

## ORDINANCE NO. 801-2015

### **AN ORDINANCE OF THE CITY OF DRY RIDGE, GRANT COUNTY, KENTUCKY, PROVIDING FOR THE ESTABLISHMENT OF A NEW CURFEW FOR INDIVIDUALS UNDER THE AGE OF EIGHTEEN (18) YEARS WITHIN THE CITY OF DRY RIDGE, KENTUCKY.**

**BE IT HEREBY ORDAINED BY THE CITY OF DRY RIDGE, KENTUCKY, AS FOLLOWS:**

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#### **GENERAL ARTICLE**

Pursuant to the laws and statutes of the Commonwealth of Kentucky, the City of Dry Ridge, Grant County, Kentucky, hereby adopts, establishes and ordains as set forth hereinafter within the following articles a curfew for individuals under the age of eighteen (18) within the city limits of Dry Ridge, Kentucky.

#### **ARTICLE I: Purpose.**

The purpose of the ordinances is to ensure the safety and wellbeing of those persons under the age of eighteen years (minors); to shelter the same from unhealthy, bad and/or destructive influences; to discourage and reduce crime and vice; to protect the personal and real property of individuals, businesses, and/or other entities located within the City; and, to promote the general welfare of the residents of the City of Dry Ridge, Kentucky.

#### **ARTICLE II: Basis.**

Local, state and national crime statistics demonstrate a strong correlation between time of day and occurrence of criminal activity. More specifically, the later the hour in the evening or the earlier the hour in the morning, the greater the likelihood a minor will be involved in criminal activity either as a perpetrator or a victim. In support thereof please attachment "A".

Further, beyond criminal activity, the rate of unintentional harm, injury or damage due to accidents and other unforeseeable occurrences increases in the late evening and overnight hours. Finally, during the school year a reasonable curfew helps ensure that minors are safely off the streets and at least encourages an appropriate amount of sleep.

#### **ARTICLE III: Interpretation and Severability.**

It is the intention of the City of Dry Ridge, Kentucky to implement a curfew that has a meaningful impact on the above enumerated concerns while at the same time respecting the constitutional rights of all individuals located within the City. To the extent an article, or portion thereof, herein is susceptible to multiple interpretations, the ordinance shall be read in a manner which confirms to the U.S. Constitution, opinions issued by the Supreme Court of the United States, and the Constitution of the Commonwealth of Kentucky.

In the event any article herein shall be found to violate of any of the foregoing, said article shall be severed here from without negating, invalidating or otherwise voiding the remainder of the ordinance. In the event complete severability is impossible without nullifying the remainder of the ordinance, the affected section shall be reformed to comport with applicable law.

#### **ARTICLE IV: Definitions.**

Allow – either permit or neglect to refrain or prevent. It requires actual or constructive knowledge on the part of the parent or guardian, that is, the parent or guardian must actually know about the child violating this section, or the circumstances must be such that a reasonable prudent parent or guardian should have known the child was violating this section.

Minor – any un-emancipated, including but not limited to unmarried, person under the age of 18, or, as may be otherwise phrased, any person of the age of 17 or under.

Parent – any person having legal custody of a minor:

- (1) As a natural or adoptive parent;
- (2) As a legal guardian;
- (3) As a person who stands in loco parentis; or
- (4) As a person to whom legal custody has been given by order of court.

Remain – to stay behind, to tarry, or to stay unnecessarily upon or in any public right-of-way, public assembly, building, place, street, or location or business open to the public.

Travel – to walk, drive or otherwise proceed along a sidewalk, street, highway or any other public right-of-way.

#### **ARTICLE V: Curfew**

- (1) It shall be unlawful for any person under the age of 18 to be or remain in or upon any public assembly, building, place, location or business open to the public, or to travel along a sidewalk, street, highway or other public right-of-way within the city at night during the following periods:

12:00 a.m. Sunday to 6:00 a.m. Sunday  
11:00 p.m. Sunday to 6:00 a.m. Monday  
11:00 p.m. Monday to 6:00 a.m. Tuesday  
11:00 p.m. Tuesday to 6:00 a.m. Wednesday  
11:00 p.m. Wednesday to 6:00 a.m. Thursday  
11:00 p.m. Thursday to 6:00 a.m. Friday  
12:00 a.m. Saturday to 6:00 a.m. Saturday

- (2) It shall be unlawful for any person under the age of 18 to remain in, or upon any public assembly, building, place, location or business open to the public, or travel upon a sidewalk, street, highway or other public right-of-way within the city when the child is required to be in attendance at either public or private school, unless the child is accompanied by a parent, guardian, or other adult person having written documentation having care and custody of the child or is on an emergency errand or other legitimate business directed by a parent, guardian or other adult person having the care and custody of the child.
- (3) It shall be unlawful for any parent or guardian having legal custody of a minor to knowingly allow the minor to be or remain in or upon a public assembly, building, place, location or business open to the public, or to travel upon a sidewalk, street, highway or other public right-of-way in the city under circumstances not constituting an exception as enumerated in Article VI during the time periods contained in Article V(1) or V(2) above.

