

ORDINANCE NO: 03122013

CURFEW FOR MINORS

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MUNDAY, TX ENTITLED "CURFEW FOR MINORS"; CREATING OFFENSES FOR MINORS, PARENTS OR GUARDIANS OF MINORS, AND BUSSINESS ESTABLISHMENTS VIOLATING CURFEW REGULATIONS; PROVIDING DEFENSES; PROVIDING FOR ENFORCEMENT BY THE POLICE DEPARTMENT; PROVIDING PENALTIES; AND PROVIDING EFFECTIVE DATES

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MUNDAY:

This ordinance hereby establishes "Curfew Hours for Minors" within the corporate city limits of the City of Munday, TX and determines this ordinance to be effective immediately upon the passage of this ordinance on the date stated as a state of emergency.

DEFINITIONS

CURFEW HOURS:

- 1) 11:00p.m. on any 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 Friday or Saturday; and
- 3) Between 8:00 a.m. and 3:30 p.m. on a Monday, Tuesday, Wednesday, Thursday or Friday when Munday Consolidated Independent School District public schools are in session.

EMERGENCY:

Unforeseen combination of the circumstances or the resulting state that calls for immediate action. The term includes, but 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.

ESTABLISHMENT:

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:

- 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 a minor has been placed by the court.

MINOR:

Any person 17 years of age or younger

OPERATOR:

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.

PARENT:

A parent 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 and custody of the minor.

PUBLIC PLACE:

Any place in which the public or a substantial group of the public has access and includes, but not limited to, streets, highways, and common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.

REMAIN:

- 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 on control of the premises.

SERIOUS BODILY INJURY:

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.

OFFENSES:

- a) A 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/she 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/she knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

DEFENSES:

- a) It is defense to prosecution under offenses that the minor was:
 - 1) Accompanied by the minor's parent or 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 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 Munday, a civic organization or another similar entity that takes responsibility for the minor or going to or returning home from, without detour or stop, an official school, religious or other recreational activity supervised by adults and sponsored by the City of Munday, 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 free exercise of religion, freedom of speech and the right of assembly; or
 - 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 Offense (c) that the owner, operator or employee of an establishment promptly notifies the Police Department that a minor was present on the premises of the establishment during curfew hours and refused to leave.
- c) With the respect to the hours between 8:00 a.m. and 3:30 p.m. on Monday, Tuesday, Wednesday, Thursday or Friday only, it is a defense that the school which the minor attends was not in session, that the minor is a high school graduate or has equivalent certification, the minor is participating in a work-study program which requires the minor to be off campus during school hours.

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 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 Defense is present.

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 provided for in the general penalty provision.

- 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 the Offenses of the article and shall refer the minor to juvenile court.
- c) A parent or guardian of the minor who violates this ordinance is, upon conviction, punishable by a fine not to exceed \$500.00.
- d) The owner, operator or employee of an establishment who violates this ordinance is upon conviction, punishable by a fine not to exceed \$500.00

The terms and provisions of this ordinance are severable so that any inoperable provision hereby shall not be construed as to make the entire ordinance invalid. All ordinances in conflict with this ordinance or prior to this ordinance shall hereby be repealed.

It is hereby adjudged and declared that existing conditions are such that this ordinance is necessary for the immediate approval. By virtue of the foregoing reasons, an emergency is hereby declared to exist and this ordinance shall be in full force and effective immediately upon and after its passage by the City Council and approved by the Mayor of the City of Munday, TX.

PASSED AND APPROVED in regular session of the City Council on this 12th day of March, 2013

ATTEST:

Ricky Ake, City Administrator

Robert Bowen, Mayor