

ORDINANCE #08-23-18

AN ORDINANCE OF THE CITY OF SANGER, TEXAS, CONTINUING IN EFFECT CHAPTER 8, "OFFENSES AND NUISANCES" ARTICLE 8.600, SECTIONS 8.601 THROUGH 8.605, THE JUVENILE CURFEW ORDINANCE OF THE CITY OF SANGER; PROVIDING FOR THE REVIEW OF THIS ORDINANCE WITHIN THREE YEARS AND EVERY THIRD YEAR THEREAFTER; PROVIDING A REPEALING CLAUSE; PROVIDING FOR A PENALTY; PROVIDING A SEVERABILITY CLAUSE; AND, PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council adopted a Juvenile Curfew ordinance; and

WHEREAS, the City Council has reviewed the ordinance and determined that it is in the public interest to continue in effect;

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

Section 1. That Article 8.600 of the Code of Ordinances shall continue in force and effect, reading as follows:

8.600 Definitions

a. Curfew Hours

1. 11:00 p.m. on 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

b. Emergency

Shall mean: 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.

c. Establishment

Shall mean: 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.

d. Guardian shall mean:

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 the minor has been placed by a court.

e. Minor shall mean:

Any person under 17 years of age.

f. Operator shall mean:

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

g. Parent shall mean:

A person who is:

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

h. Public Place shall mean:

Any place in which the public or 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.

i. Remain shall mean:

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.

j. Serious Bodily Injury shall mean:

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.

8.602 Offenses

- a. Any minor commits an offense if he/she 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.

8.603 Defenses

- a. It is a defense to prosecution under Section 8.602 that the minor was:
 - 1. Accompanied by the minor's parent, guardian or adult spouse.
 - 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 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 sponsored by the City of Sanger, 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 Sanger, 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'
 - 9. A minor who has had disabilities of minority removed in accordance with Chapter 31 of the Texas Family Code.
- b. It is a defense to prosecution under Section 8.602 (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.

8.604 Enforcement

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. The officer shall not issue a citation or issue 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 8.603 is present.

8.605 Penalties

- 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 as set forth in the general penalty provision found in Section 1.109 of this code.
- 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 8.602(a) of this article and shall refer the minor to juvenile court.

Section 2. All ordinances or parts of ordinances in conflict herewith or to the extent of such conflict, hereby repealed.

Section 3. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of the ordinance shall 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 and sections of the ordinance since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

Section 4. This ordinance will take effect immediately from and after its passage, and the publication of the caption, as the law and Charter in such cases provide.

PASSED AND APPROVED this 20th day of August, 2018 by the City Council of the City of Sanger, Texas.



APPROVED:

Thomas E. Muir

Thomas E. Muir, Mayor

ATTEST:

C Cheryl Price

Cheryl Price, City Secretary