

ORDINANCE NUMBER 2010-05

AN ORDINANCE ESTABLISHING PART 5, CURFEW, OF CHAPTER VIII OF THE CITY CODE OF THE CITY OF RUSH CITY.

The City Council of the City of Rush City hereby ordains:

That Chapter VIII, Nuisance and Offenses, Part 5, Curfew is hereby adopted to read in its entirety as follows:

Part 5. CURFEW

805.01 Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Emergency means a circumstance or combination of circumstances requiring immediate action to prevent property damage, serious bodily injury or loss of life.

Establishment means any privately owned place of business to which the public is invited, including, but not limited to, any place of amusement, entertainment, or refreshment.

Guardian means an adult appointed pursuant to the Uniform Guardianship and Protective Proceedings Act, under Minn. Stat. §§524.5-101 through 524.5-502 who has the powers and responsibilities of a parent as defined by Minn. Stats. § 524.5-102.

Juvenile means a person under the age of 18. The term does not include persons under 18 who are married or have been legally emancipated.

Parent means birth parents, adoptive parents, and stepparents.

Proprietor means 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.

Public place means any place to which the public or a substantial group of the public has access, and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

Responsible adult means a person 18 years of age or older specifically authorized by law or by a parent or guardian to have custody or control of a juvenile.

Serious bodily injury means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss of impairment of the function of any body part or organ.

805.02 Prohibited acts.

(1) It is unlawful for a juvenile under the age of 14 to be present in any public place or establishment within the city:

(a) Any time between 9:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday and 5:00 a.m. of the following day.

(b) Any time between 10:00 p.m. on any Friday or Saturday and 5:00 a.m. on the following day.

(2) It is unlawful for a juvenile, age 14 to 16 inclusive, to be present in any public place or establishment within the city:

(a) Any time between 10:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday and 5:00 a.m. on the following day.

(b) Any time between 11:00 p.m. on any Friday or Saturday and 5:00 a.m. on the following day.

(3) It is unlawful for a juvenile, age 17, to be present in any public place or establishment within the city:

(a) Any time between 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday and 5:00 a.m. of the following day.

(b) Any time between 12:01 a.m. and 5:00 a.m. on any Saturday or Sunday.

(4) It is unlawful for a parent or guardian of a juvenile knowingly, or through negligent supervision, to permit the juvenile to be in any public place or establishment within the city during the hours prohibited in subsections (1), (2), and (3) of this subsection.

(5) It is unlawful for a proprietor of an establishment within the city to knowingly permit a juvenile to remain in the establishment or on the establishment's property during the hours prohibited in subsections (1), (2), and (3) of this subsection. If a proprietor is not present at the time of the curfew violation, the responding officer shall leave written notice of the violation with an employee of the establishment. A copy of the written notice shall be served upon the establishment's proprietor personally or by certified mail.

805.03 Exceptions.

(1) It is an affirmative defense for a juvenile to prove that:

(a) The juvenile was accompanied by his parent, guardian, or other responsible adult.

(b) The juvenile was engaged in a lawful employment activity or was going to or

returning home from his place of employment.

- (c) The juvenile was involved in an emergency situation.
- (d) The juvenile was going to, attending, or returning home from an official school, religious, or other recreational activity sponsored and/or supervised by a public entity or civic organization.
- (e) The juvenile was on an errand at the direction of a parent or guardian.
- (f) The juvenile was exercising First Amendment rights protected by the United States Constitution or article I of the state constitution.
- (g) The juvenile was engaged in interstate travel.
- (h) The juvenile was on the public right-of-way, boulevard or sidewalk abutting the property containing the juvenile's residence or abutting the neighboring property, structure, or residence.

(2) It is an affirmative defense for a proprietor of an establishment to prove that:

- (a) The proprietor or employee reasonably and in good faith relied upon a juvenile's representations of proof of age. Proof of age may be established pursuant to Minn. Stats. § 340A.503, subd. 6, or by other verifiable means, including, but not limited to, school identification cards and birth certificates.
- (b) The proprietor or employee promptly notified the responsible police agency that a juvenile was present on the premises of that establishment during curfew hours.

805.04 Citations.

(1) A law enforcement officer may not issue a citation, detain a child or take a child into custody based on a violation of subsection 805.02(1) unless the law enforcement officer, after speaking with the child and considering the facts surrounding circumstances:

- (a) Reasonably believes that the child has violated subsection 805.02(1); and
- (b) Reasonably believes that none of the exceptions in subsection 805.03(1) apply.

(2) A law enforcement officer may not issue a citation, detain a child or take a child into custody based on a violation of subsection 805.02(2) unless the law enforcement officer, after speaking with the child and considering the facts surrounding circumstances:

- (a) Reasonably believes that the child has violated subsection 805.02(2); and
- (b) Reasonably believes that none of the exceptions in subsection 805.03(1) apply.

(3) A law enforcement officer may not issue a citation, detain a child or take a child into custody based on a violation of subsection 805.02(3) unless the law enforcement officer, after speaking with the child and considering the facts surrounding circumstances:

- (a) Reasonably believes that the child has violated subsection 805.02(3); and
- (b) Reasonably believes that none of the exceptions in subsection 805.03(1) apply.

805.05 Penalty.

(1) *Minors.* Any minor found to be in violation of this section may be adjudicated delinquent and shall be subject to the dispositional alternatives set forth in M.S. § 260.185, as it may be amended from time to time.

(2) *Adults.* Any adult person found to be in violation of this section shall be guilty of a misdemeanor.

This ordinance shall take effect and be in force from and after its publication in the official newspaper of the City of Rush City.

ORDAINED by the City Council of the City of Rush City, Chisago County, Minnesota this 23rd day of August, 2010.

/s/ Nancy Schroeder
Mayor

/s/ Amy Jo Mell
Administrator