



OFFICE OF THE CITY ATTORNEY
ROCKARD J. DELGADILLO
CITY ATTORNEY

REPORT NO. ~~R 07 - 0297~~
AUG 08 2007

REPORT RE:

**DRAFT ORDINANCE AMENDING THE LOS ANGELES MUNICIPAL CODE
SECTIONS GOVERNING NIGHTTIME AND DAYTIME JUVENILE CURFEW**

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Honorable Members:

This office has prepared and now transmits for your consideration the attached draft ordinance, approved as to form and legality. The draft ordinance would amend certain provisions of the Los Angeles Municipal Code dealing with both, nighttime and daytime juvenile curfew.

Background and Summary of Ordinance Provisions

In March 2006, adults and juveniles alike engaged in protest and demonstration activities relating to pending federal immigration legislation. Some of the juvenile protest activities occurred during hours when minors would otherwise be attending school, and the Los Angeles Police Department issued citations for violation of Los Angeles Municipal Code § 45.04 - the Daytime Curfew Ordinance. Following the issuance of those citations, this office reviewed Sections 45.04 and 45.03, the latter governing nighttime juvenile curfew within the City. As a result of this review, the City Attorney's Office drafted and now presents certain amendments to both sections in order to create greater clarity within each section and include constitutional protections not explicitly articulated in the existing ordinances.

**EDUCATION &
NEIGHBORHOODS**

AUG 9 2007

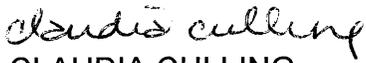
Council Rule 38 Referral

A copy of the draft ordinance was sent, pursuant to Council Rule 38, to the Los Angeles Police Department. Additionally, this office has met with the Commanding Officer of the Los Angeles Police Department's Office of Operations to discuss enforcement issues relating to the Daytime Curfew ordinance specifically.

Should you have any questions, please contact Julie Raffish at 213.978.8395. She or another member of this office will be available when you consider this matter to answer any questions you may have.

Sincerely,

ROCKARD J. DELGADILLO, City Attorney

By 
CLAUDIA CULLING
Special Counsel – Municipal

CC:JR
Transmittal

ORDINANCE NO. _____

An ordinance amending Sections 45.03 and 45.04 of the Los Angeles Municipal Code regarding nighttime and daytime juvenile curfews.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS**

Section 1. Section 45.03 of the Los Angeles Municipal Code is amended to read:

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

SEC. 45.03. NIGHTTIME CURFEW RESTRICTIONS FOR MINORS.

(a) **Curfew.** It is unlawful for any minor under the age of eighteen years to be present in or upon any public street, avenue, highway, road, curb area, alley, park, playground, or other public ground, public place or public building, place of amusement or eating place, vacant lot, or unsupervised place between the hours of 10:00 p.m. on any day and sunrise of the immediately following day.

(b) **Exceptions.** The provisions of this section shall not apply when:

(1) The minor is accompanied by his or her parent, guardian, other adult person authorized by the parent or guardian having the care or custody of the minor, or by his or her spouse eighteen years of age or older; or

(2) The minor is on an errand directed by his or her parent, guardian, other adult person authorized by the parent or guardian having the care or custody of the minor, or by his or her spouse eighteen years of age or older without any detour or stop; or

(3) The minor is attending or going directly to or returning directly home from a public meeting or a place of public entertainment such as a movie, play, sporting event, dance or school activity; or

(4) The presence of a minor in one or more of the places identified in Subsection (a) is connected with or required with respect to a business, trade, profession or occupation in which the minor is lawfully engaged; or

(5) The minor is involved in an emergency such as a fire, natural disaster, automobile accident, a situation requiring immediate action to prevent serious bodily injury or loss of life, or any unforeseen combination of circumstances or the resulting state, which calls for immediate action; or

(6) The minor is exercising the rights guaranteed by the First Amendment of the United States Constitution and by Article I, Sections 2, 3, and 4 of the California Constitution; or

(7) The minor is in a motor vehicle involved in interstate travel; or

(8) The minor is emancipated in accordance with the California Family Code or other applicable state law.

(c) **Enforcement.** Before taking any action to enforce the provisions of this section, police officers shall ask the apparent offender's age and reason for being in the public place 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 exceptions to this section apply.

(d) **Severability of Provisions.** If any severable provision of this ordinance or any application of the provisions is held invalid, that invalidity shall not affect other provisions or applications of the ordinance, which can be given effect notwithstanding any invalidity.

Sec. 2. Section 45.04 of the Los Angeles Municipal Code is amended to read:

SEC. 45.04. DAYTIME CURFEW RESTRICTIONS FOR MINORS.

(a) **Curfew.** It is unlawful for any minor under the age of 18, who is subject to compulsory education or to compulsory continuation education, alone or in concert with others, to be present in or upon the public streets, highways, roads, alleys, parks, playgrounds, or other public grounds, public places, public buildings, places or amusement and eating places, vacant lots or any place open to the public during the hours of the day when the school, which the minor would normally attend, is in session, on days when that school is in session.

(b) **Exceptions.** The provisions of this section shall not apply when:

(1) The minor is accompanied by his or her parent, guardian, other adult person authorized by the parent or guardian having the care or custody of the minor; or

(2) The minor is on an emergency errand directed by his or her parent, guardian or other adult person having the care or custody of the minor; or

(3) The minor is going directly to or coming directly from their place of gainful employment; or

(4) The minor is going directly to or coming directly from a medical appointment; or

(5) The minor has permission to leave campus for lunch and has in his or her possession a valid, school-issued off-campus permit; or

(6) The presence of the minor in one or more of the places identified in Subsection (a) is connected with or required with respect to a business, trade, profession or occupation in which the minor is lawfully engaged; or

(7) The minor is involved in an emergency such as a fire, natural disaster, automobile accident, a situation requiring immediate action to prevent serious bodily injury or loss of life, or any unforeseen combination of circumstances or the resulting state, which calls for immediate action; or

(8) The minor is in a motor vehicle involved in interstate travel; or

(9) The minor is authorized to be absent from his or her school pursuant to the provisions of California Education Code Section 48205, or any other applicable state or federal law.

Sec. 3. Subsections (c), (d) and (e) of Section 45.04 of the Los Angeles Municipal Code are re-lettered (d), (e) and (f) respectively.

Sec. 4. A new Subsection (c) is added to Section 45.04 of the Los Angeles Municipal Code to read:

(c) **Enforcement.** Before taking any action to enforce the provisions of this section, police officers shall ask the apparent offender's age and reason for being in the public place 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 exceptions to this section apply.

Sec. 5. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of _____.

FRANK T. MARTINEZ, City Clerk

By _____ Deputy

Approved _____

Mayor

Approved as to Form and Legality

By claudia culling for
JULIE RAFFISH
Deputy City Attorney

Date 8/8/07

File No. _____