

**GENERAL ORGINANCE NO. 2008-4  
OF THE TOWN OF SWEETSER, INDIANA**

**AN ORDINANCE TO CREATE A CURFEW ORDINANCE IN  
THE TOWN OF SWEETSER, INDIANA  
PURSUANT TO INDIANA CODE CHAPTER 31-37-3**

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

WHEREAS, our youth have natural rights to grow, develop and express themselves, however, by virtue of their age, inexperience and lack of full maturity, they do not have the full rights of adulthood; and

WHEREAS, statistics establish that in the absence of a curfew law, youth will be unsupervised in public places late at night and early morning; and

WHEREAS, courts across the nation have examined curfew laws and found that the state and local governments have a substantial and compelling interest in determining when youth may be unsupervised in public places in light of the dangers that may befall juveniles and the community in absence of supervision; and

WHEREAS, a curfew law provides not only a tool for law enforcement to protect youth and the community but serves to empower parents to set and enforce limits on the activities of their children; and

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Sweetser Town Council of the Town of Sweetser, Indiana, that:

1. Ordinance. The Town of Sweetser adopts this Curfew Ordinance with the following provisions:

- (a) Curfew Hours for Minors Younger than Sixteen (16) Years of Age. It is a curfew violation for a child less than sixteen (16) years of age to be in a public place after 11:00 P.M. or before 5:00 A.M. on any day.
- (b) Curfew Hours for Children Sixteen (16) and Seventeen (17) Years of Age. It is a curfew violation for a child sixteen (16) or seventeen (17) years of age to be in a public place:

(1) between 1:00 A.M. and 5:00 A.M. on Saturday or Sunday;

(2) after 11:00 P.M. Sunday, Monday, Tuesday, Wednesday, Thursday, or

(3) before 5:00 A.M. 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; or

(3) in accordance with the laws of another state or jurisdiction.

(d) Defenses. It is a defense to a violation under this Ordinance that the child engaged in the prohibited conduct while:

(1) accompanied by the minor's parent, guardian or custodian;

(2) accompanied by an adult specified by the child's parent, guardian or custodian;

(3) participating in going to or returning from:

i. lawful employment;

ii. a school – sanctioned activity;

iii. a religious event;

iv. an emergency involving the protection of a person or property from an imminent threat of serious bodily injury or substantial damage;

v. an activity involving the exercise of the child's rights protected under the First Amendment to the United States Constitution or Articles 1, Section 31 of the Constitution of the State of Indiana, or both, such as freedom of speech and the right to assembly; or

vi. an activity conducted by a nonprofit or governmental entity that provides recreation, education, training, or other care under the supervision of one (1) or more adults;

(4) participating in an activity undertaken at the prior written direction of the child's parent, guardian or custodian; or

(5) engaged in interstate or international travel from a location outside Indiana to another location outside Indiana.

(e) Enforcement.

(1) A law enforcement officer may not detain a child or take a child into custody based on a violation of this Ordinance unless the law enforcement officer, after making a reasonable determination and considering the facts and surrounding circumstances, reasonably believes that:

- i. the child has violated this Ordinance; and
- ii. there is no legal defense to the violation.

(2) A child who commits a curfew violation under this Ordinance is subject to enforcement procedures provided in Ind. Code Chapter 36-1-6 and Ind. Code Chapter 34-28-5. Any complaint filed against a child for a violation of this Ordinance shall be filed in a Court of General Jurisdiction and the Town Council 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.

(f) Violations and Penalties.

(1) A person who is found guilty of a violation of this Ordinance shall be punishable by a fine not exceeding fifty dollars (\$50.00) per violation.

(2) In addition to the imposition of the foregoing 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.

(g) 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.

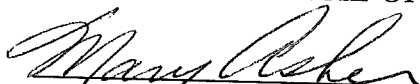
2. Construction of Clause Headings. The clause headings appearing herein have been provided for convenience and reference and do not purport and shall not be deemed to define, limit or extend the scope or intent of the clause to which they appertain.

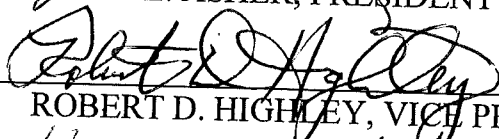
3. Severability. If any part of this Ordinance shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not effect the remainder of this Ordinance.

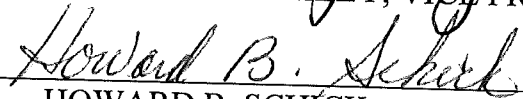
4. Duration and Effective Date. The provisions of this Ordinance shall become and remain in the full force and effect until repeal by ordinance, and shall become effective immediately upon passage and publication as required by law.

PASSED ADOPTED this 10th day of July, 2008, by the Sweetser Town Council of the Town of Sweetser, Grant County, Indiana.

THE TOWN COUNCIL OF SWEETSER, INDIANA

  
\_\_\_\_\_  
MARY E. ASHER, PRESIDENT

  
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ROBERT D. HIGHLEY, VICE PRESIDENT

  
\_\_\_\_\_  
HOWARD B. SCHICK

  
\_\_\_\_\_  
VIRGINIA E. HIATT

\_\_\_\_\_  
CHARLES BRIEDE

ATTEST:

  
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V. JILL JOHNSON  
CLERK-TREASURER