

ORDINANCE NO. 09-4376

ORDINANCE AMENDING TITLE 8, POLICE REGULATIONS, CHAPTER 6, PERSONS UNDER EIGHTEEN YEARS OF AGE, TO ADD A NEW SECTION 2, JUVENILE CURFEW TO ADD A NEW JUVENILE CURFEW ORDINANCE.

WHEREAS, the City has determined that there has been an increase in juvenile violence, juvenile gang activity, and crime by persons under the age of eighteen (18) resulting in juveniles being involved in a wide range of unacceptable behavior including vandalism, breach of the peace, assaults, and intimidation of residents;

WHEREAS, persons under the age of eighteen (18) 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 has found that there has been a significant breakdown in the supervision and guidance normally provided by parents and guardians for juveniles resulting in an increase in the crimes and other unacceptable behavior cited above; and

WHEREAS, the City has an interest in providing 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 eighteen (18) 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 Iowa City 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 has determined that a curfew ordinance will increase the responsibility of parents and guardians for juveniles within their control and decrease juvenile delinquency; and

WHEREAS, the City wishes to ensure that children out in public for legitimate reasons, including the exercise of certain fundamental rights, will not be subjected to a penalty; and

WHEREAS, it is in the best interest of the City to adopt this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF IOWA CITY, IOWA:

SECTION I. AMENDMENTS.

8-6-2: JUVENILE CURFEW:

A. Definitions. For use in this section, the following terms are defined:

1. "Emergency errand" means, but is not limited to, an errand relating to a fire, a natural disaster, an automobile accident or any other situation requiring immediate action to prevent serious illness, bodily injury or loss of life.
2. "Knowingly" means knowledge which a responsible adult should reasonably be expected to have concerning the whereabouts of a minor in that responsible adult's custody. This is an objective standard. It shall, therefore, be no defense that an adult responsible for a minor was completely indifferent to the activities or conduct or whereabouts of the minor.
3. "Minor" means any unemancipated person under the age of eighteen (18) years.
4. "Nonsecured custody" means custody in an unlocked multipurpose area, such as a lobby, office or interrogation room which is not designed, set aside or used as a secure detention area, and the person arrested is not physically secured during the period of custody in the area; the person is physically accompanied by a peace officer or a person employed by the facility where the person arrested is being held; and the use of the area is limited to providing nonsecured custody only while awaiting transfer to an appropriate juvenile facility or to court, for contacting of and release to the person's parents or other responsible adult or for other administrative purposes; but not for longer than six (6) hours without the oral or written order of a judge or magistrate authorizing the detention.

5. "Public place" includes stores, parking lots, parks, playgrounds, streets, alleys and sidewalks dedicated to public use; and also includes such parts of buildings and other premises whether publicly or privately owned which are used by the general public or to which the general public is invited commercially for a fee or otherwise; or in or on which the general public is permitted without specific invitation; or to which the general public has access. For purposes of this section, a vehicle or other conveyance is considered to be a public place when in the areas defined above.
 6. "Responsible adult" means a parent, guardian or other adult specifically authorized by law or authorized by a parent or guardian to have custody or control of a minor.
 7. "Unemancipated" means unmarried and/or still under the custody or control of a responsible adult. "Emancipated" is as defined in Iowa Code Section 252.16(4), as amended.
- B. Curfew Established. A curfew applicable to minors is established and shall be enforced as follows:
1. Unless accompanied by a responsible adult, no minor thirteen (13) years of age or younger shall be in any public place between the hours of 10:00 p.m. and 5:00 a.m.
 2. Unless accompanied by a responsible adult, no minor fourteen (14) years of age through fifteen (15) years of age shall be in any public place between the hours of 11:00 p.m. and 5:00 a.m.
 3. Unless accompanied by a responsible adult, no minor sixteen (16) years of age through seventeen (17) years of age shall be in any public place between the hours of 12:00 a.m. (midnight) to 5:00 a.m.
- C. Exceptions. The following are exceptions to the curfew:
1. The minor is accompanied by a responsible adult.
 2. The minor is on the sidewalk or property where the minor resides or on either side of the place where the minor resides and the adult responsible for the minor has given permission for the minor to be there.
 3. The minor is present at or is traveling between home and one of the following:
 - a. Minor's place of employment in a business, trade or occupation in which the minor is permitted by law to be engaged or, if traveling, within one hour before or one hour after the work shift;
 - b. Minor's place of religious activity or, if traveling, within one hour before or one hour after the religious activity;
 - c. Governmental or political activity or, if traveling, within one hour before or one hour after the activity;
 - d. School activity or, if traveling, within one hour before or one hour after the activity;
 - e. Assembly such as a march, protest, demonstration, sit-in or meeting of an association for the advancement of economic, political, religious or cultural matters, or for any other activity protected by the First Amendment of the U.S. Constitution guarantees of free exercise of religion, freedom of speech, freedom of assembly or, if traveling, within one hour before or one hour after the activity.
 4. The minor is on an emergency errand for a responsible adult;
 5. The minor is engaged in interstate travel through the City beginning, ending or passing through the City when such travel is by direct route.
 6. The minor's business, trade or occupation, in which the minor is permitted by law to be engaged, requires the presence of the minor in the public place.

