



Republika ng Pilipinas

Lungsod ng Caloocan



TANGGAPAN NG SANGGUNIANG PANLUNGSOD

ORDINANCE NO. 0702 S. 2017

(PROPOSED ORDINANCE NO. 10-091)

AN ORDINANCE MANDATING THE STRICT IMPLEMENTATION OF NEW CURFEW HOURS FOR CHILDREN FROM 10:00 O’CLOCK IN THE EVENING TO 5:00 O’CLOCK IN THE MORNING OF THE FOLLOWING DAY, PRESCRIBING THE PROPER PROCEDURE FOR THEIR APPREHENSION AND CUSTODY PURSUANT TO REPUBLIC ACT NO. 9344, OTHERWISE KNOWN AS THE JUVENILE JUSTICE AND WELFARE ACT OF 2006, AS AMENDED, AND FOR OTHER PURPOSES.

SPONSORED BY:

Hon. MA. MILAGROS “ROSE” S. MERCADO, Hon. AURORA “ONET” A. HENSON, JR.
and Hon. MARYLOU “ALOU” NUBLA

CO-SPONSORED BY:

Hon. CARMELO F. AFRICA III, Hon. DEAN ASISTIO, Hon. CHRISTOPHER E. MALONZO,
Hon. ANNA KARINA TEH, Hon. LUIS. O. ASISTIO III, Hon. EDGARDO N. ARUELO,
Hon. TOLENTINO J. BAGUS, Hon. CAROLYN C. CUNANAN, Hon. ROBERTO R. SAMSON
and Hon. MARC MERVILLE T. OROZCO

WHEREAS, Section 13, Article II of the 1987 Constitution provides that *“the State recognizes the vital role of children and youth in nation building and shall promote and protect their physical, moral, spiritual, intellectual and social well-being. It shall inculcate in the youth patriotism and nationalism, and encourage their involvement in public and civic affairs;”*

WHEREAS, Section 16 of Republic Act No. 7160, otherwise known as the Local Government Code of 1991 provides that *“every local government unit shall exercise the powers expressly granted, those necessarily implied therefrom, as well as powers necessary, appropriate or incidental for its efficient and effective governance, and those which are essential to the promotion of the general welfare. x xx;”*

WHEREAS, Section 458 (a) (1) (ii) of the same Code mandates the Sangguniang Panlungsod to *“enact ordinances to maintain peace and order by enacting measures to prevent and suppress lawlessness, disorder, riot, violence, rebellion or sedition and impose penalties for violation of said ordinances;”*

WHEREAS, Section 458 (a) (1) (v) of the same Code likewise empowers the Sangguniang Panlungsod to *“enact ordinances intended to prevent,*

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suppress and impose appropriate penalties for habitual drunkenness in public places, vagrancy, mendicancy, prostitution, establishment and maintenance of houses of ill repute, gambling and other prohibited games of chance, fraudulent devices and ways to obtain money or property, drug addiction, maintenance of drug dens, drug pushing, juvenile delinquency, the printing, distribution or exhibition of obscene or pornographic materials or publications, and such other activities inimical to the welfare and morals of the inhabitants of the city.”

WHEREAS, in 1997, the Sangguniang Panlungsod passed City Ordinance No. 0247 entitled *“An Ordinance Implementing a City-Wide and Homogenous Night Time Ban Policy for Minors, Aged Seventeen (17) Years Old and Below from the Streets, and Providing for the Corresponding Penalties for Violators and/or Offenders Thereof”* and was amended in 1998 by City Ordinance No. 0259.;

WHEREAS, Republic Act No. 9344 otherwise known as the *Juvenile Justice and Welfare Act of 2006* was passed into law that covers different stages involving children at risk and children in conflict with the law from prevention to rehabilitation and reintegration;

WHEREAS, in the interest of public order and safety, it is imperative to regulate the movement of minor children especially during night time to protect them from neglect, exploitation, abuse, cruelty and other conditions prejudicial and detrimental to their well-being and development;

WHEREAS, in view of the foregoing, the City government deems it necessary to strictly implement the new curfew hours for children and prescribe the proper and applicable procedures for their apprehension and custody pursuant to RA 9344 as amended, and in accordance with the recent Supreme Court decision on curfew hours for children.

