

ORDINANCE NO. 132

## AN ORDINANCE ESTABLISHING A JUVENILE CURFEW

## BE IT ORDAINED BY THE TOWN OF BUFFALO:

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

"Town" is all area within one mile beyond the town limits of Buffalo.

"Custodian" is any person over the age of eighteen who is in loco parentis to a juvenile.

"Guardian" is any person other than a parent who has legal guardianship of a juvenile.

"Juvenile" is any person under the age of eighteen.

"Parent" is the natural or adoptive parent of a juvenile.

"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, cafe, theater, drugstore, pool room, and any other similar place, and including the area immediately adjacent to such place.

B. Curfew for Juveniles. It is unlawful for any person under the age of eighteen 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 ten-thirty p.m. or before the hour of five a.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday, or after the hour of twelve a.m. or before five-thirty a.m. on any Friday or Saturday, unless accompanied by a parent, guardian, or custodian.

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

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 such juvenile can establish that such attendance is with the specific permission of said juvenile's parent, guardian or custodian.

C. 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 such premises with the knowledge that such juvenile is in violation of subsection (B) of this section.



D. Parents' Responsibility. It is unlawful for the parent, guardian or custodian of any juvenile to permit or suffer by negligent or inefficient control of such 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 such 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.

E. 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 such juvenile, shall warn the juvenile that he is in violation of this section, and shall direct the juvenile to proceed directly and at once to his home or usual place of abode. The law enforcement officer shall make a written record of such contact and warning and shall notify the parent, guardian or custodian of such 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 such law enforcement officer his correct name and address, or if the juvenile has been warned on a previous occasion, such juvenile shall be taken into custody. The parent, guardian or custodian of such juvenile shall be notified to come and take custody of such juvenile. If the parent, guardian or custodian cannot be located or fails or refuses to take custody of such juvenile, the juvenile shall be remanded to the juvenile authorities.

F. Penalty. A violation of this section shall be punishable by a fine not to exceed one hundred dollars for each offense.

G. Construction and Severability. The town 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 town 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.

Ken M Nelson  
PRESIDENT, BOARD OF TRUSTEES

ATTEST:

Diane Shwila  
FINANCE OFFICER

(S E A L)

Placed on 1st reading: Oct. 11, 1994  
Placed on 2nd reading  
and passed: November 14, 1994  
Published: November 23, 1994