

Ordinance Fact Sheet

TO: MEMBERS OF THE
CITY COUNCIL

January 12, 1998

FROM: CITY ATTORNEY

TITLE OF PROPOSED ORDINANCE:

AN ORDINANCE OF THE CITY OF PASADENA RELATING TO CURFEWS FOR
MINORS AND AMENDING THE PASADENA MUNICIPAL CODE

PURPOSE OF ORDINANCE:

The Pasadena Municipal Code, Section 9.68.010, currently prohibits minors from loitering between 10 p.m. and sunrise (the nighttime curfew) and between 8:30 a.m. and 1:30 p.m. on days when the minor's school is in session (the daytime curfew). In June, 1997, the U.S. Court of Appeals for the Ninth Circuit invalidated the City of San Diego's nighttime juvenile curfew ordinance. In the decision, Nunez v. City of San Diego, 114 F.3d 935 (June, 1997), the court found the ordinance unconstitutional because it did not contain exceptions to allow minors to engage in constitutionally protected activities.

The ordinance which was invalidated in the Nunez decision, was similar to language in Pasadena's juvenile nighttime curfew ordinance, and to countless other ordinances throughout the State of California. The City could make a strong argument that Pasadena's nighttime and daytime curfews are distinguishable from the curfew considered by the Nunez court because they do not restrict constitutionally protected activities in the same way. However, in order to ensure the validity of the City's curfew ordinance and in light of language in the Nunez decision, it is strongly recommended that the ordinance be amended consistent with the Ninth Circuit's decision. The revisions set forth in the proposed ordinance are consistent with the Nunez decision.

MEETING OF 1/12/98

AGENDA ITEM NO. 9.A.1.

The City's nighttime and daytime curfews have been very effective tools in combatting juvenile crime and juvenile victimization. Juvenile curfew ordinances have been tremendously successful throughout the nation in reducing juvenile delinquency, truancy and crime and in promoting compulsory education. Based on the foregoing, the continued application of the City's nighttime and daytime curfews is necessary to promote compelling governmental interests.

REASONS WHY LEGISLATION IS NEEDED:

The proposed ordinance would provide additional specified exceptions to clarify that the daytime and nighttime curfews do not restrict constitutionally protected activities.

PROGRAMS, DEPARTMENTS OR GROUPS AFFECTED:

The Police Department and City Prosecutor's Office encourage adoption of the proposed ordinance. The Police Department would continue to enforce the curfew ordinance. The School District, minors and parents would also be affected by continued enforcement of the ordinance. It is anticipated that continued enforcement will result in decreased juvenile crime and victimization, increased school attendance, and decreased truancy rates.

FISCAL IMPLICATIONS:

None.

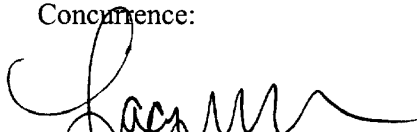
POLICY CHANGES:

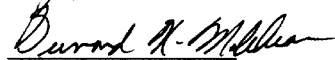
The ordinance would establish enforcement procedures to be followed by the Police Department. These provisions are necessary to ensure the enforceability of the curfews in light of the Nunez decision.

Respectfully submitted,


MICHELE BEAL BAGNERIS
City Attorney

Concurrence:


Tracy Webb, City Prosecutor


Bernard K. Melekian, Chief of Police