NOW, THEREFORE, BE IT ORDAINED as it is hereby ordained by the Sangguniang Panlungsod of Caloocan City, in session duly assembled, THAT:

SECTION 1. TITLE - This Ordinance shall be known as the *“New Curfew Hours for Children in the City of Caloocan.”*

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SECTION 2. DEFINITION OF TERMS - As used in this Ordinance, the following words and phrases shall mean:

- a. **Barangay Council for the Protection of Children (BCPC)** - refers to barangay council directed to formulate the implementing rules of this Ordinance and in charge of counseling the children and their parents or guardian and responsible for coordinating with the proper government institution or agency for the general welfare of the children found in violation of this Ordinance.
- b. **Child** - refers to a person under eighteen (18) years of age;
- c. **Child at Risk** - refers to a child who is vulnerable to and at the risk of committing criminal offenses because of personal, family and social circumstances; a child who is alleged to have committed a status offense such as curfew violation;
- d. **Child in Conflict with the Law** - refers to a child who is alleged as, accused of, or adjudged as, having committed an offense under Philippine laws;
- e. **Court** - refers to a family court or, in places where there are no family courts, any regional trial court.
- f. **Curfew Hours for Children** – means hours prohibiting children to remain or stay in public places without legal or justifiable reason from 10;00 o’clock in the evening to 5:00 o’clock in the morning of the following day;
- g. **Intervention** - refers to a series of activities which are designed to address issues that caused the child to commit an offense. It may take the form of an individualized treatment program which may include counselling, skills training, education, and other activities that will enhance the child’s psychological, emotional and psycho-social well-being.
- h. **Juvenile Status Offenses** - Juvenile status offenses are those offenses such as, but not limited to, curfew violations, truancy, parental disobedience, anti-smoking and anti-drinking laws, as well as light offenses and misdemeanors against public order or safety such as, but not limited to, disorderly conduct, public scandal, harassment, drunkenness, public intoxication, criminal nuisance, vandalism, gambling, mendicancy, littering, public urination, and trespassing.

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- i. **Law Enforcement Officer** - refers to person in authority or his/her agent as defined in Article 152 of the Revised Penal Code, including the barangay tanod.

- j. **Parents** - shall mean any of the following: biological parents, adoptive parents or individuals who have custody of the child.

- k. **Guardian.**
 - 1) A person who under court order is the guardian of the person of a minor.

 - 2) A public or private agency with whom minor has been placed for custody by a court.

 - 3) A person in charge of the custody or who is taking care of a minor whether relative or not.

 - 4) A person at least 18 years of age and authorize by a parent or guard to accompany a minor in a public place or to have the care and custody over him or her.

- l. **Public Places** - refer to places where the general public, or a substantial group of people, have access including but not limited to, streets, highways, sidewalks, alleys, parking lots, vacant lots, parks and the common areas in the vicinity of churches, apartment buildings, office buildings, hospitals, schools, shops, and other similar places or establishments;

- m. **Republic Act No. 9344 as amended** - refers to the Juvenile Justice and Welfare Act of 2006 as amended by Republic Act No. 10630, a system dealing with children at risk and children in conflict with the law, which provides child-appropriate proceedings, including programs and services for prevention, diversion, rehabilitation, re-integration and aftercare to ensure their normal growth and development.

- n. **Residence** – means the house or home where the child and his/parents or guardian actually reside

- o. **Status Offenses** – any conduct not considered an offense or not penalized if committed by an adult shall not be considered an offense and shall be punished if committed by a child.

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SECTION 3. PROHIBITED ACTS -

- a. Children below eighteen (18) years of age hereby prohibited to loiter, wander, stroll, play or to remain or stay in public places within the territorial jurisdiction of the City without legal or justifiable reason from 10:00 o’clock in the evening to 5:00 o’clock in the morning of the following day, daily, save those failing under herein exceptions.

- b. It is unlawful for any parent or guardian of a minor child to knowingly permit or by insufficient control allow the child to remain in any public place within the City of Caloocan during curfew hours.

SECTION 4. NO PENALTY IMPOSED ON CHILDREN - No penalty shall be imposed on children for violation of curfew hours ordinance and they shall instead be brought to their residence or to any barangay official at the barangay hall to be released to the custody of their parents. The child shall also be recorded as a ‘child at risk’ and not as a ‘child in conflict with the law’. However, the child shall be required to attend intervention programs, such as counselling, attendance in group activities for children, and for the parents, attendance in parenting education seminars.

