

**ORDINANCE NO. 99**

**AN ORDINANCE OF THE CITY OF UNIVERSITY PLACE,  
WASHINGTON, RELATING TO PUBLIC SAFETY AND TO THE  
SAFETY OF MINORS AND ESTABLISHING A CURFEW IN THE  
CITY OF UNIVERSITY PLACE.**

WHEREAS the City of University Place City Council finds that the increasing violence in our community causes great concern for the immediate health and safety of our citizens; and

WHEREAS youth violence is increasing, young people between the ages of 13 and 17 are at the highest risk of being perpetrators and/or victims of crime and violence, and

WHEREAS the City of University Place has recognized preservation of public safety as the City's highest priority, and

WHEREAS the City's police incidents involving juveniles which occurred between the hours of midnight and 6:00 a.m. have increased by 93 percent between 1990 and 1995, and

WHEREAS the City's violent crimes involving juveniles which occurred between midnight and 6:00 a.m. have dramatically increased since 1990, and

WHEREAS vandalism and vehicle prowls between 1990 and 1995 have increased by 43 percent and 53 percent, respectively, and

WHEREAS the City's aggravated assaults that occur between midnight and 6:00 a.m. have substantially increased between 1990 and 1995, and

WHEREAS juvenile crime activity during the proposed curfew hours occurs throughout most of the City, and

WHEREAS acts of violence by or against juveniles are occurring at such rates as to be beyond the capacity of the police to assure public safety, and

WHEREAS it is deemed by the City of University Place that, without immediate action, juvenile involvement in crime, whether as perpetrators or as victims, will continue to escalate, and

WHEREAS the activity the City of University Place seeks to impact occurs between the hours of midnight and 6:00 a.m., and

WHEREAS removal of juveniles from the streets between the hours of midnight and 6:00 a.m. will reduce the presence of juveniles on the streets during those hours, thus reducing the number of juvenile arrests and juvenile victims, and

WHEREAS the United States Supreme Court has denied review of the United States Court of Appeals for the Fifth Circuit decision which upheld the constitutionality of a juvenile curfew ordinance and provided guidelines and suggestions for enacting curfew ordinances in QUTB v. Strauss, and

WHEREAS Chapter 35A.11 RCW allows code cities to enact a juvenile curfew ordinance, and

WHEREAS the City Council has received and reviewed the 1996 curfew report prepared at the direction of the City Manager; now, therefore,

**THE CITY COUNCIL OF THE CITY OF UNIVERSITY PLACE DO ORDAIN AS FOLLOWS:**

Section 1. Definitions.

A. "Curfew hours" are as follows:

Effective immediately through 9/2/96: 12:00 Midnight until 6:00 a. m. the next day

Effective 9/3/96 through 5/31/97:

Friday and Saturday: 12:00 Midnight until 6:00 a.m. the next day

Sunday through Thursday: 11:01 p.m. until 6:00 a.m. the next day

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, a natural disaster, an 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. "Extended family members" means grandparent, brother, sister, stepbrother, stepsister, uncle, aunt, or first cousin who is not a minor and with whom the minor has a relationship and is comfortable with and who is willing and available to care for the child.

E. "Guardian" means:

1. A person who, under court order, is the guardian of the person of a minor,  
or

2. A public or private agency with whom a minor has been placed by a court,  
or

3. A person at least 18 years of age who is authorized by a parent or legal guardian to have the care and custody of a minor.
- F. "Minor" means any person under 18 years of age.
- G. "Operator" means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment open during curfew hours. 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 a natural parent, adoptive parent, foster parent, or stepparent of another person.
- 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, and the common areas of schools, hospitals, apartment houses, sidewalks, alleys, parking lots, office buildings, transport facilities, and shops.
- J. "Remain" means to:
1. Linger or stay, or
  2. Fail to leave 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 the causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

Section 2. Offenses.

- A. A minor commits an offense 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 an offense if he or she knowingly permits, or, by insufficient lawful control, allows the minor to remain in any public place or on the premises of any establishment within the curfew hours.
- C. A parent or guardian commits an offense if he or she fails to appear to take the minor into custody after contact from a City of University Place police officer, pursuant to the Temporary Custody Procedure.
- D. A person or operator, as defined herein, commits an offense if that person or operator encourages, or affirmatively facilitates, a violation of this ordinance by a minor.

Section 3. Defenses.

A. It is a defense that the minor was:

1. Accompanied by the minor's parent, guardian, or extended family member who is not also a minor, or
2. On an errand at the direction of the minor's parent or guardian, without any unnecessary detour or stop, or
3. In a motor vehicle involved in interstate travel, or
4. Engaged in a legal employment activity, or going to or returning home from a legal employment activity without any unnecessary detour or stop, or
5. Involved in an emergency, or
6. On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor, if the neighbor did not complain to the police department about the minor's presence, or
7. Attending, going to, or returning home, without any detour or unnecessary stop, from an official school, religious, or other activity supervised by adults or sponsored by any of the following: the City of University Place, a civic organization, the Boys and Girls Clubs, the YWCA, the YMCA, Pierce County, Metropolitan Park District of City of Tacoma, or another similar entity which takes responsibility for the minor, or
8. 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, or
9. Married and thus has achieved the age of majority pursuant to RCW 26.28.020. or has become emancipated in accordance with RCW 13.64.060(2), or
10. Engaged in lawful commercial activity which is commenced prior to curfew hours and the minor proceeds directly home upon termination of the commercial activity.

