

ORDINANCE NO. 1207 – AS AMENDED

AN ORDINANCE OF THE COMMISSIONERS OF CAMBRIDGE, MARYLAND ENACTING A TEMPORARY JUVENILE CURFEW WITHIN THE CITY OF CAMBRIDGE; PROVIDING THAT THE TITLE OF THIS ORDINANCE SHALL BE DEEMED A FAIR SUMMARY AND GENERALLY RELATING TO CURFEWS IN THE CITY OF CAMBRIDGE.

WHEREAS, pursuant to Md. Code Ann., Local Gov't § 5-202 and § 3-27(1) of the Charter of the City of Cambridge (the "Charter"), the Commissioners of Cambridge are generally authorized and empowered to pass ordinances not contrary to the Constitution and laws of the State of Maryland or the Charter as they may deem necessary for the good government of the City of Cambridge (the "City"); for the protection and preservation of the City's property, rights, and privileges; for the preservation of peace and good order; for securing persons and property from violence, danger, or destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare, and happiness of the residents of the City and visitors thereto and sojourners therein; and

WHEREAS, pursuant to Md. Code Ann, Local Gov't § 5-207(c)(4) and § 3-27(16) of the Charter, the Commissioners of Cambridge are specifically authorized and empowered to establish a curfew to prevent the youth of the town from being in the streets, lands, alleys, or public places at unreasonable hours of the night; and

WHEREAS, the Commissioners of Cambridge are desirous of enacting a pilot program for a juvenile curfew in the City, which shall automatically terminate and expire on June 30, 2023 unless otherwise extended or approved as part of the Code of the City of Cambridge (the "City Code") by a subsequent Ordinance of the Commissioners of Cambridge; and

WHEREAS, the Commissioners of Cambridge find that the provisions set forth herein are necessary to protect the public health, safety, and welfare.

SECTION 1. NOW, THEREFORE, BE IT ORDAINED by the Commissioners of Cambridge that a juvenile curfew for the City of Cambridge be and is hereby enacted, as follows:

A. Definitions. As used in this Ordinance, the following words and phrases shall have the following meanings:

- (1) "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, or automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.
- (2) "Juvenile" or "minor" means any unemancipated person under the age of seventeen (17) years.

- (3) "Operator" means any individual, firm, association, partnership, or corporation operating, managing, or conducting any place open to the public. The term includes the members or partners of an association or partnership and the officers of a corporation.
- (3) "Parent" means any person having temporary or permanent care or custody of a juvenile as a natural or adoptive parent, as a legal guardian, as a person stands *in loco parentis*, or as a person to whom legal custody has been given by court order.
- (4) "Place open to the public" 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, regardless of whether a charge for admission or entry is made.
- (5) "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, common areas of schools, shopping centers, parking lots, parks, playgrounds, transportation facilities, theaters, restaurants, shops, bowling alleys, taverns, cafes, arcades, and similar areas that are open to the use of the public.
- (6) "Remain" means to stay behind, to tarry and to stay unnecessarily in a public place, including the congregating of groups (or of interacting minors) totaling three or more persons in which any juvenile involved would not be using the streets for ordinary or serious purposes, such as mere passage or going home, or to fail to leave the premises of a place open to the public when requested to do so by a police officer or the operator of a place open to the public.
- (7) "Street" means any public right-of-way, including, but not limited to, the cartway of traffic lanes; the curb; the sidewalks, whether paved or unpaved; and any grass plots or other grounds found within the legal right-of-way of a street.

B. Curfew. It shall be unlawful for any *juvenile* under sixteen (16) years of age to be or remain in or upon a public place or place open to the public within the City during the period ending at 5:00 a.m. and beginning at:

- (1) 11:00 p.m. on Friday and Saturday nights; and
- (2) 10:00 p.m. on all other nights.

C. Exceptions. The curfew for juveniles *under sixteen (16) years of age* imposed by this Ordinance shall be subject to the following exceptions:

- (1) When *the* juvenile is accompanied by the juvenile's parent.
- (2) When *the* juvenile is accompanied by an adult authorized by the juvenile's parent to take the parent's place in accompanying the juvenile for a designated period of time and purpose within a specified area.

- (3) When the juvenile is on an errand as directed by the juvenile's parent until the hour of 12:30 a.m.
- (4) When *the* juvenile is 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, by first delivering to the person designated by the City's Chief of Police to receive such information a written communication, signed by the juvenile and countersigned, if practicable, by a parent of the juvenile. The communication shall include the parent's home address and telephone number and specify when, where, and in what manner the juvenile will be in a public place during hours when this Ordinance is otherwise applicable to minors.
- (5) In case of reasonable necessity for the juvenile remaining in a public place, but only after the juvenile's parent has communicated to the person designated by the City's Chief of Police to receive such notifications the facts establishing the reasonable necessity relating to a specified public place at a designated time for a designated purpose, including points of origin and destination.
- (6) When *the* juvenile is on the property where the juvenile resides.
- (7) When *the* juvenile is returning home by a direct route (without any unnecessary frolic or detour or stop) from and within one (1) hour of the termination of: employment; a school activity; an activity of a religious or other voluntary association; or a place of public entertainment, such as a movie, play, or sporting event.
- (8) When the juvenile is, with parental consent, engaged in normal interstate travel through the City or originating or terminating in the City.
- (9) In the case of an operator of a place open to the public, when the operator has notified the police that *the* juvenile was present on the premises of the place open to the public during curfew hours and refused to leave.