SECTION 5. PROCEDURES FOR TAKING THE CHILD INTO CUSTODY -Republic Act No. 9344 otherwise known as the *Juvenile Justice and Welfare Act of 2006* as amended by Republic Act No. 10630, prescribes proper procedures to be observed by the law enforcement officer in taking the child into custody, to wit:

- a. Explain to the child in simple language and in a dialect that he/she can understand why he/she is being placed under custody and the offense that he/she allegedly committed;

- b. Inform the child of the reason for such custody and advise the child of his/her constitutional rights in a language or dialect understood by him/her;

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- c. Properly identify himself/herself and present proper identification to the child;
 - d. Refrain from using vulgar or profane words and from sexually harassing or abusing, or making sexual advances on the child;
 - e. Avoid displaying or using any firearm, weapon, handcuffs or other instruments of force or restraint, unless absolutely necessary and only after all other methods of control have been exhausted and have failed;
 - f. Refrain from subjecting the child to greater restraint than is necessary for his/her apprehension;
 - g. Avoid violence or unnecessary force;
 - h. Determine the age of the child;
 - i. Immediately but not later than eight (8) hours after apprehension, turn over custody of the child to the City’s Social Welfare and Development or other accredited NGOs, and notify the child's apprehension. The social welfare and development officer shall explain to the child and the child's parents/guardians the consequences of the child's act with a view towards counselling and rehabilitation, diversion from the criminal justice system, and reparation, if appropriate;
 - j. Take the child immediately to the proper medical and health officer for a thorough physical and mental examination. The examination results shall be kept confidential unless otherwise ordered by the Family Court. Whenever the medical treatment is required, steps shall be immediately undertaken to provide the same;
 - k. Ensure that should detention of the child be necessary, the child shall be secured in quarters separate from that of the opposite sex and adult offenders;
 - l. Record the following in the initial investigation:
 - 1. Whether handcuffs or other instruments of restraint were used, and if so, the reason for such;
 - 2. That the parents or guardian of a child, the DSWD, and the Public Attorney’s Office (PAO) have been informed of the apprehension and the details thereof; and

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- 3. The exhaustion of measures to determine the age of a child and the precise details of the physical and medical examination or the failure to submit a child to such examination; and

- m. Ensure that all statements signed by the child during investigation shall be witnessed by the child's parents or guardian, social worker, or legal counsel in attendance who shall affix his/her signature to the said statement.

SECTION 6. OBLIGATIONS AND LIABILITIES OF PARENT/S OR GUARDIAN/S - The parents or guardians who are in actual custody or living together with the child are under obligation to supervise the conduct and activities of the child and see to it that the latter is already in their home before and during the curfew hours for children.

SECTION 7. IF PARENTS, GUARDIANS OR NEAREST RELATIVES CANNOT BE LOCATED, OR REFUSE TO TAKE CUSTODY OF THE CHILD - If the parents, guardians or nearest relatives cannot be located, or if they refuse to take custody, the child may be released to any of the following:

- a. Duly registered non-governmental or religious organization;

- b. Barangay official or a member of the Barangay Council for the Protection of Children (BCPC);

- c. City Social Welfare and Development officer; or, when and where appropriate, the national DSWD.

SECTION 8. PENALTIES - The following penalties shall be imposed upon the parent or guardian of the child found to be in violation of this Ordinance:

- a. **FIRST OFFENSE** - The child violating this Ordinance for the first time shall be brought to the barangay having jurisdiction for proper recording and counselling by the Barangay Council for the Protection of Children (BCPC) before the child is turned over or released to his/her parent/s or guardian/s. Prior to the release, the parent or guardian shall be informed of the consequences in the event that their child is caught again for the same offense. The parent or guardian shall be imposed a penalty of community service of eight (8) hours or a fine of one thousand pesos (P 1,000.00) or imprisonment of one (1) month, or both such fine and imprisonment at the discretion of the court.

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- b. **SECOND OFFENSE** - Both the children and the parent or guardian shall be required to attend counselling sessions, parenting education seminars and other interventions as may be prescribed and conducted by the Barangay Council for the Protection of Children (BCPC). The parent or guardian shall render a community service of sixteen (16) hours or pay a fine of Three Thousand Pesos (P 3,000.00) or imprisonment of three (3) months or both such fine and imprisonment at the discretion of the court.

 - c. **THIRD OFFENSE OR MORE** - The parent or guardian shall pay a fine of Five Thousand Pesos (P5,000.00) or imprisonment of six (6) months or both such fine and imprisonment at the discretion of the court. Moreover, the child shall be turned over to the City’s Social Welfare and Development (CSWD) for other interventions that may be conducted pursuant to the provisions of RA 9344 as amended.

