

ORDINANCE #04-02

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HALLSVILLE, TEXAS ESTABLISHING A YOUTH CURFEW AND PROHIBITED HOURS OF ACTIVITY FOR ANYONE UNDER THE AGE OF SEVENTEEN (17); PROVIDING PENALTIES; PROVIDING FOR REPEAL ANY ORDINANCE IN CONFLICT THEREWITH; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Hallsville, Texas, finds that there is an increasing incidence of persons under the age of seventeen (17) walking, running, standing, driving, riding about in public places during the hours of 11:00 pm and 6:00 am in the City of Hallsville; and

WHEREAS, this does not create a safe environment causing continuing danger and threats to the health, safety, and welfare of the minors and the citizens of the City of Hallsville;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HALLSVILLE, TEXAS

Section 1 Purpose

The purpose of this ordinance is to protect the health, safety, and welfare of the citizens of the City of Hallsville, Texas.

Section 2 Definitions

Curfew Hours means:

1. 11:00 pm on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 am of the following day; and
2. 12:01 am until 6:00 am on any Friday or Saturday.
3. Notwithstanding (1) and (2), from June 1 to August 15 of each year, curfew hours shall be from 12:01 am on any day until 6:00 am.

Emergency means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, fire natural disaster, a motor vehicle accident, seeking immediate medical treatment for any person, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

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.

Establishment means any privately-owned place of business operated for profit to which the public is invited, including but not limited to any place of amusement or entertainment.

Interstate Transportation means transportation states of the United States to which travel through the City is merely incidental.

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

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

Parent shall mean a person who is the natural or adoptive parent of the 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 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, apartment houses, office buildings, transportation facilities, restaurants and shops.

Section 3 Offenses

1. 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 or the premises of any establishment in the City during curfew hours.
2. It shall be unlawful for a parent or guardian of a minor to knowingly allow or permit, or by insufficient control allow, 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 the responsible parent has no knowledge of a minor’s whereabouts during the hours of curfew established by this ordinance.
3. It shall be unlawful for any owner, operator, or employee of any privately owned establishment or 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 establishment or place of business during curfew hours.

Section 4 Defenses

It is a defense to prosecution under Section 3 that at the time of the act that otherwise would constitute an offense:

1. The minor was accompanied by his or her parent or guardian;
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 or involved in an emergency;
4. The minor was attending a school, religious, government-sponsored activity; or other recreational activity supervised by adults and sponsored by the City of Hallsville, a civic organization, or other similar entity that takes responsibility for the minor;
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 the next-door neighbor, and said neighbor was not communication 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 or guardian;
8. The minor was in a 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 Fourth Amendment rights protected by the United State Constitution, including but 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 Section 3 #3, the owner operator or employee of the establishment or place of business promptly notified the Hallsville Police Department that a minor was present on the premises of the business during curfew hours and refused to leave.

Section 5 Enforcement Procedures

If a minor appears to be in violation of this ordinance, a peace officer shall ask the age of the apparent offender and inquire in the reason for being in a public place or establishment during curfew hours before any enforcement action is taken.

Any peace officer, upon finding a minor in violation of Section 3, and that no defenses applied under Section 4, may:

1. Order the minor to go directly and promptly to his or her home, after issuing either a verbal warning, a written warning, or citation; or
2. Release the minor to parent, legal guardian, or other responsible adult under circumstances deemed appropriate by the officer, after issuing either a verbal warning or written warning or a citation.
 - a) When a minor is released to 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 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.

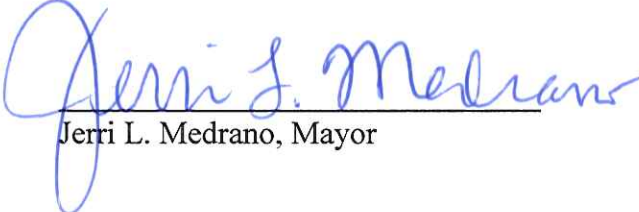
Section 6 Penalties

1. 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 Title 3 of the Texas Family Code, and the Texas Code of Criminal Procedure.
2. A parent or guardian who violates Section 3 #2, or a person who violates Section 3 #3 shall be guilty of a misdemeanor, which shall be punishable by a fine of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500) for each separate offense.
3. In assessing punishment for either a parent or minor, the municipal court judge may consider a community service program.

Section 7 Effective Date

This ordinance shall be in full force and effect immediately upon and after its final passage and publication as required by law.

PASSED AND APPROVED by the affirmative vote of the members of the City Council this 18th day of November, 2014.



Jerri L. Medrano, Mayor

ATTEST:



Kimberly Smith, City Secretary