

ORDINANCE NO. 2012-05
CURFEW FOR MINORS

The Contra Costa County Board of Supervisors ordains as follows (omitting the parenthetical footnotes from the official text of the enacted or amended provisions of the County Ordinance Code):

SECTION I. SUMMARY. This ordinance amends Chapter 54-2 of the County Ordinance Code to add a daytime curfew for minors to the existing nighttime curfew. This ordinance also revises the Chapter title to “Curfew for Minors”.

SECTION II. Chapter 54-2 is amended to read:

**Chapter 54-2
CURFEW FOR MINORS**

54-2.002 Title. This chapter is known as the Curfew for Minors Ordinance of Contra Costa County. (Ords. 2012-05 § 2, 75-44, prior code: 1577, 956, 181, 153, 69.)

54-2.004 Purpose.

(a) Contra Costa County has a compelling interest in reducing the rate of juvenile crime and victimization. Minors are particularly vulnerable to violence and pressure to participate in criminal activity due to their limited ability to make informed and mature decisions. Enactment and enforcement of a daytime and nighttime juvenile curfew reduces the amount of crime by and against juveniles in the County (especially violent crime committed by and perpetrated against juveniles) and protects juveniles from harm.

(b) A daytime curfew furthers the County’s compelling interest in prohibiting daytime presence in public places by those subject to compulsory education. State law requires all persons between the ages of 6 and 18 to attend school. The community as a whole suffers when a minor student is not attending school, as truancy often leads to vandalism, petty theft, daytime burglaries, damage to public property, and other criminal activity.

(c) A daytime and nighttime curfew promotes the public health, safety, and general welfare during late night and school hours.

(d) This chapter is intended to assist with the policing of public places during specified daytime and nighttime hours in order to prevent crimes by and against minors during those hours. It is not intended to interfere with or supersede the enforcement of state laws regulating education or truancy or with any local school districts’ truancy programs. Rather, this chapter is intended to provide the County with an additional tool to protect youth and prevent crime. (Ords. 2012-05 § 2, 75-44, prior code: 1577, 956, 181, 153, 69.)

54-2.006 Definitions.

For purposes of this chapter, the following words and phrases have the following meanings:

- (a) “Daytime curfew hours” means the period of a minor’s regular scheduled school hours when the minor’s school is in session.
- (b) “Emergency” means an unforeseen combination of circumstances or the resulting state that calls for immediate action. “Emergency” includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.
- (c) “Errand” means a trip to carry a message or perform a lawful task.
- (d) “Establishment” means any privately-owned place of business operated for a profit to which the public is invited.
- (e) “Guardian” means any of the following:
 - (1) A person who, under court order, is the guardian of a minor.
 - (2) A public or private agency with whom a minor has been placed by a court.
 - (3) A person who is at least 18 years of age and is authorized by a minor’s parent or guardian to have the care and custody of that minor.
- (f) “Minor” means any person under 18 years of age. “Minor” does not include a person who is:
 - (1) On active duty with the armed forces of the United States;
 - (2) Validly married, whether or not the marriage has been dissolved; or
 - (3) Otherwise emancipated under state or federal law.
- (g) “Nighttime curfew hours” means:
 - (1) On any Sunday, Monday, Tuesday, Wednesday, or Thursday, the hours between 10:00 p.m. of that day and 5:00 a.m. of the following day.
 - (2) On any Saturday or Sunday, the hours between 12:01 a.m. and 5:00 a.m.
- (h) “Operator” means any individual, company, firm, association, trust, partnership, corporation, limited liability company or other entity, however organized, operating, managing, conducting or carrying on any establishment, including, but not limited to its owners, employees, partners, members, or officers.
- (i) “Parent” means a person who is a natural parent, adoptive parent, legal parent, or step-parent of a minor.
- (j) “Public place” means any place to which the public has access, including, but not limited to, streets, sidewalks, parks, recreational areas, public grounds, public buildings, movie theaters, restaurants, shops, parking lots, and the common areas of the following: schools (except during

regular school hours), office buildings, transportation facilities, and apartments.

(k) “ Responsible Adult” means a person at least 18 years of age who is authorized by a minor’s parent or guardian to have the care and custody of that minor. (Ords. 2012-05 § 2, 75-44, prior code: 1577, 956, 181, 153, 69.)

54-2.008 Violation by Minor.

(a) Nighttime curfew restriction: A minor may not be present in, about, or upon any public place during nighttime curfew hours.

(b) Daytime curfew restriction: A minor who is subject to compulsory education or to compulsory continuing education may not be present in, about, or on any public place during daytime curfew hours. (Ords. 2012-05 § 2, 75-44, prior code: 1577, 956, 181, 153, 69.)

54-2.010 Violation by Parent or Guardian.

A parent or guardian may not knowingly allow or permit a minor to violate any curfew restriction of this chapter. (Ords. 2012-05 § 2, 75-44, prior code: 1577, 956, 181, 153, 69.)

54-2.012 Violation by Operator of an Establishment.

An operator of an establishment may not knowingly allow a minor to remain in, on or about the establishment’s premises during nighttime curfew hours, except that it is not a violation of this section if the operator promptly notifies the sheriff’s office that a minor is present at the establishment during nighttime curfew hours and that the minor refused to leave after being asked to leave the establishment. (Ords. 2012-05 § 2, 75-44, prior code: 1577, 956, 181, 153, 69.)

54-2.014 Exceptions.

