

**TITLE 7**

**PUBLIC PEACE, SAFETY AND MORALS**

Chapters:

- 7.04 Curfew
- 7.08 Open Burning
- 7.12 Firearms

**CHAPTER 7.04**

**CURFEW**

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7.04.01 Title This ordinance shall be known as the Minor Curfew Ordinance. (Ord. No. 96-44, Sec. 1.)

7.04.02 Purpose The City Council of the city of Fairfield Bay finds that special circumstances exist within the city that call for the special regulation of minors within the city in order to protect them from each other and from other persons on the street during the nocturnal hours, to aid in crime prevention, to promote parental supervision and authority over minors and to decrease nocturnal crime rates. Among the special circumstance that exists is the recent enactment of juvenile curfew laws in nearby cities, resulting in a substantial influx of juveniles to this city to escape the curfew of other cities. (Ord. No. 96-44, Sec. 2.)

7.04.03 Definitions For purposes of the Minor Curfew Ordinance, the following terms, phrases, words and their derivations shall have the meanings:

**City** is the city of Fairfield Bay, Arkansas.

**Emancipated minor** means a minor who no longer has a parent-child relationship as a result of marriage, or as a result of being recognized as an adult by order of a court of competent jurisdiction.

**Legitimate parental approved errand** means a minor performing a necessary task at the direction of the minor's parent, and that the non-performance of the errand, or delay of performance until after curfew hours have abated, would result in injury or undue hardship.

**Minor** is any unemancipated or unmarried person under the age of eighteen (18) years of age.

**Parent** is any person having legal custody of a minor

- A. as a natural parent,
- B. as an adoptive parent,
- C. as a legal guardian,
- D. as a person to whom legal custody has been given by order of the court.

**Public place** means a publicly or privately owned place to which the public or substantial numbers of people have access. A public place does not include the residence of a minor or, the residence of a minor's parent or a responsible adult, who as a host has invited the minor to his or her home.

**Responsible adult** means a person at least 21 years of age to whom a parent has expressly given permission to accompany a minor.

**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.

**Remain** means to:

- A. linger or stay, or
- B. 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.

**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, or automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life. (Ord. No. 96-44, Sec. 3.)

#### 7.04.04 Responsibility of minors and parents

- A. **Minors** It shall be unlawful and a misdemeanor for any minor to be upon or remain upon the streets, alleys, sidewalks, parks, playgrounds, shopping centers, public places, public buildings, marina, establishment or vacant lots, or to ride in or upon, drive or otherwise operate or be a passenger of any automobile, bicycle, or other vehicle, in, upon, over or through the streets, or other public places or establishments between the hours of 10:30 p.m. and 6:00 a.m., Sunday through Thursday, or 11:59 p.m. and 6:00 a.m., Friday and Saturday.
- B. **Parents** It shall be unlawful and a misdemeanor for any parent to permit a minor to be or remain on, or upon the streets, alleys, sidewalks, parks, playgrounds, shopping centers, public places, public buildings, marina, establishment or vacant lots, or to ride in or upon, drive or otherwise operate a vehicle in, upon, drive or otherwise operate or be a passenger of any automobile, bicycle or other vehicle traveling or moving over or through the streets or other public places between the hours of 10:30 p.m. and 6:00 a.m., Sunday through Thursday, or 11:59 p.m. and 6:00 a.m., Friday and Saturday. The fact that a minor is in violation of the provisions of subsection A, without a defense as set forth in 7.04.05 of this ordinance, shall create a rebuttable presumption that a parent is in violation of this subsection. (Ord. No. 96-44, Sec. 4.)

7.04.05 Exceptions Notwithstanding the provisions of 7.04.04, the Minor Curfew Ordinance does not apply:

- A. At any time a minor that is accompanied by a parent, or by a responsible adult authorized by a parent to take the parent's place to accompany the minor for a designated period of time and purpose within a specified area.
- B. While a minor is employed and for the period of time 45 minutes before or after work, provided that the facts and circumstances from the basis for concluding the minor is going to a place of residence after work or going from a place of residence to a place of work.
- C. When a minor is returning home from an activity that is supervised by adults and sponsored by the city of Fairfield Bay, a church, civic organization, a public or private school, or any entity that takes responsibility for the minor, provided that the supervised activity has not concluded for more than 45 minutes.
- D. At any time the minor is on a legitimate parental approved errand.
- E. At any time the minor is on a trip in interstate commerce.

