

**CITY OF BALTIMORE
ORDINANCE _____
Council Bill 05-0262**

Introduced by: The Council President
At the request of: The Administration (Police Department)
Introduced and read first time: October 17, 2005
Assigned to: Public Safety Subcommittee
Committee Report: Favorable with amendments
Council action: Adopted
Read second time: January 9, 2006

AN ORDINANCE CONCERNING

Daytime and Nighttime Curfews

FOR the purpose of authorizing certain minors to be taken to a juvenile holding facility under certain circumstances; defining certain terms; specifying the type of civil citation to be used for violations by parents; authorizing the use of civil citations for violations by establishments; modifying certain penalties; conforming, correcting, and clarifying certain language; correcting certain age references; deleting certain obsolete language; and generally relating to minors and to the enforcement of the daytime and nighttime curfews.

BY adding

Article 1 - Mayor, City Council, and Municipal Agencies
Section(s) 41-14(2)(Art. 19, § 34-5 and § 34-6)
Baltimore City Code
(Edition 2000)

BY repealing and reordaining, with amendments

Article 19 - Police Ordinances
Section(s) 34-1, 34-3 through 34-9
Baltimore City Code
(Edition 2000)

BY adding

Article 19 - Police Ordinances
Section(s) 34-8.1
Baltimore City Code
(Edition 2000)

SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That the Laws of Baltimore City read as follows:

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.
Underlining indicates matter added to the bill by amendment.
~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from existing law by amendment.

Baltimore City Code

Article 1. Mayor, City Council, and Municipal Agencies

Subtitle 41. Civil Citations

§ 41-14. Offenses to which subtitle applies – Listing.

(2) Article 19. Police Ordinances

§ 34-5. CURFEWS: PROHIBITED CONDUCT OF PARENTS, GUARDIANS, ETC. \$ 50

§ 34-6. CURFEWS: PROHIBITED CONDUCT OF ESTABLISHMENTS \$ 500

Article 19. Police Ordinances

Subtitle 34. Minors – Daytime and Nighttime Curfews

§ 34-1. Definitions.

(a) In general.

In this subtitle, the following [definitions apply] TERMS HAVE THE MEANINGS INDICATED.

(b) Establishment.

“Establishment” means:

(1) any privately-owned place of business carried on for a profit; or

(2) any place of amusement or entertainment to which the public is invited.

(c) JUVENILE HOLDING FACILITY.

“JUVENILE HOLDING FACILITY” MEANS A PLACE, AS ESTABLISHED OR DESIGNATED BY THE CITY, TO WHICH MINORS BELIEVED TO BE IN VIOLATION OF § 34-3 {“PROHIBITED CONDUCT OF MINORS – NIGHTTIME CURFEW”} OF THIS SUBTITLE CAN BE TAKEN TO DETERMINE AN APPROPRIATE COURSE OF ACTION.

(d) [c] Minor.

“Minor” means any person under the age of 17 years.

(e) [(d)] Operator.

(1) “Operator” means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment.

1 (2) Whenever used in any clause prescribing a penalty, the term “operator”:

2 (i) as applied to associations or partnerships, shall include the members or
3 partners thereof; and

4 (ii) as applied to corporations, shall include the officers thereof.

5 (F) [(e)] *Parent*.

6 “Parent” means:

7 (1) any natural parent of a minor;

8 (2) a guardian; or

9 (3) any person 18 years [of age or over] OLD OR OLDER WHO IS legally responsible for
10 the care and custody of a minor.

11 (G) [(f)] *Public place*.

12 “Public place” means any public street, highway, road, alley, park, playground, wharf,
13 dock, public building, or vacant lot.
14

15 (H) [(g)] *Remain*.

16 “Remain” means to loiter, idle, wander, stroll, or play in or upon.

17 (I) [(h)] *Truancy center*.

18 “Truancy center” means a place, as established or designated by the City, to which
19 minors believed to be in violation of § 34-4 {“Prohibited conduct of minors – daytime
20 curfew”} of this subtitle can be taken to determine an appropriate course of action.

21 **§ 34-3. Prohibited conduct of minors – nighttime curfew.**

22 (a) *Scope of section*.

