



ORDINANCE NO 801

AN ORDINANCE AMENDING CITY ORDINANCE NO 789, WHICH CREATED THE ORDINANCE ENTITLED "JUVENILE CURFEW"; STATING THE PURPOSE OF THE ORDINANCE; DEFINING TERMS; CREATING OFFENSES FOR MINORS, PARENTS AND GUARDIANS OF MINORS AND FOR BUSINESS ESTABLISHMENTS VIOLATING CURFEW REGULATIONS; PROVIDING DEFENSES; PROVIDING FOR ENFORCEMENT BY THE POLICE DEPARTMENT; PROVIDING A SEVERABILITY CLAUSE AND PROVIDING FOR; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH; AND PROVIDING WHEN THIS ORDINANCE SHALL BECOME EFFECTIVE.

WHEREAS, the City Council for the City of Rexburg had previously determined that there is a significant community-wide problem regarding juvenile violence, juvenile vandalism and crimes by persons under the age of eighteen within the City Limits; and

WHEREAS, persons under the age of eighteen are particularly prone by their lack of maturity and experience, to participate in unlawful activities after daylight, and to be victims of older perpetrators of crime; and

WHEREAS, the City desires to provide for the protection of minors from each other and from other persons and to encourage parental control over and responsibility for children, to protect the general public, and to reduce juvenile criminal activities; and

WHEREAS, it appears to the Mayor and City Council of the City of Rexburg, Idaho, that a curfew for those under the age of eighteen will be in the best interests of the public health, safety and welfare and will help to attain the foregoing objectives and will diminish the undesirable impact of such conduct on the community and the citizens of the City of Rexburg;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF REXBURG, AS FOLLOWS:

SECTION I: Purpose: The purposes of this Ordinance are;

- A. To regulate and prohibit minors from remaining in public places during certain hours of the day;
- B. To protect minors from each other and from other adult perpetrators of crime;
- C. To reduce nocturnal juvenile crime and juvenile delinquency;
- D. To promote family responsibility and parental control over their children; and
- E. To protect and promote the peace, health, safety, welfare and tranquility of the community and citizens of the City of Rexburg.

SECTION II: Definitions: Certain words and phrases used in this chapter are defined as follows:

CURFEW HOURS: The hours between 11:00 p.m. and 5:00 a.m. the next day, beginning on Sundays and running until Thursdays of each week, and, and from

12:30 a.m. to 5:00 a.m. the next day on Saturday and Sunday mornings. (Commonly known as Friday and Saturday nights from 12:30 a.m. to 5:00 a.m.).

- EMERGENCY:** An unforeseen combination of circumstances or the resulting state, that calls for immediate action to prevent, control or minimize serious bodily injury, death or significant loss of property.
- EMPLOYMENT ACTIVITY:** The performance of any responsibilities or duties expressly or impliedly required as a condition of employment of a minor.
- ESTABLISHMENT:** Any privately owned place of business operated for a profit to which the public is invited, but not limited to, any place of amusement or entertainment.
- GUARDIAN:** A guardian is: 1) a person who, under court order, is the guardian of the person of a minor; 2) a public or private agency with whom a minor has been placed by order of a court; or 3) a person to whom a parent or guardian has delegated any of his or her powers with respect to a minor pursuant to Section 15-5-104 of the Idaho Code.
- MINOR:** Any person under the age of eighteen (18) years.
- OPERATOR:** Any individual, firm, association, partnership or corporation operating, managing or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation which owns or operates an establishment.
- PARENT:** A person who is a natural parent, adoptive parent or step-parent of a minor.
- PUBLIC PLACE:** Any place to which the general public has access including, but not limited to, streets, highways, alleys, sidewalks and common areas of schools, hospitals, apartment houses, office buildings, transportation facilities, shopping malls, public parking lots and commercial businesses.

SECTION III: Juvenile Curfew: Any minor who is found in any public place or on the premises of any establishment within the City during curfew hours is guilty of a misdemeanor.

SECTION IV: Parental Violation of Curfew Hours: Any parent or guardian of a minor is guilty of a misdemeanor if he or she knowingly permits, or by culpable indifference allows, such minor to be found in any public place or on the premises of any establishment within the City during curfew hours.

SECTION V: Violation of Curfew Hours by Business Establishment: Any owner, operator or any employee or other person in control of an establishment is guilty of a misdemeanor if he or she knowingly or willingly allows any minor to be upon the premises of the establishment during curfew hours.

