

**ORDINANCE ESTABLISHING A NOCTURNAL CURFEW  
APPLICABLE TO JUVENILES AS ADOPTED  
BY THE MAYOR AND BOARD OF ALDERMEN**

**WHEREAS**, the Mayor and Board of Aldermen of the Town of Walnut, Mississippi, has authority pursuant to Mississippi Code Sections 21-17-5 and 21-19-17 to enact this Ordinance; and,

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMAN OF THE TOWN OF WALNUT, MISSISSIPPI, THAT THE CURFEW ORDINANCE OF THE TOWN OF WALNUT IS HEREBY ESTABLISHED AS FOLLOWS:

SECTION 1. Short Title. This Ordinance shall be known and may be cited as the "Curfew Ordinance".

SECTION 2. Purposes and Findings. The Mayor and Board of Alderman of the Town of Walnut has determined that large numbers of juveniles have been congregating in the Town of Walnut causing general disturbances to residents, and contributing to an excessive number of incidents of drug and alcohol related crimes, thefts, vandalism, burglaries, and assaults, including crimes committed by and against juveniles; and,

The Mayor and Board of Aldermen of the Town of Walnut finds and determines that special and extenuating circumstances presently exist within this Town that call for special regulation of minors within the Town in order to protect them from each other and from other persons on the street during the nocturnal parental supervision and authority over minors and to decrease juvenile crime rates; and,

In accordance with the prevailing community standards, this Ordinance serves to regulate the conduct of juveniles on streets during nocturnal hours, and those hours prohibited by the Mississippi Compulsory School Attendance Law, to be effectively and consistently enforced for the protection of the juveniles in Walnut from each other and from other persons on the streets during nocturnal hours, for the enforcement of parental control of, authority over and responsibility for their children, for the protection of the public from nocturnal mischief by juveniles, for the reduction in the incidents of juvenile criminal activity, for the furtherance of family responsibility and for the public good, safety and welfare; and,

After further review and continuing evaluation of this Curfew Ordinance the Mayor and the Board of Aldermen find that there is continued justification of the purposes and findings herein to reinstate the Curfew Ordinance as well as to extend the period of restrictions to coincide with the Mississippi Compulsory School Attendance Law.

SECTION 3. Definitions. For the purposes of the Curfew Ordinance the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular and words in the singular number include the plural. The word "shall" is always mandatory and not merely directory.

(a) Town is the Town of Walnut, MS, with administrative offices at Town Hall, Walnut, MS 38683.

(b) 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.

(c) Minor or juvenile is any unemancipated person under the age of seventeen (17) years or, in equivalent phrasing often herein employed, any person sixteen (16) or less years of age.

(d) Parent is any person having legal custody of a minor (i) as a natural or adoptive parent; (ii) as a legal guardian; or (iii) as a person to whom legal custody has been given by order of the court.

(e) Remain means to stay behind, to tarry and to stay unnecessarily upon the streets, including the congregating of groups (or of interacting minors totaling four or more persons in which any minor involved would not be using the streets for ordinary or serious purposes such as mere passage or going home. To implement that though with additional precision and precaution, numerous exemptions are expressly defined in Section 5 so that this is not a mere prohibitory or presence type of Curfew Ordinance.

(f) Street is a way or place, of whatsoever nature, open to the use of the public as a matter of right for purposes of vehicular travel or in the case of time, whether Central Standard Time or Central Daylight Savings Time, generally observed at that hour by the public in the Town, prima facie the time when observed in the Town Administrative Offices and Police Department.

(g) Year of age continues from one birthday, such the seventeenth, to (but not including the day of) the next, making it clear that sixteen (16) or less years of age is herein treated as equivalent to the phrase "under seventeen (17) years of age", unless specifically defined differently herein.

(h) The Police Department shall refer to the Police Department Headquarters located in the Town of Walnut, MS 38683 or any officially designed precinct of said Department.

#### SECTION 4. Restrictions.

(a) It shall be unlawful for any minor under seventeen (17) years of age to remain in or upon any public place within the Town during the period ending at 6:00 a.m. and beginning at :

- i. 12:00 a.m. on Friday and Saturday mornings, and
- ii. 10:00 p.m. on Sunday night through Thursday night .

