

APPROVED
BY THE CITY COUNCIL

DEC 9 1997

OFFICE OF THE
CITY CLERK



1.4

DEPARTMENT OF
POLICE

ARTURO VENEGAS, JR.
CHIEF OF POLICE

CITY OF SACRAMENTO
CALIFORNIA

November 21, 1997

Ref: 11-63

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City Council
Sacramento, California 95814

Honorable Members in Session:

SUBJECT: PROPOSED REVISION OF JUVENILE CURFEW ORDINANCE TO CONFORM WITH RECENT FEDERAL CIRCUIT COURT DECISION OVERTURNING ORDINANCE SIMILAR TO THE CITY OF SACRAMENTO'S.

LOCATION AND COUNCIL DISTRICT: City wide

RECOMMENDATION:

This report recommends the immediate adoption of the attached ordinance revision by the City Council.

CONTACT PERSON: Rhonda Matsuo, Office of the Chief, 264-7346
David Topaz, Office of Operations, 264-8478

FOR COUNCIL MEETING OF: December 9, 1997

SUMMARY:

This report recommends that the City Council approve the attached ordinance amendment adding Chapter 24.04 consisting of Sections 24.04.041 through 24.04.044 to Title 24 relating to juvenile curfew and repealing the existing juvenile curfew ordinance contained in Sections 24.01.001 through section 24.01.002 of Title 24 of the Sacramento City Code. This recommendation stems from a recent 9th Circuit Court of Appeals decision rendering juvenile curfew ordinances with few and vague exceptions to be unconstitutional.

**CURFEW ORDINANCE REVISION
PAGE 2**

COMMITTEE/COMMISSION ACTION:

On November 18, 1997 the Law and Legislation Committee approved on consent the recommendation of staff to forward this ordinance amendment to the full City Council recommending its immediate adoption.

BACKGROUND:

In 1990, the City Council approved a juvenile curfew ordinance modeled after the City of San Diego juvenile curfew ordinance. Earlier this year, the 9th Circuit Court of Appeals overturned the San Diego ordinance in part due to a lack of adequate exceptions or vague exceptions to the curfew restrictions. The City of Sacramento has not been challenged to date on its enforcement of this ordinance and its use has been very effective in dealing with juvenile related problems such as graffiti in various neighborhoods and gang violence at events such as the Thursday Night Market.

The Police Department supports the continued use of this ordinance in the form revised by the City Attorney attached to this report. Research of this issue was conducted by the Police Department which yielded the discovery of the Dallas, TX Curfew Ordinance which has already withstood constitutional challenge at the 11th Circuit Court of Appeals. The Dallas Ordinance is the backbone of this revised version.

It is important to note that the officers of the police department have judiciously enforced this law based on the stated findings in the attached ordinance. Its enforcement has enhanced the quality of life in the City and reduced the rates of many crime types throughout the City, in particular violent crimes involving juveniles. The value of this ordinance as an enforcement tool should be preserved by making these ordinance changes and by providing update training to police officers to modify the enforcement of the juvenile curfew.

ENVIRONMENTAL CONSIDERATIONS:

This activity does not constitute a "project" and is therefore exempt from the California Environmental Quality Act (CEQA), CEQA Guidelines Sections 15061 and 15378.

FINANCIAL CONSIDERATIONS:

This proposed amendment to the City Code may yield an insignificant decrease in the amount of fines generated through the citation process due to a greater number of exceptions to the curfew ordinance.

**CURFEW ORDINANCE REVISION
PAGE 3**


POLICY CONSIDERATIONS:

The proposed ordinance amendment is consistent with City policy of encouraging responsible behavior and providing a safe environment for the youth of our community. The City also strives to protect life and property while guarding the constitutional rights of its residents.

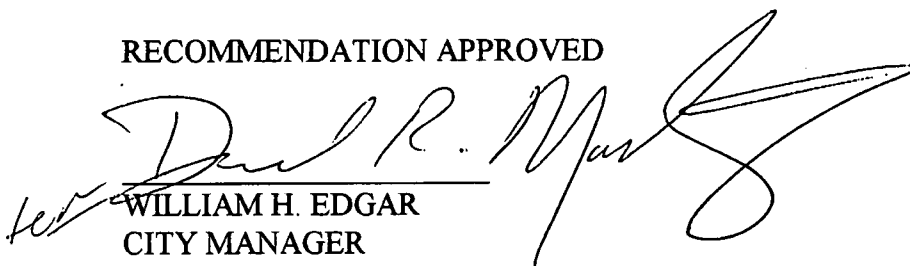
MBE/WBE CONSIDERATIONS:

None.

