

AN ORDINANCE TO PRESERVE THE PUBLIC PEACE AND SAFETY IN THE CITY OF NASHVILLE AND FOR THE RESIDENTS THEREOF BY ESTABLISHING A CURFEW APPLICABLE TO JUVENILES AND REGULATING THEIR PRESENCE IN PUBLIC STREETS AND OTHER PLACES AND DEFINING THE DUTIES OF PARENTS AND GUARDIANS OF JUVENILES AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF.

WHEREAS, there is presently no curfew pertaining to persons under the age of eighteen (18) within the city limits of the City of Nashville, and;

WHEREAS, the Council has found that there is an increase in unacceptable behavior on the part of juveniles particularly during the late night and early morning hours, which includes vandalism, noisy and rowdy behavior, public drinking, littering, and other criminal behavior such as breaking or entering, burglary, and theft of property, and;

WHEREAS, the Council has determined that there is usually no legitimate purpose for the late night activities of underaged persons, and that the establishment of reasonable curfew regulations will enable the community in general and the police department in particular to better control the peace and safety of the community, and;

WHEREAS, it is the finding of the City Council that since the community is basically a family community and parental responsibility for the whereabouts of children is the accepted norm for persons in the community and that this curfew is designed to foster and reinforce the primary authority and responsibility of the parents and guardians of minor persons, now:

BE IT HEREBY ORDAINED BY THE CITY OF NASHVILLE:

Section 1. FINDING AND PURPOSE: The City Council of the City of Nashville hereby finds there has been a significant breakdown in the supervision normally provided by certain parents and guidance for juveniles under eighteen (18) years of age resulting in juveniles being involved in a wide range of unacceptable behavior particularly during the late night and early morning hours, and that a curfew with reasonable hours combined with consequences for both parents and juveniles violating the curfew will better enable this community and the law enforcement to maintain the peace and safety of the community.

Section 2. DEFINITIONS: For the purposes of the Curfew Ordinance the following terms, phrases, words and their derivations shall have the meaning given herein. The word "shall" is always mandatory and not merely directory.

(a) Juvenile or minor is any person under the age of eighteen (18).

(b) Parent is any person having custody of a juvenile (i) as a natural or adoptive parent, (ii) as a legal guardian, (iii) as a person who stands in *loco parentis*, (iv) as a person to whom legal custody has been given by order of a court of competent jurisdiction.

(c) Remain means to stay behind, to tarry and to stay unnecessarily upon the streets, including the congregating of groups (or of interacting minors) totaling three or more persons in which any juvenile involved would not be using the streets for ordinary or serious purposes such as mere passage or going home. Several exceptions are expressly defined in this Ordinance so that this is not a mere prohibition of presence of juveniles. More and more exceptions become available with increasing years and

(c) When exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right of such exercise by first delivering to the Chief of Police, at the Police Department on Main Street, a written communication, signed by the juvenile and countersigned, by a parent of the juvenile with their home address and telephone number, specifying when, where and in what manner the juvenile will be on the streets at night (during hours when the Curfew Ordinance is otherwise applicable to said minor) in the exercise of a First Amendment right.

(d) In case of reasonable necessity for a juvenile remaining on the streets, but only after the juvenile's parent has communicated to the person designated by the Chief of Police to receive such notifications the facts establishing the reasonable necessity relating to specified streets at a designated time for a described purpose including points of origin and destination. A copy of the communication, or of the police record thereof, duly certified by the Chief of Police to be correct, with an appropriate notation of the time it was received and of the names and addresses of the parent and juvenile shall be admissible evidence.

(e) When returning home from and within one (1) hour after the termination of a school or city sponsored activity, or an activity of a religious or other voluntary association, thus encouraging, as in other exceptional situations, responsible conduct on the part of juveniles involved in such activities and striking a fair balance for any conflicting interests.

(f) When engaging in the duties of bona fide employment or traveling directly, without undue delay or detour from home to the place of employment, or from the place of employment to the home.

(g) When the minor is in a motor vehicle for the purpose of interstate travel, either through, beginning or ending in Nashville.

Section 5: PARENTAL RESPONSIBILITY. It shall be unlawful for a parent of a juvenile to permit or allow the juvenile to be or remain upon any city street under circumstances not constituting an exception to, or otherwise beyond the scope of, the Curfew Ordinance. This ordinance is intended to hold neglectful or careless parents to a reasonable community standard of parental responsibility through an objective test. It shall be no defense that a parent was indifferent to the activities or conduct or whereabouts of such juvenile.

