

ORDINANCE NO. 281

AN ORDINANCE SETTING A CURFEW FOR INDIVIDUALS UNDER 18 YEARS OF AGE.

The Common Council of the City of Hayward do ordain as follows:

SECTION 1: CURFEW ESTABLISHED. It shall be unlawful for any child under eighteen (18) years of age to be on foot, bicycle, or in any type of vehicle on any public street, avenue, highway, road, alley, park, school grounds, swimming beach, cemetery, playground, public building or any other public place in the City of Hayward between the hours of 12:00 a.m., midnight and 6:00 a.m., unless accompanied by his or her parent, or guardian, or person having lawful custody and control of his or her person, or unless there exists a reasonable necessity therefore. The fact that said child, unaccompanied by parent, guardian, or other person having legal custody is found upon any such public place during the aforementioned hours shall be prima facie evidence that said child is there unlawfully and that no reasonable excuse exists therefore.

SECTION 2: EXCEPTIONS.

(A) This Section shall not apply to a child:

- (a) Who is performing an errand as directed by his parent, guardian, or person having lawful custody.
- (b) Who is on his own premises or in the areas immediately adjacent thereto.
- (c) Whose employment makes it necessary to be upon the streets, alleys, or public places or in any motor vehicle during such hours.
- (d) Who is returning home from a supervised school, church, or civic function.

(B) These exceptions shall not, however permit a child to unnecessarily loiter about the streets, alleys or public places or be in a parked motor vehicle on the public streets.

SECTION 3: PARENTAL RESPONSIBILITY. It shall be unlawful for any parent, guardian, or other person having the lawful care, custody, and control of any person under eighteen(18) years of age to allow or permit such person to violate the provisions of (1) or (2) above. The fact that prior to the present offense a parent, guardian, or custodian was informed by any law enforcement officer of a separate violation of this Section occurring within thirty (30) days of the present offense shall be prima facie evidence that such parent, guardian or custodian allowed or permitted the present violation. Any parent, guardian, or custodian herein who shall have made a missing person notification to the Police Department shall not be considered to have allowed or permitted any person under eighteen (18) years of age to violate this Section.

SECTION 4: TAKING A CHILD INTO CUSTODY.

(A) Every law enforcement officer while on duty is hereby authorized to take into

custody any child violating the provisions of Section (1) above. Children taken into custody shall be released from custody as soon as is reasonably possible. A person taking a child into custody shall make every effort immediately to release the child to the child's parent, guardian or legal custodian or, if the parent, guardian or legal custodian is unavailable, unwilling, or unable to provide supervision for the child, may release the child to a responsible adult and verbally counsel or warn as may be appropriate or, in the case of a runaway child, may release the child to a home authorized under Sec. 48.277 of the Wisconsin Statutes. The parent, guardian, legal custodian or other responsible adult to whom the child is released shall sign a release for the child.

- (B) If the child is not released under this Subsection, the officer shall deliver the child to the Sawyer County Juvenile Court Intake Worker in a manner determined by the court and law enforcement agencies, stating in writing with supporting facts that reasons why the child was taken into physical custody and giving any child twelve (12) years of age or older a copy of the statement in addition to giving a copy to the Intake worker. A juvenile violating these curfews regularly may be warned by an officer on duty in his discretion and sent home in lieu of taking the juvenile into custody.
- (C) If the child is believed to be suffering from a serious physical condition which requires either prompt diagnosis or prompt treatment, the officer shall take such action as is required under Sec. 48.20(4), Wisconsin Statutes. If the child is believed to be mentally ill, drug dependent, or developmentally disabled and exhibits conduct which constitutes a substantial risk of physical harm to the child or to others, the officer shall take action as is required under Sec. 48.20(5), Wisconsin Statutes. If the child is believed to be an intoxicated person who has threatened, attempted, or inflicted physical harm on himself, or herself or another and is likely to inflict such physical harm unless committed or is incapacitated by alcohol, the officer shall take such action as is required under Sec.48.20(6), Wisconsin Statutes.

SECTION 5: WARNING AND FORFEITURE.

- (A) Warning. The first time a parent, guardian, or person having legal custody of a child who is taken into custody by a law enforcement officer as provided in Section (4) above, such parent, guardian, or person having such legal custody shall be advised as to the provisions of this Section and further advised that any violation of this Section occurring thereafter by this child or any other child under his or her care or custody shall result in a forfeiture being imposed as hereinafter provided.
- (B) Forfeiture. Any parent, guardian, or person having legal custody of a child described in Section (1) above who has been warned in the manner provided in Section (5)(A) herein and who thereafter violates this Section shall be subject to a forfeiture as provided. After a second violation within a six (6) month period, if the defendant, in a prosecution under this Section, proves that he or she is unable to comply with this Section because of the disobedience of the child, the action shall be dismissed and

the child shall be referred to the court assigned to exercise jurisdiction under Chapter 48, Wisconsin Statutes. Any minor person under eighteen (18) years of age or any other individual who shall violate this Ordinance shall, upon conviction, thereof, forfeit not less than Twenty-five dollars (\$25.00) nor more than Fifty dollars (\$50.00), together with the costs of prosecution.

SECTION 6: CITATION. Pursuant to Section 66.119 of the Wisconsin Statutes, the City of Hayward does hereby adopt the use of a citation to be issued for the violation of this ordinance. The form of said citation shall be the same as that set forth in City Ordinance No. 193 and Ordinance No. 193 is hereby incorporated herein by reference. In addition to the above, the Clerk of Court for Circuit Court, Sawyer County, Wisconsin, shall have the authority to accept cash deposits for forfeitures and/or bond pursuant to the schedule set forth below, or as ordered by the Circuit Court for Sawyer County.

First alleged offense	\$25.00
Second alleged offense	\$35.00
Third alleged offense	\$50.00

SECTION 7: SEVERABILITY. The provisions of this ordinance shall be deemed severable and it is expressly declared that the City Council would have passed the other provisions of this ordinance irrespective of whether or not one or more provisions of this ordinance may be declared invalid. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, the remainder of the ordinance and the application of such provisions to other provisions or circumstances shall not be affected thereby.

SECTION 8: CONFLICT. Any ordinance or portion thereof in conflict with this Ordinance as previously passed by the City of Hayward is hereby invalidated.

SECTION 9: EFFECTIVE DATE. This ordinance shall take effect and be enforced upon its passage and publication as provided by law.

Passed this 9th day of July, 1990.

Mayor Kris Mayberry

Rolf K. Williamson, City Clerk-Treasurer