

ORDINANCE NO. 2010-5

AMENDING CHAPTER 10.12, "CURFEW - MINORS,"
OF THE SAN MATEO MUNICIPAL CODE

The Council of the City of San Mateo, California, ordains as follows:

Section 1. Chapter 10.12, "Curfew - Minors," of the San Mateo Municipal Code is amended to read:

Sections:

- 10.12.010 Definitions.**
- 10.12.020 Loitering prohibited.**
- 10.12.030 Permitting violation unlawful.**
- 10.12.040 Aiding-abetting.**
- 10.12.050 Violation.**
- 10.12.060 Exemptions.**
- 10.12.070 Enforcement procedures.**

10.12.010 DEFINITIONS. For the purposes of this chapter, the following words and phrases shall be defined as follows:

- (a) "Emergency" means any unforeseen circumstance or circumstances that calls for immediate action to prevent serious injury, loss of life or serious property damage. The term includes, but is not limited to, a fire, natural disaster or vehicular accident.
- (b) "Guardian" means:
 - (1) A person who is the guardian of a minor pursuant to a court order; or
 - (2) A public or private entity with whom a minor has been placed by court order; or
 - (3) A person who is at least eighteen (18) years of age and authorized by a parent or court-ordered guardian to have the care and custody of a minor.
- (c) "Minor" means a person under the age of eighteen (18) years.
- (d) "Parent" means a person who is a natural parent, adoptive parent or stepparent of a minor.

(e) “Public place” means any outdoor area to which the public or a substantial group of the public has access including, but not limited to, streets, highways, sidewalks, alleys, parks, playgrounds or other public grounds and the entry ways or parking lots of businesses to which the public is invited.

(f) “Loiter” means to stand idly about or linger aimlessly in a place without a legitimate purpose. A mere transient presence is insufficient to constitute loitering.

(g) “School” means an elementary school, junior high school, four-year high school, senior high school vocational school, continuation high school, regional occupational center or technical high school that is either a public school or a private school operating pursuant to the California Education Code.

10.12.020 LOITERING PROHIBITED. It is unlawful for any minor to loiter about or in any public place within the city between the hours of 11:00 p.m. and 5:00 a.m. Sunday through Thursday nights, 12:00 a.m. to 5:00 a.m. Friday and Saturday nights, and 8:30 a.m. to 2:00 p.m. on days and times when the school in which the student is registered is in session.

10.12.030 PERMITTING VIOLATION UNLAWFUL. It is unlawful for a parent, guardian, or other person having the care, custody or control of any minor to permit such minor to violate any provision of this chapter.

10.12.040 AIDING—ABETTING. It is unlawful for any person to assist, aid, abet or encourage any minor to violate any provision of this chapter.

10.12.050 VIOLATION. Upon the first violation of this chapter, a warning shall be issued to the person violating this chapter. Upon the second violation of this chapter, any person violating the provisions of this chapter shall be cited for an infraction or as otherwise permitted pursuant to local and state laws.

10.12.060 EXEMPTIONS. A minor shall not be in violation of this section if the minor is:

- (a) Accompanied by the minor’s parent or guardian;
- (b) On an errand at the direction of the minor’s parent or guardian, without unnecessary detour or stop;
- (c) Driving or riding in a motor vehicle or public-owned transportation;

- (d) Engaged in lawful volunteer or paid employment activity, or going to or returning home from a lawful volunteer or paid employment activity, without unnecessary detour or stop;
- (e) Acting in response to an emergency;
- (f) On the sidewalk abutting the minor's residence or abutting the residences that are immediately adjacent to the minor's residence;
- (g) Attending, going to or returning from a school, religious, cultural, sports, amusement, entertainment, or recreational activity, or any organized rally, demonstration, meeting or similar activity, including school permitted off-campus lunch;
- (h) Waiting at a train station or bus stop for transportation;
- (i) Emancipated in accordance with California law;

10.12.070 ENFORCEMENT PROCEDURES.

- (a) Nothing in this chapter shall be construed to preclude minors from being in a public place for the purpose of exercising the rights guaranteed by the First Amendment of the United States Constitution or the California Constitution.
- (b) Before taking enforcement action under this chapter, a peace officer shall ask the suspected offender's age and reason for being in a public place.
- (c) A peace officer may take enforcement action under this chapter only when the peace officer has cause to believe that neither subsection (a) above nor any other exemption in this chapter applies to the offender.

Section 2. SEVERABILITY. In the event any section, clause or provision of this Chapter shall be determined invalid or unconstitutional, such section, clause or provision shall be deemed severable and all other sections or portions hereof shall remain in full force and effect.

Section 3. CEQA. In accordance with CEQA Guidelines Section 15061(c)(3), this Ordinance is not a project in that there is no possibility that it will have a significant effect upon the environment.

Section 4. PUBLICATION. This Ordinance shall be published in summary in the Examiner Peninsula Edition, posted in the City Clerk's Office, and posted on the City's website, all in accord with Section 2.15 of the Charter and shall be effective 30 days after the date of adoption.

I hereby certify this to be a correct copy of Ordinance 2010-5 of the City of San Mateo, California, introduced on January 19, 2010 and adopted on February 1, 2010, by the following vote of the Council:

AYES: Council Members LIM, MATTHEWS, GROTTI, ROSS and LEE

NOES: NONE

ABSENT: NONE

(SEAL) /s/ NORMA GOMEZ, City Clerk