D. Parental Responsibility. It shall be unlawful for a parent or guardian having legal custody of a minor knowingly to permit or by ineffective control to allow the minor to be in violation of this Section. This requirement is intended to hold a neglectful or careless parent or guardian up to a reasonable community standard of parental responsibility through an objective test. It shall, therefore, be no defense that a parent or guardian was completely indifferent to the activities or conduct or whereabouts of such minor.

E. Enforcement Procedures.

1. Determination of Age. In determining the age of the juvenile and in the absence of convincing evidence such as a birth certificate or driver's license, a peace officer on the street shall, in the first instance, use his or her best judgment in determining age.
2. Grounds for Taking into Custody; Conditions of Custody. Grounds for taking a minor into custody for a curfew violation are that the person refuses to sign the citation without qualification; persists in violating the ordinance; refuses to provide proper identification or to identify himself or herself; or constitutes an immediate threat to the person's own safety or to the safety of the public. A law enforcement officer who takes a minor into custody for a curfew violation may keep the minor in custody either in a shelter care facility or in any non-secured setting. The officer shall not place bodily restraints, such as handcuffs, on the minor unless the minor physically resists or threatens physical violence when being taken into, or while in, custody, or presents a risk of injury to the minor or others. A minor shall not be placed in detention for a curfew violation.
3. Notification of Responsible Adult. After a minor is taken into custody, the law enforcement officer shall notify the adult responsible for the minor as soon as possible. The minor shall be released to the adult responsible for the minor upon the promise of such person to produce the child in court at such time as the court may direct.
4. Minor Without Adult Supervision. If a peace officer determines that a minor does not have adult supervision because the peace officer cannot locate the minor's parent, guardian or other person legally responsible for the care of the minor, within a reasonable time, the peace officer shall attempt to place the minor with an adult relative of the minor, an adult person who cares for the child or another adult person who is known to the child. In the event no such person can be promptly located, the peace officer shall place the minor in shelter as specified in Iowa Code Section 232.20 and 232.21.

F. A violation of this section shall be a simple misdemeanor punishable by a fine not in excess of fifty dollars (\$50.00).

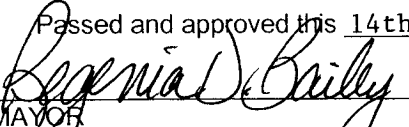
G. Annual City Council Review. The City Council shall be provided with and review enforcement data, including demographic, frequency and location data, associated with all citations issued under this ordinance on an annual basis.

SECTION II. REPEALER. All ordinances and parts of ordinances in conflict with the provision of this Ordinance are hereby repealed.

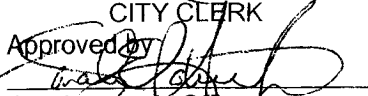
SECTION III. SEVERABILITY. If any section, provision or part of the Ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION IV. EFFECTIVE DATE. This Ordinance shall be effective upon publication.

Passed and approved this 14th day of December, 2009.


MAYOR

ATTEST: 
CITY CLERK

Approved by 
City Attorney's Office
12-2-09

It was moved by O'Donnell and seconded by Champion that the Ordinance as read be adopted, and upon roll call there were:

AYES: NAYS: ABSENT:

<u> </u>	<u> X </u>	<u> </u>	Bailey
<u> X </u>	<u> </u>	<u> </u>	Champion
<u> </u>	<u> X </u>	<u> </u>	Correia
<u> X </u>	<u> </u>	<u> </u>	Hayek
<u> X </u>	<u> </u>	<u> </u>	O'Donnell
<u> </u>	<u> X </u>	<u> </u>	Wilburn
<u> X </u>	<u> </u>	<u> </u>	Wright

First Consideration 9/15/2009

Vote for passage: AYES: O'Donnell, Wright, Champion, Hayek. NAYS: Correia, Bailey
Wilburn. ABSENT: None.

Second Consideration 12/1/2009

Vote for passage: AYES: Wright, Champion, Hayek, O'Donnell. NAYS: Bailey, Correia,
Wilburn. ABSENT: None.

Date published 12/23/2009