(a) Police procedures shall be refined in light of experience and may provide that the police officer may deliver to a parent or guardian thereof a juvenile under appropriate circumstances.

(b) When a parent or guardian has come to take charge of the juvenile, and the appropriate information has been recorded, the juvenile shall be released to the custody of such parent. If the parent cannot be located or fails to take charge of the juvenile, then the juvenile shall be released in accordance with Arkansas and federal law.

(c) In the case of a first violation by a juvenile, the Police Department shall by certified mail or direct service, send and/or deliver to a parent written notice of the violation with a warning that any subsequent violation will result in full enforcement of the Curfew Ordinance, including enforcement of parental responsibility and of applicable penalties.

Section 6. ENFORCEMENT PROCEDURE: If a police officer reasonably believes that a juvenile is on the streets in violation of the Curfew Ordinance, the officer shall notify the juvenile that he or she is in violation of the ordinance

and shall require the juvenile to provide his or her name, address and telephone number and how to contact his or her parent or guardian.

In determining the age of the juvenile and in the absence of convincing evidence, a police officer shall use his best judgment in determining age.

Section 7. PENALTIES:

(a) If, after the warning notice pursuant to Section 5 of a first violation by a juvenile, a parent violates Section 6 (in connection with a second violation by the juvenile), this shall be treated as a first offense by the parent. For parental offenses, a parent may be fined not less than \$100.00, nor more than \$500.00.

(b) Any juvenile who shall violate any of the provisions of the curfew ordinance more than three times shall be reported by the Chief of Police to the juvenile authorities as a juvenile in need of supervision and the Chief of Police shall refer the matter to the Howard County Prosecuting Attorney and/or the Arkansas Department of Human Services and/or other appropriate authorities.

Section 8. CONSTRUCTION: Severability is intended throughout and within the provisions of this Curfew Ordinance. If any provision, including any exception, part, phrase, or term, or the application thereof to any person or circumstances is held invalid, the application to other persons or circumstances shall not be affected thereby and the validity of the Curfew Ordinance in any and all other respects shall not be affected thereby.

Section 9. DATES OF OPERATION: In order to allow implementation of administrative procedures and requirements of this Ordinance by the Police Department, the first date and time of the curfew to be enforced will be on the 1st day of September, 1994.

advancing maturity as appropriate in the interest of reasonable regulations.

(d) Street is a way or place, of whatever nature, open to the use of the public as a matter of right for purposes of vehicular travel or in the case of a sidewalk thereof for pedestrian travel. The term street includes that legal right of way, including but not limited to traffic lanes, the curb, the sidewalks whether paved or unpaved, and any grass plots or other grounds found within the legal right of way of street. The term street applies irrespective of what it be called or formally named, whether alley, avenue, court, road or otherwise. The term street shall also include shopping centers, parking lots, parks, playgrounds, public buildings, the common areas of public housing developments, and similar areas that are open to the use of the public.

Section 3: CURFEW FOR JUVENILES. It shall be unlawful for any person seventeen (17) or less years of age [under eighteen (18)] to be or remain in or upon the streets within the City of Nashville at night during the period ending at 5:00 A.M. and beginning

(a) At 12:00 Midnight on Friday and Saturday nights, and

(b) 10:00 P.M. on all other nights.

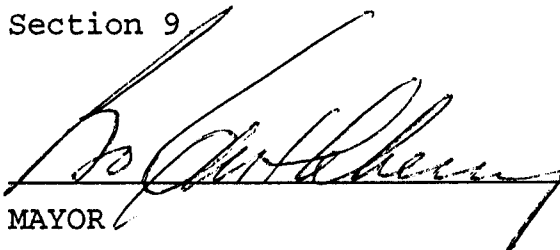
Section 4: EXCEPTIONS. In the following exceptional cases a minor on a City street during the nocturnal hours proscribed for minors shall not however, be considered in violation of the Curfew Ordinance.

(a) When accompanied by a parent of such minor.

(b) When accompanied by an adult, at least 21 years of age, who is not the parent and who is authorized by a parent of such minor to take said parent's place in accompanying said minor for a designated period of time and purpose within a specified area.

Section 10. REPEALER: That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 11. EMERGENCY: That it is hereby determined by the City Council of the City of Nashville that the passage of this ordinance is necessary for the preservation of the public health, safety and welfare of the citizens of Nashville, THEREFORE, an emergency is hereby declared to exist and this Ordinance shall be in full force and effect from and after the date of its adoption subject to the limitations set forth in Section 9


MAYOR

PASSED:

8-16-94

ATTEST:


CITY CLERK