## **ARTICLE VI    Exceptions.**

In the following exceptional cases, a minor remaining in or upon any public assembly, building, place, location or business open to the public, or traveling upon any sidewalk, street, highway or other public right-of-way in the city during the hours provided for in Article V(1) or V(2) shall not be considered in violation of this section:

- (4) When the minor is accompanied by a parent or guardian as defined in Article IV;
- (5) When accompanied by an adult having written authorization of a parent or guardian of such minor.
- (6) When exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly, provided that written notice signed by the minor and countersigned by a parent or guardian is in the possession of such minor specifying when, where, and in what manner said minor will be exercising such First Amendment rights;
- (7) In case of reasonable necessity but only after such minor's parent or guardian has communicated to the Police Department the facts establishing such reasonable necessity;
- (8) When the minor is on the sidewalk of the place where such minor resides, or on the sidewalk of either next-door neighbor who has not communicated an objection to a police officer or the Police Department;
- (9) When returning home, by a direct route from, and within one hour of the termination of, a school activity, or any activity of a religious or other voluntary association, provided that justification indicating the place and time of termination of said event can be given to any investigating officer of the Police Department;
- (10) When authorized by regulation issued by the Mayor or City Council in cases of reasonable necessity involving more minors than may reasonably be dealt with on an individual basis. The regulation should be issued sufficiently in advance to permit publicity through news media and through other agencies such as the schools. The regulation shall define the activity, the scope of the use of the public assembly, building, place, location or business open to the public, sidewalk, street, highway or other public right-of-way permitted, and the period of time involved not to extend more than one hour beyond the time for termination of the activity, and the reason for finding that the regulation is reasonably necessary. The City Clerk or Mayor shall notify the Police Department of this information;
- (11) When engaged in a business or occupation which the laws of this state authorize a minor to perform;
- (12) When the minor is, with parental consent, in a motor vehicle with a lawfully authorized driver;
- (13) When the minor, who is a duly authorized and licensed driver, is operating a motor vehicle within the city for the purpose of passing through, by direct route, from one location to another either within or out of the city, including all minors that may also be within the vehicle;
- (14) When the minor is participating in a school related activity.



## **ARTICLE VII    Enforcement.**

- (1) A police officer upon finding or being notified of any minor in or upon any public assembly, building, place, location or business open to the public, sidewalk, street, highway or other public right-of-way reasonably believed to be in violation of this section, may cite the minor for a criminal violation. The police officer may then proceed to transport the child to the safety of the child's home, school and/or to his or her parents or guardians.
- (2) A police officer upon finding or being notified of any minor in or upon any public assembly, building, place, location or business open to the public, street, or highway whose parent is believed to be in violation of this section may confront such minor and request such information as his or her name, age, address of his or her parent or legal guardian.
- (3) If a child is under suspension from school, the child shall not be returned to the school where the suspension is in effect unless authorized by that school's authorities.
- (4) Either the child or the parent/guardian may be cited, but not both for the same offense.

## **ARTICLE VII    Penalties.**

- (1) For the first thirty (30) days immediately following the enactment of this ordinance, all persons found in violation of this ordinance shall be issued a warning for the first offense. A second offense within the thirty (30) day period shall be treated as a first offense as defined below.
- (2) A person found to be in violation of this ordinance shall be assessed a fine of not more than \$100.00.
- (3) A person found to be in violation of this ordinance for a second time within a six month period may/shall be assessed a fine of not more than \$250.00.
- (4) A person found to be in violation of this ordinance for a third time within a six month period may/shall be assessed a fine of not more than \$500.00.
- (5) A person found to be in violation of this ordinance may in lieu of a fine perform community service at a rate of 10 hours of community service for every \$100.00 in fines.

First Reading: September 8, 2015  
Second Reading: September 11, 2015

**PASSED, ADOPTED, ORDAINED AND ORDERED PUBLISHED ON THIS THE 11th DAY OF SEPTEMBER 2015.**

ATTEST:

  
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Amy Kenner, City Clerk  
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James Wells, Mayor