

COUNCIL BILL NO. 2003-013

ORDINANCE NO. 2003-106

AN ORDINANCE

amending Chapter 82, Article III, Offenses Against Public Peace, of the Joplin City Code, by repealing Section 82-80, Curfew for minors., and enacting in lieu thereof, a new Section 82-80, Curfew for minors., consisting of eight (8) sections thereto; defining certain terms used in the section, defining the duties of parents and guardians of minors and juveniles; providing for other related matters including exceptions, police procedures, construction and severability; and penalties for the violation thereof.

WHEREAS, the City Council has determined that there has been an increase in juvenile violence and crime by persons under the age of seventeen (17) in the City of Joplin 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 activities and to be victims of older perpetrators of crime; and

WHEREAS, the City Council has found that the City of Joplin has a significant and important interest in fostering and strengthening parental responsibility of children to reduce the incidence of crime and other unacceptable behavior; and

WHEREAS, the City Council of the City of Joplin has found that the City of Joplin has a significant and important interest 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 City of Joplin has found that the current curfew regulations have been generally effective and the City Council wishes to increase the effectiveness and reduce crime and other unacceptable behavior; 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 diminish the undesirable impact of such conduct on the citizens of the City of Joplin and will promote the public good, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, as follows:

Section 1. That Section 82-80, Curfew for minors., be repealed and a new Section 82-80, Curfew for minors., be enacted in lieu thereof, to read as follows:

"Section 82.80. Curfew for minors.

(a) *Definitions.* As used within this Section 82-80, the following words and phrases shall have the meanings ascribed to them below:

*Curfew hours* refers to the hours of 12:01 a.m. through 5:00 a.m. on Monday through Friday, and 1:00 a.m. through 5:00 a.m. on Saturday and Sunday.

*Emergency* refers to unforeseen circumstances, or the status or condition resulting therefrom, requiring immediate action to safeguard life, limb or property. The term includes, but is not limited to, fires, natural disasters, automobile accidents, or other similar circumstances.

*Establishment* refers to any privately-owned place of business within the city operated for a profit, to which the public is invited, including, but not limited to any place of amusement or entertainment. With respect to such establishment, the term "operator" shall mean any person, and any firm, association, partnership (and the members or partners thereof) and/or any corporation (and the officers thereof) conducting or managing that establishment.

*Minor* refers to any unemancipated person less than seventeen (17) years of age.

*Officer* refers to a police or other law enforcement officer charged with the duty of enforcing the laws of the State of Missouri and/or the ordinances of the City of Joplin.

*Parent* refers to: (a) A person who is a minor's biological or adoptive parent and who has legal custody of a minor (including either parent, if custody is shared under a court order or agreement); (b) a person who is the biological or adoptive parent with whom a minor regularly resides; (c) a person judicially appointed as a legal guardian of the minor; and/or (d) a person eighteen (18) years of age or older standing in loco parentis (as indicated by the authorization of an individual listed in part(s) (1), (2) or (3) or this definition, above, for the person to assume the care or physical custody of the child, or as indicated by any other circumstances).

*Person* refers to an individual, not to any association, corporation, or any other legal entity.

*Public place* refers to any place to which the public or a substantial group of the public has access, including, but not limited to: streets, highways, roads, sidewalks, alleys, avenues, parks, and/or the common areas of schools, hospitals, apartment houses, office buildings, transportation facilities and shops.

*Remain* refers to the following actions: (a) To linger or stay at or upon a place; and/or (b) to fail to leave a place when requested to do so by an officer or by the owner, operator or other person in control of that place.

*Temporary care facility* refers to a non-locked, non-restrictive shelter at which minors may wait, under visual supervision, to be retrieved by a parent. No minors waiting in such facility shall be handcuffed and/or secured (by handcuffs or otherwise) to any stationary object.

(b) It shall be unlawful for a minor, during curfew hours, to remain in or upon any public place within the city, to remain in any motor vehicle operating or parked therein or thereon, or to remain in or upon the premises of any establishment within the city, unless:

(1) The minor is accompanied by a parent; or

(2) The minor is involved in an emergency; or

(3) The minor is engaged in an employment activity, or is going to or returning home from such activity, without detour or stop; or

(4) The minor is on the sidewalk directly abutting a place where he or she resides with a parent; or

(5) The minor is attending an activity sponsored by a school, religious, or civic organization, by a public organization or agency, or by another similar organization or entity, which activity is supervised by adults, and/or the minor is going to or returning from such an activity without detour or stop; or

(6) The minor is on an errand at the direction of a parent, and the minor has in his or her possession a writing signed by the parent containing the following information: the name, signature, address and telephone number of the parent authorizing the errand, the telephone number where the parent may be reached during the errand, the name of the minor, and a brief description of the errand, the minor's destination(s) and the hours the minor is authorized to be engaged in the errand; or

(7) The minor is involved in interstate travel through, or beginning or terminating in, the City of Joplin; or

(c) It shall be unlawful for a minor's parent to knowingly permit, allow or encourage such minor to violate 82-80(b).

(d) It shall be unlawful for a person who is the owner or operator of any motor vehicle to knowingly permit, allow or encourage a violation of 82-80(b).

(e) It shall be unlawful for the operator of any establishment, or for any person who is an employee thereof, to knowingly permit, allow or encourage a minor to remain upon the premises of the establishment during curfew hours. It shall be a defense to prosecution under this subsection that the operator or employee of an establishment

promptly notified the police department that a minor was present at the establishment after curfew hours and refused to leave.

(f) It shall be unlawful for any person (including any minor) to give a false name, address, or telephone number to any officer investigating a possible violation of this Section 82-80.

(g) Enforcement.

(1) *Minors.* Before taking any enforcement action hereunder, an officer shall make an immediate investigation for the purpose of ascertaining whether or not the presence of a minor in a public place, motor vehicle and/or establishment within the city during curfew hours is in violation of 82-80(b).

a. If such investigation reveals that the presence of such minor is in violation of 82-80(b), then:

1. If the minor has not previously been issued a warning for any such violation, then the officer shall issue a verbal warning to the minor, which shall be followed by a written warning mailed by the police department to the minor and his or her parent(s) and to the Juvenile Office of the County in which the violation occurs, or

2. If the minor has previously been issued a warning for any such violation, then the officer shall charge the minor with a violation of this ordinance.

b. As soon as practicable, the officer shall:

1. Release the minor to his or her parent(s); or

2. Place the minor in a temporary care facility for a period not to exceed the remainder of the curfew hours, so that his or her parent(s) may retrieve the minor; or

3. If a minor refuses to give an officer his or her name and address, refuses to give the name and address of his or her parent(s), or if no parent can be located prior to the end of the applicable curfew hours, or if located, no parent appears to accept custody of the minor, the minor may be taken to a temporary care facility center or juvenile shelter and/or may be taken to a judge or intake officer of the juvenile court to be dealt with in the manner and pursuant to such procedures as required by law.

(2) *Others.* If an investigation by an officer reveals that a person has violated 82-80(c),(d) and/or (e), and if the person has not previously been issued a warning with respect to any such violation, an officer shall issue a verbal warning to the person,

which shall be followed by a written warning mailed by the police department to the person; however, if any such warning has previously been issued to that person then the officer shall charge the person with a violation and , shall issue a summons directing the person to appear in court.

(h) Any violation of this Section upon conviction or plea of guilt shall be punished as provided in Section 1-5 of this Code."

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this 2nd day of June, 2003.

Richard H. Russell, Mayor

ATTEST:

Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:

Brian W. Head, City Attorney