



ORDINANCE NO. D 17-11

JUVENILE CURFEW

AN ORDINANCE OF THE CITY OF NOLANVILLE, TEXAS, ESTABLISHING A CURFEW FOR MINORS AND PARENTAL RESPONSIBILITY; SETTING THE HOURS OF CURFEW FOR MINORS; PROVIDING FOR AFFIRMATIVE DEFENSES TO PROSECUTION; PROVIDING A PENALTY NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE; PROVIDING A SEVERABILITY CLAUSE AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, persons under the age of seventeen (17) years are particularly susceptible by their lack of maturity and experience to participate in unlawful activities and to be victims of older perpetrators of crime; and

WHEREAS, the City of Nolanville, Texas, considers it an obligation to promote the protection of minors from each other and from other persons, for the enforcement of parental control over and responsibility for children, for the protection of the general public, and for the reduction of the incidence of juvenile criminal activities; and

WHEREAS, other local governments in Texas that have adopted juvenile curfew ordinances generally have experienced a decrease in juvenile violence, and crime by persons under the age of seventeen (17) years; and

WHEREAS, statistics from other municipalities that have adopted juvenile curfew ordinances reflect a decrease in violent offenses committed against juveniles during curfew hours; and

WHEREAS, the City Council of the City of Nolanville (the "City Council") has deliberated the issues regarding the activity and safety of minors in the City of Nolanville during curfew hours defined herein; and

WHEREAS, the City Council has considered the effect that curfew might have on the community and on problems such as criminal activity and mischief caused by minors during the curfew hours that this ordinance is intended to remedy; and

WHEREAS, the City Council finds that adoption of this Juvenile Curfew Ordinance is in the best interest of the City and that this ordinance will promote and provide for the health, safety and welfare of the City,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NOLANVILLE, BELL COUNTY, TEXAS, THAT:

SECTION 1. FINDINGS

- 1.1 All matters stated in the preamble are found to be true and correct and are incorporated herein by reference as if copied in their entirety.

SECTION 2. DEFINITIONS

- 2.1 All definitions contained within this ordinance are for the purpose of this ordinance only and shall have no impact on any other rule, law or ordinance unless referenced directly within said rule, law or ordinance.
- 2.2 “**ADULT**” shall mean any person seventeen years of age or older.
- 2.3 “**BUSINESS OPERATOR**” shall mean any employee, individual, firm, associate, partnership or corporation engaged in or responsible for operating, conducting business or managing any business or establishment.
- 2.4 “**CURFEW**” or “**CURFEW HOURS**” shall mean those hours between
- 1) 11:00 p.m. on Sunday, Monday, Tuesday, Wednesday, Thursday until 6:00 am the following day; and
 - 2) 12:01 a.m. and 6:00 a.m. on Friday and Saturday
- 2.5 “**EMERGENCY**” shall mean 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, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.
- 2.6 “**ESTABLISHMENT**” shall mean 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.
- 2.7 “**GUARDIAN**” shall mean:
- 2.7.1 a person who is the natural guardian of the minor; or
 - 2.7.2 a person who, under court order, is the guardian of the person of a minor; or
 - 2.7.3 a public or private agency with whom a minor has been placed by a court.

- 2.8 “**MINOR**” shall mean any person less than seventeen (17) years of age who has not had the disabilities of minority removed in accordance with Chapter 31 of the Texas Family Code or who is not legally married at the time.
- 2.9 “**OPERATOR**” shall mean any individual, employee, firm, association, partnership, or corporation engaged in, operating, managing or conducting any establishment. The term includes the members or partner of an association or partnership and the officers of a corporation.
- 2.10 “**PARENT**” shall mean a person who is:
- 2.10.1 a natural parent, adoptive parent, or step-parent of another person;
 - 2.10.2 a person being at least 18 years of age and having written authorization from a parent or guardian to provide for the care and custody of a minor.
- 2.11 “**PUBLIC PLACE**” shall mean 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.
- 2.12 “**REMAIN**” shall mean to linger, stay or fail to leave
- 2.12.1 a public place or any premises when requested to do so by a peace officer, or
 - 2.12.2 an establishment when requested to do so by the owner, operator, or other person in control of the establishment.
- 2.13 “**SERIOUS BODILY INJURY**” shall mean bodily injury that creates a substantial risk of death, serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

Section 3. COMMISSION OF OFFENSES

- 3.1 Violation by Minor. A minor commits an offense if the minor remains in any public place or on the premises of any establishment within the City of Nolanville during curfew hours.
- 3.2 Violation by Parent or Guardian. A parent or guardian of a minor commits an offense if the parent or guardian knowingly permits, or by insufficient control allows the minor to

remain in any public place or on the premises of any establishment within the City of Nolanville during curfew hours.

