

ORDINANCE NO. 18-08

AN ORDINANCE OF THE CITY OF BRONTE, TEXAS REPEALING AND REPLACING ORDINANCE NO. 298; ADOPTING "CURFEW HOURS FOR MINORS"; DEFINING TERMS; CREATING HOURS FOR CURFEW FOR MINORS; CREATING OFFENSES FOR MINORS, PARENTS OF MINORS, AND BUSINESS ESTABLISHMENTS VIOLATING CURFEW REGULATIONS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR A PENALTY OF UP TO \$500 FOR EACH OFFENSE; MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; CONTAINING A SEVERABILITY CLAUSE; REPEALING ALL OTHER ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR PUBLICATION AND PROVIDING THAT THIS ORDINANCE SHALL BE EFFECTIVE FROM AND AFTER January 31, 2019.

WHEREAS, Texas Local Government Code, Section 370.002 provides as follows:

- (a) Before the third (3rd) anniversary of the date of adoption of juvenile curfew ordinance by a general-law municipality or home-rule municipality or an order of a county commissioners court, and every third (3rd) year thereafter, the governing body of the general-law municipality or home-rule municipality or the commissioners court of the county shall:
 - (1) Review the ordinance or order's effects on the community and on problems the ordinance or order was intended to remedy;
 - (2) Conduct public hearings on the need to continue the ordinance or order; and
 - (3) Abolish, continue, or modify the ordinance or order.
- (b) Failure to act in accordance with Subsection (a)(1)-(3) shall cause the ordinance or order to expire.

WHEREAS, the City Council of the City of Bronte, Texas (the "City Council") is of the opinion, after careful discussion, deliberation and consultation, that the existing ordinance should be extended and continued, and, further finds that the following terms should be approved and adopted; and

WHEREAS, more and more minor children are seen frequenting public places and establishments within the City of Bronte at all hours of the night when they should be at home or in an environment that is more conducive to their safety and the safety of others; and

WHEREAS, crimes are more likely to be committed during the late night and early morning hours when minor children have been seen roaming public places and establishments; and

WHEREAS, it is the intent of the City Council to see that these children are kept safe and out of trouble as well as have parents and guardians maintain responsibility for their children;

WHEREAS, a public hearing was held on December 20, 2018, 2018, and January 17, 2019; and

WHEREAS, the City Council originally adopted a Juvenile Curfew Ordinance on December 12, 1996 by Ordinance No. 298, which is now expired.

WHEREAS, after employing a Juvenile Curfew Ordinance since December 12, 1996, the City of Bronte has concluded that such an ordinance is effective in reducing juvenile crime and the incidents of juvenile victims of crime during the curfew period; and

WHEREAS, a copy of "Curfew Hours for Minors" enacted by this Ordinance No. 2018-08 is shown as an attachment to this Ordinance as Attachment "A".

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

SECTION 1. Ordinance No. 298, adopted on December 12, 1996, is hereby repealed. This Ordinance No. 18-08 including Attachment "A" is hereby adopted as the "Curfew Hours for Minors" Ordinance of the City of Bronte, Texas.

SECTION 2. If any section, provision, subsection, paragraph, sentence, clause, phrase, or word in this ordinance or application thereof to any person or circumstance is held invalid by any court of competent jurisdiction, such holdings shall not affect the validity of the remaining portions of this Ordinance, and the City Council of the City of Bronte, Texas hereby declares it would have enacted such remaining portions despite such invalidity.

SECTION 3. All Ordinances or parts of Ordinances in conflict herewith are repealed to the extent of conflict only.

SECTION 4. This Ordinance shall be in full force and effect from and after January 31, 2019.

PASSED AND APPROVED first reading this 20th day of December, 2018.

PASSED AND APPROVED, second and final reading this 17th day of January, 2019.



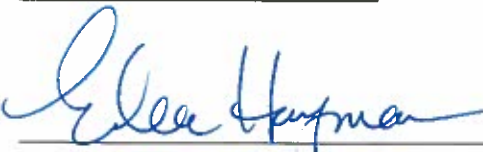
Paul Gohman, Mayor

ATTEST:



Teresa Ballard, City Secretary

APPROVED AS TO FORM:



Eileen Hayman, City Attorney

ATTACHMENT "A"
CURFEW HOURS FOR MINORS

Section

- 1.01 Definitions
- 1.02 Curfew Hours for Minors
- 1.03 Offenses for Prosecution
- 1.04 Defenses to Prosecution
- 1.05 Enforcement procedures
- 1.06 Parental responsibility
- 1.07 Penalty
- 1.08 Review

1.01. Definitions

In connection with this article, the following terms, phrases and words, shall have the meaning given herein:

City. The City of Bronte, Texas as defined by its corporate boundaries.

Curfew Hours. 12:01 a.m. until 6:00 a.m., all seven (7) days of the week.

Minor. Any person under the age of seventeen (17) or, in equivalent phrasing often herein employed, any person sixteen (16) or less years of age.

Parent. Any person having legal custody of a minor:

- (1) As a natural or adoptive parent;
- (2) As legal guardian;
- (3) As a person who stands in loco parentis; or
- (4) As a person to whom legal custody has been given by order of the Court, including both a managing conservator and a possessory conservator.

Adult. A responsible person, eighteen (18) years of age or older, other than a parent, guardian or custodian, in whose care and under whose individualized supervision the minor has been placed by the parent, guardian, or custodian and under circumstances which demonstrate actions indicating oversight and concern for the minor.

Emergency. An unforeseen combination of circumstance or the resulting state that calls for immediate action. The term includes, but 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.

Establishment. is 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.

Operator. 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.