(b) It shall be unlawful for any compulsory school age child, meaning a child who has attained or will attain the age of six (6) years on or before September 1 of the calendar year and who has not attained the age of sixteen (16) years on or before September 1 of the calendar year to remain in or upon any public street, highway, park, vacant lot, establishment or other place within the Town during the following period:

i. 8:45 a.m. until 2:15 p.m. on Monday through Friday during the school term in which said compulsory school age child is to be enrolled in a public or private legitimate non-

public school, as required by the Mississippi Compulsory School Attendance Law (Section 37-13-91).

(c) It shall further be unlawful for a parent of a minor to knowingly permit or by inefficient control to allow such minor to be or remain upon any street or establishment under circumstances not constituting an exception to, or otherwise beyond the scope of, the Curfew Ordinance as set forth in Section 4 (a) and (b) herein. The term "knowingly" includes knowledge which a parent should reasonably be expected to have concerning the whereabouts of a minor in that parent's legal custody. It is intended to continue to keep neglectful or careless parents up to a reasonable community standard of parental responsibility through an objective test. It shall, a fortiori, be no defense that a parent was completely indifferent to the activities or conduct or whereabouts of such minor child.

(d) The owner, operator, or any employee of an establishment commits an offense if he knowingly allows a minor to remain upon the premises of the establishment during curfew hours as set forth in Section 4 (a) and (b) herein.

SECTION 5: Exceptions. The following shall constitute valid exceptions to the operation of the curfew.

(c) Until the hour of 12:30 a.m. if the minor is on an errand as directed by his or her parent;

(d) If the minor is legally employed, for the period from forty-five minutes after work, while going directly between his or her home and place of employment. This exception shall also apply if the minor is in a public place during curfew hours in the course of his or her employment. To come within this exception, the minor must be carrying a written statement of employment issued by employer pursuant to the authorization of the Chief of police or Town Marshall to expire within ninety (90) days;

(e) Until the hour of 12:30 a.m. if the minor is on the property of or the sidewalk directly adjacent to the place where such minor resides or the place immediately adjacent thereto if the owner of the adjacent building does not communicate an objection to the minor and the police officer;

(f) When returning home by a direct route from (and within thirty (30) minutes of the termination of) a school activity or an activity of a religious or other voluntary association, or a place of public entertainment, such as a movie, play or sporting event. This exception will not apply beyond 1:30 a.m. If the event is not commercial in nature or does not have a fixed, publicly known time at which it will or does end, the sponsoring organization must register the event with the Chief of Police or Town Marshall of the Town of Walnut Police Department or his representative at least 24 hours in advance, informing the Police Department of the time the event is scheduled to begin, the place at which it shall be held, the time at which it shall end and the name of the sponsoring organization;

(g) In the case of reasonable necessity, but only after such minor's parent has communicated to the Police Department personnel the facts establishing such reasonable necessity relating to specified streets at the designated time for a described purpose including place or origin and destination. A copy of such communication, or the police record thereof, duly certified by the Chief of Police or Town Marshall to be correct, an appropriate notation of

the time it was received and of the names and addresses of such parent and minor shall constitute evidence of qualification under this exception;

(h) When exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right of assembly. Such minor shall evidence the bona fides of such exercise and provide notice to Town officials by delivering to the Police Department a written communication, signed by such minor, with their home address and telephone number, addressed to the Mayor of the Town specifying when, where and in what manner said minor will be on the streets at night during hours when the Curfew Ordinance is still otherwise applicable to said minor in the exercise of a First Amendment right specified in such communication;

(i) When a minor is, with parental consent, in a motor vehicle engaged in bona fide interstate travel through the Town. This also exempts all interstate travel beginning or ending in the Town of Walnut, Mississippi;

(j) Each of the foregoing exception, and their several limitations are severable, as hereinafter provided but here re-emphasized.

#### SECTION 6. Violations.

(a) A police officer of the Town who has probable cause to believe that a minor is in violation of this Ordinance shall:

- i. ascertain the a name and address of the minor;
- ii. issue the minor a written warning that the minor is in violation of this Ordinance; and
- iii. order the minor to go promptly home by a direct route.

