

ORDINANCE NO. _____

An ordinance amending Chapter 31, “Offenses-Miscellaneous,” of the Dallas City Code by amending Section 31-33; repealing the city’s juvenile curfew; providing a savings clause; providing a severability clause; and providing an effective date.

WHEREAS, the 88th Texas Legislature met in regular session between January 10, 2023 and May 29, 2023; and

WHEREAS, H.B. 1819 was filed on February 3, 2023; and

WHEREAS, H.B. 1819 prohibits a political subdivision from adopting or enforcing a juvenile curfew; and

WHEREAS, H.B. 1819 was approved by both chambers of the Texas Legislature; and

WHEREAS, H.B. 1819 was signed by Governor Greg Abbott on June 9, 2023 and takes effect on September 1, 2023; Now, Therefore,

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

SECTION 1. That Section 31-33, “Curfew Hours For Minors,” of Article I, “General,” of Chapter 31, “Offenses-Miscellaneous,” of the Dallas City Code is amended to read as follows:

“SEC. 31-33. **RESERVED** [~~CURFEW HOURS FOR MINORS~~].

[(a) Definitions. In this section:

(1) ~~CURFEW HOURS~~ means:

(A) ~~11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. of the following day;~~

(B) ~~12:01 a.m. until 6:00 a.m. on any Saturday or Sunday; and~~

(C) ~~9:00 a.m. until 2:30 p.m. on any Monday, Tuesday, Wednesday, Thursday, or Friday.~~

~~(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) IN-SESSION means the status of a school during the fall or spring term when students are required to attend the school. A school is not in session during its summer break or during any holiday or other scheduled general student vacation day or part of a day observed by the school.~~

~~(6) MINOR means any person under 17 years of age.~~

~~(7) 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.~~

~~(8) PARENT means a person who is:~~

~~(A) a natural parent, adoptive parent, or step parent 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.~~

~~(9) 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, and shops.~~

~~(10) 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.~~

~~(11) 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.~~

~~(b) Offenses.~~

~~(1) A minor commits an offense if the minor remains in any public place or on the premises of any establishment within the city during curfew hours.~~

~~(2) A parent or guardian of a minor commits an offense if the parent or guardian 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 the owner, operator, or employee knowingly allows a minor to remain upon the premises of the establishment during curfew hours.~~

~~(c) Defenses.~~

~~(1) It is a defense to prosecution under Subsection (b) that the minor was:~~

~~(A) accompanied by the minor's parent or guardian;~~

~~(B) on an errand at the direction of the minor's parent or guardian, without any detour or stop;~~

~~(C) in a motor vehicle involved in interstate travel;~~

~~(D) engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;~~

~~(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 department about the minor's presence, except that this defense does not apply to a violation of the curfew hours described in Subsection (a)(1)(C) of this section;~~

~~(G) attending an official school, religious, community engagement, or other recreational activity supervised by adults and sponsored by the city of Dallas, 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, community engagement, or other recreational activity supervised by adults and sponsored by the city of Dallas, a civic organization, or another similar entity that takes responsibility for the minor;~~

~~(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 Chapter 31 of the Texas Family Code.~~

~~(2) It is a defense to prosecution under Subsection (b)(3) 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.~~

~~(3) It is a defense to prosecution under Subsection (b) of this section for a violation of the curfew hours described in Subsection (a)(1)(C) that:~~

~~(A) the school in which the minor was enrolled or otherwise required to attend was not in session;~~

~~(B) the minor was on the premises of the school in which the minor was enrolled or otherwise required to attend;~~

~~(C) the minor was participating in a school approved work study program, or was going to the work study program or returning to home or school from the workstudy program without any detour or stop;~~

~~(D) the minor was on a lunch break from a school that permits an open campus lunch and was qualified to participate in the open campus lunch program;~~

~~(E) the minor was on an excused absence from the school in which the minor was enrolled or otherwise required to attend and had permission from a school official, or, in the case of a home schooled minor, from the minor's parent or guardian; or~~

~~(F) the minor was a high school graduate or had received a high school equivalency certificate.~~

(d) Enforcement.

~~(1) 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 provide two verbal warnings in advisement of the juvenile curfew upon first contact with a minor. The officer shall then attempt to contact the minor's parent or guardian. The officer then may transport the minor home without taking enforcement action. If a minor has been previously contacted on a violation of Subsection (b)(1), the officer shall only issue a citation for an appearance in community court. The officer shall not issue a citation 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 Subsection (c) is present.~~

~~(2) A police officer shall not issue a citation to a parent or guardian of a minor for a violation of Subsection (b)(2) of this section, unless the parent or guardian has, within the same calendar year, received at least two prior written warnings from a police officer for a violation of Subsection (b)(2) that are documented in an incident report. In calculating the number of warnings received by a parent or guardian in a calendar year, all warnings issued to the parent or guardian that are documented in an incident report will be counted, regardless of whether the warnings relate to the same minor. If, within the same calendar year, the parent or guardian has received two written warnings from a police officer for a violation of Subsection (b)(2) that are documented in an incident report, the officer may only issue a citation for an appearance in community court.~~

~~(3) A police officer shall not issue a citation to or arrest an owner, operator, or employee of an establishment for a violation of Subsection (b)(3) of this section, unless the owner, operator, or employee of the establishment has, within the same calendar year, received at least two prior written warnings from a police officer for a violation of Subsection (b)(3). In calculating the number of warnings received by an owner, operator, or employee of an establishment in a calendar year, all warnings issued to the same individual will be counted, regardless of whether the warnings relate to the same minor.~~

(e) Penalties.

~~(1) 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 \$50.~~

~~(2) 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 Subsection (b)(1) of this section and shall refer the minor to juvenile court.~~

~~(f) Expiration. This section expires on March 4, 2025, unless sooner modified, terminated, or extended by city council ordinance.]”~~

SECTION 2. That Chapter 31 of the Dallas City Code shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 3. That any act done or right vested or accrued, or any proceeding, suit, or prosecution had or commenced in any action before the amendment or repeal of any ordinance, or part thereof, shall not be affected or impaired by amendment or repeal of any ordinance, or part thereof, and shall be treated as still remaining in full force and effect for all intents and purposes as if the amended or repealed ordinance, or part thereof, had remained in force.

SECTION 4. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

SECTION 5. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

TAMMY L. PALOMINO, City Attorney

By _____
Assistant City Attorney

Passed _____