

ORDINANCE NO. _____

AN ORDINANCE ADDING SECTION 23-70 TO CHAPTER 23 OF THE CODE OF ORDINANCES OF THE CITY OF OELWEIN, IOWA, ESTABLISHING A JUVENILE CURFEW

SECTION 1. NEW SECTION ADOPTED.

Chapter 23 of the Code of Ordinances of the City of Oelwein, Iowa, is amended by adding the following new section:

SEC. 23-70. JUVENILE CURFEW.

1. PURPOSE AND CONSTRUCTION.

A. The purposes of this section are to:

- (1) Protect minors from victimization, exploitation, injury, and other dangers associated with being unsupervised in public places during late-night and early-morning hours;
- (2) Promote reasonable parental supervision of minors;
- (3) Reduce opportunities for minors to become involved in criminal activity, property damage, disturbances, and other unlawful conduct;
- (4) Provide law enforcement officers with a reasonable means of addressing circumstances in which minors are unsupervised in public places during limited nighttime hours; and
- (5) Protect the constitutional and legal rights of minors, parents, guardians, and other persons.

B. This section shall be narrowly construed. It does not prohibit lawful employment, education, religious exercise, political or expressive activity, interstate or intrastate travel, family activity, emergency activity, or other conduct expressly exempted under this section.

C. A minor's presence in a public place during curfew hours does not, by itself, conclusively establish a violation. Before issuing a citation, a law enforcement officer shall make a reasonable inquiry into the minor's age, circumstances, reason for being present, destination, and whether an exception applies.

2. DEFINITIONS.

For purposes of this section:

A. "Curfew hours" means the following periods:

- (1) For a minor who is 15 years of age or younger:
 - (a) From 10:30 p.m. on Sunday, Monday, Tuesday, Wednesday, or Thursday until 5:00 a.m. the following day; and
 - (b) From 11:00 p.m. on Friday or Saturday until 5:00 a.m. the following day.
- (2) For a minor who is 16 or 17 years of age: From 12:00 midnight until 5:00 a.m. every day of the week.
- (3) The applicable curfew period shall be determined by the minor's age at the time of the alleged violation and by the day on which the curfew period begins.

B. "Emergency" means an unforeseen combination of circumstances or a resulting condition that requires immediate action to prevent or address:

- (1) Serious bodily injury or loss of life;
- (2) Significant property damage;
- (3) A fire, natural disaster, severe weather event, or hazardous condition;
- (4) A medical emergency;
- (5) A motor vehicle collision; or
- (6) Another comparable urgent condition requiring immediate assistance or action.

C. "Establishment" means a privately owned place of business to which the public is invited, including any parking lot, common area, or other premises under the control of the establishment.

D. "Guardian" means:

- (1) A person appointed by a court to have the care and custody of a minor;
- (2) A person who has assumed responsibility for the care and supervision of a minor with the consent of the minor's parent, legal guardian, or lawful custodian; or
- (3) A responsible adult who is at least 21 years of age and has been authorized by the minor's parent or legal guardian to accompany or supervise the minor.

E. "Minor" means an unemancipated person under 18 years of age.

F. "Parent" means a biological or adoptive parent, legal guardian, lawful custodian, or other person having legal care, custody, or control of a minor.

G. "Public place" means a place within the corporate limits of the City of Oelwein to which the public or a substantial group of the public has access, including:

- (1) A street, highway, sidewalk, alley, or public right-of-way;
- (2) A park, playground, trail, or other public recreational area;
- (3) A public building or facility;
- (4) A school property or common area when accessible to the public;
- (5) A parking lot or parking area;
- (6) A transportation facility; and
- (7) The common area or premises of an establishment.

"Public place" does not include the interior of a private residence or privately owned property where the minor is present with the consent of the owner, lawful occupant, or person authorized to grant permission.

H. "Remain" means to linger, stay, congregate, or continue to be present in a public place. "Remain" does not include:

- (1) Brief or incidental presence;
- (2) Passage through a public place while traveling directly to an authorized destination;
- (3) Presence caused by circumstances outside the minor's reasonable control; or
- (4) Presence while engaged in conduct exempted under Subsection 4.

3. PROHIBITED CONDUCT.

Except as provided in Subsection 4, a minor commits a violation of this section when the minor knowingly remains in a public place within the City during the curfew hours applicable to the minor's age.

The City must prove beyond a reasonable doubt that:

- A. The person was a minor;
- B. The minor knowingly remained in a public place;
- C. The conduct occurred during the curfew hours applicable to the minor.

The applicability of an exception under Subsection 4 shall be determined in accordance with Subsection 5.

