

TITLE III COMMUNITY PROTECTION

CHAPTER 6 CURFEW FOR MINORS

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3-6-1 PREAMBLE. The City of Scranton recognizes that all citizens including minors have certain inalienable rights and that among them are the rights of liberty and the pursuit of happiness. Further, all citizens including minors have the right to freedom of religion, freedom of speech, freedom of assembly and of association. This section should be interpreted to avoid any construction that would result in the appearance of interference with the free exercise of religious worship and political association and this Ordinance shall not be construed to mean that the City intends to interfere with a minor's freedom of association for political, economic, religious or cultural matters or association for purposes such as marches, demonstrations, picketing or prayer vigils which are otherwise lawful and peaceful assemblies.

(Code of Iowa, Sec. 364.1)

3-6-2 FINDINGS AND PURPOSE. The City Council has determined that there has been an increase in juvenile violence and crime by unemancipated persons under the age of 18 in the City of Scranton; and

Unemancipated persons under the age of eighteen (18) are particularly susceptible by their lack of maturity and experience to participate in unlawful and gang-related activities and to be victims of older perpetrators of crime; and

The City of Scranton has an obligation to provide for the protection of minors from each other and from other persons, for the enforcement of parental control over and responsibility for children, for the protection of the general public, and for the reduction of the incidence of juvenile criminal activities.

3-6-3 DEFINITIONS. In this Chapter:

1. "Curfew hours" shall mean 10:00 p.m. until 6:00 a.m. of the following day on Sunday through Thursday and between 12:00 a.m. and 6:00 a.m. of the following day on Friday and Saturday.

2. "Emergency" shall mean an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

3. "Establishment" shall mean any privately-owned place of business operated for a profit to which the public is invited, including but not limited to, any place of amusement or entertainment.

4. "Guardian" shall mean:

- a. A person who, under court order, is the guardian of the person of a minor; or
- b. A public or private agency with whom a minor has been placed by a court.

5. "Minor" shall mean any person under eighteen (18) years of age.

6. "Operator" shall mean any individual, firm, association, partnership or corporation operating, managing or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

7. "Parent" shall mean a person who is:

- a. A biological parent, adoptive parent or step-parent of another person; or
- b. At least eighteen (18) years of age and authorized by a parent or guardian to have the care and custody of a minor.

8. "Public place" shall mean any place to which the public or a 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.

9. "Remain" shall mean to:

- a. Linger or stay; or
- b. Fail to leave premises when requested to do so by a police officer or the owner, operator or other person in control of the premises.

10. "Serious Bodily Injury" shall mean bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement or protracted loss of impairment of the function of any bodily member or organ.

3-6-4 OFFENSES.

1. A minor commits an offense if the minor remains in any public place or on the premises of any establishment within the City during curfew hours.

2. A parent or guardian of a minor commits an offense if they knowingly permit, or by insufficient control, allow the minor to remain in any public place or on the premises of any establishment within the City during curfew hours.

3. The owner, operator or any employee of an establishment commits an offense if they knowingly allow a minor to remain upon the premises of the establishment during curfew hours.

3-6-5 DEFENSES.

1. It is a defense to prosecution under this Chapter if the minor was:
 - a. Accompanied by the minor's parent or guardian;
 - b. On an errand at the direction of the minor's parent or guardian, without any detour or stop;
 - c. In a motor vehicle involved in interstate travel;
 - d. Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
 - e. Involved in an emergency;
 - f. On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence;
 - g. Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the City of Scranton, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the City of Scranton, a civic organization, or another similar entity that takes responsibility for the minor;
 - h. Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right of assembly; or
 - i. Married or had been married.

2. It is a defense to prosecution under Subsection 3-6-4(3) if the owner, operator or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

3-6-6 ENFORCEMENT.

1. 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. 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 defense in Section 3-6-5 is present.

2. A minor who is in violation of this Ordinance shall be reunited with the minor's parent or guardian or custodian or other adult taking the place of the parent or shall be taken home by the police officers of the City of Scranton.

Editor's Note: The Iowa Supreme Court has closely scrutinized curfew Ordinances and before enacting such an Ordinance, you should consult with your City Attorney. See e.g. City of Maquoketa v. Russell, 484 N.W.2d 179 (Iowa 1992); City of Panora v. Simmons, 445 N.W.2d 363 (Iowa 1989).