- F. At any time the minor is required to leave a residence because of an emergency.
- G. At any time the minor is engaged in an activity that is protected by the First Amendment of the U.S. Constitution, or the freedom of speech, religion, assembly or expression provisions in Art. II of the Arkansas Constitution. (Ord. No. 96-44, Sec. 5.)

#### 7.04.06 Citations

- A. The officer shall not issue a citation or make any arrest or detention under this ordinance unless the officer reasonably believes that an offense has occurred and that based on any response and circumstances, no defense as set out in 7.04.05 is present.
- B. If a minor being questioned about the possible violation of the Minor Curfew Ordinance provides a law enforcement officer with reasonable basis to believe that the minor is entitled to an exemption or has a defense under subsection A above, the law enforcement officer shall take no more enforcement actions under this ordinance; provided, the officer shall make a report of the minor's identity, the exemption claimed, and other necessary information relating thereto. (Ord. No. 96-44, Sec. 5.)

#### 7.04.07 Penalties

- A. In addition to any other alcohol related, criminal or traffic penalties that may be imposed, any minor found to be in violation of this ordinance may be cited the first time for such violation. Any citation issued shall be pursuant to Arkansas Rules of Criminal Procedure (Rule 4.1) and the Arkansas Juvenile Code (A.C.A. 9-27-301 et seq.). Also the minor's parent shall be notified of the violation citation and issued a notice that a second citation to the minor for violating this ordinance shall result in the parent's receiving a warrant for the parent's arrest, for violating this ordinance.
  - 1. A minor found to be in violation of this ordinance shall be fined or sanctioned under the Arkansas Juvenile Code.
  - 2. A parent found to be in violation of this ordinance, upon conviction shall be fined not less than Twenty-Five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00) for the first offense, and for any subsequent conviction shall be fined not less than Fifty Dollars (\$50.00) nor more than Two Hundred Fifty Dollars (\$250.00).

- B. At the discretion of the Law Enforcement Officer, any minor receiving a citation for violation of the Minor Curfew Ordinance may be released to immediately return home, may be escorted to their home, or may be taken into custody and held until a parent can be located to take custody of the minor, or delivered to an appropriate juvenile authority for appropriate action.
- C. Nothing in this section shall preclude a Law Enforcement Officer from taking any or all appropriate actions for a minor's violation of any other local or state law. (Ord. No. 96-44, Sec. 6.)

## **CHAPTER 7.08**

### **OPEN BURNING**

**Sections:**

- 7.08.01 Street and road right-of-ways
- 7.08.02 Open burning not on right-of-ways
- 7.08.03 Trees and brush cleared for new construction
- 7.08.04 Extinguishment on orders of DPS
- 7.08.05 Penalties

**7.08.01 Street and road right-of-ways**

- A. Fires on road right-of-ways are expressly prohibited because of possible damage to vinyl culverts and smoke hazard to moving traffic. This section applies to residential owners, tenants, landscapers, builders and contractors, for whatever reason a burn is initiated.
- B. Burning plastics, rubber, shingles or anything that will create toxic or black smoke is prohibited. (Ord. No. 99-68, Sec. 1.)

**7.08.02 Open burning not on right-of-ways**

- A. Before any fire is ignited, whether by residential owners, tenants, landscapers, builders or contractors, notice must be given to the Department of Public Safety notifying the department that burning will take place. In giving notice the location of the fire and the person responsible for the fire must be furnished. A fire may not be started before notification. The Department of Public Safety can be notified seven days a week. The DPS shall log in the time notice is received, who gave the notice and the location of the proposed burn.

- B. Fires under this part must be small, consist of grass, weeds, trimmings of shrubbery and other small yard debris, and twenty-five (25) feet or more from any building or structure. Burning on road right-of-ways is expressly prohibited. Safety of passing motorists and vinyl culverts must be protected.
- C. A fire must be attended by a competent person or persons at all times. Two or more burns on the same location must not exceed the ability of the person or persons attending the fire to properly manage and control said fire.
- D. Equipment to control the fire must be available when the fire commences. A garden hose, water extinguisher or heavy equipment, depending on the size of the burn, must be available at all times. Any chemicals other than approved extinguishers must be approved by the fire department.
- E. The fire must be completely extinguished by sunset.  
(Ord. No. 99-68, Sec. 2.)

