

ORDINANCE NO. 2751

AN ORDINANCE OF THE CITY OF CHULA VISTA AMENDING
CHAPTER 9.28 OF THE CHULA VISTA MUNICIPAL CODE TO
PROVIDE FOR IMPLEMENTATION OF THE MINOR'S CURFEW
LAW

WHEREAS, the City of Chula Vista, pursuant to the police powers delegated to it by the California Constitution, has the authority to enact laws which promote the public health, safety, and general welfare of its citizens; and

WHEREAS, the City of Chula Vista has determined that the incidents of juvenile gang activity, juvenile violence, and the commission of crimes in which juveniles are involved is magnified in both seriousness and volume during late-night hours; and

WHEREAS, the City Council has further determined that persons under the age of eighteen years are, by virtue of their lack of maturity and experience, susceptible to the influences of gang activity and criminal behavior, particularly during late-night hours; and

WHEREAS, it is the conviction of the City Council that the exercise of parental authority is the most effective means of preventing the commission of crimes by juveniles; provided, however, in the absence of adequate parental supervision, or to more forcefully support the exercise of parental supervision, the City of Chula Vista has the duty to enact measures for the protection of minors and the general public; and

WHEREAS, in the performance of such duty, the City of Chula Vista has, in the past, enacted and historically enforced a late-night curfew applicable to minors; and

WHEREAS, on June 9, 1997, the United States Court of Appeals for the Ninth Circuit rules that a juvenile curfew ordinance, substantially similar to that enacted by the City of Chula Vista, was unconstitutional; and

WHEREAS, said ruling became final on June 30, 1997; and

WHEREAS, unless action is taken by the City Council, the City of Chula Vista may be without a properly enforceable juvenile curfew measure, upon and after June 30, 1997; and

WHEREAS, the City Council has determined that it would be highly detrimental to the welfare of the community to be without the protection of a juvenile curfew and that it is necessary to enact a constitutionally enforceable juvenile curfew, as an urgency ordinance to become effective immediately, for the protection and preservation of the public health, safety and welfare; and

WHEREAS, it is the determination of the City Council that the measure set forth herein corrects the constitutional defects of the pre-existing ordinance by clearly proscribing the late-night presence of a minor in certain defined public places while, at the same time, recognizing and preserving the constitutional rights of minors and their parents.

The City Council of the City of Chula Vista does ordain as follows:

SECTION I: That Section 9.28.010 of Chapter 9.28 of the Chula Vista Municipal Code is hereby amended to read as follows:

9.28.010 Regulations generally.

A. Definitions For Curfew Provisions.

For purposes of Section 9.28.010:

1. "Curfew hours" means the period from 11:00 p.m. any evening of the week, until 5:00 a.m. the following day.
2. "Emergency" means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, natural disaster, an automobile accident or any situation requiring immediate action to prevent serious bodily injury or loss of life.
3. "Establishment" means any privately-owned place of business operated for profit to which the public is invited, including but not limited to, any place of amusement or entertainment.
4. "Guardian" means (1) a person who, under court order, is the guardian of the person of a minor; or (2) a public or private agency with whom a minor has been placed by the court.
5. "Minor" means any person under eighteen years of age.
6. "Parent" means a person who is a natural parent, adoptive parent, or step-parent.
7. "Public place" means any place to which the public or substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.
8. "Responsible adult" means a person at least eighteen years of age, authorized by a parent or guardian to have the care and custody of a minor.
9. "Serious bodily injury" means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement or protracted loss or impairment of the function of a bodily member or organ.

B. Curfew Regulations.

1. It is unlawful for any minor to be present in any public place or on the premises of any establishment within the City of Chula Vista during curfew hours.

2. It is unlawful for any parent or guardian of a minor knowingly to permit, or by insufficient control to allow, the minor to be present in any public place or on the premises of any establishment within the City during curfew hours.

C. Defense to Prosecution.

It is a defense to prosecution under Section 9.28.010B 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 the responsible adult without any detour or stop;
3. In a motor vehicle involved in interstate travel;
4. Engaged in any employment activity, or going to or returning home from employment activity, without any detour or stop;
5. Involved in an emergency;
6. On the sidewalk abutting the minor's residence;
7. Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the City of Chula Vista, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop;
8. Exercising First Amendment rights protected by the United States Constitution;
or
9. Emancipated pursuant to law.

D. Enforcement Procedure.

Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place or on the premises of the establishment 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 and that, based on any responses and other circumstances, no defense under Section 9.28.010C is present or applicable.

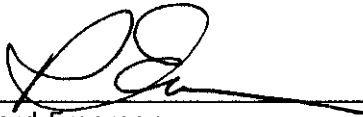
E. Penalty.

1. Each violation of this section shall constitute a separate offense.
2. Any person violating the provisions of Section 9.28.010B shall be guilty of a misdemeanor. Minors shall be dealt with in accordance with juvenile court law and procedures.

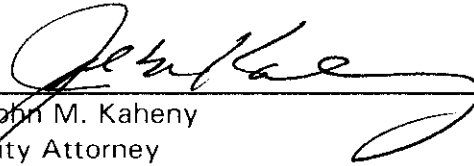
SECTION II: This ordinance shall take effect and be in full force on the thirtieth day from and after its second reading and adoption.

Presented by

Approved as to form by



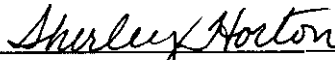
Richard Emerson
Police Chief



John M. Kaheny
City Attorney

PASSED, APPROVED, and ADOPTED by the City Council of the City of Chula Vista, California, this 6th day of October, 1998, by the following vote:

AYES:	Councilmembers:	Moot, Padilla, Salas and Horton
NAYS:	Councilmembers:	None
ABSENT:	Councilmembers:	Rindone
ABSTAIN:	Councilmembers:	None



 Shirley Horton, Mayor

ATTEST:



 Beverly A. Authelet, City Clerk

STATE OF CALIFORNIA)
 COUNTY OF SAN DIEGO)
 CITY OF CHULA VISTA)

I, Beverly A. Authelet, City Clerk of Chula Vista, California, do hereby certify that the foregoing Ordinance No. 2751 had its first reading at a regular meeting held on the 22nd day of September, 1998 and its second reading and adoption at a regular meeting of said City Council held on the 6th day of October, 1998.

Executed this 6th day of October, 1998.



 Beverly A. Authelet, City Clerk