

ORDINANCE NO. 95-17

AN ORDINANCE SETTING A CURFEW IN GRAVETTE, ARKANSAS, FOR MINORS; DEFINING OFFENSES AND DEFENSES THEREUNDER; PROVIDING FOR ENFORCEMENT; AND PROVIDING FOR PENALTIES FOR VIOLATION THEREUNDER.

WHEREAS, the City Council is concerned with the problems of juvenile crime in Gravette, Arkansas, and;

WHEREAS, the City Council believes that a curfew for minors will help to alleviate the problem of juvenile crime and aid in the protection of persons and property in Gravette, Arkansas;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAVETTE, ARKANSAS.

ARTICLE I: DEFINITIONS.

Section 1. The following definitions shall apply:

a. **Curfew Hours.** (I) 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. of the following day and (ii) 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday.

b. **Emergency.** An unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

c. **Establishment.** Any privately owned place of business operated for a profit to which the public is invited, including, but not limited to, any place of amusement or entertainment.

d. **Guardian.** (I) A person who, under court order, is the guardian of the person of a minor; (ii) A public or private agency with whom a minor has been placed by a court.

e. **Minor.** Any person under eighteen (18) years of age.

f. **Operator.** Any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

g. **Parent.** (I) Any person who is a natural parent, adoptive parent, foster parent of another person. (ii) Any person who is at least eighteen (18) years of age and authorized by a parent or guardian to have the care and custody of a minor.

h. **Public Place.** Any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

i. **Remain.** (I) To linger or stay. (ii) Fail to leave premise when requested to do so by a law enforcement person or the owner, operator, or other person in control of the premises.

j. **Serious Bodily Injury.** Bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

k. **City.** City means the City of Gravette, Arkansas.

ARTICLE II: OFFENSES.

Section 1. A minor commits an offense if he remains in any public place or on the premises of any establishment within the city during curfew hours.

Section 2. A parent or guardian of a minor commits an offense if he knowingly permits, or by sufficient control allows the minor to remain in any public place or on the premises of any establishment within the city during curfew hours.

Section 3. The owner, operator, or any employee of an establishment commits an offense, if he knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

ARTICLE III: DEFENSES.

Section 1. It is a defense to prosecution under ARTICLE II that the minor was

- a. accompanied by the minor's parent or guardian;
- b. on an errand at the direction of the minor's parent or guardian, without any detour or stop;
- c. in a motor vehicle involved in interstate travel;
- d. engaged in an employment activity, or going to or returning from home from an employment activity, without detour or stop;
- e. involved in an emergency;
- f. on the sidewalk abutting the minor's residence or abutting the residence of a neighbor if the neighbor did not complain to the police department about the minor's presence;
- g. attending an official school, religious, or other recreation activity supervised by adults and sponsored by the county, a city, a civic organization, or other similar entity that takes responsibility for the minor, or going to or returning home from, without detour or stop, any such activity.
- h. exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right to assembly; or
- I. married or had been married or had disabilities or minority removed according to Arkansas law.

Section 2. It is a defense to prosecution that the owner, operator, or employee of an establishment promptly notified the appropriate law enforcement agency that a minor was present on the premises of the establishment during curfew hours and refused to leave.

ARTICLE IV. ENFORCEMENT.

Before taking any enforcement action under this section, law enforcement officers shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a

citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that based on any response and other circumstances, no defense is present.

ARTICLE V. PENALTIES.

Section 1. Any juvenile who violates this section shall be subject to the penalties now provided by law for delinquent juveniles.

Section 2. Any adult who willfully violates this section shall be subject to court costs and a fine not to exceed five hundred dollars (\$500.00) plus court costs.

Section 3. The court may substitute community service for any portion of a fine.

PASSED AND APPROVED THIS 22nd DAY OF SEPTEMBER, 1995.

APPROVED:


MAYOR

ATTEST:


CITY RECORDER