

ORDINANCE NO. 2012-17

ORDINANCE FOR CHILD/JUVENILE CURFEW

Whereas by Ordinance No. ~~2012-17~~ enacted Oct. 4, 2012 with an effective date Of Nov. 15, 2012, the Boonville City Council established a child/juvenile curfew for the incorporated portions of the City of Boonville, Warrick County, Indiana, and prescribed certain definitions, offenses/violations/prohibited acts, enforcement, penalties, and other standards;

NOW, THEREFORE, BE IT ORDERED by the Boonville City Council, Indiana THAT:

SECTION 1. DEFINITIONS.

As used within this Ordinance, the following words and phrases shall have the meanings assigned to them below:

- (1) "Child" has the same meaning as "juvenile," and vice versa.
- (2) "Curfew Violation" means the presence of:
 - (a) A child/juvenile fifteen (15), sixteen (16), or seventeen (17) years of age in a public place: (i) between 1:00 a.m. and 5:00 a.m. on Saturday or Sunday; (ii) after 11:00 p.m. on Sunday, Monday, Tuesday, Wednesday, Thursday, or (iii) before 5:00 am on Monday, Tuesday, Wednesday, Thursday or Friday without Parent (Custodian), Guardian or responsible adult.
 - (b) A child/juvenile under fifteen (15) years of age in a public place: (i) after 11:00 p.m. on before 5:00 a.m. on any day.

All items being prevailing local time for City of Boonville, Warrick County, Indiana.

- (3) "Custodian" means a parent or other person who has legal or physical custody over a child/juvenile, whether by parentage, court order, practice, or custom.
- (4) "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, natural disaster, or automobile accident or any situation requiring immediate action to prevent serious bodily injury or loss of life.
- (5) "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.
- (6) "Guardian" means:
 - (a) A person who, under court order, is the guardian of the person of a child/juvenile;
or

- (b) A public or private agency with whom a child/juvenile has been placed by a court.
- (7) “Juvenile” means any person less than 18 years of age, or the status or circumstance of being under 18 years of age.
- (8) “Operator” means any individual, firm, association, partnership, company, or corporation operating, managing, or conducting any establishment. The term includes the manager of managing partners of an association or partnership or company and the officers of a corporation.
- (9) “Parent” means a person who is:
 - (a) A natural parent, adoptive parent, or step-parent of a child/juvenile;And
 - (b) At least 18 years of age and authorized by law to have the care and custody of a child/juvenile.
- (10) “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, shops and businesses.
- (11) “Remain” means to:
 - (a) Linger or stay; or
 - (b) Fail to leave the public place or establishment when requested to do so by a law enforcement officer of the owner, operator, or other person in control of an establishment.
- (12) “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 2. OFFENSES/VIOLATIONS/PROHIBITED ACTS.

Each violation of a provision of this Ordinance shall be deemed a separate offense, subject to sanction, enforcement, and penalties as herein prescribed. Offenses under this Ordinance are defined as follows:

- (1) A child/juvenile commits an offense/violation under this Ordinance, by virtue of a curfew violation, as defined in Section 1.
- (2) It is a defense to a violation of this Ordinance if:
 - (a) The child/juvenile engaged in the prohibited conduct while
 1. Accompanied by his or her parent, guardian, or custodian, or responsible adult.
 2. Accompanied by an adult specified by his or her parent, guardian, or custodian;
 - (b) The child/juvenile was emancipated:
 1. Under Ind. Code 31-37-1927 or Ind. Code 31-6-4-15.7 (before its repeal);
 2. By virtue of having married; or
 3. In accordance with the laws of another state or jurisdiction
- (3) A parent, guardian, or custodian of a child/juvenile commits an offense/violation under this Ordinance if he or she knowingly permits, or by insufficient control allows, the child/juvenile to commit a curfew violation by remaining in any public place or on the premises of any establishment within the incorporated areas of Boonville city, Indiana in violation of Section 2, subsection (1) above.

SECTION 3. ENFORCEMENT.

That before taking any enforcement action under this Ordinance, a law enforcement officer, to include officers of the Boonville Police Department or other law enforcement officers, shall determine the apparent offending child's/ juvenile's age and reason for being in the public place or at an establishment if reasonably possible. The law enforcement officer shall not issue a citation or make an arrest under this Ordinance unless the law enforcement officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, none of the factors referenced as parts of Section 2, subsection (2) above are present.

SECTION 4. PENALTIES.

The custodial parent or legal guardian of any child who commits a curfew violation, as defined herein, violates this articles and shall be subject to the following fines:

- (1) Twenty-five dollars (\$25.00) for a first offense;
- (2) One hundred dollars (\$100.00) for a second offense, plus court cost; or

- (3) Two hundred dollars (\$200.00) for a third offense and every subsequent offense plus court costs.


SECTION 5. CONTINUING EDUCATION FUND.


All monies collected as fines assessed as described in this Ordinance shall be deposited to and used for the purposes of continuing education for the Boonville Police Department, unless such shall be prohibited by law, in which circumstance such shall be deposited to and used for the purposes permitted by the General Fund of Boonville City Government.

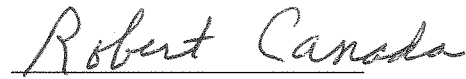
SECTION 6. EFFECTIVE DATE.

This Ordinance shall be in full force and effect from and after Nov. 15, 2012 subject to its passage by the Boonville City Council, signature by the President thereof.


PASSED AND ENACTED by the City Council of the City of Boonville, Indiana, effective this 4th day of October, 2012.



Pamela Hendrickson, Mayor
Presiding Officer, City Council


Robert Barnett

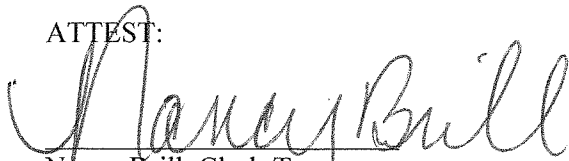

Robert Canada


Larry Lacer


Ronald Tubbs


Mike Webb

ATTEST:


Nancy Brill, Clerk-Treasurer