4. EXCEPTIONS.

A minor does not violate this section when the minor is:

- A. Accompanied by the minor's parent or guardian;
- B. Engaged in lawful employment or traveling directly to or from lawful employment without unnecessary delay;
- C. Engaged in or traveling directly to or from a lawful school, educational, athletic, recreational, cultural, civic, charitable, religious, governmental, or community activity supervised by one or more adults, without unnecessary delay;
- D. Actually engaged in, or traveling directly and without unnecessary delay to or from, an identifiable and bona fide religious, political, governmental, expressive, petitioning, or peaceful assembly activity protected by the United States Constitution or the Iowa Constitution.

The minor's mere possession, display, or production of a sign, pamphlet, symbol, clothing, electronic content, or other expressive material after being contacted by a law enforcement officer does not, standing alone, establish that this exception applies.

In determining whether this exception applies, the officer may consider the totality of the circumstances, including:

- (1) The nature, location, timing, duration, and stated purpose of the activity;
- (2) Whether other persons were involved or reasonably expected to be involved;
- (3) Whether the activity existed or was planned before the officer's contact with the minor;
- (4) Whether the minor's conduct and travel were reasonably related to the claimed protected activity; and
- (5) Any other objective facts reasonably bearing upon whether the minor was actually engaged in, or traveling to or from, the claimed protected activity.

No single factor listed in this paragraph is controlling, and an activity is not required to be sponsored, approved, or organized by a governmental entity or formally recognized organization in order to qualify for this exception;

E. On a specific errand or undertaking at the direction of the minor's parent or guardian, while traveling directly and without unnecessary delay to, from, or in the performance of the errand or undertaking. The authorization must identify, expressly or by reasonable implication, the purpose, destination, and approximate time involved;

F. Acting in response to an emergency or traveling to obtain emergency medical care, police assistance, fire assistance, or other emergency services;

G. Traveling through the City by a direct and reasonable route while engaged in interstate or intrastate travel;

H. Riding in or operating a motor vehicle while traveling directly and without unnecessary delay to or from an activity, destination, or purpose otherwise exempted under this subsection. The mere operation of or presence in a motor vehicle does not, standing alone, constitute an exception to this section;

I. On the sidewalk, yard, driveway, porch, or other area immediately adjoining:

- (1) The minor's residence; or
- (2) The residence of a next-door neighbor, with the consent of the neighbor;

J. Attending or traveling directly to or from an official activity of:

- (1) The United States Armed Forces or National Guard;
- (2) A law enforcement explorer or cadet program;
- (3) A fire department or emergency medical services cadet program; or
- (4) Another government-sponsored training or public-service program;

K. Experiencing homelessness, displacement, abuse, neglect, abandonment, or another circumstance making it unsafe or impracticable to return to the minor's residence, and the minor is traveling to or from a shelter, safe location, public facility, service provider, school, employment, or other appropriate destination;

L. Prevented from reaching the minor's residence or destination by circumstances outside the minor's reasonable control, including:

- (1) A delayed or unavailable ride;
- (2) A motor vehicle breakdown;
- (3) Severe weather;
- (4) A road closure;
- (5) An interruption or delay in public transportation; or
- (6) A comparable unforeseen circumstance;

M. Seeking assistance for the minor or another person from a law enforcement officer, firefighter, emergency medical provider, medical facility, shelter, service provider, responsible adult, or other appropriate source of assistance.

5. EXCEPTIONS; BURDEN OF PRODUCTION AND PROOF.

- A. The exceptions listed in Subsection 4 are affirmative defenses to prosecution under this section and are not elements of the offense.
- B. The City is not required to negate an exception unless substantial evidence is produced from any source supporting a finding that the exception applies.
- C. Once substantial evidence supporting an exception has been produced, the City bears the burden of proving beyond a reasonable doubt that the exception does not apply.
- D. A minor is not required to carry written proof of parental permission, employment, participation in an activity, or another exception.
- E. The inability to immediately contact a parent, guardian, employer, activity supervisor, or other person does not, by itself, establish that an exception is inapplicable.

