ORDINANCE NO. 2001- 05

AN ORDINANCE TO PRESERVE THE PUBLIC PEACE AND SAFETY IN THE CITY OF ATKINS AND FOR THE RESIDENTS THEREOF BY ESTABLISHING A CURFEW APPLICABLE TO JUVENILES REGULATING THEIR PRESENCE IN PUBLIC STREETS AND OTHER PLACES, DEFINING THE DUTIES OF PARENTS AND GUARDIANS OF JUVENILES, PROVIDING PENALTIES FOR THE VIOLATION THEREOF, DECLARING AN EMERGENCY, AND FOR OTHER PURPOSES.

WHEREAS, the City Council of the City of Atkins, Arkansas, (the "City"), hereby finds there has been a significant breakdown by certain parents in the supervision and guidance normally provided for juveniles under eighteen (18) years of age resulting in juveniles being involved in a wide range of unacceptable behavior including vandalism, noisy and rowdy behavior, breaking and entering, public drinking, littering, harassment of residents and more serious violent crimes; and,

WHEREAS, the City Council further finds that the offensive activities of the juveniles are not easily controlled by existing laws and ordinances because the activities are concealed whenever police officers are present and that the establishment of reasonable curfew regulations will enable the community to better control the free and unobstructed access to the streets and public places by a majority of residents and will enable the police to act reasonably and fairly to prevent the violations of laws and ordinances by juveniles; and,

WHEREAS, the City Council further finds and has determined that a curfew meets a very real, local need and that curfew ordinances in other communities have been a factor in minimizing juvenile delinquency; and,

WHEREAS, a curfew in Atkins is particularly appropriate in view of the basic residential nature of the community and the sense of the community that there is a proper time for the cessation of outdoor activities of juveniles; and,

WHEREAS, this attitude of the community is reflected in the curfew hours declared by this ordinance which takes into consideration the danger hours of nocturnal crimes; and,

WHEREAS, legal sanctions to enforce parental responsibility have had demonstrated effectiveness in many communities over the years; and,

WHEREAS, the City Council has determined that as parental control increases, there is a likelihood that juvenile delinquency decreases and that there is a need for nocturnal curfew for juveniles in Atkins and that the establishment of a curfew applicable to juveniles will reinforce the primary authority and responsibility of parents and guardians over juveniles in their care and custody.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Atkins, Arkansas:

SECTION 1. Definitions: For the purpose of this curfew ordinance the following terms, phrases, words, and deviations shall have the meaning given herein. The word "shall" is always mandatory and not merely directory.

(a) Juvenile or minor is a person under the age of eighteen (18) years.

(b) Parent is any person having custody of a juvenile (i) as a natural or adoptive parent, (ii) as a legal guardian, (iii) as a person who stands in loco parentis, or (iv) as a person to whom legal custody has been given by order of a court of competent jurisdiction.

SECTION 2. Curfew for Juveniles: It shall be unlawful for any juvenile to be walking, standing, sitting, lying, running, or otherwise traveling in or on the sidewalks, streets, highways, alleys, or other public places within the City of Atkins, Arkansas, between the hours of 10:30 p.m. on Sunday, Monday, Tuesday, Wednesday, and Thursday and 6:00 a.m. of the next succeeding day and between the hours of 12 midnight on Friday and Saturday night and 6:00 a.m. of the next succeeding day except when:

(a) accompanied by a parent, guardian, or other person having legal custody of such juvenile;

(b) accompanied by an adult at least 21 years of age who is not the parent and is authorized by the parent of such minor to take said parent's place in accompanying said minor for a designated period of time and purpose of specified area;

(c) when returning directly home from the termination of a school or city sponsored activity or an activity of a religious or other voluntary association;

(d) when engaging in the duties of bonafide employment or traveling directly without undue delay or detour from home to the place of employment or from the place of employment to the home.

SECTION 3. Parental Responsibility. It shall be unlawful for a parent of a juvenile to permit or allow a juvenile to be or remain upon any sidewalk, city street, highway, alley or other public place in the City of Atkins during the restricted periods set forth in Section 2 except for the limited purposes as described.

SECTION 4. Enforcement Procedure. If a police officer reasonably believes that a juvenile is in or on the streets, sidewalks , highways, alleys, or other public places in the City Atkins, in violation of the curfew ordinance, the

officer shall take the minor into custody and notify the minor that he or she is in violation of the ordinance and shall require the juvenile to provide his or her name, address, and telephone number and how to contact his or her parent and the officer shall immediately notify the parent of the minor of the curfew violation and thereafter, if appropriate, release the minor to his or her parent.

SECTION 5. Penalties. In the case of a first violation by a juvenile, the police department shall by ordinary mail send or deliver to the parent written notice of the juvenile's violation with a warning that any subsequent violation of the curfew ordinance by the minor will result in full enforcement of the curfew ordinance including enforcement of parental responsibility and of applicable penalties.

(a) If after the warning notice pursuant to this section of the first violation by a juvenile, a juvenile commits a second violation, then it shall be treated as a first offense by the parent. For parental offenses, a parent shall be fined not less than Twenty-Five Dollars ($25.00) nor more than One Hundred Dollars ($100.00) or be imprisoned in the county jail for a term of not less than one (1) day nor more than ten (10) days, or both so fined and imprisoned for a first offense.

For any subsequent violation by such minor and subsequent conviction of the minor's parent, the parent shall be fined not less than One Hundred Dollars ($100.00) nor more than Two Hundred Fifty Dollars ($250.00), or be imprisoned in the county jail for a term of not less than one (1) day nor more than thirty (30) days, or both so fined and imprisoned.

(b) Any juvenile who shall violate any of the provisions of the curfew ordinance three (3) or more times shall be reported by the Chief of Police to the juvenile authorities, to the Pope County Prosecuting Attorney and/or to the Arkansas Department of Human Services and/or any other appropriate authorities for further disposition.

SECTION 6. Repealer. All former ordinances or parts thereof in conflict with this Ordinance are hereby repealed.

SECTION 7. Construction. If any clause, sentence, paragraph, section, or other portion of this Ordinance be found to be unconstitutional, invalid, or inoperative, by a Court of competent jurisdiction such findings shall not affect the validity of the remainder of this Ordinance, and the remainder of the Ordinance shall remain in full force and effect.

SECTION 8: It is ascertained and declared that this ordinance is necessary for the protection and preservation

of the public peace, welfare and safety of the persons and property of the citizens of the City of Atkins that an emergency exists and that this Ordinance shall take effect and be enforced from and after its passage and publication.

DATED this 10th day of July, 2001.

JERRY DON BARRETT, Mayor

BRENDA GRAVES, City Clerk