

DRAFT ORDINANCE

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS AMENDING CHAPTER 18, "OFFENSES AND MISCELLANEOUS PROVISIONS", ARTICLE III, "MINORS", DIVISION 2, "CURFEW", OF THE TOWN OF LOS GATOS TOWN CODE

WHEREAS, the Town's curfew ordinance is codified at Town Code Sections 18.30.050 and following;

WHEREAS, the defenses to a curfew violation are set forth in Town Code Section 18.30.060;

WHEREAS, a defense for engagement in First Amendment activities is recommended for addition; and

WHEREAS, duplicative language is recommended for removal;

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Los Gatos as follows:

The following sections of the Town Code are amended to read as follows:

SECTION I. Section 18.30.055, "Offenses," of the Town Code is amended to read as follows:

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,
- (2) Any parent or guardian of a minor to knowingly permit, or by insufficient control allow, the minor to 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)

ATTACHMENT 1

SECTION II. Section 18.30.060, "Defenses," of the Town Code is amended

to read as follows:

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 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.

(Ord. No. 2038, § VI, 12-1-97)

SECTION III. Section 18.30.080, "Minors under eighteen; exception," of the Town Code is repealed.

SECTION IV. Section 18.30.085, "Responsibility of parents, guardians, etc.," of the Town Code is repealed.

SECTION V. Severability.

In the event that a court of competent jurisdiction holds any Section, subsection, paragraph, sentence, clause, or phrase in this Ordinance unconstitutional, preempted, or otherwise invalid, the invalid portion shall be severed from this Section and shall not affect the validity of the remaining portions of this Section. The Town hereby declares that it would have adopted each Section, subsection, paragraph, sentence, clause, or phrase in this Section irrespective of the fact that any one or more Sections, subsections, paragraphs, sentences, clauses or phrases in this Section might be declared unconstitutional, preempted, or otherwise invalid.

SECTION VI. CEQA.

Adopting this Ordinance is not a project subject to CEQA because it can be seen with certainty that it will not impact the environment (CEQA Guidelines Section 15378).

SECTION VII. Publication.

In accordance with Section 63937 of the Government Code of the State of California, this Ordinance takes effect 30 days from the date of its passage. The Town Council hereby directs the Town Clerk to cause this Ordinance or a summary thereof to be published or posted in accordance with Section 36933 of the Government Code of the State of California.

SECTION VIII. Effective Date.

This Ordinance will take effect 30 days from the date of adoption. This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the ____ day of ____ 20 , and adopted by the Town Council of the Town of Los Gatos at its regular meeting on the ____ day of ____ 20 , by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA