
FILE OF THE CITY COUNCIL

NO. 3 Session of 2006

MOVED BY VERA JEAN-WHITE, JANUARY 24, 2006

An Ordinance repealing and replacing in its entirety Title 3 Chapter 3-333 of the Codified Ordinances of the City of Harrisburg entitled "Curfew".

WHEREAS, curfew ordinances similar to that previously enforced by the City of Harrisburg have recently come under Constitutional attack in other municipalities; and

WHEREAS, in an effort to enact a curfew ordinance that is compatible with the Constitution, the City has performed a detailed analysis of the violent crime committed by and committed against juveniles in the City of Harrisburg; and

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HARRISBURG, AND IT IS HEREBY ENACTED BY AUTHORITY OF THE SAME, as follows:

SECTION 1.

Chapter 3-333 of the Codified Ordinances of the City of Harrisburg, entitled Curfew, is hereby repealed in its entirety and replaced as follows:

3-333.1 LEGISLATIVE FINDINGS AND INTENT

(a) Violence in our community committed by and committed against minors is a cause of great concern for the immediate health, safety and general welfare of our citizens. The City highly values the health, safety and general welfare of our minors, and has a vested interest in preserving and nurturing them as a valuable asset and investment in Harrisburg's future. Persons under the age of eighteen (18) are vulnerable to be pressured to participate in violent unlawful activities and to be victims of perpetrators of violent crimes due to their general lack of maturity and experience. Minors who are present in public places during the late night and early morning hours are particularly vulnerable to being victimized and abused. The City needs effective tools available to protect minors from the dangers that exist in the late night and early morning hours at public places.

(b) The Council of the City of Harrisburg, recognizing the problem of crimes committed by and committed against minors during the late night and early morning hours and believing that it can be dealt with more effectively by regulating the hours during which minors may remain in public places and certain establishments without adult supervision, and by defining more clearly certain duties and responsibilities upon those who have custody and responsibility for the care of such minors, hereby enacts this Chapter with the intent of promoting the general welfare and protecting the general public through the reduction of juvenile violence and crime within the City of Harrisburg, promoting the safety and welfare of the city's minors whose youth and inexperience renders them particularly vulnerable to becoming participants in criminal activity and victims of perpetrators of crime, and fostering and strengthening parental responsibility for children.

3-333.2 DEFINITIONS

The following words and phrases, whenever used in this Chapter, shall be construed and defined as follows:

- (a) "After Hours" shall mean the period of time between the hours of 10:00 p.m. and 6:00 a.m. on Sunday through Thursday nights and 12:00 midnight and 6:00 a.m. on Friday and Saturday nights.
- (b) "Establishment" shall mean any privately owned place of business operated for profit, including any place of amusement or entertainment, to which the public is invited.
- (c) "Emergency" shall refer to unforeseen circumstances, or the status or condition resulting there from, requiring immediate action to safeguard life, limb or property. The term includes, but is not limited to, fires, natural disaster, automobile accidents or similar circumstances.
- (d) "Knowingly" shall mean knows or has reason to know.
- (e) "Minor" shall mean any person less than 18 years of age. For the purpose of this chapter any person shall be deemed to be 18 years of age on the date of his or her 18th birthday and not before this time.
- (f) "Operator" shall mean any individual, firm, association, partnership or corporation owning, operating, managing or conducting any establishment. Whenever used in any provision prescribing a penalty, the word "operator" shall include the members, partners, officers and managers of any firm, association, partnership or corporation.

(g) "Parent" shall mean the biological or adoptive parent of a minor; a legal guardian; or an adult person 21 years of age or older and who is authorized by a minor's parent or legal guardian to be responsible, either temporarily or permanently, for the custody or care of any minor or for the control of such minor.

(h) "Public Place" shall mean any public street, highway, road, alley, park, playground or parking lot, or any private building, structure or area to which the public is invited or in which the public is allowed to remain.

(i) "Remain" shall mean to be at or stay at a place.

