

ARTICLE V. YOUTH CURFEW

Sec. 16-109. Definitions.

For the purposes of this article, the following words, terms and phrases shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Curfew hours means:

- (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) Notwithstanding (1) and (2), from June 1 to August 15 of each year, curfew hours shall be from 12:01 a.m. on any day until 6:00 a.m.

Emergency shall include, but not be limited to, fire, natural disaster, an automobile accident or seeking immediate medical treatment for any person.

Interstate transportation means transportation between states of the United States or between a state of the United States and a foreign country, to which any travel through the city is merely incidental.

Intrastate transportation means transportation between locations within the state, to which any travel through the city is merely incidental.

Minor shall mean any person under seventeen (17) years of age.

Parent shall mean a person who is the natural or adoptive parent of minor. As used herein "parent" shall also include a court-appointed guardian or other person twenty-one (21) years of age or older who has been authorized by the parent, by a court order, or by the court-appointed guardian to have the care and physical control of a minor.

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 and highways, and the common areas of schools, hospitals, apartment houses, office buildings, transportation facilities, restaurants and shops.

(Ord. No. 92-46, § I, 8-11-92; Ord. No. 96-61, § I, 7-23-96; lapsed 07-23-99; re-adopted Ord. No. 99-69, § I, 9-14-99; Ord. No. 02-33, § I, 8-27-02; Ord. No. 05-59, § I, 8-16-05; Ord. No. 08-052, § I, 7-22-08; Ord. No. 11-058, § I, 7-12-11; Ord. No. 17-033, § I, 5-23-17; Ord. No. 20-022, § I, 5-12-20)

Sec. 16-110. Offenses.

- (a) It shall be unlawful for any minor to intentionally or knowingly remain, walk, run, stand, drive or ride about in or upon any public place in the city during curfew hours.
- (b) It shall be unlawful for a parent of a minor to knowingly allow or permit the minor to be in violation of the curfew imposed in subsection (a) of this section. The term "knowingly" includes knowledge which such parent should reasonably be expected to have concerning the whereabouts of a minor in the parent's care. It shall be prima facie evidence of violation of this section if a responsible parent has no knowledge of a minor's whereabouts during the hours of curfew established by this article.

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- (c) It shall be unlawful for any owner, operator, or employee of any privately owned place of business operated for a profit to which the public is invited, to knowingly allow a minor to remain upon the premises of said place of business during curfew hours.

(Ord. No. 92-46, § I, 8-11-92; Ord. No. 96-61, § I, 7-23-96; lapsed 07-23-99; re-adopted Ord. No. 99-69, § I, 9-14-99; Ord. No. 02-33, § I, 8-27-02; Ord. No. 05-59, § I, 8-16-05; Ord. No. 08-052, § I, 7-22-08; Ord. No. 11-058, § I, 7-12-11; Ord. No. 17-033, § I, 5-23-17; Ord. No. 20-022, § I, 5-12-20)

Sec. 16-111. Defenses.

It is a defense to prosecution under section 16-110 that, at the time of the act that otherwise would constitute an offense:

- (1) The minor was accompanied by his or her parent;
- (2) The minor was accompanied by an adult twenty-one (21) years of age or older approved by the parent;
- (3) The minor was on an emergency errand;
- (4) The minor was attending a school, religious or government-sponsored activity, or going to or coming from a school, religious or government-sponsored activity;
- (5) The minor was engaged in a lawful employment activity or labor organization meeting, or going to or coming from said lawful employment or labor organization meeting;
- (6) The minor was on the premises of the place where such minor resides or on the premises of a next-door neighbor, and said neighbor was not communicating an objection to a peace officer regarding the presence of said minor;
- (7) The minor was upon an errand directed by his or her parent;
- (8) The minor was in an aircraft or motor vehicle involved in intrastate or interstate transportation, or was awaiting transportation by such means;
- (9) The minor was exercising his or her First and Fourteenth Amendment rights protected by the United States Constitution, including, but not limited to, the free exercise of religion, freedom of speech, and the right of assembly; or
- (10) The minor was married or had been married or had disabilities of minority removed in accordance with the Texas Family Code.
- (11) In a prosecution under subsection 16-110(c), the owner, operator or employee of the place of business promptly notified the police department that a minor was present on the premises of the business during curfew hours and refused to leave.