23 [The provisions of this] THIS section [shall] DOES not apply to a minor:

24 (1) accompanied by the minor’s parent [or guardian];

25 (2) on an errand at the direction of the minor’s parent, without any detour or stop;

26 (3) in a motor vehicle involved in interstate travel;

27 (4) engaged in an employment activity or going to or returning home from an
28 employment activity, without any detour or stop;

29 (5) involved in an emergency;

1 (6) on the sidewalk abutting the minor’s residence or abutting the residence of a
2 next-door neighbor if the neighbor did not complain to the Police Department
3 about the minor’s presence;

4 (7) attending OR, WITHOUT ANY DETOUR OR STOP, GOING TO OR RETURNING HOME
5 FROM an official school, religious, or other recreational activity supervised by
6 adults and sponsored by the City of Baltimore, a civic organization, or another
7 similar entity that takes responsibility for the minor[, or going to or returning
8 home from, without any detour or stop, an official school, religious, or other
9 recreational activity supervised by adults and sponsored by the City of Baltimore,
10 a civic organization, or another similar entity that takes responsibility for the
11 minor];

12 (8) exercising First Amendment rights protected by the United States Constitution,
13 such as the free exercise of religion, freedom of speech, and the right of assembly;
14 or

15 (9) WHO IS OR HAS BEEN married [or had been married].

16 (b) *Prohibited conduct.*

17 No minor [shall] MAY remain in or [upon] ABOUT any public place or any establishment:

18 (1) between the hours of [12:00 midnight Friday] 12:00:01 A.M. SATURDAY and
19 [6:00] 6 a.m. Saturday;

20 (2) between the hours of [12:00 midnight Saturday] 12:00:01 A.M. SUNDAY and
21 [6:00] 6 a.m. Sunday[, official City time]; or

22 (3) between the hours of [11:00] 11 p.m. and [6:00] 6 a.m. of the following day, on
23 any other day of the week.

24 **§ 34-4. Prohibited conduct of minors – daytime curfew.**

25 (a) *In general.*

26 Except as otherwise provided in subsection (b) of this section, no minor ~~between the ages~~
27 ~~of 6 to 16 years, inclusive, under the age of 16~~ may remain in or about any public place
28 or any establishment between the hours of [9:00] 9 a.m. and 2:30 p.m. on any day during
29 which the minor is required to be in school.

30 (b) *Exceptions.*

31 Subsection (a) of this section does not apply if:

32 (1) the minor has written proof from school authorities excusing his or her attendance
33 at that particular time; or

34 (2) the minor is accompanied by [a] THE MINOR’S parent or BY a person 21 years old
35 or older.

1 **§ 34-5. Prohibited conduct of parents, [or] guardians, ETC.**

2 (a) *Nighttime curfew.*

3 It [shall be] IS unlawful for the parent of any minor to knowingly permit or, by
4 insufficient control, to allow [such] THAT minor to be in or [upon] ABOUT any public
5 place or any establishment:

6 (1) between the hours of [12:00 midnight Friday] 12:00:01 A.M. SATURDAY and
7 [6:00] 6 a.m. Saturday;

8 (2) between the hours of [12:00 midnight Saturday] 12:00:01 SUNDAY and [6:00]
9 6 a.m. Sunday; or

10 (3) between the hours of [11:00] 11 p.m. and [6:00] 6 a.m. of the following day, on
11 any other day of the week.

12 (b) *Daytime curfew.*

13 It [shall be] IS unlawful for the parent of any minor ~~between the ages of 6 and 16 years,~~
14 ~~inclusive,~~ under the age of 16 to knowingly permit or, by insufficient control, to allow
15 [such] THAT minor to be in or [upon] ABOUT any public place or any establishment
16 between the hours of 9 a.m. and 2:30 p.m. [of] ON any day during which the minor is
17 required to be in school.

18 (c) *Construction.*

19 [The provisions of this] THIS section [are] IS to be read in conjunction with [the
20 provisions of §§] § 34-3 {"PROHIBITED CONDUCT OF MINORS – NIGHTTIME CURFEW"} and
21 § 34-4 {"PROHIBITED CONDUCT OF MINORS – DAYTIME CURFEW"} OF THIS SUBTITLE.

22 **§ 34-6. Prohibited conduct of establishments.**

23 (a) *Nighttime curfew.*

24 No operator of an establishment or his agents or employees [shall] MAY knowingly
25 permit any minor to remain [upon] ON the premises of [said] THAT establishment:

26 (1) between the hours of [12:00 midnight Friday] 12:00:01 A.M. SATURDAY and
27 [6:00] 6 a.m. Saturday;

28 (2) between the hours of [12:00 midnight Saturday] 12:00:01 A.M. SUNDAY and
29 [6:00] 6 a.m. Sunday[, official City time]; or

30 (3) between the hours of [11:00] 11 p.m. and [6:00] 6 a.m. of the following day, on
31 any other day of the week.

