

ORDINANCE NO. 04- 18

**ORDINANCE AMENDING THE TEXT
OF TITLE XIII, GENERAL OFFENSES, CHAPTER 133,
OFFENSES AGAINST PUBLIC MORALITY,
SECTION 133.030, CURFEW HOURS FOR MINORS,
OF THE CODE OF ORDINANCES OF THE
VILLAGE OF EAST DUNDEE**

WHEREAS, the Village of East Dundee is a home rule unit of local government under and pursuant to Section 6 of Article VII of the Constitution of the State of Illinois, has the authority to exercise any power and perform any function pertaining to its government and affairs, including but not limited to the power to regulate for the protection of the public health, safety, morals, and welfare; and

WHEREAS, the President and Board of Trustees of the Village of East Dundee having determined that it is in the best interests of the health, safety and welfare of the residents of the Village of East Dundee that Article XIII, **General Offenses**, Chapter, 133, **Offenses Against Public Morality**, Section 133.030, **Curfew Hours for Minors** be amended.

NOW THEREFORE BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF EAST DUNDEE, COOK AND KANE COUNTIES, ILLINOIS.

Section One. That Article XIII, **General Offenses**, Chapter, 133, **Offenses Against Public Morality**, Section 133.030, **Curfew Hours for Minors**, be deleted in its entirety and the following inserted in lieu thereof:

§ 133.030 CURFEW HOURS FOR MINORS

(a) **DEFINITIONS.** Whenever used in this section,

(1) "Curfew Hours" means:

- (A) 10:30 p.m., on any Sunday, Monday, Tuesday, Wednesday or Thursday until 6:00 a.m. of the following day; and
- (B) 11:30 p.m., on any Friday or Saturday and until 6:00 a.m. of the following day.

(2) "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, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

(3) "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.

(4) "Guardian" means:

- (A) a person who, under court order, is the guardian of the person of a minor; or
- (B) a public or private agency with whom a minor has been placed by a court.

(5) "Minor" means any person under 17 years of age.

(6) "Operator" means 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.

(7) "Parent" means a person who is:

- (A) a natural parent, adoptive parent, or step-parent of another person; or
- (B) at least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

- (8) "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, and shops.
- (9) "Remain" means to:
- (A) linger or stay; or
 - (B) fail to leave premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.
- (10) "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.

(b) **OFFENSES.**

- (1) A minor commits an offense if he remains in any public place or on the premises of any establishment within the village during curfew hours.
- (2) A parent or guardian of a minor commits an offense if he knowingly permits, or by insufficient control, allows the minor to remain in any public place or on the premises of any establishment within the village during curfew hours.
- (3) The owner, operator, or any employee of an establishment commits an offense if he knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

(c) **DEFENSES.**

- (1) It is a defense to prosecution under subsection (b) that the minor was:
- (A) accompanied by the minor's parent or guardian;

- (B) on an errand at the direction of the minor's parent or guardian without any detour or stop;
- (C) in a motor vehicle involved in interstate travel;
- (D) engaged in an employment activity or going to or returning home from an employment activity without any detour or stop;
- (E) involved in an emergency;
- (F) on the sidewalk abutting the minor's residence or abutting the residence of a next door neighbor if the neighbor did not complain to the police department about the minor's presence;
- (G) attending an official school, religious, or other recreational activity supervised by adults and sponsored by the village, a civic organization, or another similar entity that takes responsibility for the minor or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the village, a civic organization, or another similar entity that takes responsibility for the minor;
- (H) 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; or
- (I) married or had been married or in an emancipated minor under the Emancipation of Mature Minors Act, as amended.

(2) It is a defense to prosecution under subsection (b)(3) that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

(d) **ENFORCEMENT.** Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in subsection (c) is present.

- (e) **PENALTIES.** A person who violates a provision of this chapter is guilty of a separate offense for each day or part of a day during which the violation is committed, continued, or permitted. Each offense, upon conviction, is punishable by a fine not to exceed \$750.

Section Two. Severability. If any section, paragraph or provision of this ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this ordinance.

Section Three. Repeal. All ordinances, resolutions, motions or parts thereof in conflict herewith shall be and the same are hereby repealed.

Section Four. Publication. This ordinance shall be in full force and effect forthwith upon its adoption, approval and publication in pamphlet form as provided by law.

Adopted this ^{7th} 6th day of June, 2004, pursuant to a roll call vote as follows:

AYES: zaeske, Bartels, Schock, Van Ostenbridge, ScarPelli
NAYES: None
ABSENT: Buffalo

Approved by me this ^{7th} 6th day of June, 2004.

Roger Ahrens
ROGER AHRENS, President

Published in pamphlet form this 11th day of June, 2004, under the authority of the President and Board of Trustees.

ATTEST:

Jane E. Theis
JANE THEIS, Village Clerk

Recorded in the Village Records on June 11th, 2004.

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