SECTION 9. EXCEPTIONS - The following acts or occasions shall be exempted from the implementation of this Ordinance:

- a. The child is involved in an emergency situation. This includes unforeseen circumstances, or the status or condition resulting therefrom, requiring immediate action to safeguard life, limb or property. The term also includes, but is not limited to, fires, calamities, disasters, automobile accidents, or other similar circumstances.

- b. The child is engaged in an employment activity or school class, and is returning home from such activity or class, without detour or stop.

- c. The child is on the sidewalk directly abutting the place where he resides.

- d. The child is attending an activity sponsored by a school, religious, or civic organization, or by a public organization or agency, or by a similar organization or entity, as long as the activity is supervised by adults and the child is going to or returning home from such activity, without detour or stop.

- e. The child is accompanied by his parent or guardian.

- f. The child is on an errand and has in his possession a written permission to do so from his parent or guardian. The ID and contact number of the parent or guardian must be attached to the permission for verification.

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- g. The apprehension of children under this Ordinance is suspended on the occasions of legal holidays, special holidays, fiesta celebrations, special occasions sponsored by the city or the barangay including the nights prior thereto.

SECTION 10. NON-RESIDENT OFFENDER - If the child is a non-resident of the barangay, the law enforcement officer shall exert all efforts to get in touch with his parent or guardian. If they could not be reached nor contacted, the members of the barangay tanod on duty shall send home the child to ensure his safety or turn over him to the City’s Social Welfare Department within reasonable time in the morning for proper disposition pursuant to existing laws.

SECTION 11. CONCERNED CITIZEN PARTICIPATION - Any person who has personal knowledge of the presence of a child in public places during curfew hours, may call the attention of the parent or guardian of the child or report the same to the barangay or police station for appropriate action.

SECTION 12. INSTALLATION OF ALARMS OR SIRENS IN ALL BARANGAY. - All barangays are hereby enjoined to install or use in their respective territorial jurisdictions sufficient number of functional and loud alarms or sirens before the start of curfew hours.

SECTION 13. IMPLEMENTING RULES AND REGULATIONS - Within sixty (60) day upon approval of this Ordinance, the City Mayor shall cause the issuance of the Implementing Rules and Regulations (IRR) as are necessary for the effective implementation of this Ordinance.

SECTION 14. SEPARABILITY CLAUSE - If, for any reason, any section or provision of this Ordinance is declared unconstitutional or invalid by a competent court, the remaining sections or provisions not affected thereby shall continue to be in full force and effect.

SECTION 15. REPEALING CLAUSE - City Ordinance No. 0247 s. 1997, as amended, is hereby repealed or amended accordingly including all ordinances, resolutions, rules or regulations inconsistent with or contrary to the provisions of this Ordinance.

SECTION 16. EFFECTIVITY - This Ordinance shall take effect on the day following its required publication in a newspaper of general circulation.

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**ENACTED BY THE SANGGUNIANG PANLUNGSOD, CITY OF CALOOCAN IN ITS
REGULAR SESSION HELD ON THE 30th DAY OF AUGUST, 2017.**

HON. CARMELO F. AFRICA III
CITY COUNCILOR

HON. EDGARDO N. ARUELO
CITY COUNCILOR

HON. DEAN ASISTIO
CITY COUNCILOR

HON. LUIS O. ASISTIO III
CITY COUNCILOR

HON. AURORA “ONET” A. HENSON, JR.
CITY COUNCILOR

HON. TOLENTINO J. BAGUS
CITY COUNCILOR

HON. CHRISTOPHER E. MALONZO
CITY COUNCILOR

HON. CAROLYN C. CUNANAN
CITY COUNCILOR

(ON-LEAVE)

HON. MARYLOU “ALOU” NUBLA
CITY COUNCILOR

HON. MA. MILAGROS “ROSE” S. MERCADO
CITY COUNCILOR

HON. ANNA KARINA TEH
CITY COUNCILOR

HON. ROBERTO R. SAMSON
CITY COUNCILOR

HON. MARC MERVILLE T. OROZCO
CITY COUNCILOR

APPROVED BY HIS HONOR, THE CITY MAYOR ON _____, 2017.

APPROVED BY:

CERTIFIED BY:

HON. OSCAR G. MALAPITAN
City Mayor

HON. LUIS MACARIO E. ASISTIO
City Vice Mayor and Presiding Officer

ATTESTED BY:

LILIBETH M. LUAKIAN
Secretary to the Mayor

LORENZO O. SUNGA, JR.
Secretary
Sangguniang Panlungsod