

2013002959

FILED FOR RECORD
05/23/2013 10:30AM
RHONDA WATKINS Clerk

ORDINANCE NO. 1374

By *Rhonda Watkins* D.C.

**AN ORDINANCE ESTABLISHING A CURFEW
FOR MINORS IN THE CITY OF HARRISON, ARKANSAS,
TO BE IDENTIFIED AND REFERENCED AS CODE
SECTION 7.09, "CURFEW FOR MINORS"**

WHEREAS, the City Council finds that it has become necessary to control and regulate the late night gathering, loitering and criminal activity of young people in order to protect them from each other and to protect public and private property from damage; and,

WHEREAS, Harrison citizens have requested a curfew for minors and the council believes a curfew will make parents more responsible, will aid in crime prevention, and will be in the best interest of Harrison citizens;

THEREFORE, BE IT ORDAINED by the Harrison City Council that the following curfew for minors be adopted and enforced, to-wit:

Section 1. Curfew for Minors:

- A. It shall be unlawful for any minor to be upon the streets, sidewalks, parks, playgrounds, public places and vacant lots, or to ride in or upon, drive or otherwise operate or be a passenger of any automobile, bicycle, or other vehicle in, upon, over or through the streets, or other public places between the hours of 11:00 p.m. and 5:00 a.m., Sunday through Thursday, or 12:00 midnight and 5:00 a.m., Friday and Saturday.
- B. It shall be unlawful for any parent to permit a minor to be upon the streets, sidewalks, parks, playgrounds, public places and vacant lots, or to ride in or upon, drive or otherwise operate, a vehicle in, upon, over or through the streets, or other public places as set forth in this ordinance. The fact that a minor is in violation of the provisions of this ordinance hereinabove, without a defense as set forth in section 3 below, shall create a rebuttable presumption that a parent is in violation of this subsection.

Section 2. Definitions:

For purposes of the Minor Curfew Ordinance, the following terms, phrases, words and their derivations shall have the meanings [ascribed to them by this section]:

- A. *City* is the City of Harrison, Arkansas.
- B. *Emancipated minor* means a minor who no longer has a parent-child relationship as a result of marriage, or as a result of being recognized as an adult by order of a court of competent jurisdiction.
- C. *Legitimate parentally approved errand* means a minor performing a necessary task at the direction of the minor's parent, and that the nonperformance of the errand, or delay of performance until after curfew hours have abated, would result in injury or undue hardship.
- D. *Minor* is any unemancipated or unmarried person under the age of eighteen (18) years of age.
- E. *Parent* is any person having legal custody of a minor (i) as a natural parent, (ii) as an adoptive parent, (iii) as a legal guardian, (iv) as a person to whom legal custody has been given by order of the court.
- F. *Public place* means a publicly or privately owned place to which the public or substantial numbers of people have access. A public place does not include the residence of a minor or, the residence of a minor's parent or a responsible adult.
- G. *Responsible adult* means a person at least twenty-one (21) years of age to whom a parent has expressly given permission to accompany a minor.

Section 3. Exceptions to Curfew:

- A. Notwithstanding the provisions above, the Minor Curfew Ordinance does not apply:
 - 1. At any time a minor that is accompanied by a parent, or by a responsible adult authorized by a parent to take the parent's place to accompany the minor for a designated period of time and purpose within a specified area.

2. If the minor is employed, for a period of time forty-five (45) minutes after work, provided that circumstances suggest the minor is returning from work to a place of residence.
 3. When a minor is returning home from an activity that is supervised by adults and sponsored by the city, a civic organization, a public or private school, or any entity that takes responsibility for the minor, provided that the activity has not concluded for more than forty-five (45) minutes.
 4. At any time the minor is on a legitimate parentally approved errand.
 5. At any time the minor is on a trip in interstate commerce.
 6. At any time the minor is required to leave a residence because of an emergency.
 7. At any time the minor is engaged in an activity that is protected by the First Amendment to the United States Constitution, or the freedom of speech, religion or expression provisions in Article II of the Arkansas Constitution.
- B. If a minor being questioned about the possible violation of the Minor Curfew Ordinance provides a law enforcement officer with sufficient reason to believe that the minor is entitled to an exemption under subsection (a) above, the law enforcement officer shall take no more enforcement actions under this article, provided the officer may make a report of the minor's identity, the exemption claimed, and other necessary information to note the possible violation of this article.

