

85A. CURFEW

85A.10 Statement of Legislative Intent. Subdivision 1. The City of Rochester highly values the safety and welfare of its minors. The Common Council finds that the physical, psychological and moral well being of the City's minors is threatened by increasing street crime. It is recognized that during the late night and early morning hours, minors in public places are particularly susceptible to participate in unlawful activities and are particularly vulnerable to become victims of older perpetrators of crime. This chapter is the Council's chosen method to satisfy its obligation to provide for the protection of minors.

Subd. 2. Purpose. The Common Council implements this curfew ordinance for four primary reasons:

- A. To protect the public from illegal acts of minors committed after the curfew hour;
- B. To protect minors from improper influences that prevail after the curfew hour, including involvement with gangs;
- C. To protect minors from criminal activity that occurs after the curfew hour; and
- D. To help parents control their minor children.

The Common Council finds that residents and visitors have been harassed while traveling on city streets and sidewalks by large groups of minors; that minors have engaged in crimes while out on the streets late in the evening; that minors have been enticed to join organized gangs late in the evening; and that minors have been victimized by gangs late in the evening. The Council believes this curfew for minors will help lessen these problems. (3784, 9/6/06)

85A.11 Definitions

Subdivision 1. Minor means any person 17 years of age or younger.

Subd. 2. Parent means a person who is:

- A. A natural parent, adoptive parent, step-parent of another person, an individual or agency whose status as guardian has been established by judicial decree; or
- B. At least 18 years of age and has been authorized by a parent or guardian to have the care and custody of a minor.

Subd. 3. Emergency Errand means a task that if not completed promptly threatens the health, safety or comfort of the minor or a member of the minor's household. This includes, but is not limited to, seeking urgent medical treatment, seeking urgent assistance

from law enforcement or fire department personnel, and seeking shelter from the elements or urgent assistance from a utility company due to a natural or man-made calamity.

Subd. 4. Official City Time means the master clock contained in the Dispatch Center at the Olmsted County/City of Rochester Law Enforcement Center.

Subd. 5. Places of Amusement, Entertainment or Refreshment means those places including, but not limited to, movie theaters, pinball arcades, shopping malls, nightclubs catering to minors, restaurants and pool halls.

Subd. 6. Primary Care or Custody means the person who is responsible for providing food, clothing, shelter and other basic necessities to the minor. The person providing primary care or custody to the minor cannot be another minor.

Subd. 7. School Activity means an event which has been placed on a school calendar by public or parochial school authorities as a school sanctioned event.

(3784, 9/6/06)

85A.12 Hours - Minors Under the Age of Sixteen. No minor under the age of sixteen, shall be in or upon the public streets, alleys, parks, playgrounds or other public grounds, public places and public buildings, places of amusement, entertainment or refreshment, or vacant lots, between the hours of 10:30 p.m. and 5:00 a.m. of the following day, official city time.

85A.13 Hours - Minors Ages Sixteen to Eighteen. No minor of the ages of sixteen or seventeen, shall be in or upon the public streets, alleys, parks, playgrounds or other public grounds, public places and public buildings, places of amusement, entertainment or refreshment, or vacant lots, between the hours of 12:00 midnight and 5:00 a.m. of the following day, official city time.

85A.14 Effect on Control by Adult Responsible for Minor. 85A.12 and 85A.13 are not to be construed to give a minor the right to stay out until the curfew hours designated herein if otherwise directed by a parent, guardian or other adult person having the primary care and custody of the minor; nor should it be construed to diminish or impair the control of the adult person having primary care or custody of the minor.

85A.15 Exceptions. The provisions of sections 85A.12 and 85A.13 do not apply to the following situations:

Subdivision 1. To a minor accompanied by his or her parent, guardian or other adult person having the primary care and custody of the minor.

Subd. 2. To a minor who is performing an emergency errand directed by his or her parent, guardian or other adult person having the primary care and custody of the minor.

Subd. 3. To a minor who is in any of the places described in section 85A.12 or 85A.13 in connection with or as required by an employer engaged in a lawful business, trade,

profession or occupation or to a minor traveling directly to and from the location of such business, trade, profession or occupation and the minor's residence. Minors who fall within this section must carry written proof of employment as well as the hours the employer requires the minor's presence at work.

Subd. 4. To a minor who is participating in or traveling directly to or from an event which has been officially designated as a "school activity."

Subd. 5. To a minor who is passing through the City in the course of interstate travel during the hours of the curfew.

Subd. 6. To a minor who is attending or traveling directly to or from an activity involving the exercise of First Amendment rights of free speech, freedom of assembly or freedom of religion. Minors who wish to exercise their rights pursuant to this subdivision must notify the City Clerk in advance of the start of the gathering where these rights will be exercised. (3784, 9/6/06)

85A.16 Duties of Person Legally Responsible for Minor. No parent, guardian or other adult having the primary care or custody of any minor shall permit any violation of the requirements of this section.

85A.17 Duties of Certain Other Persons. No person operating or in charge of any place of amusement, entertainment or refreshment shall permit any minor to enter or remain in such place during the hours prohibited by this section, unless accompanied by the parent, guardian or other adult person having primary care or custody of the minor.

85A.18. Penalties.

- a. A minor found to be in violation of this ordinance may be adjudicated delinquent and is subject to the dispositional alternatives set forth in Minn. Stat. § 260.185.
- b. Any adult person violating this ordinance shall be guilty of a misdemeanor and may be sentenced to up to a \$1,000 fine or 90 days in jail or both.

85A.19. Effective Date. This ordinance shall be effective from and after the date of its publication. This ordinance shall expire and become null and void after September 30, 2012. This provision is included in this ordinance to insure that the Common Council will periodically review the ordinance, its effectiveness, and its need. (3662, 9/8/04; 3784, 9/6/06; 3887, 9/15/08; 3987, 11/1/10)

85A.20. Severability. If any provision of this ordinance is declared by any court of competent jurisdiction to be illegal and in conflict with any law, the validity of the remaining provisions and their application to other persons or circumstances shall not be affected.

85A.21. Local Emergency Curfew. During the time a local emergency is in effect, as provided for in Minnesota Statutes Section 12.29, the Mayor may declare a curfew for all or

any part of the City. The curfew shall continue during the duration of the local emergency or until it is rescinded by the Mayor.

85A.22. Enforcement. Before taking any enforcement action under this chapter, a police officer must ask the apparent offender's age and reason for being in the public place. The officer must not issue a citation or make an arrest under this chapter unless the officer reasonably believes that an offense has occurred and that, based on any response or other circumstances, no exception found at section 85A.15 applies.

(2864, 3/1/93; 3036, 5/21/96; 3182, 7/7/98; 3333, 6/6/00; 3349, 8/8/00; 3430, 12/4/01; 3519, 10/7/02; 3662, 9/8/04; 3784, 9/6/06; 3887, 9/15/08; 3987, 11/1/10)