

ORDINANCE:

#O-23-055

AN ORDINANCE TO AMEND AND REENACT THE CODE OF THE CITY OF LYNCHBURG, 1981, BY ADDING THERETO A NEW SECTION 27-28 OF ARTICLE I OF CHAPTER 27; SUCH NEW SECTION BEING THE ESTABLISHMENT OF A CITY-WIDE YOUTH CURFEW, THAT WITHOUT FURTHER ACTION, WILL AUTOMATICALLY EXPIRE AND REPEAL ON DECEMBER 1, 2023.

WHEREAS, the purpose of this Ordinance is to (i) promote the general welfare and protect the general public through the reduction of juvenile violence and crime within the City; (ii) promote the safety and well-being of the City's youngest citizens, persons under the age of eighteen (18), whose inexperience renders them particularly vulnerable to becoming participants in unlawful activities, particularly unlawful drug and firearm activities, and to being victimized by older perpetrators of crime; and (iii) foster and strengthen parental responsibility for children.

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

1. That the Code of the City of Lynchburg, 1981, be and the same is hereby amended and reenacted by adding thereto a new Section 27-28 of Article I of Chapter 27 as follows:

**Sec. 27-28. Curfew.**

(a) Definitions. As used in this section, the following words and phrases shall have the following meanings ascribed to them below:

Curfew hours refers to the hours of 11:00 p.m. until 5:00 a.m. on the following day.

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 of Lynchburg, Virginia ("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 person under eighteen (18) years of age who has not been emancipated by court order entered pursuant to Section 16.1-333 of the Code of Virginia, 1950, as amended, and is not enlisted in the United States Armed Forces.

Officer refers to a police or other law-enforcement officer charged with the duty of enforcing the laws of the Commonwealth of Virginia and/or the ordinances of the City.

Parent refers to:

- (1) 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);
- (2) A person who is the biological or adoptive parent with whom a minor regularly resides;
- (3) A person judicially appointed as a legal guardian of the minor; and/or
- (4) A person eighteen (18) years of age or older standing in loco parentis (as indicated by the prior written authorization of an individual listed in part(s) (1), (2) or (3) of this definition, above, for the person to assume the care or physical custody of the minor).

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:

- (1) To linger or stay at or upon a place; and/or
- (2) 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.

(b) Violation of Curfew - Minors.

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;
- (2) The minor is involved in an emergency;
- (3) The minor is engaged in an employment activity, or is going to or returning home from such activity, without detour or stop;
- (4) The minor is on the sidewalk directly abutting a place where they reside with a parent, and such parent is inside the residence;
- (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;

(6) The minor is on an errand at the direction of a parent, and the minor has in their 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;

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

(8) The minor is 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.

(c) Violation of Curfew - Parents.

It shall be unlawful for a minor's parent to knowingly permit, allow or encourage such minor to violate this section.

(d) Violation of Curfew – Motor Vehicle Operators.

It shall be unlawful for a person who is the owner or operator of any motor vehicle to knowingly permit, allow or encourage a minor to violate this section.

(e) Violation of Curfew – Establishment Operators/Employees.

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 Lynchburg Police Department that a minor was present at the establishment after curfew hours and refused to leave.

(f) Violation of Curfew – False Information.

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.

(g) Enforcement of Curfew.

(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 this section.

If such investigation reveals that the presence of such minor is in violation of this section, then the officer may charge the minor with a violation of this section and may issue a summons requiring the minor to appear in court (Ref. Va. Code § 16.1-260(H)(1)). Where required, the officer will release the minor to their parent(s).

(2) Violation. A violation of this section shall be punishable as a Class 4 misdemeanor, and a summons charging the same may be issued for such violation directing the minor and/or person to appear in court.

2. That this Ordinance shall become effective on May 26, 2023, at 8:00 a.m. after its adoption, and shall automatically expire and repeal on December 1, 2023.

Adopted: May 23, 2023

Certified:

  
Clerk of Council