

ORDINANCE NO. 2008-2

AN ORDINANCE ENTITLED "CURFEW HOURS FOR MINORS", OF THE CITY OF BEASLEY, TEXAS, AMENDING AND REPLACING ORDINANCE NO. 2005-6: DEFINING TERMS; CREATING HOURS OF CURFEW FOR MINORS; CREATING OFFENSES FOR MINORS, PARENT OF MINORS, AND BUSINESS ESTABLISHMENTS VIOLATING CURFEW REGULATIONS; PROVIDING DEFENSES; PROVIDING FOR ENFORCEMENT BY THE POLICE DEPARTMENT; PROVIDING PENALTIES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BEASLEY, TEXAS:

SECTION 1. The City of Beasley has enacted a new ordinance, amending and replacing Ordinance 2005-6, entitled "Curfew Hours for Minors", to read as follows:

CURFEW HOURS FOR MINORS.

(A) **Definitions.** In this section:

- (1) FORT BEND COUNTY SHERIFF'S DEPT. means the sheriff of the City of Beasley or a designated representative.
- (2) CURFEW HOURS mean:
 - (a) 10:30 p.m. on every Sunday, Monday, Tuesday, Wednesday, and Thursday, until 6:00 a.m. of the following day; and
 - (b) 11:30 p.m. on every Friday or Saturday, until 6:00 a.m. of the following day.
- (3) DIRECT ROUTE means the shortest path of travel through a public place to reach a final destination without any detour or stop along the way.
- (4) 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.

- (5) 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.
- (6) JUVENILE CURFEW PROCESSING OFFICE 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, whose procedures, as detailed in Tex. Fam. Code Ann §52.028 (Vernon 1996), are attached to and incorporated by reference in this ordinance as Exhibit "A"
- (7) MINOR means any person under 17 years of age.
- (8) OPERATOR means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of any association or partnership and the officers of a corporation.
- (9) PARENT means a person who is:
- (a) a natural or adoptive parent of another person;
 - (b) a court-appointed guardian of another person; or
 - (c) at least 21 years of age and authorized by a parent or court-appointed guardian to have the care and custody of another person.
- (10) PUBLIC PLACE means any street, alley, highway, sidewalk, playground, park, plaza, building, or other place used by or open to the public.
- (11) 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 place or on the premises of any establishment within the city during curfew hours.

- (3) 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.

(C) Defenses.

- (1) It is a defense to prosecution if the minor was:

- (a) accompanied by the minor's parent;
- (b) on an errand at the direction of the minor's parent and was using a direct route;
- (c) in a motor vehicle involved in interstate travel;
- (d) engaged in an employment activity, including, but not limited to, newspaper delivery, and was using a direct route;
- (e) involved in an emergency;
- (f) 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 officer about the minor's presence;
- (g) attending an official school or religious activity or returning home by a direct route from an official school or religious activity;
- (h) 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
- (i) married or had been married or had disabilities of minority removed in accordance with the City of Beasley Ordinance on Curfew Hours for Minors.

- (2) It is a defense to prosecution under the Ordinance 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.

(D) Enforcement.

- (1) A police officer, upon finding a minor in violation of subsection (B)(1), shall:

§ 52.028. Children Taken Into Custody for Violation of Juvenile Curfew Ordinance or Order

(a) A peace officer taking into custody a person under 17 years of age for violation of a juvenile curfew ordinance of a municipality or order of the commissioners court of a county shall, without unnecessary delay:

- (1) release the person to the person's parent, guardian, or custodian;
- (2) take the person before a municipal or justice court to answer the charge; or
- (3) take the person to a place designated as a juvenile curfew processing office by the head of the law enforcement agency having custody of the person.

(b) A juvenile curfew processing office must observe the following procedures:

- (1) the office must be an unlocked, multipurpose area that is not designated, set aside, or used as a secure detention area or part of a secure detention area;
- (2) the person may not be secured physically to a cuffing rail, chair, desk, or stationary object;
- (3) the person may not be held longer than necessary to accomplish the purposes of identification, investigation, processing, release to parents; guardians, or custodians, and arrangement of transportation to school or court;
- (4) a juvenile curfew processing office may not be designated or intended for residential purposes;
- (5) the person must be under continuous visual supervision by a peace officer or other person during the time the person is in the juvenile curfew processing office; and
- (6) a person may not be held in a juvenile curfew processing office for more than six hours.

(c) A place designated under this section as a juvenile curfew processing office is not subject to the approval of the juvenile board having jurisdiction where the governmental entity is located.

Added by Acts 1995, 74th Leg., ch. 262, § 17, eff. May 31, 1995.

