

VILLAGE OF NEW LENOX

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ORDINANCE NO. 1540

AN ORDINANCE AMENDING SECTION 54-161, CURFEW, FOR THE VILLAGE
OF NEW LENOX, WILL COUNTY, ILLINOIS

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ADOPTED BY THE
BOARD OF TRUSTEES OF THE
VILLAGE OF NEW LENOX

THIS 27TH DAY OF APRIL, 2004

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Published in pamphlet form by the authority of the Board of Trustees of the
Village of New Lenox, Will County, Illinois this 28th day of April, 2004

ORDINANCE NO. 1540

AN ORDINANCE AMENDING SECTION 54-161, CURFEW, FOR THE VILLAGE
OF NEW LENOX, WILL COUNTY, ILLINOIS

WHEREAS, the Village of New Lenox has an obligation to provide for the protection of minors from each other and from other persons, for the enforcement of parental control over and responsibility for children, for the protection of the general public, and for the reduction of the incidence of juvenile criminal activities, and to foster and strengthen parental responsibility for children; and

WHEREAS, the Seventh Circuit Court of Appeals has recently decided that an Indiana statute providing for a curfew for minor children was unconstitutional because it infringed upon the minor's First Amendment rights; and

WHEREAS, Section 54-161 of the Village of New Lenox Code makes no provision with respect to a minor being in public during the hours of curfew while exercising his/her First Amendment Rights; and

WHEREAS, the Village Board of Trustees of the Village of New Lenox find that it is necessary to revise Section 54-161 of the Village of New Lenox Code so that it is in accord with a minor's constitutional rights.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE MAYOR AND BOARD OF TRUSTEES OF THE VILLAGE OF NEW LENOX, WILL COUNTY, ILLINOIS as follows:

SECTION 1. RECITALS. The facts and statements contained in the preamble to this Ordinance are found to be true and correct and are hereby adopted as part of this Ordinance.

SECTION 2. That **Section 54-161** is hereby amended to read as follows:

Sec. 54-161. Curfew.

(a) It shall be unlawful for any person less than 17 years of age who has not been emancipated by court order (hereinafter referred to as "minor") to be present at or upon any public assembly, building, place, street or highway at the following times:

- (1) Between one minute after midnight (12:01 a.m.) and 6:00 a.m. Saturday;
 - (2) Between one minute after midnight (12:01 a.m.) and 6:00 a.m. Sunday; and
 - (3) Between 11:00 p.m. on Sunday to Thursday, inclusive, and 6:00 a.m. on the following day.
- (b) It is a defense to a violation under this chapter that the minor engaged in the prohibited conduct while:
- (1) accompanied by the minor's parent, legal guardian, custodian, sibling, stepbrother or stepsister at least 18 years of age;
 - (2) accompanied by an adult at least 21 years of age approved by the minor's parent, guardian or custodian;
 - (3) on the sidewalk abutting the minor's residence;
 - (4) in a motor vehicle, train, or bus involved in interstate travel;
 - (5) participating in going to or returning from, without any detour or stop:
 - a. employment which the laws of this state authorize a person less than 17 years of age to perform;
 - b. a school recreational activity;
 - c. a religious event;
 - d. an emergency involving the protection of a person or property from an imminent threat of serious bodily injury, loss of life, or substantial damage, the resulting state calling for immediate action, and includes, but is not limited to, a fire, a natural disaster, or automobile accident;
 - e. an activity involving the exercise of the minor's rights protected under the First Amendment to the United States Constitution or Article 1, Sections 3, 4

and 5 of the Constitution of the State of Illinois, or both;

f. an activity conducted by a non-profit or governmental entity that provides recreation, education, training, or other care under the supervision of one (1) or more adults.

(c) A citation for violation of subsection (a) of this Section may be issued by a Police Officer if he reasonably believes that a violation has occurred only after investigation and, based on any response and other circumstances, none of the defenses enumerated in subsection (b) apply.

(d) It shall be unlawful for a parent, legal guardian or other person to knowingly permit a person in his custody or control to violate any provision of this section.

SECTION 3. SEVERABILITY. Each Section and part hereof of this Ordinance is deemed to be severable and should any section or part hereof be held invalid or unconstitutional by any court of competent jurisdiction, such ruling shall not affect the validity or constitutionality of the remaining portion(s) of this Ordinance.

SECTION 4. REPEAL OF INCONSISTENT ORDINANCES. All ordinances or parts thereof in conflict with the terms of this Ordinance are hereby repealed and of no further force and effect to the extent of any such conflict.

SECTION 5. PUBLICATION. That the Village Clerk is hereby directed to publish this Ordinance in pamphlet form.

SECTION 6. EFFECTIVE DATE. That this Ordinance shall be in full force and effect after its passage, approval and publication in pamphlet form as provided by law.

PASSED THIS 27th day of April, 2004
with seven members voting AYE, with -0- members voting NAY, and with
-0- members ABSENT, the Mayor voting aye; and said vote being WALTER
aye, BALDERMANN aye, BOWDEN aye, SMITH aye, DYE aye,
and WEIGEL aye.

VILLAGE CLERK

APPROVED this 28th day of April, 2004.

MAYOR

ATTEST:

VILLAGE CLERK