

FDL ORDINANCE #11/98

CURFEW ORDINANCE, AMENDED

Adopted by Resolution #1295/98 of the Fond du Lac Reservation Business Committee, dated September 10, 1998.
Amended by Resolution #1311/00 of the Fond du Lac Reservation Business Committee, dated September 21, 2000.
Amended by Resolution #1373/10 of the Fond du Lac Reservation Business Committee, dated October 26, 2010.

FOND DU LAC ORDINANCE #11/98

CURFEW ORDINANCE, AMENDED

WHEREAS, the Fond du Lac Reservation Business Committee has determined that there has been an increase in juvenile criminal activity and violence, and in potentially juvenile gang-related activity by persons under the age of 18 on the Fond du Lac Reservation; and

WHEREAS, Persons under the age of 18 are particularly susceptible as a result of their lack of maturity and experience to participation in unlawful and gang-related activities and are also more likely to be victims of older perpetrators of crime; and

WHEREAS, the Reservation Business Committee has an interest and obligation in providing for the protection of juveniles from other persons in the enforcement of parental control over and responsibility for children, in the reduction of the incidence of juvenile criminal activities and in protecting its citizenry; and

WHEREAS, A curfew for those under the age of 18 would be in the best interest of the public health, safety, and general welfare and will help diminish the undesirable impact of such conduct on the citizens of the Fond du Lac Reservation;

NOW THEREFORE, BE IT ORDAINED BY THE FOND DU LAC RESERVATION BUSINESS COMMITTEE:

SECTION 1. Definitions.

A. CURFEW HOURS MEANS:

11:00 p.m. until 6:00 a.m. on any day of the week including weekends.

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 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. GUARDIAN means:
1. a person who, under court order, is the guardian of the person of a juvenile; or
 2. a public or private agency with whom a juvenile has been placed by a court.
- E. JUVENILE means any person under 18 years of age.
- F. OPERATOR means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.
- G. PARENT means a person who is:
1. a natural parent, adoptive parent, or step-parent of another person; or
 2. at least 18 years of age and authorized by a parent or guardian to have the care and custody of a juvenile.
- H. 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, office buildings, transport facilities, and shops.
- I. 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.
- J. SERIOUS BODILY INJURY means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

SECTION 2. Restrictions.

- A. It shall be unlawful for any juvenile to remain in any public place or on the premises of any establishment within the Reservation during curfew hours.
- B. It shall be unlawful for any parent or guardian of a juvenile to knowingly permit, or by insufficient control allow, the juvenile to remain in any public place or on the premises of any establishment within the Reservation during curfew hours. The term "knowingly" includes knowledge which a parent or guardian should reasonably be expected to have concerning the whereabouts of a juvenile in the legal custody of the parent or guardian.
- C. It shall be unlawful for any owner, operator, or any employee of an establishment to knowingly allow a juvenile to remain upon the premises of the establishment during curfew hours.

SECTION 3. Exceptions.

- A. The following shall constitute valid exceptions to the operation of the curfew. That the juvenile was:
 - 1. accompanied by the juvenile's parent or guardian;
 - 2. on an errand at the direction of juvenile's parent or guardian, without any detour or stop,
 - 3. in a motor vehicle involved in interstate travel;
 - 4. engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
 - 5. involved in an emergency;
 - 6. on the sidewalk abutting the juvenile's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the juvenile's presence;
 - 7. attending an official school, religious, or other recreational activity supervised by adults or sponsored by the Reservation Business Committee, a civic organization, or another similar entity that takes responsibility for the juvenile, or going to or returning home from, without any detour or stop, an official school, religious, or other

recreational activity supervised by adults or sponsored by the Reservation Business Committee, or civic organization, or another similar entity that takes responsibility for the juvenile;

8. married or had been married and/or legally emancipated.

B. It is a defense to prosecution under Section 2 that the owner, operator or employee of an establishment promptly notified the police department that a juvenile was present on the premises of the establishment during curfew hours and refused to leave.

SECTION 4. Enforcement.

Before taking any enforcement action under this section, a police officer is authorized and shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this Section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no exception in Section 3 is applicable.

SECTION 5. Penalties.

- A. A person who violates a provision of this Ordinance is guilty of a separate offense for each day or part of a day during which the violation is committed, continued, or permitted.
- B. Any juvenile who is convicted of a violation of this Ordinance after the case has been referred for prosecution in the Tribal Court, and any adult person having the care and custody of such minor, is guilty of a petty misdemeanor and shall be punished by a fine not to exceed \$200.00.

SECTION 6. That the terms and provisions of this Ordinance are severable. If any provision of this Ordinance is, for any reason, held to be invalid, such decision shall not effect the validity of the remaining portions of this Ordinance. It is intended that the Curfew Ordinance be held inapplicable in such cases, if any, where its application would be unconstitutional.