(Ord. No. 92-46, § I, 8-11-92; Ord. No. 96-61, § I, 7-23-96; lapsed 07-23-99; re-adopted Ord. No. 99-69, § I, 9-14-99; Ord. No. 02-33, § I, 8-27-02; Ord. No. 05-59, § I, 8-16-05; Ord. No. 08-052, § I, 7-22-08; Ord. No. 11-058, § I, 7-12-11; Ord. No. 17-033, § I, 5-23-17; Ord. No. 20-022, § I, 5-12-20)

Sec. 16-112. Enforcement procedures.

Any peace officer, upon finding a minor in violation of section 16-110 may:

- (1) Order the minor to go directly and promptly to his home, after issuing either a verbal warning, a written warning or a citation; or

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- (2) Release the minor to a parent, legal guardian or other responsible adult under circumstances deemed appropriate by the officer, after issuing either a verbal warning, written warning or a citation.
- a. When a minor is released to a parent, legal guardian or other responsible adult, the adult shall be informed of the specific violation, the nature and purpose of the law, and the consequences of future violations. The peace officer has the discretion to issue either a verbal warning, written warning or a citation to the minor's parent, legal guardian, or a responsible adult into whose care the minor was placed.

(Ord. No. 92-46, § I, 8-11-92; Ord. No. 96-61, § I, 7-23-96; lapsed 07-23-99; re-adopted Ord. No. 99-69, § I, 9-14-99; Ord. No. 02-33, § I, 8-27-02; Ord. No. 05-59, § I, 8-16-05; Ord. No. 08-052, § I, 7-22-08; Ord. No. 11-058, § I, 7-12-11; Ord. No. 17-033, § I, 5-23-17; Ord. No. 20-022, § I, 5-12-20)

Sec. 16-113. Penalties.

- (a) Any minor violating the provisions of this article shall be guilty of a Class C misdemeanor as defined by the Texas Penal Code and shall be dealt with in accordance with the provisions of V.T.C.A., Family Code title 3, and the Texas Code of Criminal Procedure.
- (b) A parent who violates subsection 16-110(b) or a person who violates subsection 16-110(c) shall be guilty of a Class C misdemeanor, which shall be punishable by a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00).
- (c) In assessing punishment for either a parent or minor, the municipal court judge may consider a community service or teen court program.

(Ord. No. 92-46, § I, 8-11-92; Ord. No. 96-61, § I, 7-23-96; lapsed 07-23-99; re-adopted Ord. No. 99-69, § I, 9-14-99; Ord. No. 02-33, § I, 8-27-02; Ord. No. 05-59, § I, 8-16-05; Ord. No. 08-052, § I, 7-22-08; Ord. No. 11-058, § I, 7-12-11; Ord. No. 17-033, § I, 5-23-17; Ord. No. 20-022, § I, 5-12-20)

Sec. 16-114. Continuing evaluation.

This ordinance shall be reviewed every third year after passage, as required by V.T.C.A., Local Government Code § 370.002, as amended. Such review shall be conducted following public hearings upon the need to continue the ordinance, and the city council shall have the option to continue, abolish or modify the ordinance based upon its review of the ordinance's effects on the community and on the problems the ordinance is intended to remedy.

(Ord. No. 96-61, § I, 7-23-96; lapsed 07-23-99; re-adopted Ord. No. 99-69, § I, 9-14-99; Ord. No. 02-33, § I, 8-27-02; Ord. No. 05-59, § I, 8-16-05; Ord. No. 08-052, § I, 7-22-08; Ord. No. 11-058, § I, 7-12-11; Ord. No. 14-042, 6-10-14; Ord. No. 17-033, § I, 5-23-17; Ord. No. 20-022, § I, 5-12-20)