

ORDINANCE NO. 1508

**AN ORDINANCE AMENDING CHAPTER 50, OFFENSES, ARTICLE II
“CURFEW FOR MINORS” OF THE CODE OF ORDINANCES OF THE
CITY OF LAMPASAS, TEXAS, RELATING TO THE CURFEW FOR
MINORS; REPEALING ANY INCONSISTENT PROVISIONS;
PROVIDING A SAVINGS AND A REPEAL CLAUSE; AND PROVIDING
AN EFFECTIVE DATE.**

WHEREAS, the City of Lampasas, Texas is a Home Rule municipality incorporated and operating under the Laws of the State of Texas;

WHEREAS, the City of Lampasas finds that it is in the best interest of its citizens to review the existing City ordinance regarding the curfew for minors;

WHEREAS, after conducting public hearings on the need to continue the ordinance, the City of Lampasas has determined that the curfew has been effective in remedying issues it was intended to remedy; and

WHEREAS, the City of Lampasas has determined that it is in the best interest of the health, safety and welfare of its citizens to continue the existing City ordinance regarding the curfew for minors, with some amendments therein.

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

Part 1: That Chapter 50, Article II “CURFEW FOR MINORS” of the Code of Ordinances of the City of Lampasas, Texas is hereby amended to read as follows:

ARTICLE II. CURFEW FOR MINORS

Sec. 50-31. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Curfew hours means:

(1) 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday, until 6:00 a.m. 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 and

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 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, has the care, custody and control of a minor; or
- (2) A public or private agency with whom a minor has been placed by a court.

Minor means any person under 17 years of age.

Operator means any individual, firm, association, partnership or corporation, operating, managing or conducting any establishment. The term includes the members or partners or an association or partnership and the officers of a corporation.

Parent means a person who is:

- (1) A natural parent, adoptive parent, or stepparent of another person; or
- (2) At least 18 years of age and authorized by a parent or guardian in writing to have the care and custody of a minor.

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. 50-32. Enforcement of article.

(a) Before taking any enforcement action under this article, a police officer shall ask the apparent offender's age and reason for being in the public place.

(b) The officer shall not issue a citation or make an arrest under this article unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in section 50-35 is present.

(c) Upon finding a minor in violation of this article, a police officer will:

- (1) Ascertain the name and address of the minor;
- (2) Have the authority to issue a citation to the minor; and
- (3) Order the minor to go promptly home by a direct route.

(d) A peace officer, upon finding a minor in violation of this article, may take the minor into custody and deliver the minor to a juvenile processing office if reasonable grounds exist to believe the minor has engaged in delinquent conduct or conduct indicating a need for supervision as described in V.T.C.A., Family Code, § 51.03.

(e) The parents of a minor may be cited for violation of this article upon the minor receiving a second citation for violation of this article.

Sec. 50-33. Penalty for violation of article.

(a) A person who violates a provision of this article 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.

(b) When required by V.T.C.A., Family Code § 51.08, as amended, the municipal court shall waive original jurisdiction over a minor who commits an offense under this article.

Sec. 50-34. Offenses.

(a) A minor commits an offense if he remains in any public place or on the premises of any establishment within the city's jurisdiction during curfew hours.

(b) A parent or guardian of a minor commits an offense if he knowingly permits, or by insufficient control allows, a minor to remain in any public place or on the premises of any establishment within the city during curfew hours. A parent is presumed to knowingly allow or permit the minor to be in violation of this article if the minor has two previous convictions for violations of this article. For the purpose of this section a deferred adjudication is a conviction.

(c) The owner, operator or 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. 50-35. Defenses.

(a) It is a defense to prosecution under section 50-34(a) that the minor was:

- (1) Accompanied by the minor's parent or guardian;
 - (2) On a lawful 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 activity supervised by adults and sponsored by a governmental entity, a church, a civic organization or 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 activity supervised by adults and sponsored by a governmental entity, a church, 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 V.T.C.A., Family Code chapter 31.
- (b) It is a defense to prosecution under section 50-34(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. 50-36. Expiration.

It is the intent of the city council to review, conduct public hearings, and readopt this article every three years as prescribed by Chapter 370 of the Texas Local Government Code.

Part 2: This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Lampasas, and this ordinance shall not operate to repeal or affect any of such other ordinances, 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 superseded.

Part 3: If any provision of this ordinance or application thereof to any person or circumstance, shall be held invalid, such invalidity shall not affect the other provisions, or application thereof, of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are hereby declared to be severable.

Part 4: The Mayor is hereby authorized to sign this ordinance and the City Secretary to attest. This ordinance shall become effective and be in full force and effect in accordance with the provisions of the Charter of the City of Lampasas.

PASSED AND APPROVED on First Reading, on this the 13th Day of February, 2017.

PASSED AND APPROVED on Second Reading on this the 27th Day of February, 2017.

APPROVED:

ATTEST:

Christian Toups, Mayor

Christina Marez, City Secretary

APPROVED AS TO FORM:

Jo-Christy Brown, City Attorney
[Signature of Attorney Provided on Separate Page, to be Attached]