7.08.03 Trees and brush cleared for new construction

- A. Notification is the same as 7.08.02(A). The builder or contractor must specifically give notice that the fire will involve trees and large brush from clearing land. Any variance from this subsection must be approved by the Fire Department and must meet fire code provisions.
- B. No new fire shall be ignited after 12:00 noon.
- C. Adequate clearance must be allowed between the fire and any adjoining trees brush and grass.
- D. The fire may burn beyond sunset, unattended, if flames are low and there is no wind or sparks.
- E. Equipment to control the fire must be available when the fire commences. a garden hose, water extinguisher or heavy equipment, depending on the size of the burn, must be available at all times. Any chemicals other than approved extinguishers must be approved by the Fire Department. (Ord. No. 99-68, Sec. 3.)

7.08.04 Extinguishment on orders of DPS The Fire Department or law enforcement officer can require extinguishment of a fire if said fire is determined to be a health hazard, endangers surrounding property, creates a hazardous condition or could spread and destroy vinyl culverts. (Ord. No. 99-68, Sec. 4.)

7.08.05 Penalties

- A. Any state or county burn ban that exists because of extreme drought conditions supersedes this city ordinance, and a violation is subject to state and county sanctions.
- B. This failure of any person to comply with the requirements of this Title of the Municipal Code upon conviction shall be punished by a fine of Five Hundred Dollars (\$500.00) plus costs of damage, if any, to surrounding property. (Ord. No. 2009-5, Sec. 1.)
- C. If the Fire Department, or the Department of Public Safety, or the Police Department of the city of Fairfield Bay are called out to control, extinguish or prevent damage to others by a spreading fire, due to a violation of this Title of the Municipal Code, the owner or person responsible for the fire shall be assessed and required to pay a civil penalty of an amount up to One Thousand Dollars (\$1,000.00) to cover all costs related to the fire call. (Ord. No. 2009-5, Sec. 1.)
- D. A person violating this ordinance, which violation causes damage to the city of Fairfield Bay or any other property owner, shall be liable in a civil proceeding for damages caused. (Ord. No. 99-68, Sec. 5.)

**CHAPTER 7.12****FIREARMS**Sections:

- 7.12.01 Discharging firearms
- 7.12.02 Other weapons
- 7.12.03 Exceptions
- 7.12.04 Special Urban Deer Hunt election

7.12.01 Discharging firearms It shall be unlawful for any person to discharge any pistol, rifle, gun, or other firearm within the corporate limits of the city of Fairfield Bay. This section shall not apply to any Law Enforcement Officer, nor to any state or federal agent, in the discharge of his official duties, firearms qualification and practice at same with official permission. This section shall not apply to any person in defense of his home, residence, house, apartment, or condominium, nor to defense of his person. (Ord. No. 2007-3, Sec. 1.)

7.12.02 Other weapons It shall be unlawful for any person to discharge or cause to be discharged so as to cause damage to real or personal property, any air rifle, spring gun, BB gun, air gun, bow and arrow, crossbow, or like instruments, within the corporate limits of the city of Fairfield Bay. (Ord. No. 2007-3, Sec. 2.)

7.12.03 Exceptions Exceptions contained in 6.04.10 of the Municipal City Code must be approved by the Mayor and Department of Public Safety. (Ord. No. 2007-3, Sec. 3.)

7.12.04 Special Urban Deer Hunt election

- A. There be, and there is hereby called a special election to be held on November 2, 2010, at which election there shall be submitted to the electors of the city, the question of the adoption of the ordinance providing for a study by the Arkansas Game and Fish Commission, and if appropriate after such a study, providing for a special Urban Deer Hunt with hunting bow inside the city of Fairfield Bay.
- B. The proposed ordinance to be submitted to the electors of the city on November 2, 2010, is as follows:

**REFERRED ORDINANCE 2010-1**

Section 1. The city of Fairfield Bay shall invite and request the Arkansas Game and Fish Commission to conduct a census study of the urban deer population in the appropriate geographic area to determine on an independent basis whether an Urban Deer Hunt would be an effective means of ameliorating an overpopulation of deer in the appropriate geographic area.

Section 2. The Arkansas Game and Fish Commission is hereby authorized and requested, but not required, to conduct an appropriate census study of the deer population in the appropriate geographic area to determine whether an archery hunt within the city limits of the city of Fairfield Bay, Arkansas, would ameliorate a pressing problem with an overpopulation of deer.

