



## Legislation Text

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**File #:** 12-359, **Version:** 1

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Staff Report for Consideration of an Ordinance Repealing and Reserving San Leandro Municipal Code Sections 4-1-810 and 4-1-815 of Title 4, Chapter 4-1, and Amending Article 3 of Title 4, Chapter 4-1 Related to Day Time and Night Time Youth Curfews

### **RECOMMENDATIONS**

Staff recommends that the City Council adopt the proposed Ordinance repealing and reserving San Leandro Municipal Code sections 4-1-810 and 4-1-815 of Title 4, Chapter 4-1, and amending Article 3 of Title 4, Chapter 4-1 of the San Leandro Municipal Code relating to day time and night time youth curfews.

### **BACKGROUND AND SUMMARY**

The City has had a youth curfew between the hours of 10:00 p.m. and 5:00 a.m. for unemancipated minors since 1982. In 2007, the City enacted a day time youth curfew between the hours of 8:00 a.m. and 3:00 p.m. for all minors subject to compulsory education or compulsory continuation education. On February 4, 2010, the Fourth District Court of Appeal held that a youth curfew ordinance passed and adopted by the City Council of San Diego was partially invalid under the Equal Protection clauses of the U.S. and State Constitutions for its failure to exempt from penalty certain forms of speech and association that are protected under the First Amendment of the U.S. Constitution (*In re A.G.* (2010) 186 Cal.App.4th 1454). Staff wants to ensure that the City continues to observe compliance with all applicable state and federal laws that govern youth curfew ordinances.

The ordinance repeals the current curfew ordinance, and re-establishes a new ordinance in the same title and chapter, with new definitions and defenses to violations, including those defenses required by recent changes in the law when youths travel to and from First Amendment protected activities. The ordinance also adds new violation provisions, changing violations from misdemeanors to infractions punishable by a fine. In lieu of paying a first offense fine, first-time offenders may be assigned to a SLPD diversion program that could include five hours of community service with a civic organization within the City. Another significant change is, at the discretion of the Police Chief, parents of minors who are guilty of a third or additional offenses may be required to attend a parenting class that has been approved or is provided as part of the SLPD diversion program. Infraction notices given to minors who do not pay the fine will become an obligation of their parents or guardian.

### **COMMITTEE REVIEW AND ACTIONS**

At its meeting of June 26, 2012 the City Council Rules and Communications Committee reviewed, provided comment, and recommended the City Council approve the draft ordinance. The Committee also directed staff provide a copy of the draft ordinance to the Superintendents of Schools, and the Board members for both the San Leandro and San Lorenzo Unified School Districts for their review

and comment.

**ATTACHMENTS**

None.

**PREPARED BY:** Richard Pio Roda, Assistant City Attorney, City Attorney's Office