, or going to or returning home from an 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 City of San Diego, 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 City of San Diego, 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 that an offense has occurred and that, based on any responses and other circumstances, no defense under section 58.0102(c) is present or applicable.


(e) Each violation of this section shall constitute a separate offense.

**SEC. 58.0103 Penalty.**

Any person violating the provisions of Section 58.0102 shall be guilty of a misdemeanor. Minors shall be dealt with in accordance with juvenile court law and procedure.

Section 3. This Ordinance is declared to be an emergency measure required for the immediate preservation of the public safety, health and welfare pursuant to section 17 of the Charter of the City of San Diego and shall take effect immediately and continue in force from the day of adoption thereof by two-thirds of the members of the City Council.

APPROVED: CASEY GWINN, City Attorney

By   
Theresa C. McAteer  
Deputy City Attorney

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06/16/97  
06/18/97 REV. 1  
06/18/97 REV. 2  
Or.Dept:Mayor  
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