

CITY OF EUBANKS

Ordinance No. 87

An ordinance establishing a curfew for persons under the age of 18 years.

WHEREAS, the City of Eubanks has determined that it would be in the best interest of the citizens and visitors of the City of Eubanks to require that the whereabouts and location of persons under the age of 18 years be known and controlled after certain hours of the night;

NOW, THEREFORE, be it ordained by the legislative body of the City of Eubanks, Kentucky:

SECTION 1. This ordinance shall be known and may be cited as the "Curfew Ordinance".

SECTION 2. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (A) *Minor.* Any person under the age of eighteen (18), or, as may be otherwise phrased, any person of the age of seventeen (17) or under.
- (B) *Parent.* Any person having legal custody of a minor:
 - 1. As a natural or adoptive parent;
 - 2. As a legal guardian;
 - 3. As a person who stands *in loco parentis*; or
 - 4. As a person whom legal custody has been given by order of court.
- (C) *Remain.* To stay behind, tarry, linger, congregate, move about, wander, stroll, or stay unnecessarily upon or in any public assembly, building, place, street, or highway.
- (D) *Allow.* Either permit or neglect to prevent. It requires actual or constructive knowledge on the part of the parent or guardian, that is, the parent or guardian must actually know about the minor violating this section, or the circumstances must be such that a reasonably prudent parent or guardian should have known the minor was violating this section.

SECTION 3.

- (A) It shall be unlawful for any person under the age of eighteen (18) to be or remain in or upon any public assembly, building, place, street, or highway within the City of Eubanks at night during the following periods:

1:00 a.m. to 5:00 a.m. Saturday
1:00 a.m. to 5:00 a.m. Sunday
11:00 p.m. Sunday to 5:00 a.m. Monday
11:00 p.m. Monday to 5:00 a.m. Tuesday
11:00 p.m. Tuesday to 5:00 a.m. Wednesday
11:00 p.m. Wednesday to 5:00 a.m. Thursday
11:00 p.m. Thursday to 5:00 a.m. Friday

- (B) It shall be unlawful for any parent or guardian having legal custody of a minor to allow such minor to be or remain in or upon a public assembly, building, place, street, or highway in the county under circumstances not constituting an exception as enumerated in subsection (C) during the time periods contained in Section III(A).

SECTION 4. In the following exceptional cases a minor in or upon any public assembly, building, place, street, or highway in the county during the nocturnal hours provided for in Section III shall not be considered in violation of this section:

- (A) When the minor is accompanied by a parent or guardian;
- (B) When accompanied by an adult authorized by a parent or guardian of such minor;
- (C) When exercising first amendment rights protected by the United States Constitution, such as the free exercise of, religion, freedom of speech, and the right of assembly, provided that written notice signed by the minor and countersigned by a parent is in the possession of such minor specifying when, where, and in what manner said minor will be exercising such First Amendment rights;
- (D) In case of reasonable necessity but only after such minor's parent has communicated to the Police Department the facts establishing such reasonable necessity;
- (E) When the minor is on the sidewalk contiguous to the place where such minor resides, or on the sidewalk contiguous to a next-door neighbor who has not communicated an objection to a police officer or the division of police;

- (F) When returning home, by a direct route from, and within one (1) hour of the termination of a school activity, or any activity of a religious or other voluntary association, provided that justification indicating the place and time of termination of said event can be given to any investigating officer of the division of police;
- (G) When authorized by regulation issued by the mayor in cases of reasonable necessity involving more minors than may reasonably be dealt with on an individual basis. Such regulation should be issued sufficiently in advance to permit publicity through news media and through other agencies such as the schools. The regulation shall define the activity, the scope of the use of the public assembly, building, place, street, or highway permitted, and the period of time involved not to extend more than one (1) hour beyond the time for termination of the activity, and the reason for finding that such regulation is reasonably necessary. The mayor shall notify the division of police of said information;
- (H) When engaged in a business or occupation which the laws of Kentucky authorize a person under eighteen (18) years of age to perform;
- (I) When the minor is, with parental consent, in a motor vehicle with a lawfully authorized driver,
- (J) When the minor, who is a duly authorized and licensed driver is operating a motor vehicle within the county for the purpose of passing through, by direct route, from one location to another either within or out of the county, including all minors that may also be within the vehicle;
- (K) When the minor is married in accordance with law or had disability of non-age removed by a court of competent jurisdiction; or
- (L) When the minor is homeless or uses a public place as his or her usual place or abode.

SECTION 5

- (A) A police officer upon finding or being notified of any minor in or upon any public assembly, building, place, street, or highway whose parent is believed to be in violation of this section may stop and question such minor and request such information as his or her name and age and the name and address of his or her parent, guardian, or person having legal custody.

- (B) If the police officer determines or has reasonable cause to believe that a curfew violation has occurred, the police officer may obtain from the minor the information necessary to issue a citation to the minor's parent, guardian, or person having legal custody.

SECTION 6. Any minor found in violation of any section of this section shall be:

- (A) Taken to his or her home or
(B) Directed to proceed immediately to his or her home; or
(C) Taken to a facility designated by the division of police.

SECTION 7. Any parent, guardian, or person having legal custody of a minor allowing a minor to violate subsection (III)(A) of this section shall be subject to a fine of no more than Four Hundred Ninety-Nine (\$499.00) Dollars.

Given first reading on the 2 day of Sept., 1997.

Given second reading and duly enacted by legislative body of the City of Eubanks on the 6 day of oct., 1997.



Mayor

ATTEST:



City Clerk