(a) The daytime and nighttime curfew restrictions of this chapter do not apply if the minor is:

- (1) Exercising his or her First Amendment rights protected by the United States or California Constitutions, including the free exercise of religion, freedom of speech, and the right of assembly; or going to or from these activities without any detour or stop.
- (2) Engaged in legal employment; or going to or from the place of employment without any detour or stop. This exception also applies if the minor is in a public place during curfew hours in the course of his or her employment, provided the minor carries a written statement from the employer attesting to the place and hours of employment.
- (3) Accompanied by his or her parent, guardian, or responsible adult.
- (4) On an errand directed by his or her parent or guardian, or by his or her spouse who

is 18 years of age or older.

- (5) Attending an official school, religious or other cultural, educational or recreational activity, event, or function which is supervised by adults and which is organized, arranged or sponsored by the County, a religious or civic organization, or another similar entity that is taking responsibility for the minor; or going to or from that activity, event, or function without any detour or stop.
- (6) Traveling interstate.
- (7) Involved in an emergency.
- (8) Receiving medical treatment or care, seeking medical assistance; or going to or from place of medical treatment or care without any detour or stop.
- (9) Lawfully engaged in a business, trade, profession, work study, occupation or employment-related activity; or going to or from that activity without any detour or stop.
- (10) Attending or going directly to or from an event, appointment, or activity that is directly related to any medical condition of a parent, guardian or spouse who is 18 years of age or older.

(b) The nighttime curfew restrictions of this chapter also do not apply if the minor is:

- (1) Coming directly home from a public meeting or a place of public entertainment, such as a movie, play, concert, or sporting event.
- (2) On the sidewalk or right-of-way abutting the minor's residence or the residence of the minor's next-door neighbor, so long as any neighbor did not complain to the sheriff's department about that minor's presence.

(c) The daytime curfew restrictions of this chapter also do not apply if the minor is:

- (1) Authorized to be absent from his or her school pursuant to applicable school rules, California Education Code Section 48205, or any applicable state or federal law.
- (2) Receiving home or private school instruction pursuant to California Education Code Section 48222.
- (3) In possession of a valid, school issued, off-campus permit that authorizes the minor to leave the school campus.

- (4) Receiving instruction by a qualified tutor pursuant to Education Code Section 48224.
- (5) Exempt or excluded from compulsory education or compulsory continuation education, as set forth in the California Education Code.
- (6) Not a resident of the County and in possession of a valid passport, visitor's visa, or other form of identification establishing that the minor is temporarily visiting within the County. (Ords. 2012-05 § 2, 75-44, prior code: 1577, 956, 181, 153, 69.)

54-2.016. Enforcement.

(a) Before taking any enforcement action under this section, a sheriff's deputy will 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 deputy will not issue a warning or citation under this section unless the deputy reasonably believes that an offense has occurred and that, based on any responses and other circumstances, no exception under section 54-2.014 applies.

(b) Upon a first violation of any curfew restriction in this chapter, a written warning will be issued to the person violating this chapter. A written warning will also be mailed to the minor's parents or legal guardian stating that the minor was in violation of curfew regulations and that a subsequent violation of any curfew restriction in this chapter within 12 months after the first violation will constitute an infraction. This notice will require the parents or legal guardian to sign and return the notification and include space for the explanation of any circumstances relevant to any applicable exception specified in section 54-2.014.

(c) Each subsequent violation of any curfew restriction in this chapter within 12 months after the first violation is an infraction.

(d) This section shall not be construed to abridge the authority of a law enforcement officer to assume temporary custody, during school hours, of any minor subject to compulsory full time education or compulsory continuing education who is found away from his or her home and who is absent from school without a valid excuse, and return the minor to the minor's school of registration, pursuant to California Education Code Sections 48264 and 48265.

(e) This section shall not be construed to limit the authority of the court to render any disposition authorized by Welfare and Institutions Code Section 258, subdivision (a), or any other provision of the Juvenile Court Law, Welfare and Institutions Code Section 200, et seq. (Ords. 2012-05 § 2, 75-44, prior code: 1577, 956, 181, 153, 69.)

SECTION III. Section 14-8.008 of the County Ordinance Code is amended to read:

14-8.008 Infraction arrest and citation.

(a) The following officers, or their designated subordinates, shall have and are hereby vested

with the authority to arrest any person who violates the following provisions of this code and other codes as indicated, punishable as infractions:

- (1) Director of Health Services: Division 413, Division 445, Chapters 414-4, 414-6, 416-14, 418-2, 418-6, 418-12, 420-2, 420-6, 450-6, and Labor Code Section 6404.5;
 - (2) Director of Building Inspection: Title 7;
 - (3) Director of Community Development: Title 8;
 - (4) Director of Public Works: Divisions 1002, 1010, 1014, 1106 and 1110;
 - (5) Sheriff: Division, 54, Chapter 54-2, and Divisions 410, 1110.
- (b) The above-listed officers, or their designated subordinates, may issue citations for infraction violations of the above-listed code provisions.
- (c) The county administrator may by written order issue regulations to provide for administration, procedures and policy direction for this section. (Ords. 2012-05 § 3, 2006-66 § 8, 2003-01 § 5, 2002-48 § 18, 2001-3 § 1, 98-31 § 1, 98-22 § 2, 96-21 § 2, 95-36 § 1, 90-122 § 2, 86-80 § 2; Penal Code §§ 19.7, 836.5, and 853.6; Labor Code § 6404.5.)

SECTION IV. EFFECTIVE DATE. This ordinance becomes effective thirty (30) days after passage, and within fifteen (15) days after passage, this ordinance shall be published once with the names of the supervisors voting for or against it in the Contra Costa Times, a newspaper published in this County.

PASSED on _____, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: DAVID J. TWA
 Clerk of the Board of Supervisors
 and County Administrator

Board Chair

RHS:

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