SECTION VI: Defenses: The following shall be a defense to prosecution under this Ordinance:

- A. It is a defense to prosecution if the offending minor was:
 - a. Accompanied by the minor's parent or guardian;
 - b. On an errand at the express direction of the minor's parent or guardian, without any detours or stops;
 - c. In a motor vehicle involved in interstate travel, passing through the City to some destination other than the City, provided there be no detours or stops other than as necessary to accomplish the travel;
 - d. Engaged in employment activity, or going to an employment activity or returning to

the minor's place of residence from an employment activity, without any detours or stops;

- e. Involved in an emergency;
 - f. Within the yard or upon the sidewalk abutting the minor's residence or abutting the residence of another adult with whom the parent or guardian of such minor has expressly placed temporary custody of the minor;
 - g. Attending an officially-sponsored school, religious or other recreational, cultural or educational activity supervised by adults and sponsored by a public entity or a religious, charitable, fraternal, civil or other similar organization organized by adults, or going to or returning home from such activities, without detours or stops;
 - h. Exercising First Amendment Rights protected by the United States Constitution or rights protected by Article 1, Section 9 of the Constitution of the State of Idaho;
 - i. Is married or has had the disabilities of minority removed in the manner provided by law.
- B. It is a defense to prosecution under Section V that the owner, operator or employee of an establishment asked the minor to leave the premises and promptly notified the Police Department that a minor is present on the premises of the establishment during curfew hours and refuses to leave.

SECTION VII: Enforcement: Before taking any enforcement action under this Ordinance, a peace officer shall ask the apparent offending minor's age and reason for being in the public place or establishment. The peace officer shall not issue a citation or make an arrest under this chapter unless the officer reasonably believes that a violation has occurred and that, based on any response and all other circumstances, no defense is present. Any peace officer who arrests a minor under this Ordinance shall immediately take the minor to the police station and summon his or her parent or guardian. If the minor's parent or guardian arrives within a reasonable period of time, the minor shall be released upon the recognizance of his or her parent or guardian. If the parent or guardian cannot be located or does not appear at the police station within a reasonable period of time, the minor shall be kept in the custody of the Police Department or shall be turned over to juvenile authorities and thereafter shall remain in their custody in the manner provided by law.

SECTION VIII: Penalties: Any person who violates a provision of this chapter shall be guilty of a misdemeanor and punished pursuant to Idaho Code, Section 18-113, as amended, and with the following qualifications:

- A. Upon a second conviction within a three year period, of a parent or guardian for a violation of Section IV of this Ordinance, the parent or guardian shall be fined no less than One Hundred Dollars (\$100.00) in conjunction with any other sentence or costs deemed appropriate by the Court.
- B. Upon a third or greater conviction within a three year period, of a parent or guardian for a violation of Section IV of this Ordinance, the parent or guardian shall be fined no less than Two Hundred and Fifty Dollars (\$250.00) in conjunction with any other sentence or costs deemed appropriate by the Court.

SECTION IX: This ordinance shall be in full force and effect from and after its passage, approval and due publication.

PASSED BY THE COUNCIL AND APPROVED BY THE MAYOR this 3rd day of December, 1997.

Nile L. Boyle, Mayor

(SEAL)

ATTEST:

Rose Bagley, City Clerk

STATE OF IDAHO)

)ss.

County of Madison)

I, ROSE BAGLEY, City Clerk of the City of Rexburg, Idaho, do hereby certify: That the above and foregoing is a full true and correct copy of the Ordinance entitled:

AN ORDINANCE AMENDING CITY ORDINANCE NO. 789, WHICH CREATED THE ORDINANCE ENTITLED "JUVENILE CURFEWS"; STATING THE PURPOSE OF THE ORDINANCE; DEFINING TERMS; CREATING OFFENSES FOR MINORS, PARENTS AND GUARDIANS OF MINORS AND FOR BUSINESS ESTABLISHMENTS VIOLATING CURFEW REGULATIONS; PROVIDING DEFENSES; PROVIDING FOR ENFORCEMENT BY THE POLICE DEPARTMENT; PROVIDING A SEVERABILITY CLAUSE AND PROVIDING FOR; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH; AND PROVIDING WHEN THIS ORDINANCE SHALL BECOME EFFECTIVE.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR this 3rd day of December, 1997.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said City of Rexburg, Idaho, this 3rd day of December, 1997.

Rose Bagley, City Clerk

(SEAL)