

ORDINANCE 2009-81
ADOPTION OF ORDINANCE 81
ESTABLISHING A CURFEW IN THE
CITY OF NEW MUNICH

The City Council for the City of New Munich HEREBY ORDAINS:

That Ordinance 81 entitled "CURFEW ORDINANCE" is hereby adopted. Ordinance 81 shall read as follows:

"CURFEW ORDINANCE

Section 81.01: PURPOSE.

Subd. 1: The City Council determines that there has been an increase in juvenile violence, juvenile gang activity, and crime by persons under the age of 17 in the City.

Subd. 2: Persons under the age of 17 are particularly susceptible by their lack of maturity and experience to participate in unlawful and gang-related activities and to be victims of older perpetrators of crime; and

Subd. 3: The City has an obligation to provide for the protection of minors from each other and from other persons, for the enforcement of parental control over and responsibility for children, for the protection of the general public, and for the reduction of the incidence of juvenile criminal activities; and

Subd. 4: A curfew for those under the age of 17 will be in the interest of the public health, safety and general welfare and will help to attain the foregoing objectives and diminish the undesirable impact of such conduct on the citizens of the City.

Section 81.02. DEFINITIONS.

Subd. 1: Minor. Means a person under the age of seventeen (17) years.

Subd. 2: Emergency. Means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

Subd. 3: Establishment. Means any privately owned place of business operated for a profit to which the public is invited, including, but not limited to, any place of amusement or entertainment.

Subd. 4: Guardian. Means:

- a) A person who, under court order, is the guardian of the person of a minor; or
- b) A public or private agency with whom a minor has been placed by a court.

Subd. 5: Operator. Means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

Subd. 6: Parent. Means a person who is:

- a) A natural parent, adoptive parent or step-parent of a minor person; or
- b) At least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

Subd. 7: Public Place. Means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

Subd. 8: Remain. Means to:

- a) Linger or stay; or
- b) Fail to leave the premises when requested to do so by a peace officer or the owner, operator, or other person in control of the premises.

Subd. 9: Serious Bodily Injury. Means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

Section 81.03. UNLAWFUL ACTS.

Subd. 1: It is unlawful for any minor person to be or loiter upon the streets or public places or on the premises of any establishment within the City between the hours of 9:30 o'clock P.M. and 5:00 o'clock A.M. of the day following.

Subd. 2: It is unlawful for any parent, guardian, or other person having the legal care or custody of any minor to knowingly allow or permit such minor person to be or loiter upon the streets or public places in violation of this Section unless such minor is accompanied by a parent or guardian. The term "knowingly" includes knowledge which a parent or guardian should reasonably be expected to have concerning the whereabouts of a minor in the legal custody of that parent or guardian.

Subd. 3: It is unlawful for any person operating, or in charge of, any place of amusement, entertainment or refreshment, or other place of business, to allow or permit any minor to be or remain in such place in violation of this Section unless such minor is accompanied

by a person of lawful age having such minor in charge. This Subparagraph shall not be construed to permit the presence, at any time, of any person under age in any place where his presence is otherwise prohibited by law.

Section 81.04. EXCEPTIONS.

Subd. 1. Such curfew shall not apply to any minor who:

- A. Is lawfully attending, going to or returning from school, civic, church or community sponsored athletic, musical or social activities or events which are supervised by adults.
- B. Accompanied by the minor's parent or guardian.
- C. In a motor vehicle involved in interstate travel.
- D. Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop.
- E. Involved in an emergency.
- F. Exercising First Amendment rights protected by the United States Constitution.
- G. Married or had been married.

Section 81.05: OPERATOR'S DEFENSE. It is a defense to prosecution under Section 80.03 that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

Section 81.06: ENFORCEMENT. Enforcement of this ordinance shall be the prime responsibility of the parents. The Stearns County Sheriff's Office shall also enforce the ordinance. Before taking any enforcement action, a deputy shall ask the apparent offender's age and reason for being in the public place. The deputy shall not issue a citation or make an arrest under this section unless the deputy reasonably believes that an offense has occurred and that, based on any response and other circumstances, no exception or defense is present. In the event the deputy finds a minor in violation of this ordinance, the deputy may transport the minor to his or her residence and deliver the minor to the custody of his or her parent or guardian, or in the absence of a parent or guardian, the police shall ascertain that the minor is within his or her residence before leaving the minor. This ordinance shall not be construed as placing a greater duty on the Sheriff's Office to care for the safety of minors than what generally exists under the law.

Section 81.07: PENALTIES. A person violating this Ordinance shall be guilty of petty misdemeanor. It will constitute a separate offense for each day or part of a day during which the violation is committed, continued or permitted. Minors, Operators and any adult person having

care, custody and control of such minor, convicted of violations of this Ordinance shall be subject to a fine in the amount of \$100.00 per violation.

Section 81.08: DELINQUENT CHILD. Any person under seventeen (17) years of age who violates this Ordinance shall be deemed a delinquent child as defined in Minnesota Statutes §260.01, as amended.

Section 81.09: SEVERABILITY. If any provision of this Ordinance is, for any reason, held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. It is intended that the Curfew Ordinance be held inapplicable in such cases, if any, where its application would be unconstitutional.”

This ordinance is adopted the 3rd day of August, 2009 and shall be effective upon publication.

CITY OF NEW MUNICH

By Harold Klaphake
Harold Klaphake
Its Mayor

By Kelly Thielen
Kelly Thielen
Its Clerk

This ordinance was published on August 10th, 2009.