

ORDINANCE NO. 367-94

AN ORDINANCE ESTABLISHING A CURFEW FOR MINORS; SETTING FORTH DEFINITIONS, CREATING OFFENSES FOR MINORS, PARENTS AND GUARDIANS OF MINORS, AND BUSINESS ESTABLISHMENTS VIOLATING CURFEW REGULATIONS; PROVIDING DEFENSES; PROVIDING FOR ENFORCEMENT BY THE POLICE DEPARTMENT; JURISDICTION OVER A MINOR WHEN REQUIRED UNDER THE TEXAS FAMILY CODE; PROVIDING A PENALTY NOT TO EXCEED \$500; PROVIDING A SAVING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council has determined that there has been an increase in juvenile violence, juvenile gang activity and crime by persons under the age of 17 in the surrounding communities; and

WHEREAS, 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 of Willow Park 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, 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 Willow Park; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WILLOW PARK, TEXAS:

**I. Definitions**

1. CURFEW HOURS means:

(a) From 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday until 6:00 a.m. of the following day; or

(b) From 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday.

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, person of a minor; is the guardian of a minor or
  - (b) a public or private agency with whom a minor has been placed by the Court.
5. MINOR means: any person under 17 years of age.
6. OFFICER means: a police officer.
7. OPERATOR means: 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.
8. PARENT means a person who is:
  - (a) a natural parent, another person; 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.
9. 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.
10. REMAIN means to:
  - (a) linger or stay; or
  - (b) fail to leave premises when requested to do so by an officer or the owner, operator or other person in control of the premises.
11. 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 of origin.

## **II. 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.

### **III. Defenses**

1. It is a defense to prosecute under Subsection (2) 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 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 Willow Park, a civic organization or other similar entity that takes responsibility for the minor, or going to or returning home without any detour or stop, an official school, religious or other recreational activity supervised by adults and sponsored by the City of Willow Park, a civic organization or other 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
  - (i) 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 herein 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.

#### IV. Enforcement

Before taking any official action under this section, an 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 section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in Subsection (3) is present.

#### V. Penalties

1. A person who violates a provision of this section 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.
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 (2) (1) of this section and shall refer the minor to juvenile court.

#### VI.

This Ordinance shall take effect at midnight on October 3rd 1994, after its passage and publication as required by law.

PASSED AND ADOPTED on this the 20<sup>th</sup> day of September, 1994.

APPROVED:

*William J. Clemens*

William J. Clemens, Mayor  
City of Willow Park, Texas

ATTEST:

Barbara Kilough

Barbara Kilough  
City Secretary  
City of Willow Park, Texas

APPROVED AS TO FORM  
AND LEGALITY:

Carter L. Hampton

Carter L. Hampton  
City Attorney