

36-O-04

AN ORDINANCE

Revising Section 9-6-1 of Title 9,
Chapter 6, "Minors", Pertaining to Curfew

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON,
COOK COUNTY, ILLINOIS:**

SECTION ONE: That Section 9-6-1 of Title 9, Chapter 6, "Minors", of the Evanston City Code of 1979, as amended, be and it hereby is, amended by deleting existing Section 9-6-1 and substituting therefore a new such Section, to read as follows:

Section 9-6-1. Curfew.

A. Definitions. In this Section:

(1) **CURFEW HOURS** means:

(A) 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. of the following day; and

(B) 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday.

(2) **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, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

(3) **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.

- (4) **GUARDIAN** means:
- (A) a person who, under court order, is the guardian of the person of a minor; or
 - (B) a public or private agency with whom a minor has been placed by a court.
- (5) **MINOR** means any person under 17 years of age.
- (6) **OPERATOR** means 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.
- (7) **PARENT** means a person who is:
- (A) a natural parent, adoptive parent, or step-parent of another person; or
 - (B) at least 18 years of age and authorized by a parent or guardian to have the care and custody of the minor.
- (8) **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.
- (9) **REMAIN** means to:
- (A) linger or stay; or
 - (B) fail to leave premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.
- (10) **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.

B. Offenses.

- (1) A minor commits an offense if he remains in any public place or on the premises of any establishment within the City during curfew hours.
- (2) A parent or guardian of a minor commits an offense if he knowingly permits, or by insufficient control allows, the minor to remain in any public place or on the premises of any establishment within the City during curfew hours.
- (3) The owner, operator, or any employee of an establishment commits an offense if he knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

C. Defenses.

- (1) It is a defense to prosecution under **Subsection B.** that the minor was:
 - (A) accompanied by the minor's parent, guardian, or other responsible companion at least eighteen (18) years of age approved by a parent or guardian; or unless;
 - (B) on an errand at the direction of the minor's parent or guardian, without any detour or stop;
 - (C) in a motor vehicle involved in interstate travel;
 - (D) engaged in a business or occupation which the laws of this State authorize a person, less than seventeen (17) years of age to perform, or going to or returning home from an employment activity, without any detour or stop;
 - (E) involved in an emergency;
 - (F) 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;
 - (G) attending an official school, religious, or other recreational activity supervised by adults and sponsored by the City, 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, a civic organization, or another similar entity that takes responsibility for the minor;

- (H) 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; or
- (I) married or had been married or had disabilities of minority removed in accordance with the Illinois Emancipation of Mature Minors Act.¹

(2) It is a defense to prosecution under **Subsection B.(3)** that the owner, operator, or employee of an establishment promptly notified the Police Department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

D. Enforcement. 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. 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 response and other circumstances, no defense in **Subsection C.** is present.

E. Penalties. A person found to have committed a violation of any provision of this Section shall be guilty of a petty offense and shall be fined not less than \$10 nor more than \$750, except that neither a person who has been made a ward of the Court under the Juvenile Court Act of 1987² nor that person's guardian, shall be subject to any fine. In addition to or instead of the fine imposed by this Section, the Court may order a parent, guardian, or other person found to have committed a violation of **Subsection B.(2)**² of this Section to perform community service as determined by the Court, except that the guardian of a person who has been made a ward of the Court under the Juvenile Court Act of 1987 may not be ordered to perform community service. The dates and times established for the performance of community service by the parent, guardian, or other person found to have committed a violation of **Subsection B.** of this Section shall not conflict with the dates and times that the person is employed in his or her regular occupation.

¹ 750 ILCS 30/1, *et seq.*

² 750 ILCS 405/1-1, *et seq.*

SECTION TWO: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION THREE: This Ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

Introduced: July 26 , 2004

Adopted: August 16, 2004

Approved: August 17, 2004

Lorraine H. Morton, Mayor

Attest:

Mary P. Morris, City Clerk

Approved as to form:

Corporation Counsel