

ORDINANCE # 2010 - 001

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CROWELL, ENTITLED "CURFEW HOURS FOR MINORS", DEFINING TERMS; CREATING HOURS OF CURFEW FOR MINORS; CREATING OFFENSES FOR MINORS, PARENTS OF MINORS, AND BUSINESS ESTABLISHMENTS VIOLATING CURFEW REGULATIONS; PROVIDING DEFENSES; PROVIDING FOR ENFORCEMENT BY LAW ENFORCEMENT; PROVIDING FOR REVIEW OF THIS ORDINANCE WITHIN AFTER THE DATE OF PASSAGE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CROWELL:

SECTION ONE - This Ordinance hereby establishes Curfew hours for Minors, within the corporate city limits of the City of Crowell, Texas, and shall also apply to its' extra-territorial jurisdiction as follows:

SECTION TWO. CURFEW HOURS FOR MINORS

2.01

(A) Definitions. In this Section:

1. LAW EVFORCEMENT means that any Police Officer employed by the City of Crowell designated representative.
2. CURFEW HOURS means:
 - (a) Weekdays
 - (1) 11 PM Sunday to 6 AM Monday
 - (2) 11 PM Monday to 6AM Tuesday
 - (3) 11 PM Tuesday to 6 AM Wednesday
 - (4) 11 PM Wednesday to 6 AM Thursday
 - (5) 11 PM Thursday to 6 AM Friday
 - (b) Weekends
 - (1) Midnight 12:00 AM Friday to 6 AM Saturday
 - (2) Midnight 12:00 AM Saturday to 6 AM Sunday
3. DIRECT ROUTE means the shortest path of travel through a public place to reach a final destination without any detour to stop along the way.
4. EMERGENCY means, 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.
5. 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.
6. HOLDING LOCATION means a place designated by the Chief of Police to whom a minor taken into custody for a violation of this section will be delivered to await pickup by a parent or juvenile authorities.
7. MINOR means any person under 17 years of age.

8. OPERATOR means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners and association or partnership and the officers of a corporation.
9. PARENT means a person who is:
 - (a) A natural or adoptive parent of another person.
 - (b) A court-appointed guardian of another person; or
 - (c) At least 21 years of age and authorized by a parent or court-appointed guardian to have the care and custody of another person.
10. PUBLIC PLACE means any street, alley, highway, sidewalk, playground, park, plaza, building, or other place used by or opens to the public.
11. REMAIN means to:
 - (a) linger or stay unnecessarily; or
 - (b) fail to leave premises when requested to do so by a law enforcement officer or owner, operator, or other person in control of the premises.

2.01

(B) Offenses.

1. A minor commits an offense if he remains in any public place or the premises of any establishment within the City during curfew hours.
2. A parent 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;
 - (b) on an errand at the direction of the minor's parent and was using a direct route;
 - (c) in a motor vehicle involved in interstate travel;
 - (d) engaged in an employment activity, including but not limited to newspaper delivery, and was using a direct route;
 - (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 law enforcement officer about the minor's presence;
 - (g) attending an official school or religious activity or returning home by a direct route from an official school or religious activity;
 - (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 provisions of the Texas Family Code.

2. It is a 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.

2.01

(D) Enforcement

1. A law enforcement officer, upon finding a minor in violation of Subsection (B) (1), shall:
 - (a) ascertain the name and address of the minor;
 - (b) issue to the minor a written citation that the minor is in violation of Subsection (B) (1);
 - (c) order the minor to go promptly home by a direct route.
2. Notwithstanding paragraph (1) of this section, a police officer, upon finding a minor in violation of Subsection (B) (1), may take the minor into custody and deliver the minor to a holding location.
3. When a minor is taken into custody under this Subsection, law enforcement shall immediately notify a parent to pick up the minor at the holding location. After a parent arrives at a holding location and provides the information required by the Police Chief to file an incident report, the minor shall be released into custody of the parent. If a parent cannot be located or fails to take charge of the minor, the minor shall be released to juvenile authorities.
4. If a minor is not taken into custody for a violation of Subsection (B) (1) the Police Department shall, by certified mail return receipt requested, notify a parent of the minor that the minor has violated Subsection (B) (1) and include a warning that any subsequent violation may result in prosecution of the minor and the parent under this section.
5. A law enforcement officer shall, within 24 hours after finding a minor in violation of Subsection (B) (1), file a written report on the incident or assist to the extent possible in the preparation and filing of the report by a supervisor.

2.01

(E) Penalties.

1. A parent of a minor who violates Subsection (B) (2) in this section is, upon conviction, punishable by a fine not to exceed \$500.00.
2. A minor who violates Subsection (B) (1) of this section three or more times within a 24 month period is subject to appropriate action by a juvenile court in accordance with provisions of the Texas Family Code.
3. The owner, operator, or employee of an establishment who violates Subsection (B) (3) of this section is, upon conviction, punishable by a fine not to exceed \$500.00.
4. A minor may be assessed a fine in Municipal Court for a violation of Subsection (B) (1) not to exceed \$500.00.

SECTION 3. That within 18 months after the passage of this ordinance, the City Council shall review this ordinance and make recommendation concerning the effectiveness of and the continuing need for the ordinance.

SECTION 4. All other ordinances pertaining to a curfew are declared to be in conflict and are repealed by this ordinance.

SECTION 5. That the terms and provisions of this ordinance are severable to that any inoperative provision hereby shall not be construed as to make the entire ordinance invalid.

SECTION 6. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of state law, and it is accordingly so ordained.

PASSED AND APPROVED in regular session of the City Council on this 17 day of August, 2010.

CITY OF CROWELL