

ORDINANCE # 457

AN ORDINANCE REPEALING ORDINANCE # 334 AND #343 AND IMPLEMENTING JUVENILE CURFEW, SETTING PARK HOURS, USER CONDUCT AND STANDARDS

BE IT ORDAINED, ORDINANCES 334 & 343 ARE REPEALED AND IN LIEU THEREOF THE FOLLOW IS ADOPTED BY THE CITY OF BOX ELDER COMMON COUNCIL AS FOLLOWS:

Section 1: Juvenile curfew

A. Purpose. The purpose of this ordinance is to regulate the presence of juveniles on streets and other public places in the city during late night hours. The city has a compelling interest in said regulation due to the increase of juvenile delinquency in the city. It is a compelling interest and goal of the city to protect the public from the illegal acts of juveniles committed after the curfew hour and also to protect the juveniles from improper influences and from criminal activity that occurs after the curfew hour. It is also the intent of this section to help parents control their children.

B. Definitions. For the purpose of this section the following terms, phrases, words, and their derivations shall have the meanings given in this section.

“City” is all areas within and one mile beyond the city limits of Box Elder.

“Custodian” is any person over the age of eighteen who is in loco parents to a juvenile.

“Guardian” is any person other than a parent who has legal guardianship of a juvenile.

“Juvenile” is any person under the age of eighteen (18).

“Parent” is the natural or adoptive parent of a juvenile.

“Public place” shall mean any street, alley, highway, sidewalk, park, playground or place to which the general public has access and right to resort for business, entertainment or other lawful purpose. The public place shall include but not be limited to any store, shop, restaurant, bowling alley, cafe, theater, drugstore, pool room, shopping center, and any other similar place and including the area immediately adjacent to such place.

C. Curfew for Juveniles. It is unlawful for any person under the age of eighteen (18) years of age to idle, wander about with no specific destination, stroll, play, congregate, or otherwise be present in any public place, either on foot or in a motor vehicle after the hour of 10:00 p.m., or before 6:00 a.m., unless accompanied by a parent, guardian, or custodian.

The foregoing notwithstanding, it shall not be a violation of this section for a juvenile to be present in a public place if such juvenile can establish that such presence is necessary to perform an errand or other specific activity at the direction of such juvenile's parent, guardian, or custodian, or to travel in the most practical expeditious route from one nonpublic place to another nonpublic place at the specific direction of such juvenile's parent, guardian, or custodian.

Further, it shall not be a violation of this section for any juvenile to attend a special function or entertainment sponsored by any church, school, club or other organization if such juvenile can establish that such attendance is with the specific permission of said juvenile's parent, guardian, or custodian.

D. Responsibilities of Owners of Public Places. It is unlawful for any person, firm, or corporation operating or having charge of any privately owned public place to permit the presence of a juvenile upon such premises with the knowledge that such juvenile is in violation of section C of this section.

E. Parents' Responsibility. It is unlawful for the parent, guardian or custodian of any juvenile to permit by negligent or inefficient control of such juvenile to violate any provision of this section. It shall not be a violation of this section for the parent, guardian, or custodian of a juvenile to direct and permit such juvenile to be present in a public place for the purpose of carrying out a specific errand or other specific business activity or to participate in a specific activity of any church, school, club, or organization, or to direct and permit a juvenile to travel from one nonpublic place to another nonpublic place by the most practical and direct route and means.

F. Procedures. Law enforcement officers are directed to follow the following procedures in enforcing the ordinance codified in this section:

1. A law enforcement officer, upon finding a juvenile in a public place during the prohibited hours, shall ascertain the name and address of said juvenile. The law enforcement officer may transport the juvenile to the juvenile's home or usual place of residence or detain the juvenile and require the parent, guardian, or custodial parent to come and take custody of the juvenile or direct the juvenile to proceed directly and at once to his/her home or usual place of residence.

2. If a juvenile refuses to comply with the direction of the law enforcement officer, the parent, guardian or custodian of such juvenile shall be notified to come and take custody of such juvenile. If the parent, guardian, or custodian of such juvenile cannot be located or fails or refuses to take custody of such juvenile, the juvenile shall be remanded to the custody of the juvenile services center. If a juvenile refuses to give the law enforcement officer his/her correct name and address, the juvenile shall be taken in to custody and remanded to the custody of the juvenile services center for false impersonation and curfew violation.

3. A law enforcement officer, upon finding a juvenile in a public place during prohibited hours, and finding that such juvenile cannot establish parent,

guardian, or custodial permission to be in said public place, and upon finding that such juvenile, may issue a written citation to such juvenile imposing a fine of not more than twenty-five dollars (\$25.00). The law enforcement officer shall then notify the parent, guardian or custodian of such juvenile of said citation and imposed fine by telephone or letter.

G. Penalty. A violation of this ordinance is a Class II Misdemeanor.

H. Construction and Severability. The city does not intend a result that is absurd, impossible to execute or unreasonable. It is intended that the curfew ordinance codified in this section be held inapplicable in such cases, where its application would be unconstitutional. Constitutional construction is intended and shall be given. The city does not intend to violate the Constitution of the State of South Dakota or the Constitution of the United States of America. Severability is intended throughout and within the provisions of the curfew ordinance codified in this section. If any provisions including any section exception, part, phrase, or term, or application thereof is determined to be invalid, then the other sections shall not be affected thereby and validity of the curfew ordinance codified in this section in any and all other respects shall not be affected.

CITY PARKS:

HOURS.

All City parks shall be closed to the public from 10:00 p.m. until 6:00 a.m., except on Founder's Day or other exceptions allowed by approved permit. The responsible party shall file and obtain a permit with the finance officer. Application for permit shall require an adult over the age of 21 to file as the responsible party (also known as the permit applicant). The permit applicant shall be held responsible for the people attending the event held in the park and must provide proof of permit to law enforcement, if asked to do so.

USER'S RESPONSIBILITIES.

All persons using any picnic, recreational or playground area and equipment in any city park shall be responsible for the proper care of such equipment and shall clean-up all litter and refuse caused by their occupancy, before leaving such area.

CONDUCT.

No person shall act in a disorderly, unchaste, or lewd manner, or habitually loaf or sleep on the ground or on benches within any city park.

All city parks shall be considered safe zones. No fighting allowed, or other violent activity is allowed.

No vehicles are allowed in the parks, except in designated parking areas or except for city maintenance vehicles.

There will be no dumping of sewer or water from travel trailers or motor homes.

PETS.

No pets are allowed in the city parks, except on a leash. Pets must be under control at all times. No pets shall be allowed in the Bandit Ball area during Little League season. No pets shall be allowed with 25 ft. of any baseball or softball field, basketball court or other areas designated for games of any kind. Owners will be responsible for all clean-up after pets in the parks.

NO ALCOHOL, DRUGS, OR WEAPONS.

No one can possess or consume alcoholic beverages in any city park.

Guns, knives or any weapons are not allowed.

PENALTIES.

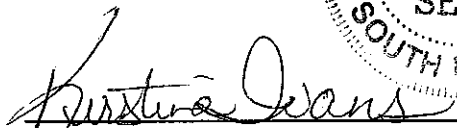
Any violation of this ordinance will be a Class 2 Misdemeanor up to \$200.00 fine or 30 days in jail, or both.


Be It Ordained that this Ordinance shall become effective in accordance to law.

By Order of the Common Council

Seal:
Attest:




Kirstina Ivans
Finance Officer


Alfred Dial
Mayor

First Reading: November 21, 2006
Second Reading: December 5, 2006
Published: December 16, 2006
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