(b) Notwithstanding paragraph (a) of this Section, a police officer who has probable cause to believe that the minor is in violation of this Ordinance, shall transport the minor to the Police Department or another authorized location if;

- i. reasonable grounds exist to believe the minor has engaged in delinquent conduct.

(c) When a minor is taken to the Police Department or another authorized location, the minor's parents or legal contact there is advised that there is probable cause to believe that the minor was violating this Ordinance, the minor shall be held until the parent or legal guardian comes to take the minor home. When the parent or legal guardian arrives, he or she shall be given a copy of this Ordinance. If no parent or legal guardian has arrived within two hours, the minor shall be turned over to the custody of the local juvenile authorities until a parent or legal guardian can take custody of him or her. This violation may also constitute a parental violation as described in Section (d) (i).

(d) (i). Whenever a minor is transported to the Police Department or another authorized location for violation of this ordinance under Section 6 (b), the minor's parent shall be cited for a parental violation of this ordinance. For such first parental offense a parent shall be fined twenty-five dollars. For each subsequent offense by a parent the fine shall be increased by

an additional twenty-five dollars, e.g. fifty dollars for the second, seventy-five dollars for the third offense. Any fine assessed under the parental violation provision of this section shall be waived upon the violating parents; successful completion of a certified parenting course.

(e) Any minor who shall violate any of the provisions of this Ordinance more than two times shall be dealt with according to the Youth Court law of the State of Mississippi and in accordance with the directives of the Youth Court of Tippah County, Mississippi, or such other court as shall have jurisdiction of said minor.

(f) The owner, operator, or any employee of an establishment violating any provision of this ordinance upon conviction thereof shall be fined one hundred dollars for a first offense. For each subsequent offense by an owner, operator or employee of an establishment, the fine shall be increased by an additional fifty dollars, e.g. one hundred fifty dollars for the second, two hundred dollars for the third offense.

SECTION 7. Construction and Severability. Severability is intended through and within the provisions of the Curfew Ordinance. If any provision, including inter alia any exception, part, phrase or term of or the application thereof to any person or circumstances is held invalid, the application to other persons or circumstances shall not be affected thereby. The Council does not intend a result that is absurd, impossible to execute or unreasonable. It is intended that the Curfew Ordinance be held inapplicable in such cases, if any, where its application would be unconstitutional. A constitutional construction is intended and shall be given. The Council does not intend to violate the Constitution of the State of Mississippi or the Constitution of the United States of America.

SECTION 8. Continuing Evaluation. The Mayor and Board of Aldermen will continue their evaluation and updating of this Curfew Ordinance through methods including, but not limited to:

(a) Within six months after the implementation of this Ordinance, the Chief of Police shall provide the Mayor and Board of Alderman with a report concerning the effect of this Ordinance on crimes committed by and against minors, and the number of warnings issued and arrests of minors and parents or legal guardians hereunder, and such other information as Mayor and Board of Aldermen may request.

(b) After receipt of the Police Chief's report, by the Mayor and Board of Aldermen, the Town Clerk shall place this matter on the Town agenda for discussion, review, and continuing evaluation.

SECTION 9. Effective date. In the interest of the immediate or temporary preservation of public peace, health or safety or for other good cause, this ordinance shall be effective from and after passage.

SECTION 10. Expiration. This Ordinance shall expire and shall be null and void after February 1, 2011. This provision, known as a "sunset provision", is included herein to ensure that the Ordinance, its effectiveness and its necessity will be reviewed by the Mayor and Board of Aldermen within a reasonable time after its adoption.

SECTION 11. Notice. The Town Clerk shall provide notice of this Ordinance and of the curfew regulations established by it by having copies of the Ordinance posted in, on or about

such public or quasi-public places as may be determined by the Mayor and Board of Aldermen, and Police Department in order that the public may be constantly informed of the existence of the Ordinance and its amendments and regulation.

SECTION 12. Ordinance Cumulative: This Ordinance shall be cumulative and in addition to any other laws in force.

Alderman James moved adoption;  
Alderman Martindale seconded.

Motion passed with five (5) Ayes and no Nays .

Approved on this the 5<sup>th</sup> day of January, 2010.

Vince J. Skinner  
Mayor Skinner

Sara Howell  
Town Clerk