D. Personal responsibility. It shall be unlawful for a parent having legal custody of a juvenile ***under sixteen (16) years of age*** to knowingly to permit, or by inefficient control to allow, the juvenile to remain in any City public place under circumstances not constituting an exception to, or otherwise beyond the scope of, this Ordinance. The term "knowingly" includes knowledge that a parent should reasonably be expected to have concerning the whereabouts of a juvenile in that parent's legal custody. This requirement is intended to hold a neglectful or careless parent up to a reasonable community standard of parental responsibility through an objective test. It shall, therefore, be no defense that a parent was without knowledge of the activities or conduct or whereabouts of such juvenile.

E. Operator responsibility. It shall be unlawful for any operator of a place open to the public to knowingly permit a juvenile ***under sixteen years of age (16)*** to remain at the place open to the public under circumstances not constituting an exception to, or otherwise beyond the scope of, this Ordinance. The term "knowingly" includes knowledge that an operator should

reasonably be expected to have concerning the patrons of the place open to the public. The standard for “knowingly” shall be applied through an objective test: whether a reasonable person in the operator’s position should have known that the patron was a juvenile in violation of this Ordinance.

F. Enforcement procedures. If a police officer reasonably believes that a juvenile *under sixteen (16) years of age* is in a public place in violation of this Ordinance, the officer shall notify the juvenile that they are in violation of this Ordinance and shall require the juvenile to provide their name, address, and telephone number, and how to contact their parent.

(1) The police officer shall issue the juvenile a written warning that the juvenile is in violation of this Ordinance and order the juvenile to go promptly home. The Chief of Police shall send a copy of the written warning to the parent of the juvenile.

(2) When a juvenile has received one (1) previous written warning for violation of this Ordinance, the police officer shall immediately *notify the parent* to come for the juvenile. *If the police officer is unable to locate the parent, the police officer may transport the juvenile to the Cambridge Police Department and then contact the parent.* The police officer shall determine whether, under constitutional safeguards, the juvenile and/or the parent is in violation of this Ordinance.

(3) When a parent, immediately called, has come to take charge of the juvenile, and the appropriate information has been recorded, the juvenile shall be released to the custody of such parent. If the parent cannot be located or fails to take charge of the juvenile, then the juvenile shall be released to another adult who will, on behalf of a parent, assume the responsibility of caring for the juvenile pending the availability or arrival of a parent. *The police officer may also contact any agency or organization authorized to assist the juvenile, such as the Department of Social Services or the Department of Juvenile Justice, as may be appropriate under the circumstances.*

G. Penalties.

(1) If a parent is determined to have violated this Ordinance as set forth in Subsection (F)(2) above in connection with a second violation by the juvenile following receipt of a written warning as set forth in Subsection (F)(1) above, such violation shall be treated as a first offense by the parent and shall be punishable as a municipal infraction and subject to a fine as set forth in Subsection (G)(2)(i) below. A second violation by the parent shall be punishable as a municipal infraction and subject to a fine as set forth in Subsection (G)(2)(ii) below. Subsequent violations by the parent shall be punishable as set forth in Subsection (G)(4) below. Additionally, the parent of a juvenile subject to this Ordinance shall be liable for all costs incurred by the City for providing personnel to remain in the company of a juvenile who has been detained as a curfew violator if the parent does not pick up the juvenile within one (1) hour after receiving notice from the City that the City is detaining the juvenile for a curfew violation. The amount to be paid by the parent shall be based on the hourly wage of the City employee who is assigned to remain with the juvenile.

(2) The penalties for a violation of this Ordinance are as follows:

- (i) \$100.00 for a first offense; and
- (ii) \$200.00 for a second offense.

(3) The Cambridge Police Department is authorized to issue citations for violations of this Ordinance.

(4) Third or subsequent violations of this Ordinance by the parent shall be forwarded to the Dorchester County State's Attorney's Office for review and may result in additional criminal charges against the parent pursuant to Md. Code Ann., Courts & Jud. Proc. § 3-8A-30, punishable by a fine of not more than \$2,500 and/or imprisonment for not more than three years.

SECTION 2. This Ordinance is not intended to become part of the City Code.

SECTION 3 The recitals to this Ordinance are incorporated herein and deemed a substantive part of this Ordinance.

SECTION 4. With respect to the substantive provisions of this Ordinance, language added after the date of introduction is in bold, italicized font and language deleted after the date of introduction is crossed out with a double strikethrough.

SECTION 5. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance, it being the intent of the Commissioners of Cambridge that this Ordinance shall stand, notwithstanding the invalidity of any section, subsection, sentence, clause, phrase, or portion hereof.

SECTION 6. All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 7. The title of this Ordinance, or a condensed version thereof, shall be deemed to be, and is, a fair summary of this Ordinance for publication and all other purposes.

SECTION 8. This Ordinance shall become effective *on February 1, 2023* and shall expire on June 30, 2023.

ATTEST:

THE COMMISSIONERS OF CAMBRIDGE

Thomas M. Carroll, City Manager

By: _____
Stephen W. Rideout, Mayor

Introduced the 14th day of November, 2022

Passed the 9th day of January, 2023

Effective the 1st day of February, 2023