

## ORDINANCE NUMBER 50

### Ordinance Creating Juvenile Curfew

The Village Board of the Village of Marquette does hereby ordain to rescind Ordinance No. 31 of the Village of Marquette and creates the following juvenile curfew ordinance.

#### SECTION 1:

##### (a) Definitions.

- (1) "Village" means Village of Marquette, Wisconsin.
- (2) "Curfew hours" means the hours from 11:00 p.m. – 5:00 a.m. Sunday through Thursday for the period beginning the day after Memorial Day through Labor Day of each year; from 10:00 p.m. through 5:00 a.m. Sunday through Thursday for the period beginning the day after Labor Day through Memorial Day of each year; and from 12:00 midnight to 5:00 a.m. for all Fridays and Saturdays throughout the year.
- (3) "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, automobile accident, or any situation requiring immediate action to prevent serious bodily injury (defined below) or loss of life.
- (4) "Establishment" means any privately owned place of business operated for a profit to which the public is invited, including but not limited to: any place of amusement or entertainment.
- (5) "Guardian" means:
  - a. A person who, under court order, is the guardian of the person or a minor; or
  - b. A public or private agency with whom a minor has been placed by a court.
- (6) "Minor" means any person under 18 years of age.
- (7) "Operator" means any entity, individual, firm, association, partnership or cooperation operating, managing or conducting any establishment. The term includes the members or partners of an association or partnership and the officer of a corporation.
- (8) "Parent" means a person who is:
  - a. A natural parent, adoptive parent or step-parent to another person; or
  - b. At least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.
- (9) "Public place" means any area generally visible to public view and includes, but is not limited to: streets, tree banks, sidewalks, alleys, parks, vacant lots, driveways, parking lots and buildings open to the general public and the doorways, entrances and common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops and the grounds enclosing them and any other public place.
- (10) "Serious Bodily Injury" means any bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

**(b) Violations.**

- (1) A minor commits a violation if he/she remains in any public place or on the premises of any establishment within the Village during curfew hours.
- (2) A parent or guardian of a minor commits a violation if he/she knowingly permits, or by insufficient control, allows the minor to remain in any public place or on the premises of any establishment within the Village during curfew hours.
- (3) The owner, operator, or any employee of an establishment commits a violation if he/she knowingly allows a minor to remain upon the premises of the establishment during curfew hours. This section shall not apply to the owner, operator or employee of an establishment that promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

**(c) Exceptions.**

It is not a violation under this Ordinance if the minor was:

- (1) Accompanied by the minor's parent or guardian;
- (2) On an errand at the direction of the minor's parent or guardian without any detour or stop;
- (3) In a motor vehicle involved in interstate travel;
- (4) Engaged in any employment activity or going to or returning home from an employment activity without detour or stop;
- (5) Involved in an emergency;
- (6) Attending an official school, religious or other recreational activity supervised by adults and sponsored by any city, county, village or town, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official city, village or town, county, a civic organization or another similar entity that takes responsibility for the minor;
- (7) Going to, or attending or returning home from a movie theatre, without any detour or stop;
- (8) Exercising First Amendment rights protected by the United States Constitution or the Wisconsin Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly,
- (9) Coming directly home from a private home which has been approved by the minor's parent or legal guardian, or;
- (10) Married.

**(d) Enforcement**

Before taking any enforcement action under this Ordinance, a law enforcement officer shall ask the offender's age and reason for being in the public place or establishment. The officer shall not issue a citation under this section unless the officer reasonably believes that a violation has occurred and that, based on any response and other circumstances, no exception in subsection (c) is present. A minor believed to be violating the provisions of this section may be taken to the police department for proper identification. Every law enforcement officer, while on duty, may, in his/her discretion detain any minor violating subsection (b) above until such time as the parent, guardian or other adult person having legal custody of the minor is notified and the person so



notified shall, as soon as reasonably possible thereafter, report to the police department for the purpose of taking the minor into custody and such person shall sign a release for the minor if so requested by the officer. If the parent, legal guardian or other adult person having the care, custody or control of such minor is unavailable, unwilling or unable to provide supervision for the minor, a law enforcement officer may release the minor to a responsible adult, and verbally counsel or issue a warning or citation as may be appropriate.

(e) **Penalties**

Any person who violates a provision of this Ordinance is guilty of a separate violation for each day or part of a day during which the violation is committed, continued or permitted. Each violation, upon conviction, is punishable by a forfeiture of not less than twenty-five (\$25.00) dollars no more than three hundred (\$300.00) dollars, plus costs and assessments except for a second conviction within a 12-month period the minimum forfeiture shall be \$75.00, plus costs and assessments; for a third conviction within a 12-month period the minimum forfeiture shall be \$100.00, plus costs and assessments; for a fourth or subsequent violation within a 12-month period the minimum forfeiture shall be \$150.00, plus costs and assessments.

(f) **Severability**

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction such portion(s) shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion(s) thereof.

SECTION 2: This ordinance shall take effect from and after its passage and publication as required by law.

Roll Call    Ayes   3      Nays   0      Absent   0      Abstain   0  

Introduced by:

Jason A. Winchell

Introduced by:

David W. Zell

APPROVED this 13<sup>th</sup> day of June, 2005.

VILLAGE OF MARQUETTE

John LaPellette  
Village President

ATTEST:

Deborah J. Flagel  
DEBORAH J. FLAGEL, Village Clerk

APPROVED AS TO FORM:

DANIEL D. SONDALLE, Village Attorney

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