

# RECORD OF ORDINANCES

Dayton Legal Blank Co.-10116

Ordinance No. 1994-15

Passed September 20, 1994

## AN ORDINANCE AMENDING CHAPTER 97 OF THE CODE OF ORDINANCES OF THE MUNICIPALITY OF BROOKVILLE, OHIO.

WHEREAS, the Police Department of the Municipality of Brookville has received an increasing number of criminal complaint involving minors under the age of eighteen (18); and

WHEREAS, the Council of the Municipality deems it necessary to amend Chapter 97 of the Code of Ordinances which presently provides for a curfew for children under the age of fifteen to expand the curfew to all minors under the age of eighteen to assist in the reduction of the number of criminal complaints involving minors under the age of eighteen (18) and to promote the safety of these minors;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE MUNICIPALITY OF BROOKVILLE, OHIO, THAT:

### SECTION I:

Section 97.01 shall be amended to read as follows:

#### SECTION 97.01 CURFEW ESTABLISHED.

(A) DEFINITIONS: As used in this Section.

- (1) CUSTODIAN means any person who has been designated by a Court of competent jurisdiction to be the legal custodian of a minor child.
- (2) GUARDIAN means any person who has been designated by a Court of competent jurisdiction to be the legal guardian of a minor child.
- (3) MINOR means any person under the age of eighteen.
- (4) PARENT means any person who is the natural or adoptive parent of a minor.
- (5) OTHER ADULT PERSON means any person temporarily designated by the custodian, guardian or parent of the minor to have care and control of said minor.

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(6) PUBLIC PLACE means any street, alley, highway, sidewalk, park, play ground or place to which the public or a substantial group of the public has access and a right to enter for business, entertainment, or any other lawful purpose. Public place includes but is not limited to any store, shop, restaurant, tavern, bowling alley, cafe, theater, drug store, pool room, shopping center and other places devoted to amusement or entertainment of the general public. It also includes the immediate area of the public place, including the front, sides and back of the public place.

(7) EMERGENCY means an unforeseen combination of circumstances and the resulting situation that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, or automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

(B) CURFEW: No minor shall remain idle, wander, stroll or play in any public place, or cruise about without a set designation in any vehicle in, about or upon any public place in the Municipality between the hours of 12:00 A.M. and 5:00 A.M. Monday through Friday, and between the hours of 1:00 A.M. and 5:00 A.M. Saturday and Sunday. It is prima-facie evidence of a violation of this section if a minor is found in a public place in the Municipality after the restricted hours. The curfew shall not apply to a minor if, at the time the minor is observed to be in violation of the curfew, the minor is:

- (1) Accompanied by parent, custodian, guardian, or other adult person having care and control of such minor;
- (2) On an errand at the direction of the parent, custodian, guardian, or other adult person having care and control of such minor, without any detour or stop;
- (3) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;

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- (4) Involved in an emergency;
- (5) Attending a special function or entertainment of any church, school, club or other organization, or participating in an activity with his or her custodian, parents, legal guardian, or other adult person having care and control of said minor that requires such minor to be out during the curfew hours.
- (6) Exercising First Amendment rights protected by the United States Constitution, such as free exercise of religion, freedom of speech, and the right of assembly; or
- (7) Married or is otherwise emancipated under Ohio Law.

(C) **ENFORCEMENT PROCEDURE:**

- (1) Any police officer, upon finding a minor in violation of subsection (b) hereof, shall take the minor to the Police Department where the parent, guardian, custodian, or other adult person having care and control of such minor shall be immediately notified. The minor and the parent, guardian, custodian, or other adult person having care and control of such minor shall both be issued a written warning and the minor child shall be released to the care and custody of the parent, guardian, custodian, or other adult person having care and control of such minor.
- (2) If such minor refuses to heed such warning or direction by any police officer or refuses to give such police officer his or her correct name and address, or if the minor has previously been issued a written warning, he or she is in violation of the curfew, he or she shall be taken to the Police Department and the parent, guardian, custodian, or other adult person having care and control of such minor shall be notified to come and take charge of the minor.

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The minor, parent, guardian, custodian, or other adult person having care and control of said minor will be advised by the police officer that charges for violation of the curfew ordinance will be filed in Juvenile Court. If the parent, guardian, custodian, or other adult person having care and control of said minor cannot be located or fails to come and take charge of the minor, the minor shall be released to the care and custody of the Juvenile Authorities.

**(D) PENALTY:**

- (1) Any minor who violates any of the provisions of this section, after first being issued a written warning, shall be prosecuted in accordance with the Juvenile Court law and procedure.
- (2) Any minor who violates any of the provisions of this Chapter more than three times within a twelve-month period shall be reported by the police to the Juvenile Court for prosecution as an unruly child under the Ohio Revised Code.

**SECTION II:**

Section 97.02 shall be amended to read as follows:

**SECTION 97.02 PARENTAL RESPONSIBILITY.**

- (A) It shall be unlawful for any parent, custodian, guardian, or other adult person, as defined in 97.01, having the lawful care, custody or control of any minor under the age of eighteen (18) years to allow or permit, or by inefficient control allow, said minor to violate the provisions of Section 97.01.
- (B) Any parent, custodian, guardian, or other adult person having care and control of a minor who violates this section, after having been previously issued a written warning under Section 97.01, is guilty of a minor misdemeanor. Any parent, custodian, guardian, or other adult person having care and control of a minor

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who is charged with a second or subsequent offense violating this section shall be guilty of a misdemeanor of the fourth degree.

## **SECTION III:**

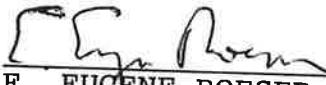
Section 97.03 shall be amended to read as follows:

### **SECTION 97.03 OBLIGATION OF BUSINESSES.**

- (A) It shall be unlawful for any person operating or in charge of any place of amusement, entertainment, refreshment, or other place of business in the Municipality to allow or permit any person under the age of eighteen (18) years to be present in such place during the curfew hours specified in Section 97.01, unless the person is permitted to be in such place by one or more of the exemptions set forth in Section 97.01. Whenever the person operating or in charge of any such place of amusement, entertainment, refreshment, or other place of business shall find any person or persons present in such place in violation of the provisions of this section, he shall immediately order them to leave such place, and, upon their failure so to do, shall immediately inform the Department of Police of such violation.
- (B) Whoever, upon the first offense, violates this section shall be guilty of a minor misdemeanor. Whoever, upon a second or subsequent offense, violates this section shall be guilty of a misdemeanor of the fourth degree.

PASSED this 20th day of September, 1994.

ATTEST:

  
E. EUGENE ROESER, CLERK

  
MICHAEL A. DUNCAN, MAYOR

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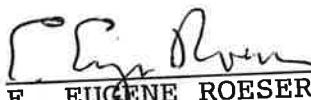
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## CERTIFICATE

The undersigned, Clerk of the Municipality of Brookville, Ohio does hereby certify that the foregoing is a true and correct copy of Ordinance No. 1994-15, passed by the Council of said Municipality on the 20th day of September, 1994.

  
E. EUGENE ROESER, CLERK

## CERTIFICATE OF POSTING

The undersigned, Clerk of Council of the Municipality of Brookville, Ohio, hereby certifies that the foregoing Ordinance was posted at the Municipal Building, U.S. Post Office and the Brookville National Bank, Brookville, Ohio on the 22nd day of September, 1994 to the 21st day of October, 1994, both days inclusive.

  
E. EUGENE ROESER, CLERK