Section 3. Upon completion of an appropriate census study of the urban deer population by the Arkansas Game and Fish Commission, and if, and only if, justified by such a study, there shall be an Urban Deer Hunt within the city of Fairfield Bay with hunting bows, i.e., an archery hunt. Any such deer hunt shall be an explicit exception to the prohibition on discharge of such weapons within the corporate limits of the city of Fairfield Bay set forth in 7.12.02 of the Municipal Code, which exception shall not be subject to review by the Department of Public Safety, nor by the Mayor.



Section 4. If any section or portion of this ordinance is for any reason held to be invalid or unconstitutional by a final decision by a court of competent jurisdiction, that section or portion of this ordinance shall be deemed severable and shall not affect the validity of the remaining portions of this ordinance.

Section 5. This ordinance, with a temporary exception to certain requirements of the Municipal Code of the city of Fairfield Bay, shall take effect on January 1, 2011, and shall end no later than January 31, 2015. (Ord. No. 2012-4, Sec. 1.)

- A. No fawns harvested pursuant to Referred Ordinance No. 2010-1 (as amended) shall qualify as the “first deer” to be donated to “Arkansas Hunters Feeding the Hungry.” (Ord. No. 2012-4, Sec. 2.)
- B. No fawn shall be dressed or otherwise processed (except bagging or covering before removal) inside of the municipal limits of the city of Fairfield Bay. (Ord. No. 2012-4, Sec. 3.)
- C. The question of adopting the ordinance providing for a study by the Arkansas Game and Fish Commission, and, if appropriate after such a study, providing for a special Urban Deer Hunt with hunting bow inside the city shall be placed on the ballot for the November 2, 2010, election in substantially the following form:

**BALLOT TITLE: AN ORDINANCE TO STUDY THE URBAN DEER POPULATION, AND TO ALLOW A LIMITED URBAN DEER HUNT WITH HUNTING BOW IF JUSTIFIED BY THE URBAN DEER CENSUS TO BE CONDUCTED BY THE ARKANSAS GAME AND FISH COMMISSION; A LIMITED ONE-TIME EXCEPTION TO TITLE 7 OF THE CITY OF FAIRFIELD BAY MUNICIPAL CODE, SECTION 7.12.02, PROHIBITING THE DISCHARGE OF BOW AND ARROW AND CROSS-BOWS WITHIN THE CITY OF FAIRFIELD BAY, ARKANSAS, BEGINNING JANUARY 1, 2011, AND ENDING NO LATER THAN DECEMBER 31, 2012; AND FOR OTHER PURPOSES.**

Vote on measure by placing an X in the square opposite the measure either for or against:

**FOR** adoption of an ordinance to study the urban deer population, and to allow a limited Urban Deer Hunt with hunting bow if justified by the urban deer census, beginning January 1, 2011, and ending no later than December 31, 2012.

..... □

**AGAINST** adoption of an ordinance to study the urban deer population, and to allow a limited Urban Deer Hunt with hunting bow if justified by the urban deer census beginning January 1, 2011, and ending no later than December 31, 2012.

..... □

- D. The election shall be held and conducted on November 2, 2010, and the vote canvassed and the results declared under the law and in the manner now provided for municipal elections unless otherwise provided in applicable state law, and only qualified voters of the city shall have the right to vote at the election.
  
- E. The results of the election shall be proclaimed by the Mayor, and his proclamation shall be published one time in a newspaper published in the city and having general circulation therein, which proclamation shall advise that the results as proclaimed shall be conclusive unless attacked in the courts within thirty (30) days after the date of publication.
  
- F. The Recorder/Treasurer shall mail, by certified mail, a copy of this ordinance to the Van Buren County Board of Election Commissioners, and a copy of this ordinance to the Cleburne County Board of Election Commissioners, no later than January 31, 2010, so that the necessary election officials and supplies may be provided.
  
- G. The Mayor and the City Recorder/Treasurer, for and on behalf of the city, be and they are hereby authorized and directed to do any and all things necessary to call and hold the election as herein provided and, if the ordinance providing for a study by the Arkansas Game and Fish Commission, and if appropriate after such a study providing for a special Urban Deer Hunt with hunting bow inside the city is approved by the electors of the city of Fairfield Bay, to be enforced according to its terms, and to perform all acts of whatever nature necessary to carry out the authority conferred by this ordinance. (Ord. No. 2009-7, Secs. 1-7.)