

## **ORDINANCE NO. 2022-750**

### **AN ORDINANCE OF THE CITY OF CEDAR HILL, TEXAS, PROVIDING FOR THE CONTINUANCE OF THE CITY'S CURFEW HOURS FOR MINORS ORDINANCE; PROVIDING FOR PENALTIES; PROVIDING A SEVERANCE CLAUSE; PROVIDING FOR INCORPORATION INTO THE CODE OF ORDINANCES; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR PUBLICATION.**

WHEREAS, the City of Cedar Hill, Texas, is a home-rule municipal corporation within the State of Texas with full power of local self governance; and

WHEREAS, the City of Cedar Hill, Texas, adopted its Curfew Hours for Minors Ordinance in 2007 and amended such ordinance in 2010, 2013, 2016 and 2019; and

WHEREAS, Section 370.002 of the Texas Local Government Code requires the governing body of a home-rule municipality to review the municipality's curfew ordinance every three years, conduct public hearings on the need to continue the ordinance and thereafter abolish, continue or modify the ordinance; and

WHEREAS, the City of Cedar Hill's current Curfew Hours for Minors Ordinance expires on February 12, 2022, pursuant to the provisions of Section 370.002 of the Texas Local Government Code; and

WHEREAS, the City Council has conducted a public hearing on the City's need for a continuance of the ordinance relating to curfew hours for minors on January 25, 2022; and

WHEREAS, the City Council of the City of Cedar Hill, Texas, finds and determines that it is in the best interest of the public health, safety and general welfare of the citizens of Cedar Hill, Texas, to continue regulations pertaining to curfew hours for minors.

**NOW, THEREFORE**, be it ordained by the City Council of the City of Cedar Hill, Texas, that:

#### **SECTION 1. CONTINUATION OF CHAPTER 14, ARTICLE V.**

The City Council of the City of Cedar Hill, Texas, hereby continues in effect the terms and provisions of the Curfew Hours for Minors Ordinance, set forth in Chapter 14, Article V, of the Code of Ordinances of the City of Cedar Hill, Texas as follows:

#### **ARTICLE V. CURFEW HOURS FOR MINORS**

##### **Sec. 14-81. Definitions.**

In this section:

*Curfew hours* means:

- (1) 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. of the following day; and
- (2) 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday.

*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.

*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.

*Guardian* means:

- (1) A person who, under court order, is the guardian of the person of a minor; or
- (2) A public or private agency with whom a minor has been placed by a court.

*Minor* means any person the age of seventeen (17) years and under.

*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.

*Parent* means a person who is:

- (1) A natural parent, adoptive parent, or step-parent; or
- (2) At least eighteen (18) years of age and authorized by a parent or guardian in writing to have the care and custody of a minor. Such written authorization must
  - a. state the name, address and telephone number of the person authorized to have custody of the minor;
  - b. state the specific dates and hours that custody is authorized;
  - c. provide the name, address and telephone number of the natural parent, adoptive parent or step parent; and
  - d. be signed by such parent.

*Privately owned place* means any abandoned/vacant building, structure, or property that is normally not open to the public and may be accessed without owner's permission, which includes, but is not limited to the following premises: houses, garages, barns, buildings, warehouses, storage rooms or facilities, fields, and other properties that are fenced or not.

*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.

*Remain* means to:

- (1) Linger or stay; or
- (2) 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.

*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.

**Sec. 14-82. Offenses.**

- (a) A minor commits an offense if he remains in any public place or privately-owned place or on the premises of any establishment within the city during curfew hours.
- (b) 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 privately-owned place or on the premises of any establishment within the city during curfew hours.
- (c) 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.

**Sec. 14-83. Defenses.**

- (a) It is a defense to prosecution under section 14-82 that the minor was:
  - (1) Accompanied by the minor's parent or guardian;
  - (2) On an errand at the direction of the minor's parent or guardian, without any detour or stop;
  - (3) In a motor vehicle involved in interstate travel;
  - (4) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
  - (5) Involved in an emergency;
  - (6) 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;
  - (7) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by a school, the city, 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 a school, the city, a civic organization, or another similar entity that takes responsibility for the minor;
  - (8) 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
  - (9) Married or had been married or had disabilities of minority removed in accordance with Chapter 31 of the Texas Family Code.
- (b) It is a defense to prosecution under subsection 14-82(c) 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.

**Sec. 14-84. 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 section 14-83 is present.

**Sec. 14-85. Penalties.**

- (a) 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 five hundred dollars (\$500.00).
- (b) 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 14-82(a) of this section and shall refer the minor to juvenile court.

**Secs. 14-86--14-100. Reserved.**

**SECTION 2. SEVERANCE CLAUSE**

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid, unconstitutional or otherwise unenforceable by any court of competent jurisdiction, such shall be deemed to be a separate, distinct and independent provision and such holding will not affect the validity of the remaining portions thereof.

**SECTION 3. INCORPORATION INTO THE CODE OF ORDINANCES**

The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Cedar Hill, Texas, and shall be appropriately renumbered to conform to the uniform numbering system of the Code.

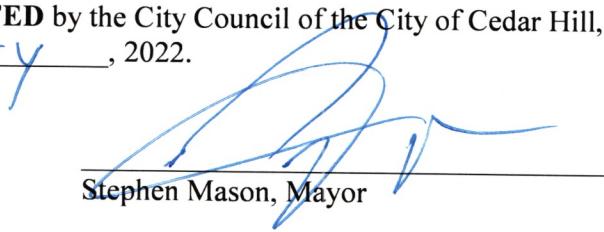
**SECTION 4. EFFECTIVE DATE**

This ordinance shall take effect immediately upon the passage, approval and adoption by the City Council of the City of Cedar Hill, Texas.

**SECTION 5. PUBLICATION**

The City Secretary is hereby authorized and directed to cause publication of the descriptive caption and penalty clause hereof as an alternative method of publication as provided by law.

**PASSED, APPROVED and ADOPTED** by the City Council of the City of Cedar Hill, Texas, on this 22 day of February, 2022.



Stephen Mason, Mayor

ATTEST:



Belinda Berg  
Belinda Berg, City Secretary

APPROVED AS TO FORM:



Ron G. MacFarlane, Jr.  
Ron G. MacFarlane, Jr., City Attorney