6. OFFICER INQUIRY.

- A. Before issuing a citation under this section, a law enforcement officer shall reasonably inquire into the circumstances of the minor's presence in the public place.
- B. The inquiry should ordinarily include:
 - (1) The minor's name and age;
 - (2) The minor's home address;
 - (3) The identity and available contact information of the minor's parent or guardian;
 - (4) The minor's reason for being in the public place;
 - (5) The minor's destination and intended route; and
 - (6) Whether an exception under Subsection 4 applies.
- C. An officer may request reasonable verification of information provided by the minor. Verification may include contacting a parent, guardian, employer, activity supervisor, property owner, responsible adult, or other person reasonably believed to have relevant knowledge.
- D. An officer shall not issue a citation unless the officer has probable cause to believe that:
 - (1) The person is a minor;
 - (2) The minor knowingly remained in a public place during the curfew hours applicable to the minor; and
 - (3) Based upon the officer's reasonable inquiry and the information then available, no exception under Subsection 4 was reasonably apparent or supported.
- E. The absence of identification, written parental authorization, employment documentation, or immediate telephone verification does not independently establish probable cause for a violation.
- F. Nothing in this section authorizes a detention or search that would otherwise violate the United States Constitution, the Iowa Constitution, or applicable law.

7. ENFORCEMENT PROCEDURE.

A. Whenever reasonably practicable, an officer encountering a minor who appears to be in violation of this section shall first seek voluntary compliance by:

- (1) Explaining the curfew requirements;
- (2) Determining whether an exception applies;
- (3) Directing the minor to return to the minor's residence or proceed to another lawful destination; and
- (4) Attempting to notify the minor's parent or guardian.

B. An officer may transport or arrange transportation for the minor to:

- (1) The minor's residence;
- (2) A parent or guardian;
- (3) A responsible adult authorized to receive the minor;
- (4) An appropriate shelter, service provider, or safe location; or
- (5) Another location authorized by law.

C. Transportation of a minor under this subsection shall be conducted in a manner reasonably intended to protect the safety and welfare of the minor.

D. CITATION IN LIEU OF ARREST; LIMITED NONSECURE CUSTODY.

(1) A law enforcement officer shall issue a police citation or uniform citation and complaint, in lieu of making a warrantless arrest, to a minor accused of violating this section, as required by Iowa Code section 805.16.

(2) A minor shall not be arrested solely for a violation of this section unless the minor:

- (a) Refuses to sign the citation without qualification;
- (b) Persists in engaging in the conduct for which the citation was issued;
- (c) Refuses to provide proper identification or to identify the minor; or
- (d) Constitutes an immediate threat to the minor's own safety or the safety of the public.

(3) An arrest authorized under this subsection shall be limited to the purposes and conditions permitted by Iowa Code section 805.16. The minor shall be held only in nonsecure custody and shall not be detained or confined in a facility regulated under Iowa Code chapter 356 or 356A.

(4) "Nonsecure custody" shall have the meaning provided in Iowa Code section 805.16 and shall include all applicable requirements concerning the location, physical security, supervision, purpose, and duration of custody.

(5) Nothing in this subsection prohibits:

- (a) The execution of a valid arrest warrant;
- (b) An arrest or other lawful custody based upon a separate offense;
- (c) Protective action authorized by law because the minor is missing, endangered, abused, neglected, abandoned, or otherwise in need of immediate assistance; or

(d) Voluntary transportation or other lawful arrangements intended to return the minor to a parent, guardian, responsible adult, residence, shelter, service provider, or other safe location.

E. Nothing in this section limits an officer's authority to investigate or take appropriate action concerning:

- (1) A separate criminal offense or delinquent act;
- (2) A missing-person report;
- (3) Suspected child abuse, neglect, abandonment, or exploitation;
- (4) A court order;
- (5) A runaway or endangered juvenile;
- (6) A mental-health or medical emergency; or An immediate threat to public safety.

8. WARNING AND CITATION PROCEDURES.

A. First Violation.

Except as provided in Paragraph C, a minor's first known violation within a 12-month period shall ordinarily result in:

- (1) A verbal or written explanation of the curfew ordinance;
- (2) A written warning;
- (3) A reasonable effort to notify the minor's parent or guardian; and
- (4) A safe disposition of the minor.

B. Subsequent Violation.

A citation may be issued when a minor commits a subsequent violation after receiving a written warning within the preceding 12 months.

C. Citation Without Prior Warning.

An officer may issue a citation without a prior written warning when:

- (1) The minor refuses to comply with a lawful direction reasonably related to enforcement of this section;
- (2) The minor knowingly provides materially false identifying information;
- (3) The violation occurs in connection with separate unlawful conduct;
- (4) The minor leaves after receiving a lawful warning or direction and knowingly returns to a public place during the same curfew period without a lawful reason; or
- (5) The officer reasonably determines, based upon documented prior contacts, that a warning would be ineffective because of repeated substantially similar conduct.

D. Nothing in this subsection requires an officer to issue a citation. Officers retain discretion to use a warning, referral, transportation, parental notification, or another lawful and reasonable disposition.