Officer. Sheriff or Sheriff's Deputy of the Coke County Sheriff's Department.

Public Place. Any place which the public or a substantial group of the public has access and includes, but it not limited to, streets, highways, and common areas of schools, hospitals, apartment houses, duplexes, office buildings, transport facilities and shops.

Parking Lot. Any area, whether paved or unpaved, whether public or private, used or intended to be used for the storage or parking of vehicles.

Street. A way or place, of whatsoever nature, open to the use of the public as a matter of right for purposes of vehicular travel or in the case of sidewalk thereof for pedestrian travel. The term street includes the legal right-of-way, including by not limited to, traffic lanes, the curbs, the sidewalks, whether paved or unpaved, and any grass plats or other grounds found within the legal right-of-way of a street. The term street applies irrespective of what it is called or formally named, whether alley, avenue, court, road or otherwise.

Remain. To linger or stay or fail to leave premises when requested to do so by an officer or the owner, operator, or other person in control of the premises.

Time of Night. As referred to herein, the time of night is based upon the prevailing standard of time whether central standard or central daylight, saving time. The time observed in the city's administrative offices and by the officer(s) shall be prima facia evidence of the time of night.

Years of age. Continues from one birthday, such as sixteenth (16th) to (but not including the day of) the next seventeenth (17th) birthday, making it clear that "sixteen (16) or less years of age" is herein treated as equivalent to the phrase "under seventeen (17) years of age."

Serious Bodily Injury. 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.

1.02 Curfew hours for minors

It shall be unlawful for any person sixteen (16) or less years of age (under seventeen (17)) to be or remain in any public place or on the premises of any establishment within the City of Bronte at night during said curfew hours of 12:01 a.m. to 6:00 a.m., all seven (7) days of the week.

1.03 Offenses

It shall be an offense under this article where one or more of the following situations exists:

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

- (2) A parent or minor commits an offense if he or she knowingly permits, or by insufficient control allows, the minor to remain in any public places 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 or she knowingly allows a minor to remain in any public place or on the premises of any establishment within the city during curfew hours.

1.04 Defenses to Prosecution

It shall be a defense to prosecution under this article where one of the following situations exists:

- (1) The minor was accompanied by a parent or guardian.
- (2) The minor was on an errand at the direction of the minor's parents or guardian, without a detour or stop.
- (3) The minor was in a motor vehicle involved in interstate travel.
- (4) The minor was engaged in an employment activity or going to or returning home from an employment activity, without any detour or stop.
- (5) The minor was involved in an emergency.
- (6) The minor was 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 Officer about the minor's presence.
- (7) The minor was attending an official school, religious, or other recreational activity supervised by adults and sponsored by the City of Bronte, 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.
- (8) The minor was exercising First Amendment rights protected by the United States Constitution, such as free exercise of religion, freedom of speech and right of assembly.
- (9) The minor was married or had been married or had disabilities of minority removed in accordance with Chapter 31 of the Texas Family Code, as same may hereafter be amended.
- (10) It is a defense to prosecution under Section 1.03 (3) that the owner, operator, or employee of an establishment promptly notified the Office that a minor was present on the premises of the establishment during curfew hours and refused to leave.

1.05 Enforcement procedures

- (1) Before taking any enforcement action under this section, an Officer shall ask the apparent offender's age and reason for being in the public place. If the officer determines that the minor has not violated this Ordinance in the past, the officer shall do the following:
 - (a) issue a warning to the minor;
 - (b) ascertain the name, address and phone number of the minor's parent(s) or guardian;
 - (c) notify the minor's parent(s) or guardian of the violation;
 - (d) order the minor to go promptly home by a direct route.

- (2) Any officer upon finding a minor in violation of Section 1.03 who has previously violated this Ordinance may handle the case under the provisions of title 3 of the Texas Family Code, as same may hereafter be amended.
- (3) In addition, a complaint may be filed against the parents in municipal court for violation hereof. The officer shall file all necessary legal papers, supply all necessary documentation, and provide necessary testimony as required for pursuing violation of this article by either the minor or by any parent or guardian.

1.06 Parental Responsibility

It shall be unlawful for a parent having legal custody of a minor knowingly to permit or by inefficient control to allow, such minor to be or remain upon any city street or parking lot, or to be or remain in an establishment, under circumstances not constituting a defense to, or otherwise beyond the scope of this article. The term "knowingly" includes knowledge which a parent should be reasonably be expected to have concerning the whereabouts of a minor in that parent's legal custody. It is intended that a reasonable community standard of parental responsibility be applied through an objective test. It shall be no defense that a parent was completely indifferent to the activities, conduct, or whereabouts of such minor.

1.07 Penalty

Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine not exceeding five hundred dollars (\$500.00) provided; however, that no penalty shall be greater or less than the penalty provided for the same or a similar offense under the laws of the State of Texas.

1.08 Review

- (a) As required by Section 370.002 of the Texas Local Government Code, before the third (3rd) anniversary of the date of adoption of the juvenile curfew ordinance the city council shall:
 - (1) Review the ordinance effects on the community and on problems the article was intended to remedy;
 - (2) Conduct public hearings on the need to continue the article; and
 - (3) Abolish, continue, or modify the article.
- (b) Failure to act in accordance with subsection (a)(1)-(3) shall cause the ordinance to expire.

The City Council of the City of Bronte, Texas shall review this ordinance before the third (3rd) anniversary of the effective date hereof, and, to that end, the City Secretary shall prepare a report for the Mayor to deliver to the City Council on the effectiveness of this ordinance, unforeseen problems in enforcement, and any suggestion for changes or additions which might be made in light of the City's experience.