1 (b) *Daytime curfew.*

2 No operator of an establishment or his agents or employees [shall] MAY knowingly
3 permit any minor ~~between the ages of 6 and 16 years, inclusive, under the age of 16~~ to
4 remain [upon] ON the premises of [said] THAT establishment between the hours of [9:00]
5 9 a.m. and 2:30 p.m. [during] ON any school day, unless:

6 (1) [he] THE MINOR has written proof from school authorities excusing [him from] HIS
7 OR HER attendance at that particular time; or

8 (2) [unless] THE MINOR IS accompanied by [a] THE MINOR’S parent or BY a person 21
9 years [of age] OLD or older.

10 (c) *Construction.*

11 [The provisions of this] THIS section [are] IS to be read in conjunction with [the
12 provisions of §§] § 34-3 {“PROHIBITED CONDUCT OF MINORS – NIGHTTIME CURFEW”} and
13 § 34-4 {“PROHIBITED CONDUCT OF MINORS – DAYTIME CURFEW”} OF THIS SUBTITLE.

14 **§ 34-7. Detention of minor not an arrest.**

15 Detention of a minor under this subtitle [shall] IS not [be] considered an arrest and [shall]
16 DOES not create a criminal record for the minor under State law.

17 **§ 34-8. Enforcement GENERALLY.**

18 (a) *Identification.*

19 If a police officer has reason to believe that a minor is in violation of § 34-3 {“Prohibited
20 conduct of minors – nighttime curfew”} or § 34-4 {“Prohibited conduct of minors –
21 daytime curfew”} of this subtitle, the police officer shall seek to obtain from the minor:

22 (1) the minor’s name, address, and age; and

23 (2) the name of the minor’s parent or parents.

24 (b) *Daytime curfew.*

25 (1) For a minor believed to be in violation of § 34-4 {“Prohibited conduct of minors –
26 daytime curfew”}, the minor shall be taken, as appropriate, to:

27 (i) the minor’s school;

28 (ii) a truancy center; or

29 (iii) the minor’s home.

30 (2) If the minor is taken to school or to a truancy center, the school or center, as the case
31 may be, shall:

32 (i) notify a parent about the violation of this subtitle; and

1 (ii) take appropriate measures to reduce the probability that the minor will commit
2 a subsequent violation of this subtitle.

3 (c) *Nighttime curfew.*

4 (1) For a minor believed to be in violation of § 34-3 {“Prohibited conduct of minors –
5 nighttime curfew”}, the minor shall be taken, AS APPROPRIATE, TO:

6 (i) [to] the minor’s home; or

7 (ii) [if no parent or adult brother, sister, aunt, uncle, or grandparent is present at
8 the minor’s home to take charge of the minor, to an appropriate] A juvenile
9 holding facility.

10 (2) If the minor is taken to a juvenile holding facility, THE FACILITY SHALL:

11 (I) NOTIFY a parent or an adult brother, sister, aunt, uncle, or grandparent [shall
12 be notified] to come and take charge of the minor;

13 (II) NOTIFY A PARENT ABOUT THE VIOLATION OF THIS SUBTITLE; AND

14 (III) TAKE APPROPRIATE MEASURES TO REDUCE THE PROBABILITY THAT THE MINOR
15 WILL COMMIT A SUBSEQUENT VIOLATION OF THIS SUBTITLE.

16 (3) If THE MINOR IS TAKEN TO A JUVENILE HOLDING FACILITY AND, BY 6 A.M. OF THE
17 FOLLOWING MORNING, no parent or adult brother, sister, aunt, uncle, or grandparent
18 can be located or [if] none come and take charge of the minor, the minor [and the
19 minor’s parents are subject to the penalties set forth in § 34-9 of this subtitle] SHALL
20 BE, AS APPROPRIATE:

21 (I) TAKEN TO THE MINOR’S HOME;

22 (II) REFERRED TO OR PLACED IN THE CUSTODY OF THE BALTIMORE CITY
23 DEPARTMENT OF SOCIAL SERVICES; OR

24 (III) RELEASED FROM THE JUVENILE HOLDING FACILITY.

25 (d) *Maximum period of detention.*

26 In no event may a minor be detained for more than 24 hours if the minor is charged
27 solely with a violation of this subtitle.

28 (e) *Notices.*

29 Notice is presumed to be received by a parent if deposited in a depository for mailing
30 United States Mail, properly addressed and with first-class postage paid. The mailing
31 may be shown by the records of the sending agency made in the regular course of its
32 business.

