

ORDINANCE NO. 110**AN ORDINANCE TO INSTITUTE A CURFEW FOR MINORS DURING NORMAL SCHOOL HOURS ON WEEKDAYS, AND FOR OTHER PURPOSES.**

WHEREAS, during the discussions about whether to impose a daytime juvenile curfew in the City of Cherry Valley, Arkansas, it was determined that a significant amount of juvenile crime occurs during school hours within the City; and

WHEREAS, current state laws on truancy do not deal with juveniles who have been expelled; and

WHEREAS, the City has a strong desire to enact an ordinance that will reduce juvenile crime and victimization during daylight hours, and to promote juvenile safety and well being, whether these persons are in public school, private school, home schooling, or involved in other activities.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHERRY VALLEY, ARKANSAS:

SECTION 1. Findings and Purpose. The city council of the city finds there has been a significant breakdown in the supervision normally provided by certain parents and guidance for juveniles under eighteen years of age, resulting in juveniles being involved in a wide range of unacceptable behavior including vandalism, noisy and rowdy behavior, breaking and entering, public drinking and littering, harassment of residents, and more serious violent crimes including battery and murder.

The city council further finds that the offensive activities of the juveniles are not easily controlled by existing laws and ordinances because the activities are concealed whenever police officers are present and that the establishment of reasonable curfew regulations will enable

the community to better control the free and unobstructed access to the streets and public places by the majority of residents and will enable the police to act reasonably and fairly to prevent the violation of laws and ordinances by juveniles.

The city council further finds and has determined that curfew meets a very real local need and that curfew ordinances in other communities have been a factor in minimizing juvenile delinquency. A curfew in the city is particularly appropriate in view of the basic residential nature of the community and the sense of the community that there is a proper time for the cessation of outdoor activities of juveniles. This attitude of the community is reflected in the curfew hours declared by this ordinance, which takes into consideration the danger hours for nocturnal crime.

The city council further finds that special circumstances exist within the City that call for the special regulation of minors within the City in order to protect them from each other and from other persons on the street during the nocturnal hours and during normal school hours, whether public, private, or home schooling, to aid in crime prevention, to promote parental supervision and authority over minors, and to decrease nocturnal crime rates and crime rates during school hours.

Cherry Valley is basically a family community. Parental responsibility for the whereabouts of children is the accepted norm by a substantial majority of the community. Legal sanctions to enforce such responsibility have had demonstrated effectiveness in many communities over the years. The city council has determined that as parental control increases there is a likelihood that juvenile delinquency decreases and that there is a need for nocturnal curfew for juveniles in Cherry Valley and that the establishment of a curfew applicable to juveniles will reinforce the primary authority and responsibility of parents and guardians over

juveniles in their care and custody.

SECTION 2.

A. It is unlawful for any person seventeen or less years of age (under eighteen) to be or remain in or upon the streets within the city at night during the period ending at 5:00 a.m. and beginning:

- (1) At twelve midnight on Friday and Saturday nights; and
- (2) At ten p.m. on all other nights.

B. It shall be unlawful for any person seventeen or less years of age (under eighteen) to be upon the streets, sidewalks, parks, playgrounds, public places, and vacant lots, or to ride in or upon, drive or otherwise operate or be a passenger of any automobile, bicycle, or other vehicle in, upon, over, or through the streets, or other public places between the hours of 8:30 a.m. and 2:30 p.m. Monday, Tuesday, Wednesday, Thursday, or Friday.

SECTION 3. In the following exceptional cases, a minor on a city street during the nocturnal hours prescribed for minors shall not, however, be considered in violation of the curfew:

- A. When accompanied by a parent of such minor;
- B. When accompanied by an adult, at least twenty-one years of age, who is not the parent and who is authorized by a parent of such minor to take said parent's place in accompanying said minor for a designated period of time and purposes within a specified area.
- C. When exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of such exercise by first delivering to the person designated by the chief of

police to receive such information, at the police department located at City Hall, a written communication, signed by the juvenile and countersigned by a parent of the juvenile with their home address and telephone number, specifying when, where, and in what manner the juvenile will be on the streets (during hours when the curfew is otherwise applicable to said minor) in the exercise of a First Amendment right;

- D. In case of reasonable necessity for a juvenile remaining on the streets, but only after the juvenile's parent has communicated to the person designated by the chief of police to receive such notifications the facts establishing the reasonable necessity relating to specified streets at a designated time for a described purpose, including points of origin and destination. A copy of the communication, or of the police record thereof, duly certified by the chief of police to be correct, with an appropriate notation of the time it was received and of the names and addresses of the parent and juvenile, shall be admissible evidence;
- E. When returning home from and within one hour after the termination of a school or city-sponsored activity, or an activity of a religious or other voluntary association, of which prior notice, indicating the place and probable time of termination, has been given in writing, to and duly filed for immediate reference by, the person designated by the chief of police on duty at the police station, thus encouraging, as in other exceptional situations, responsible conduct on the part of juveniles involved in such activities and striking a fair balance for any conflicting interests;

- F. When engaging in the duties of bona fide employment or traveling directly, without undue delay or detour, from home to the place of employment, or from the place of employment to the home;
- G. When the minor is in a motor vehicle for the purpose of interstate travel, either through, beginning, or ending in Cherry Valley;
- H. With respect to the hours between 8:30 a.m. and 2:30 p.m. on Monday, Tuesday, Wednesday, Thursday, or Friday only, it is a defense that the public or private school which the minor attends was not in session, that the minor is being home schooled in accordance with Arkansas law and a recess has been declared by the home school teacher, that the minor is a high school graduate or has an equivalent certification, or that the minor is on an excused absence from his or her place of schooling, provided that a disciplinary suspension or expulsion is not deemed an excused absence for the purpose of this Ordinance.

SECTION 4. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of any such conflict.

EMERGENCY CLAUSE

The need to address the increased incidence of juvenile crime in the City of Cherry Valley, being necessary for the preservation of the public peace, health, safety and welfare, an emergency is hereby declared, and this Ordinance shall be in full force and effect from and after its passage.

PASSED AND APPROVED the 18 day of September, 2003.

ATTEST:


City Clerk


Forrest M. Wood, Mayor