

ORDINANCE NO. 5 OF 1995

AN ORDINANCE TO PRESERVE THE PUBLIC PEACE AND SAFETY IN THE CITY OF HASKELL AND FOR THE RESIDENTS THEREOF BY ESTABLISHING A CURFEW APPLICABLE TO JUVENILES AND REGULATING THEIR PRESENCE IN THE PUBLIC STREETS AND OTHER PLACES AND DEFINING THE DUTIES OF PARENTS AND GUARDIANS OF JUVENILES AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HASKELL, ARKANSAS:

SECTION 1: FINDING AND PURPOSE: It is the desire of the Haskell City Council to take all legislative actions possible to help protect the health and welfare of the minor citizens of the City of Haskell and other minors that visit the City.

It has come to the attention of the City Council that criminal offenses occur during nocturnal hours that often involve minors either as perpetrators or as victims.

The City Council further finds and has determined that a curfew meets a very real local need and that curfew ordinances in other communities have been a factor in minimizing juvenile delinquency. A curfew in Haskell is particularly appropriate in view of the basic residential nature of the community and the sense of the community that there is a proper time for the cessation of outdoor activities of juveniles. That this attitude of the community is reflected in the curfew hours declared by this Ordinance which takes into consideration the danger hours for nocturnal crime.

Haskell is basically a family community. Parental responsibility for the whereabouts of children is the accepted norm by a substantial majority of the community. Legal sanctions to enforce such responsibility have had demonstrated effectiveness in many communities over the years. The City Council has determined that as parental control increases there is a likelihood that juvenile delinquency decreases and that there is a need for nocturnal curfew for juveniles in Haskell and the establishment of a curfew applicable to juveniles will reenforce the primary authority and responsibility of parents and guardians over juveniles in their care and custody.

SECTION 2: DEFINITIONS: For the purpose of the Curfew Ordinance the following terms, phrases, word and their derivation shall have the meaning given herein. When not inconsistent with the context, words used in the present tense including the future, words, in the plural number

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include the singular and words in the singular number include the plural. The word "shall" is always mandatory and not merely directory.

- (a) Juvenile or minor is any person under the age of eighteen (18) or, in equivalence phrasing often herein employed, any person seventeen (17) years of age or less.
- (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, to tarry and to stay unnecessarily upon the streets, including the congregating of groups (or of 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 the 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 a 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 is called or formally named, whether alley, avenue, court, road or otherwise. The term street shall also include shopping centers, parking lots, parks, playgrounds, public buildings, and similar areas that are open to the use of the public.
- (e) Time of Night referred to herein is based upon the prevailing standard of time, whether Central Standard Time or Central Daylight Saving Time, generally observed at that hour by the public in the City, prima facie the time then observed in the city police departments.

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- (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 phrase "under eighteen years of age".

SECTION 3: CURFEW FOR JUVENILES: It shall be unlawful for any person seventeen (17) or less years of age [under eighteen (18)] to remain in or upon the streets within the City of Haskell at night during the period ending at 5:00 am and beginning

- (a) At 12:00 Midnight on Friday and Saturday nights, and  
(b) 11:00 pm on all other nights.

SECTION 4: EXCEPTIONS: In the following exceptional cases a minor on City street during the nocturnal hours prescribed for minors shall not however, be considered in 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 a parent of such minor to take said parent's place in accompanying said minor for a designated period of time and purpose within a specified area.  
(c) 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.  
(d) When the minor is in a motor vehicle for the purpose of interstate travel, either through, beginning or ending in Haskell.

SECTION 5: PARENTAL RESPONSIBILITY: It shall be unlawful for a parent of a juvenile to permit or allow the juvenile to 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 or 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.

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- (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, 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 a violation will result in full enforcement of the Curfew Ordinance, including enforcement of parental responsibility and of applicable penalties.

**SECTION 6: ENFORCEMENT PROCEDURES:** If a police officer reasonably 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 parents 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 7: PENALTIES:**

- (a) If, after the warning notice pursuant to Section 5 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.
- (b) 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 as a juvenile in need of supervision and the Chief of Police shall refer the matter to the Saline County Prosecuting Attorney and/or the Arkansas Department of Human Services and/or other appropriate authorities.

**SECTION 8: CONSTRUCTION:** Severability is intended throughout and within the provisions of this Curfew Ordinance. If any provision, including any exception, part, phrase, or term, or the application thereof to any person or circumstances is held invalid, <sup>not</sup> the application to other persons or circumstances shall be affected thereby and the

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validity of the Curfew Ordinance in any and all other respects shall not be affected thereby.

SECTION 9: DATES OF OPERATION: In order to allow implementation of administrative procedure and requirements of this Ordinance by the Police Department, the first date and time of the curfew shall be October 1, 1995 at 8:00 am.

SECTION 10: REPEALER: That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 11: EMERGENCY: That it is hereby determined by the City Council of the City of Haskell, Arkansas, that the passage of this ordinance is necessary for the preservation of the public health, safety, and welfare of the citizens of Haskell, therefore, an emergency is hereby declared to exist, and this Ordinance shall be in full force and effect from and after the date of its adoption subject to the limitation set forth in Section 9.

PASSED AND APPROVED THIS 11TH DAY OF SEPTEMBER, 1995.

  
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H.S. QUANTZ, MAYOR  
CITY OF HASKELL

ATTEST:

  
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JERRY DANDURAND, RECORDER  
CITY OF HASKELL