E. Nothing in this subsection requires the filing of a charge when an officer determines that a warning or other lawful disposition is appropriate. When a minor is formally accused or charged with violating this section, the citation and custody procedures of Iowa Code section 805.16 shall apply.

9. PARENTAL NOTIFICATION.

A. When a minor receives a warning or citation under this section, the Police Department shall make a reasonable effort to notify the minor's parent or guardian.

B. Notification may be made:

- (1) In person;
- (2) By telephone;
- (3) Electronically;
- (4) By mail; or
- (5) By another reasonable method.

C. Notice should include:

- (1) The date, time, and general location of the contact;
- (2) The nature of the curfew requirement;
- (3) Whether the minor received a warning or citation; and
- (4) Information concerning any available diversion, educational, or community-service option.

D. A parent or guardian does not incur automatic criminal or civil liability solely because a minor violated this section.

E. Conduct by a parent or guardian that independently violates another provision of law may be investigated or prosecuted under that law.

10. PARENTAL RESPONSIBILITY.

A. After receiving written notice of a minor's prior violation of this section, a parent, legal guardian, or lawful custodian shall not knowingly permit, encourage, assist, or, when reasonably able to do so, fail to take reasonable measures to prevent a subsequent violation by the minor.

B. A parent, legal guardian, or lawful custodian commits a municipal infraction only when the City proves by clear, satisfactory, and convincing evidence that:

- (1) The parent, legal guardian, or lawful custodian had actual notice of the minor's prior curfew violation;
- (2) The parent, legal guardian, or lawful custodian had the legal authority and reasonable ability, under the circumstances, to supervise or control the minor;
- (3) The parent, legal guardian, or lawful custodian knowingly permitted the violation or failed to take reasonable measures to prevent a subsequent violation; and
- (4) The act or failure to act by the parent, legal guardian, or lawful custodian caused or materially contributed to the subsequent violation.

C. A minor's violation of this section, standing alone, does not establish or create a presumption that a parent, legal guardian, or lawful custodian failed to exercise reasonable supervision or control.

D. In determining whether a parent, legal guardian, or lawful custodian exercised reasonable supervision and control, the court may consider all relevant circumstances, including whether that person:

- (1) Clearly directed the minor to comply with the curfew;
- (2) Made reasonable efforts to determine the minor's location and require the minor to return home;
- (3) Arranged reasonable supervision when personally unavailable;
- (4) Reported the minor as missing or as a runaway when appropriate;
- (5) Sought assistance from law enforcement, juvenile court services, school personnel, counseling providers, or other appropriate agencies;
- (6) Was unable to control the minor because of circumstances beyond that person's reasonable control; and
- (7) Took other reasonable measures intended to prevent the violation.

E. It is a defense that the minor left the residence or violated the curfew without the knowledge or permission of the parent, legal guardian, or lawful custodian despite that person's reasonable efforts to supervise and control the minor.

F. PARENTAL NOTICE AND PENALTIES.

- (1) Following a minor's first documented curfew violation, the City shall provide written notice to the parent, legal guardian, or lawful custodian. The notice is not a finding of parental liability.
- (2) A first parental-responsibility municipal infraction proven after such notice is punishable by a civil penalty not exceeding one hundred dollars.
- (3) A second or subsequent parental-responsibility municipal infraction is punishable by a civil penalty not exceeding two hundred fifty dollars.

G. Each parental-responsibility violation must be based upon a separate act or failure to act by the parent, legal guardian, or lawful custodian. Multiple curfew violations by the minor shall not automatically constitute multiple violations by that person.

11. NONDISCRIMINATORY ENFORCEMENT.

A. This section shall be enforced in a fair, impartial, and constitutional manner.

B. Enforcement shall not be based upon a person's:

- (1) Race or color;
- (2) Ethnicity or national origin;
- (3) Religion;
- (4) Sex;
- (5) Disability;

- (6) Housing or socioeconomic status;
- (7) Perceived group membership;
- (8) Manner of dress; or
- (9) Exercise of constitutionally protected rights.

C. A law enforcement officer may initiate a brief investigatory detention when specific and articulable facts create reasonable suspicion that a person is a minor who is violating this section. In determining whether reasonable suspicion exists, the officer may consider the person's apparent age, location, conduct, time of day, and any other objective circumstances. A detention shall not be based upon a protected characteristic or the exercise of a constitutional right.

12. PENALTY.

A. A violation of the juvenile curfew provisions of this section is a simple misdemeanor and shall be prosecuted as provided by Iowa Code section 232.8 and other applicable law.

