

CITY OF SEVEN POINTS

Ordinance No. 329

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SEVEN POINTS, TEXAS, AMENDING THE CODE OF ORDINANCES AND ORDINANCE NO. 284, RELATING TO THE ESTABLISHMENT OF CURFEW HOURS FOR MINORS; CREATING OFFENSES FOR MINORS AND PARENTS OF MINORS; PROVIDING AFFIRMATIVE DEFENSE; PROVIDING FOR ENFORCEMENT BY THE POLICE DEPARTMENT; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY AND PROVIDING FOR A CONTINUING EFFECTIVE DATE.

WHEREAS, it is the intent of the City Council to protect the public health, safety, and welfare, and to protect juveniles in particular; and

WHEREAS, a limited curfew for minors can help to reduce the number of gang-related and juvenile crimes within the City; and

WHEREAS, a goal of this ordinance is to remove minors from the city streets between the hours when many crimes occur; and

WHEREAS, it is necessary to protect the rights of minors who, for legitimate reasons, are out during specified curfew hours and to use the least restrictive means to implement a curfew for minors; and

WHEREAS, it is important that parents act responsibly with regard to their minor children; and

WHEREAS, the parent shall retain the right to make decisions regarding his or her child in all other areas;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SEVEN POINTS, TEXAS;

PART I That the Code of Ordinances, City of Seven Points, Texas, is hereby amended by adding a new section entitled "Curfew Hours for Minors," to read as follows:

"Curfew Hours for Minors"

a. Definitions. In this section:

1. Chief of Police means the chief of police of the City of Seven Points or a designated representative.
2. Curfew hours means;
 - (a) 11:00 p.m. to 6:00 a.m. any day except Friday or Saturday; and
 - (b) 12:00 midnight to 6:00 a.m., Friday and Saturday.
3. Emergency means, 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.

4. 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.
 5. Holding location means a place designated by the chief of police to which a minor taken into custody for a violation of this section will be delivered to await pick up by a parent or juvenile authorities.
(Police Patrol Office)
 6. Minor means an person under seventeen (17) years of age.
 7. Parent means a person who is:
 - (a) a natural or adoptive parent of a minor
 - (b) a court-appointed guardian of a minor; or
 - (c) at least eighteen (18) years of age and authorized by a parent or court-appointed guardian to have the care and custody of a minor.
 8. Public place means any street, alley, highway, sidewalk, playground, park, plaza, building, or other place used by or open to the public.
 9. Remain means to:
 - (a) linger or stay unnecessarily; 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.
- b. Offenses.
1. 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.
 2. A parent of a minor commits an offense if he knowingly permits, or by insufficient control allows, the minor to remain in any public or on the premises of any establishment within the City during curfew hours.
- c. Defenses. It is a defense to prosecution under Subsection (b) that the minor was:
1. Accompanied by the minor's parents.
 2. On an errand or other legitimate business at the direction of the minor's parents;
 3. In a motor vehicle involved in interstate or intrastate travel;
 4. Engaged in an employment activity, including but not limited to newspaper delivery;
 5. Involved in an emergency;

6. On the sidewalk abutting the minor's residence or abutting the residence of an next door neighbor if the neighbor did not complain to the police officer about the minor's presence;
7. Attending an official school or religious activity or returning home from an official school or religious activity;
8. Exercising First Amendment rights protected by the United States Constitution, such as free exercise of religion;
9. Married or had been married or has disabilities of minority removed in accordance with Chapter 13 of the Texas Family Code.

PART II Enforcement.

1. A police officer, upon finding a minor in violation of Subsection (b) (1), shall ascertain the name and address of the minor and shall inquire into the reason for the minor being in a place. If the police officer reasonably believes that the minor has violated the ordinance and that no defenses apply, a citation may be issued to the minor, and the police office may order the minor to go promptly home by a direct route or may take the minor into custody and deliver the minor to a holding location.
2. When a minor is taken into custody under this subsection, the police department shall immediately notify a parent to pick up the minor at the holding location. After a parent arrives at a holding location and provides the information required by the chief of police to file an incident report, the minor shall be released into the custody of the parent. If a parent cannot be located or fails to take charge of the minor, the minor shall be released to the juvenile authorities.
3. If a minor is not taken into custody for a violation of Subsection (b)(1), the police department shall notify a parent of the minor that the minor has violated Subsection (b) (2) and may issue a citation to the minor's parent if reasonable grounds exist to believe that the parent has violated Subsection (b) (2) of this section.

PART III Penalties.

1. Any minor violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine as provided for Class C misdemeanor offenses by the State of Texas. Each day such violation shall continue, or be permitted to continue, shall be deemed a separated offense.
2. A parent of a minor violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and

upon conviction thereof, shall be punished by a fine as provided for Class C misdemeanor offenses by the State of Texas. Each day such violation shall continue, or be permitted to continue, shall be deemed a separated offense.

3. That any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine as provided for Class C misdemeanor offenses by the State of Texas. Each day such violation shall continue, or be permitted to continue, shall be deemed a separated offense.

PART IV Severability Clause/Cumulative Clause

It is hereby declared to be the intention of the City Council of the City of Seven Points, Texas, that the sections, paragraphs, sentences, clauses, and phrases of this chapter are severable. If any phrase, clause, sentence, paragraph or section of this chapter shall be declared unconstitutional or invalid, it shall not effect any of the remaining phrases, clauses, sentences, paragraphs or sections of the chapter since the same would have been enacted by the city commissions without the incorporation of this chapter of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

PART V Effective Date

The original Code of Ordinances was adopted December 12, 1978. This amendment shall become effective May 13, 2008. A published caption was published in the Monitor (the official newspaper for the City of Seven Points) on May 6, 2008.

PASSED THE 13TH DAY OF MAY, 2008.

GERALD TAYLOR, MAYOR

ATTEST:

DEBBIE MOSLEY, CITY SECRETARY