Respectfully submitted,


ARTURO VENEGAS, JR.
CHIEF OF POLICE

RECOMMENDATION APPROVED


WILLIAM H. EDGAR
CITY MANAGER

Attachment: Ordinance Amendment

APPROVED
BY THE CITY COUNCIL

ORDINANCE NO. 97-072

DEC 9 1997

ADOPTED BY THE SACRAMENTO CITY COUNCIL

OFFICE OF THE
CITY CLERK

ON DATE OF _____

AN ORDINANCE ADDING CHAPTER 24.04, CONSISTING OF SECTIONS 24.04.041 THROUGH 24.04.044, TO TITLE 24 OF THE SACRAMENTO CITY CODE, AND REPEALING SECTIONS 24.01.001 AND 24.01.002, RELATING TO JUVENILE CURFEW

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Findings. The City Council finds and declares as follows:

- (a) Minors under the age of eighteen 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;
- (b) The City of Sacramento has a compelling interest in providing for the protection of minors under the age of eighteen years from each other and from other persons, for the enforcement of parental control over and responsibility for children, for the protection of the general public, and for the reduction of the incidence of juvenile criminal activities;
- (c) A curfew for minors under the age of eighteen years will be in the interest of the public health, safety, and general welfare and will help to attain the foregoing objectives and to diminish the undesirable impact of criminal conduct on the citizens of the City of Sacramento.

SECTION 2.

CHAPTER 24.04 (Sections 24.04.041 through 24.04.044) is hereby added to the Sacramento City Code to read as follows:

- 1 -

FOR CITY CLERK USE ONLY

S:\GUSTAVO\CURFEW.ORD

ORDINANCE NO. _____

DATE ADOPTED: _____

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CHAPTER 24.04 Juvenile Curfew

24.04.041 Definitions. For purposes of this chapter:

- (a) "Curfew hours" means between the hours of 10:00 p.m. and 6:00 a.m. of the following day.
- (b) "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, a natural disaster, or automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.
- (c) "Establishment" means any privately-owned place of business to which the public is invited, including but not limited to any place of amusement, entertainment, dining or shopping.
- (d) "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 which whom a minor has been placed by a court.
- (e) "Parent" means a person who is
 - (1) a natural parent, adoptive parent, or step-parent of another person; or
 - (2) at least eighteen years of age and authorized by a parent or guardian to have the care and custody of a minor.
- (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, highways, sidewalks, parks, malls, playgrounds, alleys, roads and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.
- (g) "Remain" means to
 - (1) linger or stay; or
 - (2) fail to leave premises when requested to do so by a police officer or the

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ORDINANCE NO. _____

DATE ADOPTED: _____

owner, operator, or other person in control of the premises.

- (h) "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.

24.04.042 Violations.

- (a) It shall be unlawful and a misdemeanor for any minor to remain in any public place or on the premises of any establishment within the city during curfew hours. A minor shall not be in violation of this section if the minor is:
- (1) accompanied by the minor's parent or guardian;
 - (2) on an errand at the direction of the minor's parent or guardian, 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 or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence;
 - (7) attending an official school function, religious function, or an organized dance or sporting event, or other recreational or cultural activity supervised by adults and sponsored by the City of Sacramento, 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 function, a religious function, or an organized dance or sporting event, or other recreational or cultural activity supervised by adults and sponsored by the City of Sacramento, a civic organization, or another similar entity that takes responsibility for the minor;
 - (8) exercising First Amendment rights protected by the United States or California Constitution, such as the free exercise of religion, freedom of

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ORDINANCE NO. _____

DATE ADOPTED: _____

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speech, and the right of assembly; or

- (9) emancipated pursuant to law.
- (b) It shall be unlawful and a misdemeanor for any parent or guardian of a minor to permit or allow such minor to remain in any public place or on the premises of any establishment within the city during curfew hours.
- (c) Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the establishment or public place. 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 the response and other circumstances, no exception set forth in subsection (a) applies.