B. A minor convicted of a violation of this section may be required to pay a fine not exceeding one hundred dollars, as fixed by the court, or may be required to perform community service as ordered by the court, consistent with Iowa Code section 903.1.

C. A violation of the juvenile curfew provisions shall be processed and sentenced in accordance with Iowa Code sections 232.8, 805.16, 903.1, and other applicable law.

D. When authorized by law and approved by the court or prosecuting authority, consideration should be given to noncustodial alternatives, including:

- (1) Diversion;
- (2) Community service;
- (3) Educational programming;
- (4) Counseling;
- (5) Restorative-justice programming; or
- (6) Another appropriate alternative disposition.

E. Each separate curfew period constitutes a separate potential violation.

F. A minor's continuing presence during one curfew period constitutes only one violation unless the minor leaves after receiving a warning or lawful direction and later knowingly returns to a public place during the same curfew period without an applicable exception.

13. RECORDS AND PERIODIC REVIEW.

A. The Police Department shall maintain records reasonably sufficient to evaluate enforcement of this section, including:

- (1) The age of the minor;
- (2) The date and time of the contact;
- (3) The general location of the contact;
- (4) The reason stated by the minor for being present;
- (5) Whether an exception was asserted and how it was evaluated;

(6) Whether a warning, citation, transportation, referral, parental notification, or other action occurred; and

(7) Demographic information to the extent lawfully and appropriately collected.

B. Personally identifying information concerning a minor shall not be publicly disclosed except as authorized or required by law.

Any report presented to the City Council shall contain aggregated or de-identified information and shall not identify an individual minor, parent, legal guardian, lawful custodian, or household.

C. The Police Chief or designee shall present an enforcement summary to the City Council:

(1) Approximately 12 months after the effective date of this ordinance; and

(2) At least once every two years thereafter while the ordinance remains in effect.

D. The enforcement summary should include:

(1) The number of curfew contacts;

(2) The number of warnings and citations;

(3) The ages of the minors involved;

(4) The general locations and times of contacts;

(5) The number and types of exceptions asserted;

(6) The dispositions of contacts; and

(7) Any identified enforcement, safety, or constitutional concerns.

E. The City Council shall periodically evaluate whether:

(1) The ordinance remains necessary;

(2) The curfew hours remain reasonable;

(3) The ordinance is being enforced fairly and consistently;

(4) The exceptions and procedures remain adequate; and

(5) Amendment or repeal is appropriate.

14. LAW ENFORCEMENT POLICY.

The Police Chief may adopt written policies, procedures, and training requirements consistent with this section concerning:

A. Officer contacts and lawful detention;

B. Determination of age;

C. Evaluation of exceptions;

D. Warnings and citations;

E. Parent or guardian notification;

F. Transportation and safe disposition;

G. Homeless, displaced, runaway, missing, or endangered minors;

H. Constitutionally protected activity;

- I. Documentation and data collection; and
- J. Fair and impartial enforcement.

A departmental policy may provide additional guidance but shall not eliminate or materially narrow an exception established by this section.

15. NO CREATION OR EXPANSION OF CIVIL LIABILITY.

This section does not create a private cause of action or create or expand any civil liability that would not otherwise exist under state or federal law.

SECTION 2. REPEALER.

All ordinances or parts of ordinances in conflict with this ordinance are repealed to the extent of the conflict.

SECTION 3. SEVERABILITY.

If any section, provision, or part of this ordinance is adjudged invalid or unconstitutional, the adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part not adjudged invalid or unconstitutional.

SECTION 4. EFFECTIVE DATE.

This ordinance shall be in full force and effect after its final passage, approval, and publication as provided by law.

First reading -	September 28, 2026
Second reading -	October 12, 2026
Third reading -	October 26, 2026

Brett DeVore, Mayor

Attest:

Dylan Mulfinger, City Administrator

Recorded October 27, 2026.

First Reading on: September 28, 2026. It was moved by _____ and seconded by _____ that the Ordinance as read be adopted, and upon roll call there were:

AYES NAYS ABSENT

ABSTAIN

Ricchio

Weber

Payne

Cantrell

Cannon

Gearhart

Second Reading on: October 12, 2026. It was moved by _____ and seconded by _____ that the Ordinance as read be adopted, and upon roll call there were:

AYES NAYS ABSENT ABSTAIN

Ricchio

Weber

Payne

Cantrell

Cannon

Gearhart

Third and Final Reading on: October 26, 2026. It was moved by _____ and seconded by _____ that the Ordinance as read be adopted, and upon roll call there were:

AYES NAYS ABSENT ABSTAIN

Ricchio

Weber

Payne

Cantrell

Cannon

Gearhart