- 3.3 Contributing to the Neglect or Delinquency of Minors. A parent, guardian or other person having the care, custody or control of a minor commits an offense if, by any act or omission, or by lack of supervision and control over such minor, such person encourages, contributes toward, causes or tends to cause the minor to become neglected or delinquent.
- 3.4 Violation by Owner, Operator or Employee of Establishment. The owner, operator, or any employee of an establishment commits an offense if such person knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

Section 4. PENALTIES FOR VIOLATION

- 4.1 A person who violates any provision listed in section 3 of this ordinance shall be charged with a misdemeanor offense, and upon conviction in Municipal Court in the City of Nolanville, shall be guilty of a Class "C" misdemeanor punishable by a fine of not more than two hundred fifty dollars (\$250.00) for each offense.
 - 4.1.1 Each day or part of day during which the violation is committed, continued, or permitted shall be considered a separate offense.
- 4.2 Each minor upon the premises of any establishment constitutes a separate violation under section 3.4 of this ordinance and upon a conviction shall be the subject of a separate fine.
- 4.3 Any child taken into custody for a violation of this ordinance shall be held in accordance with Article 45.059, Texas Code of Criminal Procedure.
- 4.4 When required by section 51.08, of the Texas Family Code, as amended, the Municipal Court of the City of Nolanville shall waive original jurisdiction over a minor who violates section 3.1 and shall refer the minor to a juvenile court.
- 4.5 Any person who violates a section 3.2 to 3.4 of this ordinance commits an offense and, upon conviction, shall be guilty of a Class "C" misdemeanor punishable by a fine of not more than five hundred dollars (\$500.00) for each offense.
 - 4.5.1 Each day or part of day during which the violation is committed, continued, or permitted shall be considered a separate offense.

Section 5. AFFIRMATIVE DEFENSES

- 5.1 It is an affirmative defense to prosecution under section 3.1, 3.2, and 3.3 of this ordinance that:
- 5.1.1 the minor was accompanied by his/her parent or legal guardian;
 - 5.1.2 the minor was accompanied by an adult approved by the minor's parent;
 - 5.1.3 the minor was attending, going to or returning from, without stop or detour and using the most direct route, any school, religious or other activity supervised by adults and sanctioned by a government, civic or church entity that takes responsibility for the minor;
 - 5.1.4 the minor was on an emergency errand;
 - 5.1.5 the minor was engaged in lawful employment activity or going to or returning from, without stop or detour and using the most direct route, any lawful employment; or
 - 5.1.6 the minor is married or had been married or had disabilities or minority removed in accordance with Texas Family Code Chapter 31.
- 5.2 It is an affirmative defense to prosecution under section 3.4 of this ordinance that:
- 5.2.1 the business operator notified the police department that the minor was present during curfew hours and refused to leave;
 - 5.2.2 the business operator was unaware of the presence of the minor and assisted the police in identifying the minor; or
 - 5.2.3 the minor is an employee of the establishment, is actually engaged in duties related to that employment and is receiving payment for the activity.

Section 6. SEVERABILITY

- 6.1 It is hereby declared by the City Council of the City of Nolanville that if any of the sections, paragraphs, sentences, clauses or phrases of this ordinance shall be declared unconstitutional or otherwise illegal by the valid judgment or decree of any court of competent jurisdiction, such event shall not affect any remaining sections, paragraphs, sentences, clauses or phrases of this ordinance.

Section 7. EFFECTIVE DATE

7.1 This ordinance shall be in full force and effect from and after its passage and publication and it is so ordained.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF NOLANVILLE, TEXAS
ON THIS 2nd DAY OF November, 2017.**



Christina Rosenthal, Mayor

Attest:



Crystal Briggs, City Secretary