



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 06/04/2024

DATE: May 30, 2024
TO: Mayor and Town Council
FROM: Gabreille Whelan, Town Attorney
SUBJECT: Introduce an Ordinance Amending the Town's Curfew Ordinance.
Ordinance Title: "An Ordinance of the Town Council of the Town of Los Gatos Amending Chapter 18, 'Offenses And Miscellaneous Provisions,' Article III, 'Minors,' and Division 2, 'Curfew,' of the Town of Los Gatos Town Code"

RECOMMENDATION:

Introduce an Ordinance (Attachment 2) amending the Town's Curfew Ordinance.

BACKGROUND:

The Town's curfew ordinance is codified in Town Code Sections 18.30.050 and following. It prohibits minors from tarrying (lingering) in public places between the hours of 10 p.m. and 6 a.m. The existing curfew ordinance lists a number of exceptions to this prohibition, including: minors who are accompanied by parents or guardians, on errands, working or traveling to or from work, or returning home from recreational or entertainment activities. Recently, an issue has arisen regarding the enforceability of the Town's curfew ordinance.

DISCUSSION:

Curfew ordinances are enforceable so long as they include appropriate carve-outs for constitutionally-protected behaviors and behaviors that carry none of the dangers that the curfew was meant to protect against. In order for the curfew ordinance to be enforceable, it should include an exception for participation in First Amendment activities. A proposed edit to Section 18.30.060 to add a new subsection (12) is shown in the attached redline (Attachment 1).

Reviewed by: Town Manager, Chief of Police, and Town Clerk

DISCUSSION (continued):

Also, in Section 18.30.060, which lists exceptions to what will constitute a violation, a phrase has been added to subsection (7) to state that attendance at a recreational or entertainment event is not a violation.

In addition, the proposed ordinance update clarifies the ordinance in several respects. Town Code Section 18.30.080 duplicates Section 18.30.055 and 18.30.060, and Section 18.30.18.30.085 duplicates Section 18.30.055. The proposed ordinance removes Sections 18.30.080 and 18.30.085 because they are duplicative. In Section 18.30.060, there was an un-numbered exception to prosecution at the bottom of the list of defenses. In the proposed update, that exception has been moved to Section 18.30.055(3).

CONCLUSION:

In order to render the curfew ordinance enforceable, remove duplicative sections, and clarify Section 18.30.060, the Town Attorney's Office recommends that the Town Council introduce the ordinance amending the existing curfew ordinance.

COORDINATION:

This report was coordinated with the Police Department, the Town Clerk, and the Town Manager's Office.

FISCAL IMPACT:

This ordinance amendment will enable the Town to issue administrative citations for curfew violations.

ENVIRONMENTAL ASSESSMENT:

Introduction of this ordinance is not a project defined under CEQA, because it will not impact the physical environment, and no further action is required.

Attachments:

1. Redline of Curfew Code Section
2. Proposed Ordinance Amending Curfew Ordinance