1 **§ 34-8.1. ENFORCEMENT BY CITATION.**

2 (A) *IN GENERAL.*

3 IN ADDITION TO ANY OTHER CIVIL OR CRIMINAL REMEDY OR ENFORCEMENT PROCEDURE,
4 § 34-5 {"PROHIBITED CONDUCT OF PARENTS, GUARDIANS, ETC."} OF THIS SUBTITLE AND
5 § 34-6 {"PROHIBITED CONDUCT OF ESTABLISHMENTS"} OF THIS SUBTITLE MAY BE
6 ENFORCED BY ISSUANCE OF A CIVIL CITATION UNDER CITY CODE ARTICLE 1, SUBTITLE 41
7 {"CIVIL CITATIONS"}.

8 (B) *PROCESS NOT EXCLUSIVE.*

9 THE ISSUANCE OF A CIVIL CITATION TO ENFORCE THOSE SECTIONS DOES NOT PRECLUDE
10 PURSUING ANY OTHER CIVIL OR CRIMINAL REMEDY AUTHORIZED BY LAW.

11 **§ 34-9. Penalties.**

12 (a) [*Parent or guardian*] *PARENTS, GUARDIANS, ETC.*

13 (1) [At the time a minor is delivered to a parent or guardian at the home of the minor or
14 at the juvenile holding center for the 1st time, a parent or guardian shall be issued a
15 \$50 citation.] A PARENT WHO VIOLATES § 34-5 {"PROHIBITED CONDUCT OF PARENTS,
16 GUARDIANS, ETC."} OF THIS SUBTITLE FOR THE 1ST TIME MAY BE ISSUED:

17 (I) A CIVIL CITATION UNDER CITY CODE ARTICLE 1, SUBTITLE 41 {"CIVIL
18 CITATIONS"}; OR

19 (II) A WARNING THAT A SUBSEQUENT VIOLATION OF THIS SUBTITLE COULD RESULT
20 IN THE IMPOSITION OF BOTH CIVIL AND CRIMINAL PENALTIES.

21 (2) [Upon any subsequent conviction, a parent or guardian shall be] A PARENT WHO
22 VIOLATES § 34-5 {"PROHIBITED CONDUCT OF PARENTS, GUARDIANS, ETC."} OF THIS
23 SUBTITLE AFTER HAVING RECEIVED NOTICE UNDER § 34-8 {"ENFORCEMENT"} OF A
24 PRIOR VIOLATION OR AFTER HAVING BEEN ISSUED A CIVIL CITATION OR A WARNING
25 UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR A PRIOR VIOLATION IS GUILTY OF A
26 MISDEMEANOR AND, ON CONVICTION, IS subject to 1 or more of the following, in the
27 discretion of the court:

28 (i) a fine not to exceed \$300 and costs;

29 (ii) imprisonment for not more than 60 days; [or] AND

30 (iii) community service [in the school from which the child was truant].

31 (b) *Operator of establishment.*

32 Any operator of an establishment and any [agents] AGENT or [employees] EMPLOYEE of
33 any operator who [shall violate the provisions] VIOLATES ANY PROVISION of § 34-6
34 {"PROHIBITED CONDUCT OF ESTABLISHMENTS"} OF THIS SUBTITLE IS GUILTY OF A
35 MISDEMEANOR AND, ON CONVICTION, IS SUBJECT TO A FINE OF [may be fined not less than

1 \$50 nor] NOT more than \$500 for each violation[, and may be imprisoned for not more
2 than 15 days if the fine is not paid].

3 [(c) *Imprisonment on default of fine.*

4 The terms of payment of any fine and of commitment in default of such payment are
5 subject to Article 38 of the Maryland Code, which supersedes any inconsistent provision
6 of this section to the extent of the inconsistency.]

7 (C) [(d)] *Separate offenses.*

8 Each violation of [the provisions] A PROVISION of this subtitle [shall constitute]
9 CONSTITUTES a separate offense.

10 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the catchlines contained in this Ordinance
11 are not law and may not be considered to have been enacted as a part of this or any prior
12 Ordinance.

13 **SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the 30th day
14 after the date it is enacted.

Certified as duly passed this ____ day of _____, 20__

President, Baltimore City Council

Certified as duly delivered to His Honor, the Mayor,

this ____ day of _____, 20__

Chief Clerk

Approved this ____ day of _____, 20__

Mayor, Baltimore City