

CHAPTER 11

CURFEWS

CHAPTER 11

DIVISION 1

CURFEW FOR MINORS

11-1-1

DEFINITIONS

Unless the context specifically indicates otherwise, the meaning of the terms used in this section shall be as follows:

(a) "Curfew Hours" means:

- (1) Between 12:01 a.m. and 6:00 a.m. on Saturday
- (2) Between 12:01 a.m. and 6:00 a.m. on Sunday
- (3) Between 11:00 p.m. on Sunday through Thursday, inclusive and 6:00 a.m. on the following day

(b) "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, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

(c) "Establishment" means 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.

(d) "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 a court.

(e) "Minor" means any person under 17 years of age.

(f) "Operator" means any individual, firm or 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.

(g) "Parent" means a person who is:

- (1) a natural parent, adoptive parent, or step-parent of another person; or
- (2) at least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

(h) "Public Place" means 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 buildings, office buildings, transportation facilities and shops.

- (i) "Remain" means to:
 - (1) linger or stay; or
 - (2) fail to leave the premises when requested to do so by a police officer or the owner, operator or other person in control of the premises.

- (j) "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 any bodily member or organ.

11-1-2

OFFENSES

- (a) A minor commits an offense if he remains in any public place or on the premises of any establishment within the city during curfew hours.

- (b) A parent or guardian of a minor commits an offense if he knowingly permits, or by insufficient control, allows the minor to remain in any public place or on the premises of any public place or on the premises of any establishment within the city during curfew hours.

- (c) The owner, operator or any employee of an establishment commits an offense if he knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

11-1-3

DEFENSES

- (a) It is a defense to prosecution under Section 11-1-2 that the minor was:
 - (1) accompanied by the minor's parent or guardian;
 - (2) on an errand at the direction of the minor's parent or guardian, without any detour or stop;
 - (3) in a motor vehicle involved in interstate travel;
 - (4) engaged in an employment activity or going to or returning home from an employment activity, without any detour or stop;
 - (5) involved in an emergency;
 - (6) 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;
 - (7) attending an official school, religious or other recreational activity supervised by adults and sponsored by the city, 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, an official school, religious or other recreational activity supervised by adults and sponsored by the city, a civic organization or another similar entity that takes responsibility for the minor;

- (8) 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
- (9) married or had been married or is an emancipated minor under the Emancipation of Mature Minors Act, as amended.

11-1-4

ENFORCEMENT

Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in a 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 upon any response and other circumstances, no defense in Section 11-1-3 exists.

11-1-5

PENALTY

Any person or persons violating any of the provision of this Ordinance shall be fined in an amount not less than One Hundred Seventy-Five Dollars (\$175.00) nor more than Five Hundred Dollars (\$500.00) for each violation of this Ordinance.

Amended 4/5/2010; Amended October 5, 2011

DIVISION IA

PARK CURFEW

11-1A-1

PARK CURFEW

It shall be unlawful for any person, regardless of age, to be in or remain upon any property owned by the St. Elmo Community Park District and located within the corporate limits of the City of St. Elmo, Illinois, between the hours of 10:00 p.m. and 6:00 a.m. without the express written permission of the St. Elmo Community Park District or its designated agent.

11-1A-2

ENFORCEMENT

The City Police of the City of St. Elmo, Illinois are hereby authorized, pursuant to the authority of the St. Elmo Community Park District, to enter upon Park District property for the purpose of enforcing this Ordinance and any other City Ordinance or statutes of the State of Illinois.

11-1A-3

PENALTY

Any person or persons violating any of the provision of this Ordinance shall be fined in an amount not less than One Hundred Seventy-Five Dollars (\$175.00) nor more than Five Hundred Dollars (\$500.00) for each violation of this Ordinance.

Amended 4/5/2010; Amended October 5, 2011

DIVISION 2

CURFEW DURING A STATE OF EMERGENCY

11-2-1 CONDITIONS OF STATE OF EMERGENCY

That when any of the following conditions exist, there exists in the City of St. Elmo a “state of emergency”:

- A) A group of persons in excess of twenty-five (25), either standing together as a group or fragmented into such a number that the total of the fragments acting in concert equal in excess of twenty-five (25); or,
- B) Wild and violent disorders, or violent breaches of the peace by the group of persons named in Section 11-2-1A, or a climate where there exists a clear, present, and imminent danger of violence by the group of persons named in Section 11-2-1A, coupled with the ability to carry out such violence; or,
- C) When weather conditions such as drought, flood, tornado, high winds, heavy snowfall, or other storm conditions create a clear, present, and imminent danger to the well being of the community, its citizens, or property.

11-2-2 DECLARATION OF EMERGENCY

That whenever the Mayor shall determine that a “state of emergency” exists, he shall sign, under oath, a statement finding that such standards have been met, setting forth facts to substantiate such findings, describing the nature of the emergency, and declaring that a “state of emergency” exists. Such statements shall be filed with the Clerk of the City of St. Elmo as soon as practicable.

11-2-3 TERMINATION OF STATE OF EMERGENCY

That after declaring a “state of emergency”, the Mayor may declare the “state of emergency” at an end by giving written notice to that effect to the City Clerk, but in no event shall a “state of emergency” extend beyond the adjournment of the first regular meeting of the City Council of the City of St. Elmo after the “state of emergency” is declared.

11-2-4 ESTABLISHMENT OF CURFEW

That within thirty (30) minutes after the signing of the declaration of “state of emergency”, there shall exist a curfew in the corporate limits of the City of St. Elmo, which shall be in effect until the “state of emergency” is ended as provided in Section 11-2-3.

