

## ***DIVISION 2. CURFEW***

### **Sec. 18.30.050. Definitions.**

For the purpose of this article, the following definitions shall apply:

*Curfew hours* means the period from 10:00 p.m. any night until 6:00 a.m. the following morning for minors under the age of eighteen (18) years.

*Emergency* means an unforeseen circumstance or circumstances or the resulting situation that calls for immediate action to prevent serious bodily injury or loss of life. The term includes, but is not limited to, a fire or explosion, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent bodily injury or loss of life.

*Establishment* means any privately-owned place of business to which the public is invited including, but not limited to, any place of amusement, entertainment, or recreation.

*Guardian* means (a) a person who, under court order, is the guardian of the minor; or (b) a public or private agency with whom a minor has been placed by a court.

*Minor* means any person under eighteen (18) years of age.

*Operator* means any individual, firm, association, partnership or corporation operating, managing or conducting any establishment.

*Parent* means a person who is a natural parent, adoptive parent or step-parent of a minor.

*Public place* means any outdoor area to which the public or a substantial group of the public has access and includes, but is not limited to streets, highways, sidewalks, alleys, parks, playgrounds, other public grounds, common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.

*Remain* means to (a) linger, stay or be present; or (b) fail to leave the premises when requested to do so by a peace officer, the owner, operator or other person in control of the premises.

*Responsible adult* means a person at least eighteen (18) years of age and 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.

*Tarry* means remaining, wandering, strolling or playing without apparent purpose and while not under the supervision of a parent, guardian or adult designated by a parent or guardian.

(Ord. No. 2038, § II, 12-1-97)

### **Sec. 18.30.055. Offenses.**

It is unlawful for:

- (1) Any minor to tarry in any public place or on the premises of any establishment within the Town during curfew hours, or,

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tarry in any public place or on the premises of any establishment with the Town during curfew hours, or,

- (3) Any owner, operator or employee of any establishment to knowingly permit a minor to tarry in or upon the premises of an establishment during curfew hours—~~(unless 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).~~

(Ord. No. 2038, § IV, 12-1-97)

### **Sec. 18.30.060. Defenses.**

It is a defense to prosecution of the above offenses 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 responsible adult, without detour or stop;
- (3) In a motor vehicle involved in interstate travel;
- (4) Engaged in a lawful employment activity, or going to or returning home from a lawful employment activity, without detour or stop;
- (5) Acting in response to an emergency;
- (6) On the sidewalk abutting the minor's residence or abutting any residence when in the company of the resident, providing the minor is not otherwise violating the law;
- (7) ~~Attending or traveling directly to or r~~Returning directly home, without detour or stop, from a school, religious, cultural, sport, amusement, entertainment, movie or recreation activity; or any organized rally, demonstration, meeting or similar activity;
- (8) Waiting at a bus stop or bus station for transportation, providing the next bus is scheduled to arrive in no more than one (1) hour;
- (9) On the plaza level of the Town Civic Center, providing the minor is not otherwise violating the law;
- (10) Emancipated in accordance with the California Family Code or other applicable state law.
- (11) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the Town of Los Gatos, a civic organization, or another similar entity that takes responsibility for the minors;

(12) Exercising First Amendment rights protected by the United States Constitution.

~~It is a defense to prosecution under offense (3) above, 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.~~

(Ord. No. 2038, § VI, 12-1-97)

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### **Sec. 18.30.065. Enforcement.**

Before taking any enforcement action under this article, a peace officer shall ask the apparent offender's age and reason for being in a public place or on the premises of an establishment during curfew hours. The officer shall not issue a citation or detain a minor under this article unless the officer has probable cause to believe an offense has occurred and based upon the minor's responses(s) and other circumstances, no defense under this article appears present or applicable.

(Ord. No. 2038, § VIII, 12-1-97)

### **Sec. 18.30.070. Penalties.**

Any person who violates a provision of this article is guilty of a separate offense for each day or part of a day during which the violation is committed, continued or permitted. Any person who violates the offenses described in this article shall be guilty of a misdemeanor. Minors shall be dealt with in accordance with juvenile court law and procedure.

(Ord. No. 2038, § IX, 12-1-97)

### **Sec. 18.30.075. Severability.**

If any section, subsection, sentence, clause, phrase or portion of this article 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 article. The town council 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.

(Ord. No. 2038, § XI, 12-1-97)

### **~~Sec. 18.30.080. Minors under eighteen; exception.~~**

~~It shall be unlawful for any minor under the age of eighteen (18) years to loiter, idle, wander, stroll or play in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, public places and public buildings, places of amusement and entertainment, vacant lots or other unsupervised places in the Town between the hours of 10:00 p.m. and daylight of the following day; provided, that the provisions of this section do not apply when the minor is accompanied by the minor's parent, guardian or other adult person having the care and custody of the minor, or where the minor is upon an emergency errand or legitimate business directed by the minor's parent, guardian or other adult person having the care and custody of the minor or where the minor is returning directly home from a meeting, dance, entertainment or recreational activity.~~

~~(Code 1968, § 17-3; Ord. No. 1773, § 1, 12-5-88; Ord. No. 2038, § III, 12-1-97)~~

### **~~Sec. 18.30.085. Responsibility of parents, guardians, etc.~~**

~~It shall be unlawful for the parent, guardian or other adult person having the care and custody of a minor under the age of eighteen (18) years to permit such minor to loiter, idle, wander, stroll or play in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, public places and public buildings, places of amusement and entertainment, vacant lots or other unsupervised places in the Town in violation of this division; provided, that the provisions of this section do not apply when the minor is accompanied~~

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~~by the minor's parent, guardian or other adult person having the care and custody of the minor, or where the minor is upon an emergency errand or legitimate business directed by the minor's parent, guardian or other adult person having the care and custody of the minor or where the minor is returning directly home from a meeting, dance, entertainment or recreational activity.~~

~~(Code 1968, § 17-4; Ord. No. 1773, § 1, 12-5-88; Ord. No. 2038, § V, 12-1-97)~~

#### **Sec. 18.30.090. Processing after detention.**

Whenever any Police or other officer charged with the duty of enforcing the laws of the State or ordinances of the Town discovers or has attention called to the fact that any minor under the age of eighteen (18) years is upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, public places and public buildings, places of amusement and entertainment, vacant lots or other unsupervised places in the Town in violation of this division, and that such minor is not accompanied by the minor's parent, guardian or other adult person having the care and custody of the minor, or where the minor is not upon an emergency errand or legitimate business directed by the minor's parent, guardian or other adult person having the care and custody of the minor or where the minor is not returning directly home from a meeting, dance, entertainment or recreational activity, such officer shall have the authority to make an immediate investigation for the purpose of ascertaining whether or not the presence of such minor upon or in any of the places designated is not prohibited by the provisions of section 18.30.055.

(Code 1968, § 17-5; Ord. No. 1773, § 1, 12-5-88; Ord. No. 2038, § VII, 12-1-97)