

ORDINANCE NO. 16

JUVENILE CURFEW ORDINANCE

A. Purpose. The purpose of this section is to regulate the presence of juveniles on streets and other public places in the city during late-night hours. The city has a compelling interest in said regulation due to the increase of juvenile delinquency in the city. It is a compelling interest and goal of the city to protect the public from the illegal acts of juveniles committed after the curfew hour and also to protect the juveniles from improper influences and from criminal activity that occurs after the curfew hour. It is also the intent of this section to help parents control their children.

B. Definitions. For the purpose of this section the following terms, phrases, words and their derivations shall have the meanings given in this section.

1. **CITY.** Is all area within 1 mile beyond the city limits of Summerset.
2. **CUSTODIAN.** Is any person over the age of 18 who is in loco parentis to a juvenile.
3. **GUARDIAN.** Is any person other than a parent who has legal guardianship of a juvenile.
4. **JUVENILE.** Is any person under the age of 16.
5. **PARENT.** Is the natural or adoptive parent of a juvenile.

6. **PUBLIC PLACE.** Shall mean any street, alley, highway, sidewalk, park, playground or place to which the general public has access and a right to resort for business, entertainment or other lawful purpose. The public place shall include but not be limited to any store, shop, restaurant, tavern, bowling alley, café, theater, drugstore, poolroom, shopping center and any other similar place, and including the area immediately adjacent to the place.

C. Curfew for juveniles.

1. It is unlawful for any person under the age of 16 years to idle, wander about with no specific destination, stroll, play, congregate or otherwise be present in any public place, either on foot or in a motor vehicle after the hour of 10:00 p.m. or before the hour of 5:00 a.m. unless accompanied by a parent, guardian or custodian.

2. The foregoing notwithstanding, it shall not be a violation of this section for a juvenile to be present in a public place if the juvenile can establish that the presence is necessary to perform an errand or other specific activity at the direction of the juvenile's parent, guardian or custodian or to travel in the most practical and expeditious route from one non-public place to another non-public place at the specific direction of the juvenile's parent, guardian or custodian.

3. Further, it shall not be a violation of this section for any juvenile to attend a special function or entertainment sponsored by any church, school, club or other organization if the juvenile can establish that the attendance is with the specific permission of the juvenile's parent, guardian or custodian.

D. Responsibilities of owners of public places. It is unlawful for any person, firm or corporation operating or having charge of any privately owned public place to permit or suffer the presence of a juvenile upon the premises with the knowledge that the juvenile is in violation of subsection C. of this section.

E. Parents responsibility. It is unlawful for the parent, guardian or custodian of any juvenile to permit or suffer by negligent or inefficient control of the juvenile to violate any provision of this section. It shall not be a violation of this section for the parent, guardian or custodian of a juvenile to direct and permit the juvenile to be present in a public place for the purpose of carrying out a specific errand or other specific business activity or to participate in a specific activity of any church, school, club or organization, or to direct and permit a juvenile to travel from one nonpublic place to another nonpublic place by the most practical and direct route and means.

F. Procedures. Law enforcement officers are directed to follow the following procedures in enforcing the ordinance codified in this section:

1. A law enforcement officer, upon finding a juvenile in a public place during the prohibited hours, shall ascertain the name and address of the juvenile, shall warn the juvenile that he or she is in violation of this section, and shall direct the juvenile to proceed directly and at once to his or her home or usual place of abode. The law enforcement officer shall make a written record of the contact and warning and shall report the contact to the juvenile investigation section of the Police Department, which shall notify the parent, guardian or custodian of the juvenile by telephone or by letter.

2. If a juvenile refuses to comply with the direction of the law enforcement officer, or refuses to give the law enforcement officer his or her correct name and address, or if the juvenile has been warned on a previous occasion, the juvenile shall be taken into custody. The parent, guardian or custodian of the juvenile shall be notified to come and take custody of the juvenile. If the parent, guardian or custodian cannot be located or fails or refuses to take custody of the juvenile, the juvenile shall be remanded to the juvenile authorities.

G. Penalty. A violation of this section shall be punishable by a fine not to exceed \$100 for each offense.

H. Construction and severability. The city does not intend a result that is absurd, impossible to execute or unreasonable. It is intended that the curfew ordinance codified in this section be held inapplicable in such cases, if any, where its application would be unconstitutional. Constitutional construction is intended and shall be given. The city does not intend to violate the Constitution of the State of South Dakota or the Constitution of the United States of America. Severability is intended throughout and within the provisions of the curfew ordinance codified in this section. If any provision including any exception, part, phrase or term, or the application thereof to any person or circumstances is held to be invalid, the application to other persons or circumstances shall not be affected thereby and validity of the curfew ordinance codified in this section in any and all other respects shall not be affected.

Dated this 1ST day of November, 2007.

ATTEST:

Rebecca J. Phillips, Finance Officer

Brad Shelly, Mayor

(SEAL)

Vote:

Butler: Aye
Shelly: Aye
Wagner: Aye

1st Reading: Oct. 18, 2007
2nd Reading: Nov. 1, 2007
Publication: