

## DAYTIME JUVENILE CURFEW

### MADISON COUNTY, TENNESSEE

#### JUVENILE CURFEW

##### Sec. 101. Title.

This resolution shall be known as the "Madison County, Tennessee Daytime Juvenile Curfew."

##### Sec. 102. Definitions.

For purpose of this resolution the following terms, phrases, or words used in the present tense include the future, words in the plural number include the singular and words in the singular include the plural. The word "shall" is always mandatory and not merely directory.

- (1) *County* is Madison County, Tennessee.
- (2) *Compulsory Attendance Law* is the truancy law as codified at Tennessee Code Annotated § 49-6-3001 *et seq.*
- (3) *Curfew Hours* means the hours from 8:30 a.m. until 2:00 p.m. on any Monday, Tuesday, Wednesday, Thursday, or Friday.
- (4) *Emergency* means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, or an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.
- (5) *Expelled* means a removal from attendance at school by a school official for more than ten consecutive days.
- (6) *Minor* or *juvenile* is any unemancipated person under the age of 18 or, in equivalent phrasing often herein employed, any person 17 years or less.
- (7) *Parent* is any person having legal custody of a minor:
  - (a) As a natural or adoptive parent;
  - (b) As a legal guardian; or
  - (c) As a person to whom legal custody has been given by order of the court.
- (8) *Sheriff's department* shall refer to the Sheriff's Department of Madison County, Tennessee.
- (9) *Public place or establishment* shall refer to any street, alley, avenue, highway, road, curb area, sidewalk, park, playground, or place to which the general public has access and a right to resort for business, entertainment, or other lawful purpose. A public place or establishment shall include but not be limited to any store, shop, restaurant, tavern, bowling alley, cafe, theater, drug store, pool room, shopping center, and any other place devoted to amusement or entertainment of the general public. It shall also include the front or immediate area of the above.
- (10) *Remain* means to stay behind, to tarry and to stay unnecessarily upon the streets, including the congregation 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. To implement that thought with additional precision and precaution, numerous exemptions are expressly defined in § 104 so that this is not a mere prohibitory or presence type curfew chapter.
- (11) *School System* means the Jackson-Madison County School System.
- (12) *Street* is a way or place, of whatsoever nature, open to the use of the public as a matter of right for purposes of vehicular travel.

- (13) *Suspended* means a dismissal from attendance at school for any reason by a school official for a period of time not to exceed ten consecutive days;
- (14) *Time*, whether Central Standard Time or Central Daylight Savings Time, is the time generally observed at that hour by the public in the county, prima facie the time when observed in the county administrative offices and sheriff's department.
- (15) *Year of age* continues from one birthday, such as the seventeenth, to (but not including the day of) the next, making it clear that 17 or less years of age is herein treated as equivalent to the phrase "under 18 years of age," unless specifically defined differently herein.
- (16) *Pronouns*. Masculine pronouns shall also include feminine pronouns and vice versa.

#### Sec. 103. Restrictions.

- (1) A minor who has not reached his eighteenth birthday and is subject to the State Compulsory Attendance Law commits an offense if he/she remains in any public place or on the premises of any establishment within the county during curfew hours.
- (2) A minor who has not reached his eighteenth birthday and is subject to the State Compulsory Attendance Law, but who is suspended or expelled from school, or is otherwise not in compliance with the State Compulsory Attendance Law, commits an offense if he/she remains in any public place or on the premises of any establishment within the county during curfew hours.
- (3) It shall further be unlawful for a parent of a minor to knowingly permit or by inefficient or insufficient control allow such minor to be or remain in any public place within the county under circumstances not constituting an exception to, or otherwise beyond the scope of, this curfew chapter. The term "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 child.

#### Sec. 104. Exceptions.

It shall be a valid exception to the operation of the curfew if:

- (1) The minor was not subject to the State Compulsory Attendance Law because he/she was a registered home school student, held a high school diploma, or met any of the other criteria of the State Compulsory Attendance Law that excused the minor from compulsory attendance at a public or private school;
- (2) The minor was at any time, accompanied by his or her parent;
- (3) The minor was accompanied by an adult authorized by a parent of such minor to take said parent's place in accompanying said minor for a designated period of time and purpose within a specified area;
- (4) The minor was on the property of or the sidewalk directly adjacent to the place where such minor resides or the place immediately adjacent thereto if the owner of the adjacent building does not communicate an objection to the minor and the sheriff's deputy;
- (5) The school in which the minor was enrolled or otherwise required to attend was not in session;
- (6) The minor was on the premises of the school in which the minor was enrolled or otherwise required to attend;

- (7) The minor was participating in a school approved work study program, was going to the work study program or returning home or to school from the work study program without any detour or stop, or was away from school for a reason approved by the school;
- (8) In the case of reasonable necessity, but only after such minor's parent has communicated to the sheriff's department personnel the facts establishing such reasonable necessity relating to specified streets at a designated time for a described purpose including place or origin and destination. A copy of such communication, or the record thereof, with an appropriate notation of the time it was received and of the names and addresses of such parent and minor shall constitute evidence of qualification under this exception;
- (9) 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, so long as such rights are being exercised in conformity with state law and local ordinances;
- (10) With parental consent in a motor vehicle engaged in a bona fide interstate travel through the county, particularly on Interstate 40, and all access roads to these interstate systems, particularly Highway 45. This also exempts all interstate travel beginning or ending in the County;
- (11) Involved in an emergency;
- (12) Married or had been married or had disability of minority removed in accordance with Tennessee law; and
- (13) Exercising any privilege specifically granted by state law.
- (14) Each of the foregoing exemptions and their several limitations, such as provisions for notification, are severable.

#### Sec. 105. Enforcement.

- (1) A sheriff's deputy who has reasonable suspicion to believe that a minor is in violation of this chapter shall:
  - (a) Ascertain the name, age, and address of the minor;
  - (b) Immediately contact the school system to inquire if the child is required to be in school;
  - (c) If a determination is made that the minor is required to be in school, the minor may be turned over to his parent or legal guardian, transported to either the school to which he/she is assigned or to the Madison County Juvenile Services Department.
  - (d) If a determination is made that the minor is subject to the State Compulsory Attendance Law, but he/she is suspended or expelled from school, or is otherwise not in compliance with the State Compulsory Attendance Law, the minor may be turned over to his parent or legal guardian, transported to either the school to which he/she is assigned or to the Madison County Juvenile Services Department;
- (2) In case of a violation by a minor, Madison County Juvenile Court Services shall:
  - (a) For a first violation, but not for first violations listed in 1(d) of this Section, send by certified mail to the minor's parent written notice of said violation with a warning that any subsequent violation will result in a full enforcement of the curfew chapter, including enforcement of parental responsibility and of applicable penalties. Said notice shall be sent to the minor's parent or legal guardian at his or her last known address and evidence of its mailing by certified mail shall constitute sufficient notice of the minor's violation.
  - (b) For any violation after the first violation, and for first violations listed in 1(d) of this Section, summon the minor and the minor's parent into the Madison County Juvenile Court. The consequences for the minor will be determined by the Madison County Juvenile Court with recommendations made by Madison County Juvenile Court Services.
- (3) If after the mailing of the warning notice set forth in subsection (2)(a) herein of a violation by a minor, a parent violates section 103 (in connection with a second violation by a minor), this

shall be treated as a first offense by the parent. For each parental offense a parent shall be fined \$50.00.

Sec. 106. Construction of severability.

Severability is intended throughout and within the provisions of the Curfew Resolution. If any provision, including inter alia any exception, part phrase or term of the application to any person or circumstances is held invalid, the application to other persons or circumstances shall not be affected thereby. The mayor and county legislative body do not intend a result that is absurd, impossible to execute or unreasonable. It is intended that the Curfew Resolution be held inapplicable in such cases, if any, where its application would be unconstitutional. A constitutional construction is intended and shall be given. The mayor and County Legislative Body do not intend to violate the Constitution of the State of Tennessee or the Constitution of the United States of America.

Sec. Notice.

The county clerk shall provide notice of this chapter and of the curfew regulations established by it by having copies of the resolution posted in, on or about such public or quasi-public places as may be determined by the county mayor in order that the public may be constantly informed of the existence of the resolution and its amendments and regulations.

Sec. Resolution cumulative.

This resolution shall be cumulative and in addition to any other laws in force.

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JIMMY HARRIS, MAYOR

Introduced:

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Adopted:

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