

Posted September 26th:

On Tuesday, September 23, 2008, the City Council for the City of Bedford approved an amendment to the Curfew Ordinance to include hours while school is in session. Hours included in this amendment include 9:00 a.m. to 2:30 p.m. Monday through Friday, excluding holidays or other designated throughout the school year where minors are not required to be in school.

Below, please find the Curfew Ordinance, in its entirety, with the changes noted in red:

AN ORDINANCE AMENDING ARTICLE IV OF CHAPTER 82, "OFFENSES AND MISCELLANEOUS LAW ENFORCEMENT REGULATIONS," OF THE CODE OF ORDINANCES OF THE CITY OF BEDFORD, TEXAS, RELATING TO CURFEWS; MAKING THIS ORDINANCE CUMULATIVE; PROVIDING FOR PENALTIES; PROVIDING A SEVERABILITY CLAUSE, PROVIDING FOR PUBLICATION AND NAMING OF AN EFFECTIVE DATE.

WHEREAS, the City Council of Bedford, Texas, determined that persons under the age of 17 are particularly susceptible by their lack of maturity and experience to participate in unlawful and gang-related activities and to be victims of older perpetrators of crime; and,

WHEREAS, the City Council of Bedford, Texas, determined that the City of Bedford has an obligation to provide for 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, the City Council of Bedford, Texas, determined a curfew for those under the age of 17 will be in the interest of the public health, safety, and general welfare and will help to attain the foregoing objectives and to diminish the undesirable impact of such conduct on the citizens of the City of Bedford.

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

SECTION 1. Chapter 82 of the Code of Ordinances Section 82-101-82-105, shall read in its entirety as follows:

(A) Definitions. In this section:

(1) CURFEW HOURS means:

(a) 11:00 P.M. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 A.M. of the following day; and

(b) 12:01 A.M. until 6:00 A.M. on any Friday or Saturday.

(c) While school is in session, a minor commits an offense if the minor remains, walks, runs, idles, wanders, strolls, or aimlessly drives or rides about in or about a public place between 9:00 a.m. and 2:30 p.m. on Monday, Tuesday, Wednesday, Thursday or Friday.

(2) 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 fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

(3) 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.

(4) GUARDIAN means:

(a) a person, who under court order, is the guardian of the person of a minor; or

(b) a public or private agency with whom a minor has been placed by a court.

(5) MINOR means any person under 17 years of age.

(6) OPERATOR means an 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.

(7) PARENT means a person who is:

(a) a natural parent, adoptive parent, or step-parent of another person; or

(b) at least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

(8) 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.

(9) REMAIN means to:

(a) linger or stay; or

(b) 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.

(10) SERIOUS BODILY INJURY means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss of impairment of the function of any bodily member or organ.

(B) Offenses.

(1) A minor commits an offense if he remains in any public place or on the premises of any establishment within the City during curfew hours.

(2) A parent or guardian of a minor commits an offense if he 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 during curfew hours.

(3) The owner, operator, or any employee of an establishment commits an offense if he knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

(C) Defenses.

(1) It is a defense to prosecution under Subsection (B) that the minor was:

- (a) accompanied by the minor's parent or guardian;
- (b) on an errand at the direction of the minor's parent or guardian, without any detour or stop;
- (c) in a motor vehicle involved in interstate travel;
- (d) engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
- (e) involved in an emergency;
- (f) on the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence;
- (g) attending an official school, religious, or other recreational activity supervised by adults and sponsored by the City of Bedford, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the City of Bedford, a civic organization, or another similar entity that takes responsibility for the minor;
- (h) 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; or

1. married or had been married or had disabilities of minority removed in accordance with Chapter 31 of the Texas Family Code.

(2) It is a defense to prosecution under subsection (a)(3) that:

- (a) the school the minor attends is not in session;
- (b) the minor is a high school graduate or has an equivalent certification;
- (c) the minor is on an excused absence from the minor's school, which in the case of a child being home schooled includes permission or absence from a parent;
- (d) the minor is on lunch break from a school that permits an open campus lunch;
- (e) the minor is off campus on a work study program.

(3) Subsection (1)(f) is not a defense to violation 82-101-82-105 Sec. 1(A)(1)(c)

(2) It is the defense to prosecution under Subsection (B)(3) that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

(D) Enforcement.

Before taking any enforcement action under this section, a police officer 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 defense in Subsection (C) is present.

(E) Penalties.

(1) A person who violates a provision of this chapter 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 not to exceed \$500.00.

(2) When required by Section 51.08 of the Texas Family Code, as amended, the municipal court shall waive original jurisdiction over a minor who violates Subsection (B)(1) of this section and shall refer the minor to juvenile court.

SECTION 2. This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Bedford, Texas, and this ordinance shall not operate to repeal or affect any other ordinance except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby required.

SECTION 3. If any section, subsection, sentence, clause or phrase of this ordinance is for any reasons held unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION 4. This ordinance shall become effective from and after its passage, approval and publication.

SECTION 5. In accordance with Section 370.002 of the Local Government Code, the terms of this Ordinance shall be in full force and effect until September 23, 2011.

SECTION 6. The City Manager is ordered to comply with Section 370.002 of the Local Government Code by bringing this same matter to the attention of the City Council prior to September 23, 2011, to determine whether or not the Ordinance is continued in force beyond that date.