

ORDINANCE 5.08

AN ORDINANCE TO ESTABLISH A NOCTURNAL CURFEW APPLICABLE TO JUVENILES AND REGULATING THEIR ACTIONS IN PUBLIC PLACES; AND DEFINING THE DUTIES OF PARENTS OR GUARDIANS OF JUVENILES AND OPERATORS OF ESTABLISHMENTS; AND PROVIDING FOR RELATED MATTERS INCLUDING EXCEPTIONS, PERMITS, POLICE PROCEDURES, CONSTRUCTION AND SEVERABILITY, AND PENALTIES FOR THE VIOLATION THEREOF.

BE IT ORDAINED, by the City Council in and for the City of Rothsay, located in both Wilkin and Otter Tail Counties, Minnesota, as follows:

That REVISED Ordinance 5.08 read as follows:

- SECTION 1. Definitions
- SECTION 2. Curfew for Juveniles
- SECTION 3. Exceptions
- SECTION 4. Parental Responsibility
- SECTION 5. Operator Responsibility
- SECTION 6. Penalties
- SECTION 7. Repealer

WHEREAS, the City Council has determined that to prevent any increase in juvenile violence, juvenile gang activity, and crime by persons under the age of seventeen (17) in the City of Rothsay resulting in juveniles being involved in a wide range of unacceptable behavior, including vandalism, public drinking and littering, drug use, breaking and entering, and harassment of residents; and

WHEREAS, persons under the age of seventeen (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

WHEREAS, the City Council has found that there could be a significant breakdown in the supervision and guidance normally provided by parents for juveniles, which could result in an increase in the crimes and other unacceptable behavior cited above; and

WHEREAS, the City Council 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

WHEREAS, the offensive activities of juveniles are not easily controlled by existing laws and ordinances; and

WHEREAS, a curfew for those under the age of seventeen (17) will be in the interest of the public health, safety, and general welfare, and will help to attain the foregoing objectives, and to diminish the undesirable impact of such conduct on the citizens of Rothsay, and will promote the public good, safety, and welfare; and

WHEREAS, parental responsibility for the whereabouts of children is the accepted norm and legal sanctions to enforce such responsibility have had demonstrated effectiveness in many cities, the City Council has determined that a curfew ordinance will increase parental responsibility for juveniles within their control and decrease juvenile delinquency; and

CURFEW continued.....

WHEREAS, the passage of this Ordinance is pursuant to Minnesota Statutes Section 145A.05, Subd.7a.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ROTHSA, AS FOLLOWS:

SECTION 1. DEFINITIONS.

For the purposes of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future; words in the plural number include the singular; and words in the singular number include the plural. The word "shall" is always mandatory and not merely directory.

- (A) *City* is Rothsay, Minnesota, located in both Wilkin and Otter Tail Counties.
- (B) *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.
- (C) *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.
- (D) *Juvenile or minor* is any unemancipated person under the age of seventeen (17) or, in equivalent phrasing often herein employed, any person sixteen (16) or less years of age. *Years of age* continues from one birthday, such as the sixteenth (16th) to (but not including the day of) the next, such as the seventeenth (17th) birthday, making it clear that sixteen (16) or less years of age is herein treated as equivalent to the phrase "under seventeen (17) years of age."
- (E) *Operator* is 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.
- (F) *Parent* is any person having legal custody of a juvenile (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 to whom legal custody has been given by court order.
- (G) *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, common areas of school, shopping centers, parking lots, parks, playgrounds, transportation facilities, theaters, restaurants, shops, bowling alleys, taverns, cafes, arcades, and similar areas that are open to the use of the public. As a type of public place, a street is a way or place, of whatever nature, open to the use of the public as a matter of right for the purposes of vehicular travel or in the case of a sidewalk, thereof for pedestrian travel. "Street" includes that legal right of way, including, but not limited to, the cartway of traffic lanes, the curb, the sidewalks whether paved or unpaved, and any grass plots or other grounds found within the legal right of way of a street.

CURFEW continued.....

(H) *Remain* means to stay behind, to tarry and to stay unnecessarily in a public place including the congregating of groups (or of interacting minors) totaling four (4) or more persons in which any juvenile involved would not be using the streets for ordinary or serious purposes such as mere passage or going home, or to fail to leave the premises of an establishment when requested to do so by a police officer or the operator of an establishment. To implement this provision with additional precision and precaution, numerous exceptions are expressly defined in this Ordinance. More and more exceptions become available with a juvenile's increasing years and advancing maturity as appropriate in the interest of reasonable regulation.

(I) *Time of night* referred to herein is based upon the prevailing standard of time, whether Central Standard Time or Central Daylight Savings Time, generally observed at that hour by the public in the City; prima facie the time then observed in the County Law Enforcement Center.

SECTION 2. CURFEW FOR JUVENILES.

