

**ORDINANCE NO. \_\_\_\_, 2015**

**ORDINANCE ESTABLISHING CURFEW FOR THE VILLAGE OF CLEVES  
FOR PERSONS UNDER EIGHTEEN YEARS OF AGE  
AND DECLARING AN EMERGENCY**

**WHEREAS**, there have been numerous complaints brought to the attention of the Mayor and the Cleves Council relative to minors loitering within the Village of Cleves as well as obstructing the free flow pedestrian traffic and commerce within the Village of Cleves; and

**WHEREAS**, it is apparent to the Village Council and the Mayor that in the vast majority of cases, these young people are not engaged in the exercise of any constitutional right and are not in the business district for any legitimate purpose related to the free flow of commerce; and

**WHEREAS**, it has now become apparent to the Village Council and the Mayor that it is necessary to establish a curfew with respect to minors within the Village in order to alleviate the problems which have heretofore been caused by the type of behavior described herein; and

**WHEREAS**, based upon the recommendation of the Village Police Chief, and the fact that other townships and municipalities adjoining the Village have enacted curfew restrictions which may cause minors from those adjacent communities to take refuge in the Village of Cleves, and based upon the need to protect minors from becoming victims as well as perpetrators of crimes during nighttime hours, the Council finds that a curfew is necessary for the preservation of the health, safety and property of the citizens of the Village of Cleves.

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the Village of Cleves, State of Ohio that there is hereby established within all of the Village of Cleves a curfew for persons under eighteen years of age with the following definitions and provisions:

1. Definitions.

A. CURFEW HOURS mean:

- (1). From 12:30 a.m. until 5:00 a.m. for minors who are at least 16 years of age.
- (2). From 11:30 p.m. until 5:00 a.m. the following day for minors who are under the age of 16 years.
- (3). From 9:00 a.m. until 2:00 p.m., Monday through Friday, between September 1 through May 31 while school is in session at any public or private school or alternative program in which the minor is enrolled or was last enrolled if suspended or expelled at the time in question.

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

C. EMPLOYMENT ACTIVITY means any bona fide service performed for wage or salary under contract for hire, whether written, expressed or implied, or an approved work study program.

D. 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, and any church or other religious establishment.

E. GUARDIAN means a person who under court order is the guardian of the person of a minor, or a public or private agency with whom a minor has been placed by a court.

F. MINOR means any person under the age of 18 years who is not married or otherwise emancipated.

G. PARENT means:

(1). a person who is a biological parent, adoptive parent, or step-parent or guardian entrusted with the care and custody of a minor.

(2). A person, at least 21 years of age, who is authorized by a parent or guardian to have the care of and responsibility for a minor prior to any act which is prohibited by this Resolution.

H. PUBLIC PLACE means any place which is open to the public and includes, but is not limited to, streets, highways, sidewalks, parks, public buildings, common areas of schools, hospitals, apartment houses, office buildings, transport facilities, shops, stores and restaurants.

I. REMAINS means to: (1) be present, linger, or stay at, or (2) fail to leave the premises of, any establishment or public place when requested to do so by a police officer or the owner, operator, or other person in control of the establishment or public place.

## 2. Offenses.

A. A minor violates the curfew adopted herein if he or she remains in any public place or on the premises of any establishment within the Village of Cleves during curfew hours as defined herein.

B. A minor violates the curfew adopted herein if he or she remains in any public place or on the premises of any establishment within the Village of Cleves at any time when that minor is required to be in attendance at an elementary or secondary school.

C. No parent, guardian or other adult person having the care, custody or supervision of a

minor shall knowingly permit or by inefficient control allow such minor to be, or remain in, about or upon any place in the village away from the dwelling house or usual place of abode of said minor in violation of any of the provisions of Section II of this Ordinance.

