

ORDINANCE NO. ~~1983-8~~

AN ORDINANCE REGULATING THE CONDUCT OF MINORS
ON THE STREETS WITHIN THE VILLAGE OF HAMERSVILLE
DURING THE HOURS OF 10:30 P.M. to 6:00 A.M.,
DECLARING AN EMERGENCY AND AMENDING THE CODIFIED
ORDINANCE NO. 1981-4.

BE IT ORDAINED by the Council of the Village of
Hamersville, Brown County, Ohio, three-fourths or more of its
members concurring that Ordinance No. 1981-4, known as the
Codified Ordinances of the Village of Hamersville, Ohio, be
amended to include the following regulations as a part of
Title XIII, Chapter 132.

SECTION 132.21 DEFINITIONS

For the purposes of this chapter, the following terms,
phrases, words and their derivations shall have the meaning
given herein. When not inconsistent with the context, words
used in the present tense include the future, words in the
plural number include the singular and words in the singular
number include the plural. "Shall" is always mandatory and
not merely directory.

(a) "Minor" means any person under the age of eighteen
or, in equivalent phrasing often herein employed, any person
seventeen or less years of age.

(b) "Parent" means any person having legal custody of a
minor:

- (1) As a natural or adoptive parent,
- (2) As a legal guardian,
- (3) As a person who stands in loco parentis, or
- (4) As a person to whom legal custody has been
given by order of court.

(c) "Remain" means to stay behind, to tarry and to stay
unnecessarily upon the streets, including the congregating of
groups, or of interacting minors, totaling four or more
persons in which any minor involved would not be using the
streets for ordinary or serious purposes such as mere passage
or going home.

(d) "Street" means a way or place, of whatever nature,
open to the use of the public as a matter of right for
purposes of vehicular travel or in the case of a sidewalk
thereof, for pedestrian travel. "Street" includes the legal
right of way, including but not limited to the traffic lanes,
the curb, the sidewalks, whether paved or unpaved and any
grass plots or other grounds found within the legal right of
way of a street. "Street" applies irrespective of what it be
called or formally named, whether alley, avenue, court, road
or otherwise.

(e) "Time of night" referred to herein, is based upon the prevailing standard of time, whether Eastern Standard Time or Eastern Daylight Saving Time, generally observed at the hour by the public in the Municipality, prima facie the time then observed in the Municipal Administrative Offices and Police Station.

(f) "Year of age" continues from one birthday, such as the seventeenth to, but not including the day of, the next, such as the eighteenth birthday, making it clear that seventeen or less years of age is herein treated as equivalent to the phrase "under eighteen years of age". Similarly, for example, eleven or less years of age means under twelve years of age.

SECTION 132.22 CURFEW HOURS

No person seventeen or less years of age shall be or remain in or upon the streets within the Municipality at night during the period commencing 10:30 p.m. and ending at 6:00 a.m.

SECTION 132.23 EXCEPTIONS

In the following exceptional cases, a minor on a street during the nocturnal hours for which Section 132.22 is intended to provide the maximum limits or regulation shall not be considered in violation of this chapter:

- (a) When accompanied by a parent of such minor.
- (b) When accompanied by an adult authorized by a parent of such minor to take the parent's place in accompanying the minor for a designated period of time and purpose 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 assembly. Such minor shall evidence the bona fides of such exercise by first delivering, to communications center personnel, at the Municipal Building, where and by whom high priority messages to the Mayor are regularly received, written communications signed by such minor and countersigned if practical by a parent of such minor with their home address and telephone number, addressed to the Mayor specifying when, where and in what matter the minor will be on the streets at night, during the hours when this chapter is otherwise applicable to the minor, in the exercise of a First Amendment right specified in such communication.
- (d) In the case of reasonable necessity, but only after such minor's parent has communicated to the Police Station personnel the facts establishing such reasonable necessity relating to specified streets at a designated time for a

described purpose including points of origin and destination. A copy of such communication, or of the police record thereof, duly certified by the Chief of Police to be correct, with an approximate notation of the time it was received and of the names and address of such parent and minor, shall be admissible evidence.

(e) When the minor is on the sidewalk of the place where such minor resides, or on the sidewalk of either next-door neighbor not communicating an objection to the police officer.

(f) When returning home, by a direct route from and within thirty minutes of the termination of a school 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 Chief of Police or the officer assigned by him on duty at the Police Station.

(g) When authorized, by special permit from the Mayor, carried on the person of the minor thus authorized, as follows: When necessary nighttime activities of a minor may be inadequately provided for by other provisions of this chapter, then recourse may be had to the Mayor either for a regulation as provided in subsection (h) hereof or for a special permit as the circumstances warrant. Upon the Mayor's finding of necessity, for the use of the streets to the extent warranted by a written application, signed by a minor and by a parent of such minor, if feasible, stating:

- (1) The name, age and address of such minor;
- (2) The name, address and telephone number of a parent thereof;
- (3) The height, weight, sex, color of eyes and hair and other physical characteristics of such minor;
- (4) The necessity which requires such minor to remain upon the streets during the curfew hours otherwise applicable; and
- (5) The street or route and the beginning and ending of the period of time involved by date and hour;

the Mayor may grant a permit in writing for the use by the minor of those streets at such hours as in the Mayor's opinion may responsibly be necessary. In an emergency, this may be handled by telephone, or other effective communication, with a corresponding record being made contemporaneously, either to the Mayor, or if unavailable, to the police officer authorized by the Mayor to act of his behalf in an emergency, at the Police Station.

