**ORDINANCE NO.\_\_\_\_\_**

**AN ORDINANCE** of the Town of \_\_\_\_\_\_\_\_\_\_\_\_ relative to the establishment of a general curfew for minors.

**BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_:**

**Section 1:** Purpose. The purpose of this ordinance is to (a) promote the general welfare and protect the general public through the reduction of juvenile violence and crime within the Town; (b) promote the safety and well-being of minors, whose inexperience renders them particularly vulnerable to becoming participants in unlawful activity, particularly unlawful drug activity, and to being victimized by older criminals; and (c) foster and strengthen parental responsibility for children.

**Section 2:** Definitions. As used in this ordinance, the following words have the following meanings:

(1) “Curfew hours” means the hours of 12:30 a.m. through 6:00 a.m. each day.

(2) “Emergency” means unforeseen circumstances, and the resulting condition or status, requiring immediate action to safeguard life, limb, or property. The word includes, but is not limited to, fires, natural disasters, automobile accidents, or other similar circumstances.

(3) “Establishment” means any privately-owned business place within the Town operated for a profit and to which the public is invited, including, but not limited to, any place of amusement or entertainment. The word “operator” with respect to an establishment means any person, firm, association, partnership (including its members or partners), and any corporation (including its officers) conducting or managing the establishment.

(4) “Minor” means any person under eighteen (18) years of age who has not been emancipated under *Tennessee Code Annotated,* § 29-31-101, *et seq.*

(5) “Parent” means: (a) a person who is a minor’s biological or adoptive parent and who has legal custody of the minor, including either parent if custody is shared under a court order or agreement; (b) a person who is the biological or adoptive parent with whom a minor regularly resides; (c) a person judicially appointed as the legal guardian of a minor; and/or (d) a person eighteen (18) years of age or older standing *in loco parentis* ( as indicated by authorization by a parent as defined in this definition for the person to assume the care or physical custody of the minor, or as indicated by any other circumstances).

(6) “Person” means an individual and not a legal entity.

(7) “Public place” means any place to which the public or a substantial portion of the public has access, including, but not limited to: streets, sidewalks, alleys, parks, and the common areas of schools, hospitals, apartment houses or buildings, office buildings, transportation facilities, and shops.

(8) “Remain” means (a) to linger or stay at or upon a place or (b) to fail to leave a place when requested to do so by a law enforcement officer or by the owner, operator, or other person in control of that place.

(9) “Temporary care facility” means a non-locked, non-restrictive shelter at which a minor may wait, under visual supervision, to be retrieved by a parent. A minor waiting in a temporary care facility may not be handcuffed or secured by handcuffs or otherwise to any stationary object.

**Section 3:** Curfew enacted; exceptions. It is unlawful for any minor, during curfew hours, to remain in or upon any public place within the Town, to remain in any motor vehicle operating or parked on any public place within the Town, or to remain in or upon the premises of any establishment within the Town, unless:

(1) the minor is accompanied by a parent; or

(2) the minor is involved in an emergency; or

(3) the minor is engaged in an employment activity, or is going to or returning home from employment activity, without detour or stop; or

(4) the minor is on the sidewalk directly abutting a place where he or she resides with a parent; or

(5) the minor is attending an activity supervised by adults and sponsored by a school, religious, or civic organization, by a public organization or agency, or by a similar organization, or the minor is going to or returning from such an activity without detour or stop; or

(6) the minor is on a errand at the direction of a parent, and the minor has in his or her possession a writing signed by the parent containing the name, signature, address, and telephone number of the parent authorizing the errand, the telephone number where the parent may be reached during the errand, the name of the minor, and a brief description of the errand, the minor’s destination(s) and the hours the minor is authorized to be engaged in the errand; or

(7) the minor is involved in interstate travel through, or beginning or terminating in, the Town of \_\_\_\_\_\_\_\_; or

(8) the minor is exercising First Amendment rights protected by the U.S. Constitution, such as the free exercise of religion, freedom of speech, and freedom of assembly.

**Section 4:** Parental involvement in violation unlawful. It is unlawful for a minor’s parent knowingly to permit, allow, or encourage a violation of Section 3 of this ordinance.

**Section 5:** Involvement by owner or operator of vehicle unlawful. It is unlawful for a person who is the owner or operator of a motor vehicle knowingly to permit, allow, or encourage a violation of Section 3 of this ordinance using the motor vehicle.

**Section 6:** Involvement by operator or employee of establishment unlawful. It is unlawful for the operator or any employee of an establishment knowingly to permit, allow, or encourage a minor to remain on the premises of the establishment during curfew hours. It is a defense to prosecution under this section that the operator or employee promptly notified law enforcement officials that a minor was present during curfew hours and refused to leave.

**Section 7:** Giving false information unlawful. It is unlawful for any person, including a minor, knowingly to give a false name, address, or telephone number to any law enforcement officer investigating a possible violation of Section 3 of this ordinance. Each violation of this section is punishable by a maximum fine of fifty dollars ($50.00).

**Section 8:** Enforcement. (a) Minors. Before taking any enforcement action, a law enforcement officer who is notified of a possible violation of Section 3 shall make an immediate investigation to determine whether or not the presence of the minor in a public place, motor vehicle, or establishment during curfew hours is a violation of that section. If the investigation reveals a violation and the minor has not previously been issued a warning, the officer shall issue a verbal warning to the minor to be followed by a written warning mailed by the police department to the minor and his/her parent(s). If the minor has previously been issued a warning for a violation, the officer shall charge the minor with a violation of Section 3 and shall issue a citation requiring the minor to appear in court. In either case, the officer shall, as soon as practicable, release the minor to his/her parent(s) or place the minor in a temporary care facility for a period not to exceed the remainder of the curfew hours so the parent(s) may retrieve the minor. If a minor refuses to give an officer his/her name and address or the name and address of his/her parent(s), or if no parent can be located before the end of the applicable curfew hours, or if located, no parent appears to accept custody of the minor, the minor may be taken to a crisis center or juvenile shelter and/or may be taken to a judge or juvenile intake officer of the juvenile court to be dealt with as required by law.

(b) Others. If an officer’s investigation reveals that a person has violated Section 3, 4, 5, or 6 of this ordinance and the person has not been issued a warning with respect to a violation, the officer shall issue a verbal warning to the person to be followed by a written warning mailed by the police department to the person. If there has been a previous warning to the person, the officer shall charge the person with a violation and issue a citation directing the person to appear in court.

**Section 9:** Violation of section 3, 4, 5, or 6 subsequent to previous warning punishable by fine. A violation of section 3, 4, 5, or 6 subsequent to receiving a verbal warning as provided in section 8 is punishable by a maximum fine of fifty dollars ($50.00) for each violation.

**Section 10:** Severability. If any portion of this ordinance is declared invalid, other portions that can be given effect without the invalid portion shall remain in effect, and to that end the provisions of this ordinance are declared severable.

**Section 11:** Effective date. This ordinance shall take effect on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_, or upon publication of this ordinance or its caption, whichever is later.

Approved as to form: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Town Attorney

Passed First Reading: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_.

Passed Second Reading: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_.

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Mayor

ATTEST:

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 City Recorder

Date ordinance or caption published: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_.