

8.20 Curfew

(1) Curfew Established. It shall be unlawful for any person under eighteen (18) years of age to be on foot, bicycle, or in any type of vehicle on any public street, avenue, highway, road, alley, park, school grounds, place of amusement and entertainment, cemetery, playground, public building, or any other public place in the Village of Elkhart Lake between the hours of 11:00 P.M. and 5:00 A.M., unless accompanied by his or her parent or guardian, or a person having lawful custody and control of his or her person, or unless there exists a reasonable necessity therefore. A child, unaccompanied by a parent, guardian, or other person having legal custody found in any of the above activities shall be prima facie evidence that the child is there unlawfully and that no reasonable excuse for his or her presence provided that the officer has reason to believe the child does not meet one of the exceptions outlined in Subsection 2.

(2) Exceptions. The curfew requirements shall not apply to a child:

(a) Who is performing an errand as directed by his or her parent, guardian, or a person having lawful custody provided that the child is traveling directly to and from the location of the assigned errand;

(b) Who is on his or her own premises, or in the areas immediately adjacent thereto, provided the immediate adjacent area is not a park or other public property.

(c) Whose employment makes it necessary to be upon the streets, alleys, or public places, or in any motor vehicle during such hours; or

(d) Who is engaged in otherwise lawful activities of expression as contemplated under the First Amendment to the United States Constitution.

(e) Who is returning from a supervised school, church, or civic function, but not later than thirty (30) minutes after the ending of such function.

The above exceptions do not permit a child to unnecessarily loiter about the streets, alleys, or public places, or be in a parked motor vehicle on the public streets, alleys, or public places.

(3) Parental Responsibility.

(a) It shall be unlawful for any parent, guardian, or other person having the lawful care, custody, and control of any person under eighteen (18) years of age to allow or permit such person to violate the provisions of this curfew ordinance. If a parent, guardian, or a person having the lawful care, custody, and control was informed by any law enforcement officer of a separate violation of this ordinance occurring within thirty (30) days of the present offense, it shall be prima facie evidence that such parent guardian or person having the lawful care, custody, and control allowed or permitted the present violation. Any parent, guardian, or person having lawful care, custody, and control who makes a missing person notification to the police department shall not be considered to have allowed or permitted any person under eighteen (18) years of age to violate this ordinance.

(b) Any person who knowingly contributes to the violation of this section by any person under the age of eighteen (18) years of age shall be subject to penalties in Subsection (5).

(4) **Taking a Child Into Custody.** Without limiting the law enforcement powers of the police department authorized under Wisconsin law, law enforcement officers shall have the following powers under this curfew ordinance.

(a) Every law enforcement officer while on duty is authorized to take into custody any child violating the provisions of this ordinance. Children taken into custody shall be released from custody as soon as is reasonably possible. The law enforcement officer shall make every reasonable effort to immediately release the child to the child's parent, guardian, or a person having the lawful care, custody, and control of the child. If the parent, guardian, or legal custodian is unavailable, unwilling, or unable to provide supervision for the child, the law enforcement officer may release the child to a responsible adult and verbally counsel or warn as may be appropriate, or in the case of a runaway child, may release the child to a home authorized under the Wisconsin Statutes.

(b) If the child is not released under this subsection, the law enforcement officer shall deliver the child to the Sheboygan County Juvenile Court intake worker in a manner determined by the court and law enforcement agencies, stating in writing with supporting facts the reasons why the child was taken into physical custody and giving any child twelve (12) years of age or older a copy of the statement, in addition to giving a copy to the intake worker.

(c) If the child is believed to be suffering from a serious physical condition that requires either prompt diagnosis or prompt treatment, the law enforcement officer shall take such action as is required under the Wisconsin Statutes. If the child is believed to be mentally ill, drug dependent, or developmentally disabled and exhibits conduct that constitutes a substantial risk of physical harm to the child or to others, the law enforcement officer shall take such action as is required under the Wisconsin Statutes. If the child is believed to be an intoxicated person who has threatened, attempted or inflicted physical harm on himself or herself or on another, and is likely to inflict such physical harm unless committed or is incapacitated by alcohol, the law enforcement officer shall take such action as is required by Wisconsin Statutes.

(5) **PENALTIES.**

(a) Any parent, guardian, or person having the lawful care, custody, and control of a child under 18 years of age or any other person who contributes to a violation of this section, shall forfeit not more than \$150.00, together with the costs of prosecution and may be ordered to pay restitution and complete community service.

(b) Any child who violates this section shall forfeit not more than \$150.00, together with costs of prosecution and may be ordered to pay restitution and complete community service.