Section 4. Curfew for Minors Driving Vehicles:

- A. It shall be unlawful for any minor to operate, or be in actual physical control, of a motor vehicle upon the streets, public places, or private drives, within the city between the hours of 11:00 p.m. and 5:00 a.m. Sunday through Thursday, or 12:00 a.m. and 5:00 a.m. Friday and Saturday. Pursuant to this provision no minor shall be permitted to operate a motor vehicle in violation of the provisions of this article. In addition to any other criminal or traffic penalties that may be imposed, or any other actions available under Section 4 of this article, unless a minor has a defense available to it under Section 3 of this article, a law enforcement officer

with sufficient reason to believe that a minor has violated the provisions of this article, shall attempt to contact the registered owner of the motor vehicle operated by the minor for purposes of having the registered owner retrieve the vehicle. If no contact can be made, or if the registered owner refuses to immediately come and retrieve the vehicle, the officer may take any necessary action to protect the vehicle including having the vehicle impounded at a facility selected by the city. Any such impoundment shall be at the sole expense of the registered owner.

- B. It shall be unlawful for any parent to permit a minor to operate a motor vehicle in violation of the provisions of this article. In addition to any other criminal or traffic penalties that may be imposed, unless a minor has a defense available to it under Section 3 of this article, a law enforcement officer with sufficient reason to believe that a minor has violated the provisions of this article may take any action set forth in Section 4 of this article. The fact that a minor is in violation of the provisions of subsection (a) hereinabove, without a defense as set forth in Section 3 of this article, shall create a rebuttal presumption that the parent is in violation of this subsection.


Section 5. Penalties and Law Enforcement:

- A. A minor or parent of a minor found to be in violation of this Ordinance may be cited into Juvenile or District Court subject to penalties as follows:
1. First Offense. \$100 fine plus court costs.
 2. Second Offense. \$300 fine plus court costs.
 3. Third Offense. Up to One Thousand Dollars (\$1,000) fine and costs; and up to thirty (30) days in jail at the discretion of the Juvenile Court or District Court Judge.
- B. A parent of a minor charged with violation of this article may be notified of such violation and may be cited to appear before the District Court for any hearing which involves the minor.
- C. At the discretion of the law enforcement officer, any minor arrested or cited for violation of the Minor Curfew Ordinance may be released to immediately return

home or may be escorted to their home or school, or may be taken into custody and delivered to an appropriate location, or juvenile authority, to be held until a parent can be located to take custody of the minor.

- D. Nothing in this section shall preclude a law enforcement officer from taking any or all appropriate actions for a minor's violation of any other local or state law.

PASSED AND APPROVED this 16th day of May, 2013.



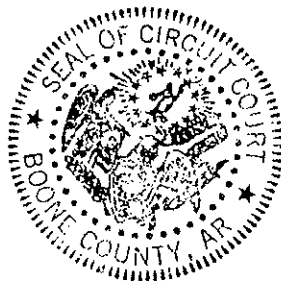
Attest:
Jeff Pratt
JEFF PRATT, CITY CLERK

CITY OF HARRISON, ARKANSAS

BY:



JEFF CROCKETT, MAYOR



STATE OF ARKANSAS } SS
COUNTY OF BOONE }

I hereby certify that this instrument was filed for record in my office the 05/23/2013 10:30AM and duly recorded. Record as Instrument # 2013002959 Witness my hand and the court seal this 05/23/2013 10:30AM

RHONDA WATKINS

Circuit Clerk and Recorder

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