



CARMEN A. TRUTANICH
City Attorney

REPORT NO. R 1 2 - 0 0 3 6
FEB 0 8 2012

REPORT RE:

**DRAFT ORDINANCE TO AMEND SECTION 45.04 OF ARTICLE 5 OF CHAPTER IV OF
THE LOS ANGELES MUNICIPAL CODE RESPECTING JUVENILE DAYTIME CURFEW**

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

Council File No. 09-2255-S1

Honorable Members:

This Office has prepared and now transmits for your consideration the enclosed draft ordinance, approved as to form and legality. This ordinance would amend Section 45.04 of Article 5, Chapter IV of the Los Angeles Municipal Code, to provide greater specificity concerning where the ordinance may be enforced, and adding additional exceptions to the general prohibition on remaining in public places during school hours.


Your Honorable Public Safety Committee, through the chair person, requested preparation of this draft ordinance to facilitate discussion by the Committee. Identification of the need for an ordinance resulted from discussions between members of the City Council, Los Angeles Police Department, Los Angeles Unified School District, and representatives from the Juvenile Court System and numerous regional governmental agencies and community groups concerning how best to balance the need for public safety and the preservation of the safety of minors from being the victims of crime or victimizing others, against the rights and interests of minors and their parents or caregivers.

Pursuant to Council Rule 38, a copy of the draft ordinance has been sent to the Los Angeles Police Department, with a request that any comments concerning the ordinance be presented directly to the City Council or its Committees when this matter is considered.

If you have any questions regarding this matter, please contact Deputy City Attorney Julie Raffish at (213) 978-8395. She or another member of this Office will be present when you consider this matter to answer any questions you may have.

Very truly yours,

CARMEN A. TRUTANICH, City Attorney

By 

PEDRO B. ECHEVERRIA
Chief Assistant City Attorney

PBE:JSR:pg
Transmittal

ORDINANCE NO. _____

An ordinance amending Section 45.04 of Article 5 of Chapter IV of the Los Angeles Municipal Code regarding daytime juvenile curfew.

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

Section 1. Section 45.04 of the Los Angeles Municipal Code is amended in its entirety to read as follows:

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. This section shall not apply to public sidewalks immediately adjacent to school grounds, the entrance areas to schools, or to school grounds.

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

(1) The minor is accompanied by his or her parent, guardian, or 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 attending or going directly to or returning directly from a public meeting or an official school-sponsored sporting event, dance, or activity which is under the direction, supervision, or control of an adult and which is organized, arranged, or sponsored by the City, a local educational authority, or religious or civil organization that is taking responsibility for the minor; or

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

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

(6) The minor is carrying in his or her possession a valid, school issued, off-campus permit or pass that authorizes the minor to leave the school campus; or

(7) 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

(8) 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

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

(10) 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; or

(11) The minor is traveling in the general direction of his or her school, regardless of whether school has already begun. If the minor is contacted by law enforcement within a 3 block radius of his or her school within the first 60 minutes after school has begun, it establishes a rebuttable presumption that the minor is traveling to his or her school.

(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, that the minor is required to be in school, and that based on any responses and other circumstances, no exceptions to this section apply. The officer shall identify the time when the officer first encountered the minor, provide the minor's stated age, and articulate the justification for the citation's issuance directly on the citation.

(d) **Penalties for Violation.** A violation of this section is an infraction. Notwithstanding any other section, a violation of this section shall not be punishable by a monetary fine. Minors cited under this section shall be subject to Los Angeles County juvenile court authority regarding appropriate penalties, except that they shall not be required to perform community service for a total time exceeding 20 hours in any given 30-day period, and the hours for performance of community service shall occur during times other than his or her hours of school attendance or employment.

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

Sec. 2. 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 _____.

JUNE LAGMAY, City Clerk

By _____ Deputy

Approved _____

Mayor

Approved as to Form and Legality

CARMEN A. TRUTANICH, City Attorney

By  FOR
JULIE RAFFISH
Deputy City Attorney

Date 2/8/12

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