D. In addition to any other powers he may have, any law enforcement officer who arrests a minor for violating any of the provisions of this Ordinance shall be empowered to demand of the parent, guardian or other adult person having the care, custody or supervision of such minor that such parent, guardian or other adult person appear and take such minor into custody. Should there be a failure of the parent, guardian or other adult person to appear and take custody of such minor, the officer may then be empowered to take the minor home or to the Hamilton County Juvenile Court. It shall be unlawful for any such parent, guardian or other adult person having the care, custody or supervision of said minor to fail or refuse to appear and take such minor into custody within one hour after such demand is made upon him, unless reasonably hindered from doing so.

### 3. Defenses.

A. The following activities are excepted from the curfew restrictions:

- (1). When the minor is accompanied by the minor's parent or guardian;
- (2). When the minor is engaged in an employment activity, or going to or returning home from any employment activity without any detour or stop;
- (3). When the minor is involved in an emergency situation which commenced prior to curfew hours, or which arose in the minor's dwelling place after curfew hours had commenced;
- (4). When the minor is attending an activity organized and supervised by adults and sponsored by the Village of Cleves, another political subdivision, school district, civic organization, or other similar organization that takes responsibility for the minor, or attending an official school or religious activity or service;
- (5). When the minor is going to or coming from, without any detour or stop, those activities identified in Section (4) above;
- (6). When the minor is exercising any right protected by the United States Constitution or the Constitution of the State of Ohio.

B. The following activities are excepted from the 8:00 a.m. to 3:00 p.m. school day curfew restrictions:

- (1). When the minor is not required to attend school because school is not in session on the date and time in question.
- (2). When the minor is participating in a school district approved home schooling

program.

(3). When the minor is participating in an authorized school function.

4. Enforcement.

A. Before taking any enforcement action under this Ordinance, a police officer shall ask the apparent offender's age and reason for being in the public place or establishment. The officer shall not issue a citation or make an arrest under this Resolution unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no exceptions as set out above exist.

B. Any law enforcement officer who arrests a minor for violating any of the provisions of divisions (II) of this Ordinance, in addition to any other powers he may have, shall be empowered to transport such minor to the nearest center designated as a holding facility for curfew violators. The numbers and locations of such centers shall be determined or modified by the Chief of Police based upon need and desirability. The minor shall be released only to a parent, guardian or other adult person having the care, custody or supervision of such minor, or a person at least 18 years of age designated for such purpose by a parent guardian or other adult person having the care, custody or supervision of said minor, or an appropriate juvenile agency.

5. Penalty.

A. Any minor found violating any provision of this Ordinance shall be charged as being an unruly child and taken before juvenile court as provided in Chapter 2151 of the Revised Code.

B. Any parent, guardian or other adult person having the care, custody or supervision of a minor who violates the provisions of this Ordinance shall receive a written warning for the first violation. Any parent, guardian or other adult person having the care, custody or supervision of a minor who violates the provisions of this Ordinance for the second and any subsequent offenses shall be guilty of a minor misdemeanor.

6. Severability. If any portion of the provisions of this Resolution is for any reason declared by a court of competent jurisdiction to be invalid or unconstitutional, such provision shall be deemed separate, distinct and independent of other provisions, so that such a court declaration shall not affect the validity of the remaining provisions of this Resolution.

7. Effective Date. This Resolution shall be effective at 12:01 a.m. on February 1, 2015.

8. Compliance with Open Meetings Law. It is hereby determined that all actions and deliberations of the Cleves Village Council concerning and relating to the within Resolution were taken in open meetings of the Council, in compliance with all legal requirements, including (without implied limitation) Ohio Revised Code Section 121.22, except as otherwise permitted thereby.

9. Emergency. This Ordinance is hereby declared to be an emergency measure necessary for the immediate health, preservation and welfare of the Village of Cleves. The reason for the emergency is to enable this Ordinance to go into effect at the earliest possible date permitted by law and to enable the free and unobstructed flow of commerce within the Village business district.

PASSED: February 11, 2015

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**MAYOR DANNY STACY**

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**LINDA BOLTON**  
Clerk

Approved as to Form:

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**FRANCIS M. HYLE**  
Solicitor