

ORDINANCE NO. 9996
CITY OF FINLAYSON

JUVENILE CURFEW ORDINANCE

The City of Finlayson ordains:

Subd. 1 Purposes and Findings.

- (a) The City Council of Finlayson finds and determines that there has been an increase in juvenile violence, and crime by juveniles in the City of Finlayson
- (b) Juveniles are particularly susceptible by their lack of maturity and experience to participate in unlawful activities, including gang related activity, and to be victims of older perpetrators of crime.
- (c) Because of the foregoing, special and extenuating circumstances presently exist within this City that require special regulation of juveniles within the City in order to protect them and other persons during the nighttime hours, to aid in crime prevention, to promote parental supervision and authority over minors and to decrease juvenile crime rates; and
- (d) In accordance with prevailing community standards, this ordinance serves to regulate the conduct of minors in public places during nighttime hours, to be effectively and consistently enforced for the protection of juveniles from each other and from other persons, in public places during nighttime hours, for the enforcement of parental control of, authority over, and responsibility for their children, for the protection of the general public from nighttime mischief by juveniles, for the reduction in the incidents of juvenile criminal activities, for the furtherance of family responsibility and for the public-good, safety and welfare; and
- (e) It is the intent of the city council to review and evaluate the need and effect of nighttime curfew for juveniles set forth in this ordinance on the incidents of juvenile criminal activity and protection of juveniles against criminal activity.

Sub. 2. Authority.

This ordinance is enacted pursuant to the authority granted under Minn. Stat. S412.231 and S145A.05.

Subd. 3. Definitions.

- (a) "Authorized adult" shall mean any person who is at least eighteen (18) years of age and authorized by a parent or guardian to have custody and control of a juvenile.
- (b) "Emergency" means 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, or automobile accident or any situation requiring immediate action to prevent serious bodily injury or loss of life.
- (c) "Juvenile" means a person under the age of eighteen (18) years. The term does not include persons under 18 who are married or have been legally emancipated.
- (d) "Parent" shall mean any person having legal custody of a juvenile (i) as natural parent, adoptive parent, or step-parent; (ii) as a legal guardian; or (iii) as a person to whom legal custody has been given by order of the court.
- (e) "Public place" means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, roadways, parks, public recreation, entertainment or civic facility, schools, and the common areas of hospitals, apartment houses, office buildings, transport facilities, and shops.
- (f) "Serious bodily injury" means 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.

Subd. 4. Prohibited Acts.

- (a) It is unlawful for juveniles under the age of thirteen (13) years to be present in any public place within the City of Finlayson.
 - (1) any time between 9:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday, and 5:00 a.m. of the following day.
 - (2) any time between 10:00 p.m. on any Friday or Saturday and 5:00 a.m. the following day.
- (b) It shall be unlawful for juveniles who are at least thirteen (13) but less than fifteen (15) years of age to be present in any public place within the City of Finlayson.
 - (1) any time between 10:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday and 5:00 a.m. of the following day.
 - (2) any time between 11:00 p.m. on any Friday or Saturday and 5:00 a.m. on the following day.

- (c) It shall be unlawful for juveniles who are at least fifteen (15) but less than eighteen (18) years of age to be in any public place within the City of Finlayson
- (1) any time between 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday and 5:00 a.m. of the following day, except that between Memorial Day and Labor Day of each calendar year for a juvenile age seventeen (17) the hours shall be 12:01 a.m. to 5:00 a.m. for the days noted.
 - (2) any time between 12:01 a.m. and 5:00 a.m. on any Friday or Saturday.
- (d) It shall be unlawful for a parent or authorized adult of a juvenile to knowingly, or through negligent supervision, to habitually permit such juvenile to be in any public place within the City during the hours prohibited by Paragraphs (a), (b) and (c) of this Subdivision herein, under circumstances not constituting an exception to this ordinance as set forth herein. The term "knowingly" includes knowledge which a parent or authorized adult shall reasonably be expected to have concerning the whereabouts of a juvenile under such person's care.
- (e) It shall be unlawful for any person operating or in charge of any place of amusement or refreshment which is open to the public to knowingly and habitually permit any juvenile to be in such place during the hours prohibited by Paragraphs (a), (b) and (c) of this Subdivision herein, under circumstances not constituting an exception to this ordinance as set forth herein. The term "person operating" shall mean any individual, firm, association, partnership or corporation operating, managing or conducting any such establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

Subd. 5. Exceptions:

- (1) The following shall constitute valid exceptions to the operation of the curfew:
 - (a) at any time, if a juvenile is accompanied by his or her parent or an authorized adult;
 - (b) at any time, if a juvenile is involved in, or attempting to remedy, alleviate, or respond to an emergency;
 - (c) if the juvenile is engaged in a lawful employment activity, or is going to or returning home from his or her place of employment;
 - (d) if the juvenile is attending an official school, religious, or other social or recreational-activity supervised by adults or sponsored by a city or the county, a civic organization, or another similar entity that takes responsibility for the juvenile;

- (e) if the juvenile is going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults or sponsored by a city or the county, a civic organization, or another similar entity that takes responsibility for the juvenile;
 - (f) if the juvenile is on an errand as directed by his or her parent, without any detour or stop;
 - (g) if the juvenile is engaged in interstate travel;
 - (h) if the juvenile is on the public right-of-way boulevard or sidewalk abutting the juvenile's residence or abutting the neighboring property, structure, or residence;
 - (i) if the juvenile is exercising First Amendment rights protected by the United States Constitution (or those similar rights protected by Article I of the Constitution of the State of Minnesota), such as free exercise of religion, freedom of speech, and the right of assembly; or
 - (j) if the juvenile is homeless or uses a public or semipublic place as his or her usual place of abode.
- (2) it is an affirmative defense to prosecution under Subd. 4 (e) that:
- (a) the owner, operator or employee of an establishment promptly notify the police department that a juvenile was present on the premises of the establishment during curfew hours and refused to leave.
 - (b) the owner, operator or employee reasonably and in good faith relied on a juvenile's representations of proof of age. Proof of age may be established pursuant to Minn. Stat. S340A.503, Subd. 6, or other verifiable means, including, but not limited to, school identification cards and-birth certificates.

Subd. 6. Enforcement.

Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in a 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 no exception set forth in Subdivision 5 is applicable.

Subd. 7. Penalties.

- (a) Violation of Subdivision 4 (a) (b) and (c) will be prosecuted pursuant to Minn. Stat. S260.195 and will be subject to the penalties therein.
- (b) Violation of Subdivision 4(d) or (e) shall be a misdemeanor.

Subd. 8 Continuing Review and Evaluation.

The City Attorney and City Administrator shall prepare and submit a report annually to the city council evaluating violations of this Section and the criminal activity by and against juveniles within the city during the preceding year. The first report shall be submitted six months after the effective date of Subdivision 10.

Subd. 9 Severability.

If any court of competent jurisdiction shall adjudge any provisions of this Ordinance to be invalid, such judgment shall not affect any other provisions of this Ordinance not specifically included in said judgment.

Subd. 10. Effective Date.

The effective date of this Ordinance shall be upon publication.

Mayor

Attest:

Clerk Admin.

Adopted:

Published: