

ORDINANCE NO. 1994-3

AN ORDINANCE TO ESTABLISH A CURFEW APPLICABLE TO JUVENILES AND REGULATING THEIR PRESENCE ON PUBLIC STREETS AND OTHER PLACES AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF

BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF BROOKLAND, ARKANSAS:

SECTION ONE: THE CITY COUNCIL OF THE CITY OF BROOKLAND HEREBY FINDS THERE HAS BEEN A SIGNIFICANT INCREASE IN CRIME AND UNACCEPTABLE BEHAVIOR INVOLVING JUVENILES WITHIN THE CITY OF BROOKLAND WHICH INCLUDES BUT IS NOT LIMITED TO, NOISY AND ROWDY BEHAVIOR, BREAKING AND ENTERING, PUBLIC DRINKING AND LITTERING, HARASSMENT OF RESIDENTS, AND MORE SERIOUS AND VIOLENT CRIMES.

SECTION TWO: THE CITY COUNCIL FURTHER FINDS THAT THE OFFENSIVE ACTIVITIES OF THE JUVENILES ARE NOT EASILY CONTROLLED BY EXISTING LAWS AND ORDINANCES BECAUSE THE ACTIVITIES ARE CONCEALED WHENEVER POLICE OFFICERS ARE PRESENT AND THAT THE ESTABLISHMENT OF REASONABLE CURFEW REGULATIONS WILL ENABLE THE POLICE TO ACT REASONABLY AND FAIRLY TO PREVENT THE VIOLATION OF LAWS AND ORDINANCES BY JUVENILES.

SECTION THREE: DUE TO THE INCREASE IN ILLEGAL AND UNACCEPTABLE BEHAVIOR, A CURFEW TO REGULATE THE ACTIVITIES OF JUVENILES WITHIN THE CITY LIMIT OF THE CITY OF BROOKLAND IS NECESSARY IN AN ATTEMPT TO ELIMINATE SUCH ILLEGAL AND UNACCEPTABLE BEHAVIOR BY JUVENILES.

SECTION FOUR: FOR THE PURPOSES OF THE ORDINANCE THE FOLLOWING TERMS, WORDS AND THEIR DERIVATIONS SHALL HAVE THE MEANING GIVEN HEREIN.

- 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, LINGER AND TO STAY UNNECESSARILY UPON THE STREETS, INCLUDING THE CONGREGATION OF GROUPS (OR 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. TO IMPLEMENT THAT THOUGHT WITH ADDITIONAL PRECISION AND PRECAUTION, NUMEROUS 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 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 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 A STREET. THE TERM STREET APPLIES IRRESPECTIVE OF WHAT IT IS CALLED OR FORMALLY NAMED, WHETHER ALLEY, AVENUE, DRIVE, 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.
- E) TIME OF DAY REFERRED TO HEREIN IS BASED UPON THE PREVAILING STANDARDS OF TIME, WHETHER CENTRAL STANDARD TIME OR CENTRAL DAYLIGHT SAVINGS TIME, GENERALLY OBSERVED AT THAT HOUR IN THE CITY POLICE STATION.
- F) YEARS OF AGE CONTINUES FROM ONE BIRTHDAY, SUCH AS THE SEVENTEENTH TO (BUT NOT INCLUDING THE DAY OF) THE NEXT, SUCH AS THE EIGHTEENTH BIRTHDAY, MAKING IT CLEAR THAT SEVENTEEN OR LESS YEARS OF AGE BE TREATED AS EQUIVALENT TO THE PHASE "UNDER EIGHTEEN YEARS OF AGE."

SECTIONS FIVE: IT SHALL BE UNLAWFUL FOR ANY PERSON UNDER THE AGE OF EIGHTEEN (18), AS DEFINED HEREIN, TO BE OR REMAIN IN OR UPON THE STREETS WITHIN THE CITY OF BROOKLAND AT NIGHT DURING THE TIME OF 11:00 P.M. TO 5:00 A.M. ON SUNDAY THROUGH THURSDAY NIGHTS AND 12:00 A.M. TO 5:00 A.M. ON FRIDAY AND SATURDAY NIGHT.

SECTION SIX: THE FOLLOWING EXCEPTIONS TO THIS ORDINANCE SHALL ALLOW A MINOR ON A CITY STREET DURING THE HOURS PRESCRIBED AND SHALL NOT BE CONSIDERED A 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 PARENT OF SUCH MINOR TO TAKE SAID PARENT'S PLACE IN ACCOMPANYING SAID MINOR FOR A DESIGNATED PERIOD OF TIME AND PURPOSE WITHIN AN SPECIFIED AREA.



- C) WHEN EXERCISING FIRST AMENDMENT RIGHTS PROTECTED BY THE UNITED STATES CONSTITUTION, SUCH AS FREE EXERCISE OF RELIGION, FREEDOM OF SPEECH AND THE RIGHT OF SUCH EXERCISE BY FIRST DELIVERING TO THE PERSON DESIGNATED BY THE CHIEF OF POLICE TO RECEIVE SUCH INFORMATION, AT THE POLICE DEPARTMENT, 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 THE HOURS WHEN THE CURFEW ORDINANCE IS OTHERWISE APPLICABLE TO SAID MINOR, IN THE EXERCISE OF A FIRST AMENDMENT RIGHT.
- D) 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, OF WHICH PRIOR NOTICE, INDICATING THE PLACE AND PROBABLE TIME OF TERMINATION, HAS BEEN GIVEN IN WRITING, TO AND DULY FILED FOR IMMEDIATE REFERENCE BY THE PERSON DESIGNATED BY THE CHIEF OF POLICE ON DUTY AT THE POLICE STATION, THIS 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 INTEREST.
- E) 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.
- F) WHEN THE MINOR IS IN A MOTOR VEHICLE FOR THE PURPOSE OF INTERSTATE TRAVEL, EITHER THROUGH, BEGINNING OR ENDING IN BROOKLAND.

SECTION SEVEN: 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 AND 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 OF 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 EIGHT: IF A POLICE OFFICER REASONABLE 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.

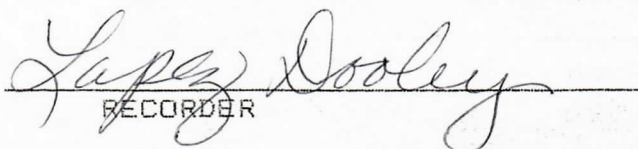
IN DETERMINING THE AGE OF THE JUVENILE AND IN THE ABSENCE OF CONVINCING EVIDENCE, A POLICE OFFICER SHALL USE HIS OR HER BEST JUDGEMENT IN DETERMINING AGE.

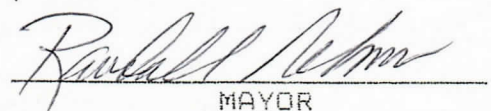
SECTION NINE: IF AFTER THE WARNING NOTICE PURSUANT TO SECTION 7 OF A FIRST VIOLATION BY A JUVENILE, A PARENT VIOLATES SECTION 6 (IN CONNECTION WITH A SECOND VIOLATION BY THE JUVENILE), THIS SHALL BE TREATED AS A FIRST OFFENSE BY THE PARENT. FOR PARENTAL OFFENSES, A PARENT MAY BE FINED NOT LESS THAN \$100.00, NOR MORE THAN \$500.00.

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 AND OR OTHER APPROPRIATE AUTHORITIES AS A JUVENILE IN NEED OF SUPERVISION.

SECTION TEN: THAT IT IS HEREBY DETERMINED BY THE CITY COUNCIL OF THE CITY OF BROOKLAND THAT THE PASSAGE OF THIS ORDINANCE IS NECESSARY FOR THE PRESERVATION OF THE PUBLIC HEALTH, SAFETY AND WELFARE OF THE CITIZENS OF BROOKLAND, AND THAT THEREFORE AN EMERGENCY IS DECLARED TO EXIST AND THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT FROM AND AFTER THE DATE OF ITS ADOPTION.

PASSED AND ADOPTED THIS 13 DAY OF September 1994.

  
RECORDER

  
MAYOR