

ARTICLE 8.100 CURFEW HOURS FOR MINORS*

Sec. 8.101 Definitions

In this article:

Curfew Hours:

- (1) 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. of the following day; and
- (2) 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday.
- (3) Normal operating hours of private and public schools in the state.

Emergency. An unforeseen combination of circumstances or the resulting state that calls for immediate action. This term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any other situation requiring immediate action to prevent serious bodily injury or loss of life.

Establishment. 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.

Guardian.

- (1) Any person who, under court order, is the guardian of the person of a minor; or
- (2) A public or private agency with whom the minor has been placed by the court.

Minor. Any person under 17 years of age.

Operator. 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.

Parent. A person who is:

- (1) A natural parent, an adoptive parent, or stepparent 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 minor.
- (3) The term "parent" does not include a person as to whom the parent-child relationship has been terminated or a person not entitled to possession of or access to a child under a court order.

Remain. 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.

***State law references**—Review of juvenile curfew order or ordinance, V.T.C.A., Local Government Code, sec. 370.002; children taken into custody for violation of juvenile curfew or order, Tex. Code Crim. Proc., art. 45.059.

Serious Bodily Injury. Bodily injury that creates a substantial risk of death or cause of death, serious permanent disfigurement, or protracted loss or impairment of the function of a bodily member or organ.

(Ordinance 1288 adopted 9/11/06)

Sec. 8.102 Offenses

(a) It shall be unlawful for any minor to knowingly remain, walk, run, or stand, or operate, or ride in any motor vehicle or on any bicycle, in or upon any public place or on the premises of any establishment within the city during curfew hours.

(b) It shall be unlawful for the parent or guardian of a minor to knowingly permit or, by insufficient control, allow a minor to remain in or upon any public place or on the premises of any establishment within the city during curfew hours.

(c) It shall be unlawful for the owner, operator, or any employee of an establishment to knowingly allow a minor to remain upon the premises of an establishment during curfew hours.

(Ordinance 1288 adopted 9/11/06)

Sec. 8.103 Defenses

(a) It is a defense to prosecution under Section 8.102(b) that the minor was:

- (1) Accompanied by the minor's parent or guardian;
- (2) On an errand at the direction of a minor's parent or guardian;
- (3) In a motor vehicle involved in interstate travel;
- (4) Engaged in a lawful employment activity, going directly to the employment activity, or returning directly to the minor's residence from the employment activity;
- (5) Involved in an emergency;
- (6) On the sidewalk abutting the minor's permanent residence;
- (7) Attending an official school, religious or other recreational activity supervised by adults and sponsored by the city, a civic organization, or other similar entity that takes responsibility for the minor, or going or returning home from, without detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or similar entity that takes responsibility for a minor;
- (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 after delivery, before exercising such rights on the streets after curfew, written notice signed by the minor, and a parent when practicable, to the city department of public safety specifying when, where and in what manner said minor will be on the streets; or during curfew time exercising a First Amendment right specified in the communication;
- (9) Married or had been married or had disabilities of a minor removed in accordance with Chapter 31 of the Texas Family Code;
- (10) It is a defense to prosecution under Section 8.102(b) that the owner, operator, or employee of an establishment promptly notified the city department of public safety that a minor was present on the premises of the establishment during curfew hours and refused to leave.

- (11) It is a defense to prosecution under Section 8.102(c) that the minor had been directed by his or her parent or guardian to engage in a specific activity or to carry out expressed instructions, during the time that the minor is actually engaged in fulfilling those directions or responsibilities.

(Ordinance 1288 adopted 9/11/06)

Sec. 8.104 Enforcement

Before taking any enforcement action under this article, 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 make an arrest under this article unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in Section 8.103 is present. (Ordinance 1288 adopted 9/11/06)

Sec. 8.105 Penalties

(a) A person who violates a provision of this article is guilty of a separate offense for each day or part of a day during which the violation is committed, continued, or permitted. Each offense, upon conviction, is punishable by a fine in accordance with the general penalty provision found in Section 1.109 of this code.

(b) When required by Section 51.08 of the Texas Family Code, as now or hereafter amended, the municipal court shall waive original jurisdiction over a minor who violates Section 8.102(a) of this section and shall refer the minor to the county juvenile services.

(Ordinance 1288 adopted 9/11/06)

Sec. 8.106 Article Review

The city council shall review the necessity for this article not less than every thirty six (36) months at a public hearing convened for that purpose. The public hearing shall address the effect of the ordinance, adopted in this article, on the community and the problems with implementation and enforcement. (Ordinance 1288 adopted 9/11/06)