

ORDINANCE NO. 2017-9996

AN ORDINANCE ADOPTING THE CONTINUATION OF CHAPTER 56 OF THE CODE OF CIVIL AND CRIMINAL ORDINANCES OF THE CITY OF IRVING, TEXAS, REGARDING CURFEW HOURS FOR MINORS; PROVIDING THE DEFINITION OF TERMS; PROVIDING A CURFEW FROM 12:01 A.M. UNTIL 6:00 A.M. OF ANY MONDAY, TUESDAY, WEDNESDAY, THURSDAY, OR FRIDAY AND FROM 1:00 A.M. UNTIL 6:00 A.M. ON ANY SATURDAY AND SUNDAY FOR PERSONS UNDER SEVENTEEN (17) YEARS OF AGE; CREATING OFFENSES FOR MINORS, PARENTS, AND GUARDIANS OF MINORS, AND BUSINESS ESTABLISHMENTS VIOLATING CURFEW REGULATIONS; PROVIDING DEFENSES; PROVIDING FOR ENFORCEMENT BY THE POLICE DEPARTMENT; PROVIDING FOR WAIVER BY THE MUNICIPAL COURT OF JURISDICTION OVER A MINOR WHEN REQUIRED UNDER THE TEXAS FAMILY CODE; PROVIDING A PENALTY NOT TO EXCEED \$500.00; AND PROVIDING A SEVERABILITY CLAUSE.

WHEREAS, the primary goals of the City of Irving in enacting this ordinance are the reduction of the number of juvenile crime victims, injury accidents involving juveniles, time spent on juvenile matters by police officers in the field, and juvenile peer pressure to stay out late at night; and provide options for dealing with gang-related problems as well as assist parents in the control of their children; and

WHEREAS, the City of Irving desires to provide for the protection of minors from crime and high risk environments, for the enforcement of parental control over and responsibility for children, for the protection of the general public, and for the reduction of the incidence of juvenile criminal activities; and

WHEREAS, persons under the age of 17 are particularly susceptible by their lack of maturity and experience to participate in unlawful and gang-related activities and to be victims of older perpetrators of crime; and

WHEREAS, there is an increased risk of juvenile violence, juvenile gang activity, and crime by persons under the age of 17 when they are out during the early morning hours of each day; and

WHEREAS, it is also the purpose of this ordinance to reduce juvenile crime and victimization and promote juvenile safety and well-being; and

WHEREAS, before the curfew ordinance was adopted in 1994, juvenile arrests accounted for 9.39 percent of Part 1 crimes in the City of Irving; since the implementation of the curfew ordinance, the percentage of juvenile arrests for Part 1 crime in the City of Irving has continually declined and in 2016, juvenile arrests accounted for only 1.1 percent of Part 1 crimes; and

WHEREAS, during 2016, 23 percent of all Part 1 violent offenses and 46 percent of alcohol-related offenses occurred during the hours of 12:00 a.m. through 6:00 a.m., which further justifies the need to reenact the curfew ordinance to reduce juvenile crime and promote juvenile safety; and

WHEREAS, the City of Irving has an interest in a continuing decrease in juvenile violence and crime by persons under the age of 17 in the City of Irving; and

WHEREAS, the City Council has determined that the juvenile curfew ordinance has been a valuable tool for the Irving Police Department in its assistance in the reduction of juvenile violence and crime; and

WHEREAS, continuing a curfew ordinance for those under the age of 17 will be in the interest of the public health, safety, and general welfare of those persons under the age of 17, and will help to attain the foregoing objectives and to diminish the undesirable impact of such conduct on the citizens of the City of Irving; and

WHEREAS, the City Council has conducted two public hearings on the need to continue this ordinance; and

WHEREAS, the City Council finds that it is necessary for the public health, safety, and welfare of all citizens, including the children, that this regulatory code be continued;

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

SECTION 1. That Chapter 56 of The Code of Civil and Criminal Ordinances of the City of Irving, Texas, is hereby continued and adopted to read as follows:

Chapter 56

CURFEW HOURS FOR MINORS

Sec. 56-1. Definitions.

In this chapter:

- (1) *Curfew hours* means 12:01 a.m. until 6:00 a.m. on any Monday, Tuesday, Wednesday, Thursday, or Friday, and 1:00 a.m. until 6:00 a.m. on any Saturday or Sunday.
- (2) *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.
- (3) *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.
- (4) *Guardian* means:
 - a. A person who, under court order, is the guardian of the person of a minor; or
 - b. A public or private agency with whom a minor has been placed by a court.
- (5) *Minor or juvenile* means any person under 17 years of age.

- (6) *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.
- (7) *Parent* means a person who is:
 - a. A natural parent, adoptive parent, or stepparent of another person; or
 - b. At least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.
- (8) *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, theaters, game rooms, and shops.
- (9) *Remain* means to:
 - a. Linger or stay; or
 - b. 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.
- (10) *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. 56-2. Offenses.

- (a) A minor commits an offense if he remains in any public 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 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. 56-3. Defenses.

- (a) It is a defense to prosecution under section 56-2 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 the city of Irving, 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 the city of Irving, 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 section 56-2(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. 56-4. 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 56-3 is present.

Sec. 56-5. 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 \$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 section 56-2(a) of this chapter and shall refer the minor to juvenile court.

SECTION 2. That the terms and provisions of this ordinance shall be deemed to be severable and that if the validity of any section, subsection, sentence, clause, or phrase of this ordinance should be declared to be invalid, the same shall not affect the validity of any other section, subsection, sentence, clause, or phrase of this ordinance.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF IRVING, TEXAS,
on September 21, 2017.

RICHARD H. STOPFER
MAYOR

ATTEST:

Shanae Jennings
City Secretary

APPROVED AS TO FORM:

Kuruvilla Oommen
City Attorney