SECTION 7. That this Ordinance shall take effect immediately from and after its passage and publication according to law.

CERTIFICATION

We do hereby certify that the foregoing Ordinance #11/98 was duly presented and adopted by Resolution #1295/98 by a vote of 4 for, 0 against, 0 silent, with a quorum of 5 being present at a Special Meeting of the Fond du Lac Reservation Business Committee held on September 10, 1998 on the Fond du Lac Reservation, and subsequently amended as follows: by Resolution #1311/00 on September 21, 2000; and by Resolution #1373/10 on October 26, 2010.



Karen R. Diver
Chairwoman



Ferdinand Martineau, Jr.
Secretary/Treasurer

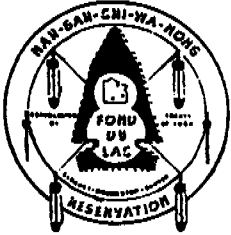
laws:98-11(9/10/98;9/21/00;10/26/10)

Fond du Lac Reservation

Business Committee

1720 Big Lake Rd.
Cloquet, MN 55720
Phone (218) 879-4593
Fax (218) 879-4146

RESOLUTION #1295/98



Chairman
Robert B. Peacock

Secretary/Treasurer
Peter J. Defoe

Dist. I Councilman
Clifton Rabideaux

Dist. II Councilman
V. R. "Butch" Martineau

Dist. III Councilman
George Dupuis

Executive Director
I. Jean Mulder

The Fond du Lac Reservation Business Committee, on behalf of the Fond du Lac Band of Lake Superior Chippewa, hereby enacts the following Resolution:

WHEREAS, the Fond du Lac Reservation is a sovereignty, created by the Treaty of September 30, 1854, 10 Stat. 1109, as the permanent home of the Fond du Lac Band of Lake Superior Chippewa, which possesses the inherent jurisdiction and authority to exercise regulatory control within the boundaries of the Fond du Lac Reservation; and

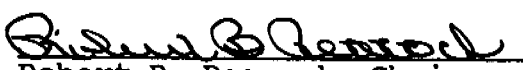
WHEREAS, it is the sovereign obligation of the Fond du Lac Reservation Business Committee, as the Governing Body of the Fond du Lac Band, under the Indian Reorganization Act, 25 U.S.C. § 461 et seq., and in accordance with the Indian Self-Determination Act, 25 U.S.C. § 450 et seq., to assume the responsibilities of self government; and

WHEREAS, the Reservation Business Committee has determined it to be necessary and in the best interests of the Fond du Lac Band to develop a "Curfew Ordinance" in order to protect the public safety of the residents of the Fond du Lac Reservation through the establishment of restrictions on the presence of juveniles in public places on the Reservation at night;

NOW THEREFORE BE IT RESOLVED, that the Fond du Lac Reservation Business Committee does hereby adopt Fond du Lac Ordinance #11/98, entitled "Curfew Ordinance," as the law of the Fond du Lac Band, to become effective immediately.

CERTIFICATION

We do hereby certify that the foregoing Resolution adopting Fond du Lac Ordinance #11/98, entitled "Curfew Ordinance," was duly presented and acted upon by a vote of 4 for, 0 against, 0 silent, with a quorum of 5 being present at a Special Meeting of the Fond du Lac Reservation Business Committee held on September 10, 1998, on the Fond du Lac Reservation.

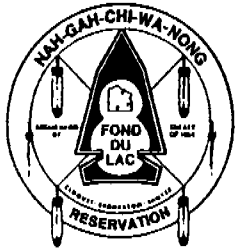

Robert B. Peacock, Chairman


Peter J. Defoe, Sec./Treas.

Fond du Lac Reservation

Business Committee

1720 Big Lake Rd.
Cloquet, MN 55720
Phone (218) 879-4593
Fax (218) 879-4146



RESOLUTION # 1311/00

Chairman
Robert B. Peacock

Secretary/Treasurer
Peter J. Defoe

Dist. I Councilman
Clifton Rabideaux

Dist. II Councilman
V.R. "Butch" Martineau

Dist. III Councilman
George Dupuis

Executive Director
I. Jean Mulder

The Fond du Lac Reservation Business Committee, on behalf of the Fond du Lac Band of Lake Superior Chippewa, hereby enacts the following Resolution:

WHEREAS, the Fond du Lac Reservation is a sovereignty, created by the Treaty of September 30, 1854, 10 Stat. 1109, as the permanent home of the Fond du Lac Band of Lake Superior Chippewa, which possesses the inherent jurisdiction and authority to exercise regulatory control within the boundaries of the Fond du Lac Reservation; and