11-2-5

CONDITIONS OF CURFEW

That when a curfew exists under this Ordinance, it shall be unlawful for any person to be upon the streets, sidewalks, public ways or public places of the City of St. Elmo, and it shall be unlawful for any person to sell or to offer for sale any intoxicating beverages, gasoline, or any other combustible or flammable liquid or gas. The Mayor may permit the sale of gasoline for motor vehicle purposes only, but such permission shall be in writing and filed with the Clerk. For purpose of this Section 11-2-5, no one shall be guilty of violating the curfew unless they:

- A) intended to be upon the streets, sidewalks, public ways or public places. If one is found upon the streets, sidewalks, public ways or public places, the presumption shall be that he intended to be there unless rebutted; or,
- B) intended to sell intoxicating beverages or gasoline or any other combustible or flammable liquid and did offer to sell or did sell those items. If one is found offering to sell or selling the items heretofore mentioned, the presumption shall be that he intended to do so unless rebutted.

11-2-6

EXECUTIVE ORDERS

During the period of “state of emergency”, the Mayor without the formal approval of the City Council, may issue such executive Orders regulating the use of water, banning open burning, regulating traffic on City streets, or otherwise dealing with the state of emergency as it may then exist, provided, however, that said executive Orders shall expire upon the adjournment of the first regular meeting of the City Council after the “state of emergency” is declared, unless ratified and extended by said City Council.

11-2-7

NOTICE OF STATE OF EMERGENCY

Notice: The Mayor shall cause notice to be given of the calling of a “state of emergency” and the time at which he signed the declaration by every and all available means reasonably known to him at the time of calling such a “state of emergency”.

11-2-8

PENALTY

Penalty: Any one found guilty of violating Section 11-2-5 shall be guilty of a misdemeanor punishable by a fine of One Hundred Seventy-Five Dollars (\$175.00) to Five Hundred Dollars (\$500.00) or by incarceration in a penal institution other than a penitentiary for a period of up to six months, or both a fine and incarceration.

Amended 4/5/2010, Amended 10/5/2011

11-2-9

EXCEPTIONS

That the following persons shall be excepted from the application of that part of Section 11-2-5 making it unlawful to be on the streets, sidewalks, public ways or public places: the Mayor, the Alderman, the City Manager, the City Attorney, members of the news media possessing proper credentials as issued by the City of St. Elmo in conjunction with recommendations of the various news media for the purpose of identification only, medical personnel acting in their professional capacity, peace officers and fire fighters, and any other persons who the Mayor may designate.

Revised 7-6-98

DIVISION 3

OFFENSES AGAINST PUBLIC PEACE AND SAFETY

11-3-0

DEFINITIONS:

Loitering: The word *loiter* shall mean to be dilatory, to stand idly around, to linger, delay, wander about, to remain, abide or tarry in a public place.

11-3-1

ACTS PROHIBITED:

It shall be unlawful for any person to loiter so as to warrant alarm for the safety of persons or property in the vicinity. There shall be a presumption of loitering in such manner as to warrant alarm for the safety of persons or property in the vicinity if the person shall be less than fully clothed, or shall be imbibing in alcoholic beverages, or shall utter audible obscenities or profanities to other persons present or in the vicinity, or by other obvious or intentional means calls attention to himself, or obstructs the public way or give the appearance of an intent to obstruct the public way.

11-3-2

REASONABLE GROUNDS, DUTY OF OFFICER:

For the purposes of a prosecution the following applies:

- (1) Among the circumstances which may be considered in determining whether reasonable grounds for belief have arisen that such person is loitering is the fact that such person:
 - (a) Takes flight upon appearance of a police officer; or
 - (b) Refuses to identify himself; or
 - (c) Manifestly endeavors to conceal himself or any object; or
 - (d) Systematically checks the means of access to buildings or vehicles; or
 - (e) Maintains a continuous presence in close proximity to a place when his activity manifests a high probability of unlawful activity; or
 - (f) Carries out conduct within those enumerated at 11-3-1 as conduct which creates a presumption of warranting alarm for the safety of persons or property in the vicinity.
- (2) Unless flight by the person or other circumstances make it impractical, a peace officer shall, prior to any arrest for an offense under this section, afford the person the opportunity to dispel any alarm otherwise warranted, or explain any circumstances giving rise to reasonable grounds for belief that such person is loitering by requesting him (her) to:
 - (a) Identify themselves; and
 - (b) Explain their presence and conduct.

11-3-3

STANDARD FOR CONVICTION:

No person shall be convicted under this section 11-3-1 if the peace officer did not comply with subsection 11-3-2 (2) (a) and (b) of this section, or if at trial, that the explanation of presence and conduct given by the defendant was true and, if believed by the peace officer at the time, would have dispelled any alarm or would have disclosed a lawful purpose.

11-3-4

FAILURE TO DESIST OR DISPERSE:

It shall be unlawful for any person to intentionally, knowingly or recklessly fail or refuse to obey an order which;

- (a) Is made by a peace officer in the discharge of his duties; and
- (b) Directs that person, or a group of which that person is a member, to desist from conduct and disperse from an area; and
- (c) Is given at the time when that person individually or with others is participating in a course of conduct or is present in an area where such conduct or presence creates, maintains or aggravates an immediate substantial danger of damage or injury to persons or property or substantially obstructs the performance of any governmental function.

11-3-5

PENALTY

Any person or persons convicted of violation of the provisions of this ordinance shall be fined in an amount not less than One Hundred Seventy-Five Dollars (\$175.00) nor more than Five Hundred Dollars (\$500.00) for each violation.

Revised 11-4-96; 7-6-98; Amended 4/5/2010; Amended October 5, 2011