

NOTICE OF PUBLIC HEARING

TOWN OF LINDEN

Notice is hereby given to the taxpayers of the Town of Linden, Montgomery County, Indiana that on October 16, 2017, at the Linden Town Hall Community Room located at 302 East Water Street, Linden Indiana at 7:15pm the Linden Town Council will conduct a public hearing on Ordinance 2017-6

ORDINANCE NO. 2017 – 6 AN ORDINANCE AMENDING CHAPTER 80 REGARDING CURFEW FOR MINORS

WHEREAS the Town of Linden (the Town) has previously passed Chapter 80 regarding a curfew for minors; and

WHEREAS the Town deems it advisable to amend Section 80.03 regarding enforcement of the curfew for minors.

BE IT, THEREFORE, ORDAINED by the Town Council of the Town of Linden, State of Indiana that:

Section 80.03 be amended by adding the following paragraph 2:

(2) In addition to any other enforcement provisions in this Chapter, any person violating this chapter shall be fined the following:

- (A) 1st Offense - \$0;
- (B) 2nd Offense - \$100;
- (C) 3rd Offense - \$250;
- (D) 4th Offense - \$500.

Any person violating any provision of Chapter 80 shall also be liable for payment of the costs of prosecution, including reasonable attorney fees.

Effective date: This amended Ordinance shall be in full force 30 days after publication.

All other provisions of Chapter 80 not amended by this Ordinance are reaffirmed.

Any Ordinance or parts of Ordinances in conflict herewith are repealed.

So adopted this _____ day of _____, 2017.

CHAPTER 80: GENERAL OFFENSES

Section

Curfew for Minors

- 80.01 Definitions
- 80.02 Violations
- 80.03 Enforcement

CURFEW FOR MINORS

§80.01 DEFINITIONS

As used within this Ordinance, the following words and phrases shall have the meanings ascribed to them below.

"Curfew hours" refers to the hours of 10:00 p.m. through 5:00 a.m. on Sunday through Thursday morning and 11:01 p.m. through 5:00 a.m. on Friday and Saturday. October 15 through November 1, curfew hours are 9:00 p.m. to 5:00 a.m., regardless of the day of the week.

"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 accident, or other similar circumstances.

"Establishment" refers to any privately-owned place of business within the Town of Linden, Indiana, 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.

"Officer" refers to a police or other law enforcement officer charged with the duty of enforcing the laws of the State of Indiana and/or the ordinances of the Town of Linden, Indiana.

"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 (1 8) 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) of 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:

- (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.

"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.

§80.02 VIOLATIONS

- (a) It shall be unlawful for a minor, during curfew hours, to remain in or upon any Public Place within the Town, to remain in any motor vehicle operating or parked therein, or to remain in or upon the premises of any Establishment within the Town, 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 Town of Linden, Indiana, 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, or the right of assembly.
- (b) It shall be unlawful for a minor's parent to knowingly permit, allow or encourage such minor to violate this Ordinance.
- (c) 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 this Ordinance.

- (d) 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.
- (e) It shall be unlawful for my person (including any minor) to give a false name, address, or telephone number to any officer investigating a possible violation of this section Ordinance.

§80.03 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 Town during Curfew hours is in violation of this Ordinance.

(A) if such investigation reveals that the presence of such minor is in violation of this Ordinance; 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 d n g mailed by the police department to the minor and his or her parent(s); or

(2) if the minor has previously been issued a warning for any such violation, then the violation shall be considered a delinquent act as defined by Indiana Code 3 1-37- 1-2; and,

(B) As soon as practicable, the officer shall:

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

(2) if a minor's parent(s) cannot be located, place the minor in a temporary care facility for a period not to exceed the remainder of the curfew hours and/or take the minor 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.

(C)If an investigation by an officer reveals that a person has violated this Ordinance, 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 that the officer shall charge the person with a violation and shall issue a summons directing the person to appear in court.

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