

CITY OF PALMER, ALASKA

ORDINANCE NO. 547

AN ORDINANCE REPEALING CHAPTER 9.66 "CURFEW" AND ADOPTING CHAPTER 9.67 "CURFEW HOURS FOR MINORS," OF THE PALMER MUNICIPAL CODE; DEFINING TERMS; CREATING OFFENSES FOR MINORS, PARENTS AND GUARDIANS OF MINORS, AND BUSINESS ESTABLISHMENTS VIOLATING CURFEW REGULATIONS; PROVIDING EXCEPTIONS; PROVIDING FOR ENFORCEMENT BY THE POLICE DEPARTMENT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council has determined that an effective curfew is necessary to prevent an increase in juvenile violence, juvenile gang activity, and crime by persons under the age of 18 in the City of Palmer, and

WHEREAS, persons under the age of 18 are particularly susceptible by their lack of maturity and experience to participate in unlawful and gang-related activities and to be victims of older perpetrators of crime; and

WHEREAS, the City of Palmer has an obligation to provide for the protection of minors from each other and from other persons, for the enforcement of parental control over and responsibility for children, for the protection of the general public, and for the reduction of the incidence of juvenile criminal activities; and

WHEREAS, a curfew for those under the age of 18 will be in the interest of the public health, safety, and general welfare and will help to attain the foregoing objectives and to diminish the undesirable impact of such conduct on the citizens of the City of Palmer;

THE CITY OF PALMER ORDAINS:

Section 1. Classification. This ordinance shall be of a permanent nature and shall become a part of the City of Palmer Code of Ordinances.

Section 2. Severability. If any provisions of this ordinance, or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

Section 3. PMC 9.66 is repealed.

Section 4. PMC 9.67, Curfew Hours for Minors, is adopted as follows:

9.67.010 Definitions.

The following words, terms and phrases, when used in this chapter shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

A. Curfew hours means midnight to 5:00 am.

B. 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, natural disaster, automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

C. 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.

D. Guardian means:

1. A person who, under court order, is the guardian of the minor; or
2. A public or private agency with whom a minor has been placed by a court.

E. Knowingly means, with respect to conduct or to a circumstance described by a provision of law defining an offense, that a person is aware that his or her conduct is of that nature or that the circumstance exists; when knowledge of the existence of a particular fact is an element of an offense, that knowledge is established if a person is aware of a substantial probability of its existence, unless the person actually believes it does not exist.

F. Minor means any person under the age of 18 years.

G. Operator means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

H. Parent means a person who is:

1. A natural parent, adoptive parent, or step-parent of another person; or
2. At least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

I. Public place means any place to which the public or a substantial group of the public has access, and includes but is not limited to streets, highways, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

J. Remain means to:

1. Linger or stay; or
2. Fail to leave the premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.

K. Serious bodily injury means 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.

9.67.020 Curfew violations.

A. A minor commits a curfew violation if he or she remains in any public place or on the premises of any establishment within the city during curfew hours.

B. A parent or guardian of a minor commits a curfew violation if he or 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 city during curfew hours in violation of this section.

1. Indifference as to the activities or whereabouts of the minor shall be prima facie evidence of insufficient control.

C. The owner, operator, or any employee of an establishment commits an offense if he or she knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

9.67.030 Exceptions.

A. It is an exception to prosecution under section 9.67.020 if the minor was:

1. Accompanied by his or her parent or guardian;

B. On an errand at the written direction of his or her parent or guardian, without any detour or stop (written direction must be signed, timed, and dated by the parent or guardian and must indicate the specific errand);

C. Involved in an emergency;

D. Engaged in an employment activity, or going to or returning from an employment activity, without detour or stop;

E. On the public right-of-way immediately abutting the minor's residence or immediately abutting the residence of a next-door neighbor, if the neighbor did not complain to the police department about the minor's presence;

F. Attending, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the city, Matanuska-Susitna Borough School District, a civic organization, or another similar entity that takes responsibility for the minor;

G. 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;

H. Exercising rights protected by the Alaska Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly;

I. In a motor vehicle involved in interstate travel; or

J. Married or had disabilities of minority removed in accordance with AS 9.55.540.

K. In addition, it is an exception to prosecution under PMC section 9.67.020 C that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

9.67.040 Enforcement.

Before taking any enforcement action under this chapter, a police officer shall ask the apparent minor offender's age and reason for being in the public place. The officer shall not issue a citation under this chapter unless the officer reasonably believes that a violation has occurred and that, based on any response and other circumstances, no exception in PMC 9.67.030 is present.

9.67.050 Violation--Penalty.

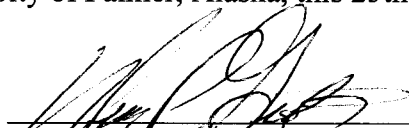
Any person violating the provisions of this section shall be deemed an ordinance violator.

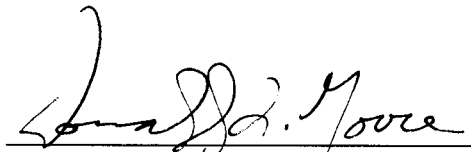
Section 5. Publication and Effective Date. This ordinance shall become effective immediately upon its adoption. Publication shall be by making copies available to the public, and further it shall be published by being printed and included in the Palmer Municipal Code at its next regular supplementation and printing. Publication may also be made by posting a copy hereof on the City Hall bulletin board for a period of ten (10) days following its adoption. A notice of public hearing shall be given by such posting at least five (5) days before final passage.

First Reading: May 11, 1999

Public Hearing &
Second Reading: May 25, 1999

Adopted by the City Council of the City of Palmer, Alaska, this 25th day of May, 1999.


HENRY P. GUINOTTE, Mayor


DONALD L. MOORE
City Clerk