- (a) ascertain the name and address of the minor;
 - (b) issue to the minor a written citation, or in his discretion a written warning, that the minor is in violation of subsection (B)(1); and
 - (c) order the minor to go promptly home by a direct route.
- (2) Notwithstanding Paragraph (1) of this subsection, a police officer, upon finding a minor in violation of subsection (B)(1) may take the minor into custody and deliver the minor to a Juvenile Curfew Processing Office ("JCPO") if reasonable grounds exist to believe the minor has engaged in delinquent conduct or conduct indicating a need for supervision.
- (3) 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.
- (4) If a minor is not taken into custody for a violation of Subsection (B)(1), the police department shall by first class mail, notify a parent of the minor that the minor has violated Subsection (B)(1) and include a warning that any subsequent violation may result in prosecution of the minor and the parent under this section. If the minor was found in violation of Subsection (B)(1) at an establishment, the police department shall by first class mail, notify the owner, operator, or employee of the establishment of the violation and include a warning that any subsequent violation may result in prosecution of the owner, operator, and employee under this section.
- (5) A police officer shall, within 24 hours after finding a minor in violation of Subsection (B)(1), file a written report on the incident or assist to the extent possible in the preparation and filing of the report by a supervisor.

(E) Penalties.

- (1) Any minor who violates Subsection (B)(1) of this section, on a finding by the Municipal Court that such child committed such violation, is subject to any of the punishments set out in Tex. Fam. Code Ann. §54.022 (Vernons Supp., 1999), which is attached to and incorporated by reference in this ordinance as Exhibit "B".
- (2) A parent of a minor who violates Subsection (B)(2) of this section is, upon conviction, punishable by a fine not to exceed \$500.00.

§54.022. Justice or municipal court: certain misdemeanors.

(a) On a finding by a justice or municipal court that a child committed a misdemeanor offense punishable by fine only other than a traffic offense or public intoxication or committed a violation of a penal ordinance of a political subdivision other than a traffic offense, the court has jurisdiction to enter an order:

(1) referring the child or the child's parents, managing conservators, or guardians for services under Section 264.302; or

(2) requiring that the child attend a special program that the court determines to be in the best interest of the child and that is approved by the county commissioners court, including a rehabilitation, counseling, self-esteem and leadership, work and job skills training, job interviewing and work preparation, self-improvement, parenting, manners, violence avoidance, tutoring, sensitivity training, parental responsibility, community service, restitution, advocacy, or mentoring program.

(b) On a finding by a justice or municipal court that a child committed an offense described by Subsection (a) and that the child has previously been convicted of an offense described by Subsection (a), the court has the jurisdiction to enter an order that includes one or more of the following provisions, in addition to the provisions under Subsection (a), requiring that:

(1) the child attend a special program that the court determines to be in the best interest of the child and that is approved by the county commissioners court;

(2) the child's parents, managing conservator, or guardian attend a parenting class or parental responsibility program if the court finds the parent, managing conservator, or guardian, by wilful act or omission, contributed to, caused, or encouraged the child's conduct; or

(3) the child and the child's parents, managing conservator, or guardian attend the child's school classes or functions if the court finds the parent, managing conservator, or guardian, by wilful act or omission, contributed to, caused, or encouraged the child's conduct.

(c) The justice or municipal court may order the parents, managing conservator, or guardian of a child required to attend a program under Subsection (a) or (b) to pay an amount not greater than \$100 to pay for the costs of the program.

(d) A justice or municipal court may require a child, parent, managing conservator, or guardian required to attend a program, class, or function under this section to submit proof of attendance to the court.

(e) A justice or municipal court shall endorse on the summons issued to a parent, managing conservator, or a guardian an order to appear personally at the hearing with the child. The summons must include a warning that the failure of the parent, managing conservator, or guardian to appear may be punishable as a Class C misdemeanor.

(f) An order under this section involving a child is enforceable under Section 51.03(a)(3) by referral to the juvenile court.

(g) A person commits an offense if the person is a parent, managing conservator, or guardian who fails to attend a hearing under this section after receiving an order under Subsection (e). An offense under this subsection is a Class C misdemeanor.

(h) Any other order under this section is enforceable by the justice or municipal court by contempt.

(Added by L.1995, chap. 262(36); chgd. by L.1997, chap. 713(1), eff. 9/1/97.)

(3) The owner, operator, or employee of an establishment who violates Subsection (B)(3) of this section is, upon conviction, punishable by a fine not to exceed \$500.00

SECTION 2. If any part of this ordinance is for any reason found to be unenforceable, all other parts nevertheless remain enforceable.

SECTION 3. This ordinance shall take effect immediately from and after its passage and publication.

PASSED AND APPROVED this 20th day of May, 2008.

ATTEST:


G. B. Michulka, City Secretary


Kenneth Reid, Mayor