

ORDINANCE NO. 1996-1

AN ORDINANCE REGULATING THE PRESENCE AND CONDUCT OF CERTAIN MINORS ON STREETS AND OTHER PUBLIC PLACES; DEFINING DUTIES OF PARENTS OR OTHERS IN CARE OF CERTAIN MINORS; PROVIDING FOR PROCEDURES AND PENALTIES FOR VIOLATIONS THEREOF.

WHEREAS, the County Commission has determined that there has been an increase in juvenile violence, juvenile gang activity, and crime by persons under the age of 16 in the County of Cass; and

WHEREAS, persons under the age of 16 are particularly susceptible by their lack of maturity and experience to participate in unlawful and gang-related activities and to be victims of older perpetrators of a crime; and

WHEREAS, the County of Cass 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

WHEREAS, a curfew for those minors under the age of 16 will be in the interest of the public health, safety, and general welfare and will help to attain the foregoing objectives and to diminish the undesirable impact of such conduct on the citizens of the County of Cass;

NOW, THEREFORE, be it ordained by the Board of Commissioners of the County of Cass that a curfew ordinance for certain minors is hereby enacted as follows:

- A. Definitions. In this section:
 - 1. CURFEW HOURS means:
 - (a) 11:00 p.m. until 6:00 a.m. every day of the week.
 - 2. 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, and automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.
 - 3. ESTABLISHMENT means 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.

4. GUARDIAN means:
 - (a) a person who, under court order, is the guardian of the person of a minor; or
 - (b) a public or private agency with whom a minor has been placed by a court.
 5. For purposes of this ordinance MINOR means any person under 16 years of age.
 6. OPERATOR means any individual, firm, association, partnership, or corporation operating, managing, or conducting and establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.
 7. PARENT means a person who is:
 - (a) a natural parent, adoptive parent, or step-parent of another person; or
 - (b) at least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.
 8. 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, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.
 9. REMAIN means to:
 - (a) linger or stay; or
 - (b) fail to leave premises when requested to do so by a police officer or the owner , operator, or other person in control of the premises.
 10. SERIOUS BODILY INJURY means bodily injury that creates a substantial risk of death orr that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.
- B. Restrictions.

1. It shall be unlawful for any minor to remain in any public place or on the premises of any establishment within the county during curfew hours.
2. It shall be unlawful for any parent or guardian of a minor to knowingly permit, or by insufficient control allow, the minor to remain in any public place or on the premises of any establishment within the county during curfew hours. The term “knowingly” includes knowledge which a parent or guardian should reasonably be expected to have concerning the whereabouts of a minor in the legal custody of the parent or guardian.
3. It shall be unlawful for any owner, operator, or any employee of an establishment to knowingly allow a minor to remain upon the premises of the establishment during curfew hours.

C. Exceptions

1. The following shall constitute valid exceptions to the operation of the curfew. 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 or returning home from an employment activity, without any detour or stop;
 - (e) involved in an emergency;
 - (f) on the sidewalk abutting the minor’s residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor’s presence;
 - (g) attending an official school, religious, or other recreational activity supervised by adults and sponsored by a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning from, without any detour or stop, and official school, religious, or other recreational activity supervised by

adults and sponsored by a civic organization, or another similar entity that takes responsibility for the minor;

(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.

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

D. Enforcement. Before taking any enforcement action under this section, a police officer 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 had probable cause to believe that an offense has occurred and that, based on any response and other circumstances, no defense in Section C is present.

E. Penalties.

1. A person who violates a provision of this section is guilty of a separate offense for each day or part of a day during which the violation is committed, continued, or permitted.

2. Any person who is convicted of a violation of this section is guilty of a class B misdemeanor and shall be punished by a fine not to exceed \$500 and/or 30 days imprisonment.

F. Severability. If any provision of this ordinance is, for any reason, held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. It is intended that the curfew ordinance be held inapplicable in such cases, if any, where its application would be unconstitutional.

Section 3. That this ordinance shall take effect immediately from and after its passage and publication according to law.

PASSED by the Board of Commissioners of the County of
Cass this 16th day of January, 1996.

APPROVED:

Sharon Foussaint
Chair, Board of Commissioners
Of the County of Cass

ATTEST:

Michael Montplaisir
Michael Montplaisir
County Auditor

(Seal)

Original signed copy available in City Office