(A) It shall be unlawful for any person fourteen (14) or less years of age (under fifteen (15)) to be or remain in or upon a public place, within the City of Rothsay, between the hours of ten o'clock p.m. (10:00 p.m.) and five o'clock a.m. (5:00 a.m.).

(B) It shall be unlawful for any person fifteen (15) or sixteen (16) years of age to be or remain in or upon a public place, within the City of Rothsay, between the hours of eleven o'clock p.m. (11:00 p.m.) and five o'clock a.m. (5:00 a.m.).

SECTION 3. AFFIRMATIVE DEFENSES.

It is an affirmative defense for a juvenile to prove that:

(A) The juvenile was accompanied by a parent of such juvenile.

(B) The juvenile was accompanied by an adult authorized by a parent of such juvenile to take said parent's place in accompanying said juvenile for a designated period of time and purpose within a specified area.

(C) The juvenile was exercising First Amendment rights protected by the United States Constitution or the Constitution of the State of Minnesota.

(D) The reasonable necessity for the juvenile remaining in a public place but only after the juvenile's parent has communicated to the County Sheriff or the person designated by the County Sheriff to receive such notifications the facts establishing the reasonable necessity relating to a specified public place at a designated time for a described purpose including points of origin and destination.

(E) The juvenile was on the sidewalk or property where the juvenile resides.

(F) The juvenile was returning home from and within one (1) hour of the termination of a school activity or any activity of a religious or other voluntary association, or a place of public entertainment, such as a movie, play or sporting event.

CURFEW continued.....

- (G) The juvenile was engaged in a lawful employment activity or is going to or returning home from his/her place of employment.
- (H) The juvenile was involved in an emergency situation.
- (I) The juvenile was, with parental consent, engaged in normal interstate travel through the City or County, or originating or terminating in the City or County.
- (J) The juvenile was married or has been married pursuant to state law.
- (K) In the case of an operator of an establishment, that the operator had notified the police that a juvenile was present on the premises of the establishment during curfew hours and refused to leave.
- (L) Each of the foregoing affirmative defenses, and their several limitations, are severable, as hereinafter provided but here reemphasized, and will be considered by the City Council when warranted by future experience illuminated by the views of student government associations, school personnel, citizens, associations, parents, officers, and persons in authority concerned positively with juveniles, as well as with juvenile delinquency.

SECTION 4. PARENT RESPONSIBILITY.

It shall be unlawful for a parent having legal custody of a juvenile knowingly to permit or by inefficient control to allow the juvenile to remain in any County or City public place under circumstances not constituting an exception to, or otherwise beyond the scope of, this Ordinance. The term "knowingly" includes knowledge that a parent should reasonably be expected to have concerning the whereabouts of a juvenile in that parent's legal custody. This requirement is intended to hold a neglectful or careless parent up to a reasonable community standard of parental responsibility through an objective test. It shall, therefore, be no defense that a parent was completely indifferent to the activities or conduct or whereabouts of such juvenile.

SECTION 5. OPERATOR RESPONSIBILITY.

It shall be unlawful for any operator of an establishment to knowingly permit a juvenile to remain at the establishment under circumstances not constituting an exception to, or otherwise beyond the scope of, this Ordinance. The term "knowingly" includes knowledge that an operator should reasonably be expected to have concerning the patrons of the establishment. The standard for "knowingly" shall be applied through an objective test: whether a reasonable person in the operator's position should have known that the patron was a juvenile in violation of this Ordinance.

SECTION 6. PENALTIES.

- (A) The first violation by a parent, juvenile, or operator will be a Petty Misdemeanor. For each subsequent offense, the violation will be a Misdemeanor.

CURFEW continued.....

(B) The parent or legal guardian having custody of a juvenile subject to this Section shall be liable for all costs incurred by law enforcement for providing personnel to remain in the company of a juvenile who has been detained as a curfew violator if the parent or guardian does not pick up the juvenile within one (1) hour after receiving notice from law enforcement that law enforcement is detaining the juvenile for a curfew violation. The amount to be paid by the parent or guardian shall be based on the hourly wage of the employee who is assigned to remain with the juvenile, plus the cost of benefits for that employee.

SECTION 7. REPEALER.

All ordinances and parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed.

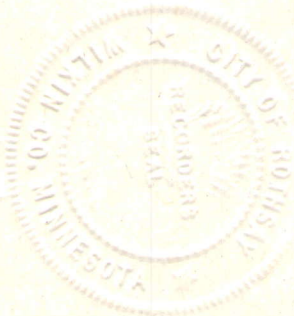
Dated this 3rd day of October, 1995.

Passed by vote of yeas and nays: Yeas 5 Nays 0

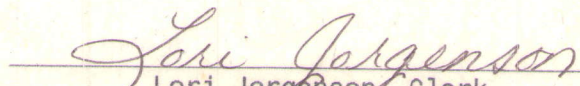
Approved:


Paul Fosse, Mayor

(SEAL)



Attested:


Lori Jorgenson, Clerk