24.04.043 Penalties.

- (a) Any minor violating the provisions of Section 24.04.042 is guilty of a misdemeanor and shall be dealt with in accordance with juvenile court law and procedure.
- (b) Any parent violating the provisions of Section 24.04.042 is guilty of a misdemeanor, and upon conviction thereof shall be punished as follows:
 - (1) for the first conviction be fined not less than one hundred dollars nor more than two hundred and fifty dollars, or be confined in the county jail not more than ten days, or punished by both such fine and imprisonment;
 - (2) for the second conviction, occurring within one year from the date of the first conviction, be fined not less than two hundred and fifty dollars nor more than five hundred dollars, or be confined in the county jail not more than thirty days, or punished by both such fine and imprisonment; and
 - (3) for each subsequent conviction, within one year of the date of the first conviction, be fined not less than five hundred dollars nor more than one thousand dollars, or be confined in the county jail not more than ninety days, or punished by both such fine and imprisonment.

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ORDINANCE NO. _____

DATE ADOPTED: _____

24.04.044 Severability.

- (a) As generally set forth in Title I section 1.01.050, and repeated and re-emphasized here, if any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason deemed or held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this ordinance. The City Council of the City of Sacramento hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact any one or more sections, subsections, sentences, clauses, phrases or other portions might subsequently be declared invalid or unconstitutional.

SECTION 3.

Sections 24.01.001 - 24.01.002 of the Sacramento City Code are hereby repealed.

DATE PASSED FOR PUBLICATION:
DATE ENACTED:
DATE EFFECTIVE:

MAYOR

ATTEST:

CITY CLERK

- 5 -

FOR CITY CLERK USE ONLY

S:\GUSTAVO\CURFEW.ORD

ORDINANCE NO. _____

DATE ADOPTED: _____



PASSED FOR
PUBLICATION
& CONTINUED
TO 12.9.97

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1.4

DEPARTMENT OF
POLICE

ARTURO VENEGAS, JR.
CHIEF OF POLICE

City Council
Sacramento, California 95814

Honorable Members in Session:

CITY OF SACRAMENTO
CALIFORNIA
November 25, 1997

HALL OF JUSTICE
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95814-2495

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www.quiknet.com/spd/

SUBJECT: AN ORDINANCE AMENDMENT ADDING CHAPTER 24.04 CONSISTING OF SECTIONS 24.04.041 THROUGH 24.04.044 TO TITLE 24 OF THE SACRAMENTO CITY CODE RELATING TO JUVENILE CURFEW

LOCATION AND COUNCIL DISTRICT: City-wide

RECOMMENDATION:

This report recommends that the item be passed for publication of title, pursuant to City Charter Section 24, and continued to December 9, 1997.

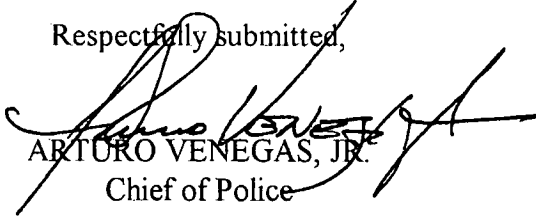
CONTACT PERSON: Rhonda Matsuo, Office of the Chief, 264-7346
David Topaz, Office of Operations, 264-8478

FOR COUNCIL MEETING OF: December 2, 1997

SUMMARY:

Staff is proposing the adoption of an ordinance amendment that clarifies definitions, violations, penalties, and severability relating to juvenile curfew and repealing the existing juvenile curfew ordinance contained in Section 24.01.001 through 24.01.002 of Title 24 of the Sacramento City Code. This recommendation stems from a recent 9th Circuit Court of Appeals decision rendering juvenile curfew ordinances with few and vague exceptions to be unconstitutional.

Respectfully submitted,


ARTURO VENEGAS, JR.
Chief of Police

AV:rmm
Ref: 11-64

ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF _____

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SECTION 3.

Sections 24.01.001 - 24.01.002 of the Sacramento City Code are hereby repealed.

DATE PASSED FOR PUBLICATION:
DATE ENACTED:
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MAYOR

ATTEST:

CITY CLERK

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