

ORDINANCE NO. O-2021-006

ESTABLISHING A CURFEW FOR MINORS UNDER EIGHTEEN YEARS OF AGE TO PROHIBIT BEING IN ANY PUBLIC PLACE BETWEEN THE HOURS OF 12 MIDNIGHT AND 6 A.M., PROVIDING AN ENFORCEMENT PROCEDURE; ESTABLISHING CRIMINAL PENALTIES FOR MINORS AND FOR PARENTS OF MINORS; AND ADOPTING CERTAIN EXCEPTIONS; AND ESTABLISHING A PENALTY OF A FINE NOT LESS THAN FIFTY DOLLARS NOR MORE THAN FIVE HUNDRED DOLLARS.

WHEREAS, person under the age of eighteen are particularly susceptible by their lack of maturity and experience to participate in unlawful activities and to be victims of older perpetrators of crime; and

WHEREAS, the City of Shavano Park considers it an obligation to provide for and promote the protection of minors from each other and from other persons, for the enforcement of parental control of and parental and otherwise legal guardian responsibility for minors , for the protection of the general public, and for the reduction of the incidence of juvenile criminal activity; and

WHEREAS, the City Council has considered the effect that curfew might have on the community and on problems such as criminal activity and mischief caused by those under the age of eighteen during the curfew hours that this ordinance is intended to remedy; and

WHEREAS, it is the belief that a curfew for those under eighteen years of age 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 Shavano Park.

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

**I
CODE AMENDMENT**

ARTICLE VI. - CURFEW FOR MINORS

Sec. 22-151. - 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:

Minor shall mean any person who is ten (10) years of age or older and under seventeen (17) years of age.

Parent shall mean a person who is the natural or adoptive parent of a person. As used herein, "parent" shall include a court-appointed guardian or other person 18 years of age or older, or by the court-appointed guardian to have care and custody of a person.

Guardian shall mean any person to whom custody of a minor has been given by a court order.

Emergency shall include, but [is] not limited to, fire, natural disaster, an automobile accident, or obtaining immediate medical care for another person.

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, apartments, houses, office buildings, transport facilities and shops.

Sec. 22-152. - Offenses.

- (a) It shall be unlawful for any minor to remain, walk, run, stand, drive or ride about in or upon any public place in the City of Shavano Park between the hours of 12:00 a.m. (midnight) and 6:00 a.m. in the morning.
- (b) It shall be unlawful for the parent having legal custody of a minor to allow or permit the minor to be in violation of the curfew imposed in subsection (a) of this section.

Sec. 22-153. - Defenses.

It is an affirmative defense to prosecution under Section 2-152 of this article that:

- (1) The minor was accompanied by his or her parent.
- (2) The minor was accompanied by another adult approved by the parents.
- (3) The minor was on an emergency errand directed by a parent or guardian.
- (4) The minor was attending school or religious activity or was going to or coming from a school, religious, or government-sponsored activity without detour or stop.

- (5) The minor was engaged in a lawful employment activity or was going directly to or coming directly from lawful employment or volunteer[ing] at a recognized charity organization without detour or stop.
- (6) The minor was on the sidewalk of the place where such minor resides, or on the sidewalk of the place where the minor has permission from his/her parent or guardian to be, or on the sidewalk of a next-door neighbor not communicating an objection to the police officer.
- (7) The minor was on an errand directed by his or her parent.
- (8) The minor was in a motor vehicle involved in intrastate or interstate transportation for which passage through the curfew area is the most direct route.
- (9) The minor was married or had been married or has disabilities of minority removed in accordance with Tex. Family Code CH. 31.
- (10) The minor was exercising his or her First Amendment Rights protected by the United States or Texas Constitution, including but not limited to, free exercise of religion, freedom of speech and the right of assembly.

Sec. 22-154. – Reserved

Editor's note - Repealed Art. 6, §22-154 adopted July 21st, 2009, Ord. No. 200-02-09, which pertained to Enforcement Procedure.

Sec. 22-155. - Penalties.

- (a) Any minor violating the provisions of this article is subject to being found guilty of a Class C misdemeanor as defined by the Tex. Penal Code and shall be dealt with in accordance with the provisions of Tex. Family Code title 3.
- (b) A parent of [a] minor violating this article shall be guilty of a misdemeanor, which shall be punishable by a fine of not less than \$50.00 nor more than \$500.00.

Sec. 22-156. - Review of minor curfew.

The city council shall review this minor curfew ordinance every three (3) years from and after the date of passage hereof to determine:

- (a) The effects on the community and on problems the ordinance is intended to remedy;
- (b) To conduct a public hearing on the need to continue the ordinance; and,
- (c) If necessary or appropriate to abolish, continue, or modify this article.

Sec. 22-157. – Ordinance readopted.

The minor curfew is readopted, attached, and incorporated hereto for an additional three (3) years through 08/23/2024

**II
CUMULATIVE CLAUSE**

That this ordinance shall be cumulative of all provisions of the City of Shavano Park, Texas, except where the provisions of this Ordinance are in direct conflict with the provisions of such Ordinance, in which event the conflicting provisions of such Ordinance are hereby repealed.

**III
SEVERABILITY**

That it is hereby declared to be the intention of the City Council of the City of Shavano Park that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinances, since the same would have been enacted by the City Council without incorporation in this ordinance of any such unconstitutional phrases, clause, sentence, paragraph or section.

**IV
PROPER NOTICE AND MEETING**

It is hereby officially found and determined that the meeting at which this Ordinance was adopted was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government

V
EFFECTIVE DATE

This ordinance shall be effective upon passage and publication as required by State and Local law.

PASSED AND APPROVED on the first reading by the City Council of the City of Shavano Park this the 26th day of July, 2021.

PASSED AND APPROVED on the second reading by the City Council of the City of Shavano Park this the 23rd day of August, 2021.

ROBERT WERNER, MAYOR

Attest:

TRISH NICHOLS, CITY SECRETARY