3-333.3 UNLAWFUL CONDUCT OF MINOR

It shall be unlawful for a minor to remain in or upon any public place or to remain in any motor vehicle operating or parked therein or thereon, or to remain in or upon an establishment in the City of Harrisburg after hours except as follows:

- (a) The minor is accompanied by a parent;
- (b) The minor is involved in an emergency;
- (c) The minor is engaged in an activity, related to his or her employment, or is going to or returning home from such activity, without detour or stop;
- (d) The minor is on the sidewalk directly abutting a place where he or she resides with a parent;
- (e) The minor is attending an activity sponsored by a school, religious or civic organization, by a public organization or agency, or by another similar organization

or entity, which activity is supervised by adults, and/or the minor is going to or returning from such activity without detour or stop;

- (f) The minor is on an errand at the direction of a parent, and the minor has in his or her possession a writing signed by the parent containing the following information: the name, signature, address and telephone number of the parent authorizing the errand, the telephone number where the parent may be reached during the errand, the name of the minor, the minor's destination(s) and the hours the minor is authorized to be engaged in the errand; no minor or parent shall falsify the document described above; or
- (g) The minor is involved in interstate travel through or beginning or terminating in the City of Harrisburg; or

3-333.4 UNLAWFUL CONDUCT OF PARENTS

No parent shall knowingly permit any minor to remain in or upon any public place or establishment after hours unless the minor is engaged in an activity permitted under 3-333.3 of this chapter.

3-333.5 UNLAWFUL CONDUCT OF OPERATORS OF ESTABLISHMENTS

No operator of an establishment shall knowingly permit any minor to remain upon the premises of such establishment after hours.

3-333.6 RULES AND REGULATIONS

The Chief of Police, or designee, is hereby authorized, from time to time, to promulgate such rules and regulations, including the extension of hours for special occasions, as in his or her opinion shall be necessary or useful in the enforcement of this chapter.

3-333.7 ENFORCEMENT

Before taking any enforcement action under this chapter, 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 exception set forth in Section 3-333.3 applies. The officer may issue a citation against the minor and/or the parent.

3-333.8 REPORT TO COUNCIL

No later than one (1) year following the effective date of this chapter, the Chief of Police, or designee, shall prepare and present a report to the Council of the City of Harrisburg concerning the effectiveness of and continuing need for this chapter. The report shall include, but not be limited to, the following information:

- (a) The practicality of enforcing the chapter and any problems with enforcement identified by the Bureau of Police of the City of Harrisburg.
- (b) The impact of this chapter and support programs on juvenile crime statistics.
- (c) Number of juveniles taken into custody for curfew violations.
- (d) The number of official citizen complaints filed regarding the enforcement of this chapter.

3-333.99 PENALTIES

- (a) Any minor or parent who violates the provisions of this chapter may be issued a non-traffic summary citation. The minor may be taken into temporary custody, in which case his or her parents or other appropriate person shall be notified and the minor shall be released into the custody of the appropriate parent or parents of the minor or to a brother or sister 18 years of age or older. If no such person is available after reasonable efforts have been made to locate such person, then the minor shall be released to such agencies or institutions as are established for juvenile welfare.
- (b) Any minor or parent who violates any provision of this chapter is guilty of a summary offense and, upon conviction thereof, shall be subject to fine in an amount not exceeding \$200 for the first through third offense, and a fine in an amount not exceeding \$500 for the fourth and subsequent offenses.
- (c) Each violation of the provisions of this chapter shall constitute a separate offense.

SECTION 2. **DELEGATION.**

Appropriate City officials are authorized to take such actions as are necessary to effectuate this ordinance.

SECTION 3. **SEVERABILITY.**

If any provision, sentence, clause, section or part of this ordinance or the application thereof to any person or circumstance is for any reason found to be unconstitutional, illegal or invalid by a court of competent jurisdiction, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance. It is hereby declared as the intent of the Council of the City of Harrisburg that this ordinance would have been adopted had such unconstitutional, illegal or invalid provision, sentence, clause, section or part not been included herein.

SECTION 4. **REPEALER.**

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 5. **EFFECTIVE DATE.**

This ordinance shall take effect in accordance with the law.

Seconded by: Patty Kim

PASSED by City Council on the 28th day of February 2006

SIGNED by the Mayor on the 2nd day of March 2006

Bill 3-2006-curfew ordinance
Bills 2006-ldrive