B. It is a defense to this ordinance that the minor is lawfully on the premises of an establishment that is an authorized "Safe Place," as designated through the Gateways for Youth and Families Program, and approved by the City of University Place Sheriff's Department Detachment, and that the juvenile is on the premises of the establishment in need of the services of a "Safe Place."

C. It is a defense of this ordinance that the parent or guardian is reasonably hindered to such a degree that he/she is unable to appear and take custody of the minor after being requested to do so.

Section 4. Enforcement.

Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in a public place. The officer shall not issue a citation or take further action under this section unless the officer reasonably believes an offense has occurred, and that, based on any response and other circumstances, no defense under Section 3 of this ordinance is present. No citation shall be issued until attempts have been made to place the minor according to the Temporary Custody Procedure.

Section 5. Temporary Custody Procedure.

A police officer who reasonably believes that a minor is violating any of the provisions as described in Section 2 of this ordinance shall have authority to take the minor into custody, shall inform the minor of the reason(s) for such custody, and may demand that the parent or guardian appear and take custody of the minor.

Should the parent not appear, or should the officer otherwise deem appropriate, the officer shall deliver, or arrange to deliver, as follows:

- A. To minor's parent, guardian, custodian, or other adult person having custody or control of such minor. The officer releasing a minor into the custody of an adult person having custody or control shall inform the minor and the responsible adult of the nature and location of appropriate services available in the community, or
- B. The officer may take the minor to the home of an adult extended family member after attempting to notify the parent, guardian, or custodian.

In the event the A and B are not appropriate under the circumstances, the officer may deliver the minor to either of the following:

- C. Department of Social and Health Services (DSHS) Crisis Residential Center, or DSHS Receiving Home until the parent appears to take responsibility for the minor, or
- D. In the event the parent fails to appear, the minor is to be referred to Family Reconciliation Services for consideration of further intervention and/or placement services.

Section 6. Violations.

A. A violation of any of the provisions of this ordinance is designated a civil infraction.

B. A person found to have committed an infraction under this ordinance may be given a warning or assessed a penalty. Upon a person's first violation, a notice of warning shall be given to the person. Upon a second violation, an infraction shall be served on the person. The penalty for the second and subsequent infractions shall result in a monetary payment or community service. No penalty may exceed \$250 for each offense, including all statutory assessments and costs. In lieu of payment for all or part of the monetary penalty, the court may provide for the performance of community service.

Section 7. Severability.

Should any section, subsection, paragraph, sentence, clause, or phrase of this ordinance, or its application to any person or situation, be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance or its application to any other person or situation.

The City Council of the City of University Place hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

Section 8. Third Party Liability.

It is expressly the purpose of this ordinance to provide for and promote the health, safety, and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this ordinance.

It is the specific intent of this ordinance that no provision or term used in this ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees, for whom the implementation and enforcement of this ordinance shall be discretionary and not mandatory.

Nothing contained in this ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, its officers, employees, or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this ordinance by its officers, employees, or agents.

Section 9. Evaluation.


A. This ordinance and the community need for it shall be reviewed by December 31, 1996, and prior to its expiration on May 31, 1997, at which time the City Manager shall report and make recommendations to the City Council concerning the effectiveness of and the continuing need for this ordinance. The report shall include, but not be limited to, the following information:

1. The practicality of enforcing the ordinance and any problems with enforcement identified by the City of University Place Police Services Division.
2. The impact of this ordinance and support programs on juvenile crime statistics and the public perception of juvenile crime and victimization.
3. Number of juveniles taken into custody for curfew violations.
4. Number of official citizen complaints filed regarding the enforcement of this ordinance.
5. An assessment of the impacts of this ordinance and programs on the furtherance of the goals and objectives of the City of University Place.
6. Review and analysis of the data regarding the number of juveniles taken into custody for racial disproportionality.
7. The number and disposition of complaints filed with the Community Services Department regarding unlawful practices prohibited by this or any ordinance or law of the City of University Place.

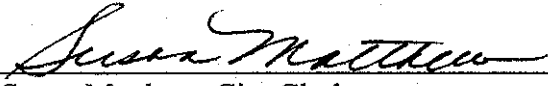
Section 10. Publication and Effective Date and Expiration.

A summary of this Ordinance consisting of its title shall be published in official newspaper of the City. This ordinance shall be effective five days after its publication and shall expire on May 31, 1997.

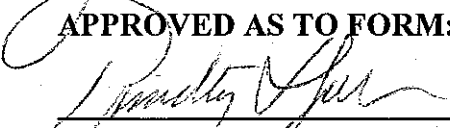
**PASSED BY THE CITY COUNCIL ON JUNE 3, 1996**

  
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Ronald L. Williams, Mayor

**ATTEST:**

  
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Susan Matthew, City Clerk

**APPROVED AS TO FORM:**

  
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Timothy X. Sullivan, City Attorney

**Date of Publication: June 5, 1996**  
**Effective Date: June 10, 1996**