

CITY OF WEST LIBERTY

CURFEW ORDINANCE

**ORDINANCE NO. 06282010-01**

**ORDINANCE ESTABLISHING, IMPLEMENTING, AND ENFORCING A CURFEW FOR JUVENILES IN THE CITY OF WEST LIBERTY**

That, whereas, the City Council of the City of West Liberty desires to create an ordinance so as to protect the health, safety, and welfare of its citizens and prevent juvenile criminal activity while at the same time not unduly or unreasonably restricting the rights of such juveniles to travel freely in, about and through public places and areas so long as such, persons are not engaged in criminal activity or causing harm or damage to person or property; and

That, whereas, the City Council deems such a curfew ordinance to be the best and most appropriate mechanism for dealing with the increasing rate of juvenile crime and vandalism which generally occur in the late night hours.

Now, thereof, be it ordained by the City Council, City of West Liberty, and Commonwealth of Kentucky:

**SECTION 1: DEFINITIONS:**

For purposes of this ordinance the following definitions shall apply unless the context clearly indicates otherwise or require a different meaning:

- (a) "city" means the City of West Liberty.
- (b) "custodian" means any person over the age of 18 years who is a parent of a juvenile, the primary and legal caretaker of a juvenile, or who is in loco parents to a juvenile.
- (c) "guardian" means any person other than a parent or who has legal guardianship of a juvenile.
- (d) "juvenile" means any person less than 18 years of age.
- (e) "parent" means the natural or adoptive parent of a juvenile.
- (f) "public place" means any street, alley, highway, roadway, sidewalk, park, playground, or place to which the general public has access and a right to resort to for business, entertainment, pleasure, commerce or any other lawful purpose or activity. A "public place" shall include but not be limited

to any store, shop, restaurant, theatre, drug store, retail store, skating rink, shopping center, and any other premises devoted to amusement, entertainment, or commerce of the general public. It shall also include the front, back, sides, or immediate area of the above noted premises.

**SECTION 2: JUVENILES UNDER AGE 15.**

- (A) It is unlawful and a curfew violation for a juvenile less than 15 years of age to be in or present at a public place after 11:00 p.m. or before 6:00 a.m. on any day.
- (B) A law enforcement officer may not detain such a juvenile or take such a juvenile into custody based on a violation of this section unless the law enforcement officer, after making a reasonable determination and considering the facts and surrounding circumstances, reasonably believes that:
- (1) The juvenile has violated this section; and
  - (2) There is no legal defense to the violation

**SECTION 3: JUVENILES AGES 15 TO 17.**

- (A) It is unlawful and a curfew violation for a juvenile fifteen (15), sixteen (16), or seventeen (17) years of age to be in or present at a public place:
- (1) Between 1:00 a.m. and 6:00 a.m. on Saturday or Sunday;
  - (2) After 11:00 p.m. on Sunday, Monday, Tuesday, Wednesday, Thursday; or
  - (3) Before 6:00 a.m. on Monday, Tuesday, Wednesday, Thursday, or Friday.
- (B) A law enforcement officer may not detain such a juvenile or take such a juvenile into custody based on violation of this section unless the law enforcement officer, after making a reasonable determination and considering the facts and surrounding circumstances, reasonably believes that:
- (1) The juvenile has violated this section; and
  - (2) There is no defense to the violation.

**SECTION 4: DEFENSES.**

**(A)** It is a defense to a violation of this ordinance that the child was emancipated:

- (1) Under KRS 2.015;
- (2) By virtue of having married; or
- (3) Participating in, going to, or returning from:
  - (A) Lawful employment;
  - (B) A school sanctioned activity;
  - (C) A religious event;
  - (D) An emergency involving the protection of a person or property from an imminent threat of serious bodily injury or substantial damage;
  - (E) An activity involving the exercise of the juvenile's rights protected under the First Amendment of the United States Constitution or Sections 1 or 2 of the Kentucky Constitution, or both, such as freedom of speech and the right of assembly; or
  - (F) An activity conducted by a nonprofit or governmental entity that provides recreation, education, training or other care under the supervision of one (1) or more adults;
- (4) Participating in an activity undertaken at the prior written direction of the juvenile's parent, guardian or custodian; or
- (5) Engaged in interstate or international travel from a location outside the State of Kentucky to another location outside the State of Kentucky.

**SECTION 5: ENFORCEMENT OF THE CURFEW FOR MINORS.**

- (A)** A police officer upon finding or being notified of any minor in or upon any public assembly, building, place, street, sidewalk, or highway whose parent is believed to be in violation of this section may stop and question such minor and request such information as his or her name and age and the name and address of his or her parent, guardian, or person having legal custody.
- (B)** IF the police officer determines or has reasonable cause to believe that a curfew violation has occurred, the police officer may obtain from the minor the information necessary to issue a

citation to the minor's parent, guardian, or person having legal custody and then either take the minor to his or her homes or direct the minor to proceed immediately to his or her home.

**PENALTY**

- (a) Any juvenile violating the provisions of the ordinance shall be subject to a fine of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500),
- (b) Any parent, guardian, or person having legal custody allowing a minor to violate Section 1 shall be subject to a fine of no more than \$500 or imprisonment for a period not to exceed six months or both.

FIRST READING: MAY 24<sup>TH</sup>, 2010

SECOND READING: JUNE 28<sup>TH</sup>, 2010

Signed By: Jim Rupe, Mayor      Attest By: Sally Barker, City Clerk