WHEREAS, it is the sovereign obligation of the Fond du Lac Reservation Business Committee, as the Governing Body of the Fond du Lac Band, under the Indian Reorganization Act, 25 U.S.C. § 461 et seq., and in accordance with the Indian Self-Determination Act, 25 U.S.C. § 450 et seq., to assume the responsibilities of self government; and

WHEREAS, the Reservation Business Committee enacted Fond du Lac Ordinance #11/98, entitled "Curfew Ordinance," on September 10, 1998, in order to protect and promote the public health, safety and general welfare of the residents of the Fond du Lac Reservation; and

WHEREAS, the Reservation Business Committee has determined it to be in the best interests of the Fond du Lac Band to amend Section 4 of the Curfew Ordinance by striking the word "offense" and inserting "exception" in the final clause of the second sentence, as follows:

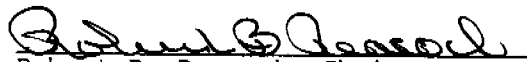
SECTION 4. Enforcement.

Before taking any enforcement action under this section, a police officer is authorized and shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this Section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no ~~offense~~ exception in Section 3 is applicable.

NOW THEREFORE, the Fond du Lac Reservation Business Committee does hereby adopt the aforementioned amendment to the Curfew Ordinance, FDL Ord. #11/98, and hereby directs that said amendment to be incorporated into Ordinance #10/98, to become effective this day.

CERTIFICATION

We do hereby certify that the foregoing Resolution was duly presented and acted upon by a vote of 4 for, 0 against, 0 silent, with a quorum of 5 being present at a Special Meeting of the Fond du Lac Reservation Business Committee held on Sept. 21, 2000 on the Fond du Lac Reservation.


Robert B. Peacock, Chairman


Peter J. Defoe, Sec./Treas.

laws:R091800.1198

Fond du Lac Band of Lake Superior Chippewa

Reservation Business Committee

1720 Big Lake Rd.
Cloquet, MN 55720
Phone (218) 879-4593
Fax (218) 879-4146

RESOLUTION # 1373/10

AMENDING THE FOND DU LAC CURFEW ORDINANCE, FDL ORD. #11/98



The Fond du Lac Reservation Business Committee, on behalf of the Fond du Lac Band of Lake Superior Chippewa, hereby enacts the following Resolution:

Chairwoman
Karen R. Diver

Secretary/Treasurer
Ferdinand Martineau, Jr.

Dist. I Representative
Wally Dupuis

Dist. II Representative
Sandra M. Shabiash

Dist. III Representative
Mary S. Northrup

Executive Director,
Tribal Programs
Chuck Walt

WHEREAS, the Fond du Lac Reservation is a sovereignty, created by the Treaty of September 30, 1854, 10 Stat. 1109, as the permanent home of the Fond du Lac Band of Lake Superior Chippewa, which possesses the inherent jurisdiction and authority to exercise regulatory control within the boundaries of the Fond du Lac Reservation; and

WHEREAS, it is the sovereign obligation of the Fond du Lac Reservation Business Committee, as the Governing Body of the Fond du Lac Band, under the Indian Reorganization Act, 25 U.S.C. § 461 et seq., and in accordance with the Indian Self-Determination Act, 25 U.S.C. § 450 et seq., to assume the responsibilities of self government; and

WHEREAS, the Reservation Business Committee adopted FDL Ordinance #11/98 on September 10, 1998 in order to establish curfew hours for minors on the Fond du Lac Reservation of 11:00 p.m. - 6:00 a.m. on Sunday through Thursday nights and 12:01 a.m. through 6:00 a.m. on Friday and Saturday nights; and

WHEREAS, the Reservation Business Committee has determined it to be necessary and in the best interests of the Fond du Lac Band to amend the FDL Curfew Ordinance establish a uniform curfew time of 11:00 p.m. for all minors on the Reservation, and that such amendment will enhance the safety of the Reservation community;

NOW, THEREFORE, BE IT RESOLVED, that the Fond du Lac Reservation Business Committee hereby adopts the following amendment to Section 1(A) of the Fond du Lac Curfew Ordinance, effective immediately:

A. CURFEW HOURS MEANS:

~~1. 11:00 p.m. until 6:00 a.m. of the following day on any Sunday, Monday, Tuesday, Wednesday, or Thursday, and~~

~~2. 12:01 a.m. until 6:00 a.m. on Saturday or Sunday.~~

11:00 p.m. until 6:00 a.m. on any day of the week including weekends.

CERTIFICATION

We do hereby certify that the foregoing Resolution was duly presented and acted upon by a vote of 3 for, 0 against, 0 silent, with a quorum of 4 being present at a Special Meeting of the Fond du Lac Reservation Business Committee held on October 26, 2010, on the Fond du Lac Reservation.


Karen R. Diver,
Chairwoman


Ferdinand Martineau, Jr.,
Secretary/Treasurer

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