(h) When authorized, by regulation issued by the Mayor, in other similar cases of reasonable necessity, similarly handled but adapted to necessary night-time activities of more minors than can readily be dealt with on an individual special permit bases. Normally such regulation by the Mayor permitting use of the streets should be issued sufficiently in advance to permit appropriate publishing through news media and through other agencies such as the schools and shall define the activity, the scope of the use of the streets permitted, the period of time involved not to extend more than thirty minutes beyond the time for termination of such activity, and the reason for finding that such regulation is reasonably necessary and is consistent with the purposes of this chapter.

(i) When the minor carries a certified card of employment, renewable each calendar month when the current facts so warrant, dated or reissued not more than forty-five days previously, signed by the Chief of Police and briefly identifying the minor, the addresses of his home and place of employment and his hours of employment.

(j) When the minor is, with parental consent, in a motor vehicle. This contemplates normal travel. this ordinance shall not be construed to regulate the bona fide interstate movement of minors through the Municipality or interstate travel or minors beginning or ending in the Municipality.

(k) When the minor is seventeen years of age, if and when the Mayor has determined, by formal rule first reported to Council, spread upon its minutes and so reported in the press, finding the facts as to the extent of juvenile delinquency in such age group permitting such rule, currently, in the best interest of such minors and of the Municipality, then the Mayor by such formal rule, covering a period of time designated therein or until rescission thereof not exceeding one year from the date thereof, may take appropriate action excepting designated minors, minors in a defined group or area, or all minors, as the current facts may warrant, seventeen years of age at the date or attaining seventeen years of age during the period that such formal rule is and remains in effect.

(l) Each of the foregoing exceptions, and their several limitations, such as provisions for notification, are severable, and additional, also severable, exceptions, broadening with the progress toward maturity of minors enrolled respectively in elementary, junior high and high schools, will be considered by Council as warranted by future experience illuminated by the views of student government associations, ward, precinct and neighborhood spokesmen, parents, officers and persons in authority concerned positively with minors as well as with juvenile delinquency.

SECTION 132.24 PARENTAL RESPONSIBILITY

A. No parent having legal custody of a minor shall knowingly permit or by inefficient control, allow such minor to be or remain upon any street under circumstances not constituting an exception to, or otherwise beyond the scope of this chapter. "Knowingly" includes knowledge which a parent should reasonably be expected to have concerning the whereabouts of a minor in that parent's legal custody. It is intended to continue to keep neglectful or careless parents up to a reasonable community standard of parental responsibility through an objective test. It shall, a fortiori, be no defense that a parent was completely indifferent to the activities or conduct or whereabouts of such minor.

B. The above prohibition shall not preclude prosecution under the Ohio Revised Code, Section 2141.411.

SECTION 132.25 POLICE PROCEDURES

A. A policeman, upon finding or having attention called to any minor on the streets in prima facie violation of the chapter, normally shall take the minor to the Police Station, where a parent shall immediately be notified to come for such minor, whereupon they shall be interrogated. This is intended to permit ascertainment, under constitutional safeguards, of relevant facts, and to centralize responsibility in the officer there and then on duty for accurate, effective, fair, impartial and uniform enforcement, and recording, thus making available experienced supervisory personnel, the best of facilities and access to information and records. In the absence of convincing evidence such as a birth certificate, a policeman on the street shall in the first instance, use his best judgment in determining age.

(1) Police procedures shall constantly be refined in the light of experience and may provide, inter alia, that the policeman may deliver to a parent thereof a minor under appropriate circumstances, for example, a minor of tender age near home whose identity and address may readily be ascertained or are known.

(2) In any event, such policeman shall within twenty-four hours file a written report with the Chief of Police, or shall participate to the extent of the information for which he is responsible in the preparation by himself and with the officer involved in such case, in the filing of such report within twenty-four hours.

(3) When a parent, immediately called, has come to take charge of the minor, and the appropriate information has been recorded, the minor shall be released to the custody of such parent. If the parent cannot be located, or fails to take charge of the minor, then the minor shall be released to the

juvenile authorities, except to the extent that in accordance with police regulations, approved in advance by juvenile authorities, the minor may temporarily be entrusted to a relative, neighbor or other person who will on behalf of a parent assume the responsibility of caring for the minor pending the availability or arrival of a parent.

(4) In the case of a first violation by a minor, the Chief of Police shall, by certified mail, send to a parent written notice of the violation with a warning that any subsequent violation will result in full enforcement of this chapter, including enforcement of parental responsibility and of applicable penalties.

B. The above provisions of Section 132.25 (A)(1 through 4) shall not be construed to preclude the filing of a complaint and the taking into custody of the minor pursuant to Ohio Revised Code Sections 2151.27 through 2151.32, inclusive.

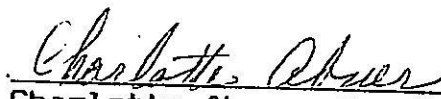
SECTION 132.26 PENALTY

(a) If, after the warning notice pursuant to Section 132.25 (A)(4) of a first violation by a minor, a parent violates Section 132.24 in connection with a second violation by such minor, this shall be treated as a first offense by the parent. For such first parental offense, a parent shall be guilty of a minor misdemeanor and for each subsequent offense, a parent shall be guilty of a misdemeanor of the fourth degree.

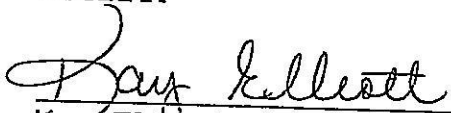
(b) Subsection (a), above shall not preclude the imposition of a fine or incarceration pursuant to Chapter 2151 of the Ohio Revised Code, in any proceeding brought before any Court of appropriate jurisdiction.

This Ordinance is declared to be an emergency measure as it directly affects the health, safety and welfare of the residents of the Village of Hamersville, Brown County, Ohio and shall take effect at the earliest time allowed by law.

Adopted: 11-10-83


Charlotte Abner, Mayor

Attest:


Kay Elliott, Clerk