

# CURFEW (G-3-2009)

An ordinance to create a curfew ordinance pursuant to Indiana Code 31-37-3

WHEREAS, the problems facing our youth, including drug and alcohol abuse, sexually transmitted disease, crime commission and victimization chief among them, are exacerbated during the later night hours and early morning hours, when fewer opportunities for adult supervision exists; and

WHEREAS, the town council make a special finding there are particular concerns with relation to youth under the age of 16, in particular, 15 year olds, in as much as they cannot lawfully operate automobiles.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the town council of the Town of Swayzee, Indiana that:

## SECTION 1: ORDINANCE

The Town of Swayzee adopts this Curfew Ordinance with the following provisions.

- a. Curfew Hours for Minors Younger than 16 Years of Age- It is a curfew violation for a child less than 16 years of age to be in a public place after 11pm or before 5 am on any day.
- b. Curfew Hours for Minors 16 and 17 years of Age – It is a curfew violation for a child 16 or 17 years of age to be in a public place;
  - (1) Between 1am and 5am on a Saturday or Sunday;
  - (2) After 11 pm Sunday, Monday, Tuesday, Wednesday, Thursday; or
  - (3) Before 5 am on Monday, Tuesday, Wednesday, Thursday or Friday.
- c. Emancipation: It is a defense to a violation under this ordinance that the child was emancipated
  - (1) Under IC 31-37-19-27 or IC 31-6-4-15.7 before its repeal;
  - (2) By virtue of having married.
  - ii. An officer, after making a reasonable determination and considering the facts and surrounding circumstances, reasonably believes that;
    - a. The child has violated this ordinance; and
    - b. There is no legal defense to the violation.
  - iii. A child who commits a curfew violation under this ordinance is subject to enforcement procedures provided in IC 36-1-6 and IC34-28-5. Any complaint filed against a child for a violation of this ordinance shall be filed in court and the town shall direct a copy of the complaint to the child’s parent, guardian or custodian, If such person is known or can be identified by reasonable inquiry.

## SECTION 2: VIOLATION & PENALTIES

- (1) A person who is found guilty of a violation of this ordinance shall be punishable by a fine not exceeding \$50 upon conviction.
- (2) In addition to the imposition of the forgoing fine, the court, upon request may order such injunctive relief as is appropriate and necessary to prevent the child from committing further violations of this ordinance.

**SECTION 3: CURFEW RESPONSIBILITY OF PARENT, GUARDIAN OR CUSTODIAN**

It is and shall be unlawful for a parent, guardian, or other person having custody over a child to permit a child to commit a curfew violation under this ordinance. If a parent, guardian, custodian or child is charged with a second or subsequent violation of this ordinance, there shall be presumption that the parent, guardian or custodian is responsible under this ordinance for the child's violation of this ordinance.

**SECTION 4: SEVERABILITY**

If any part of this ordinance shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remainder of this ordinance.

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SWAYZEE  
IN THE WORLD**