

ORDINANCE No. 2019- 1009

AN ORDINANCE AMENDING THE HITCHCOCK CODE OF ORDINANCES RELATIVE TO JUVENILE CURFEW; PROVIDING FOR SEVERABILITY; AND THAT THIS ORDINANCE SHALL BECOME EFFECTIVE FROM AND AFTER ITS PASSAGE AND ADOPTION AND PUBLICATION IN THE OFFICIAL NEWSPAPER OF THE CITY.

WHEREAS, in order to better serve and protect the health, safety, welfare and well-being of the citizens and minors of the City of Hitchcock, Texas, the City Commission do hereby adopt this ordinance under the following terms and conditions as follows:

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF HITCHCOCK THAT:

Section 131-Offenses Against Public Peace and Safety, Article II - Curfew of the Code of Ordinances, City of Hitchcock, Texas is hereby amended and shall read as follows:

ARTICLE II. - CURFEW

Sec. 131.15. - Definitions.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Emergency. An unforeseen combination of circumstances or the resulting state that calls for immediate action. This term shall include, but not be limited to, a fire, natural disaster, vehicular accident, or the sudden onset of a serious medical condition.

Guardian. The person who, under a court order, is the guardian of the person of a minor or the public or private agency with whom a minor has been placed by a court.

Minor. Any person under 17 years of age.

Parent. The natural mother or father or adoptive mother or father of a minor.

Public place. 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 at the common areas of schools, hospitals, apartments, houses, office buildings, transport facilities and shops.

Sec. 131.16. - Breaking curfew; parent or guardian responsibility.

(A) It shall be unlawful for any minor to knowingly remain, walk, run, stand, drive or ride about, in or upon any public place in the city between the hours of 12:00 midnight and 5:00 a.m. on any day of the week or between the hours of 9:00 a.m. and 2:30 p.m. on a Monday, Tuesday, Wednesday, Thursday or Friday.

(B) It shall be unlawful for the parent or guardian having legal custody of a minor to knowingly allow or permit the minor to be in violation of the curfew imposed in division (A) of this section.

Sec. 131.17. - Defenses to prosecution.

It is a defense to prosecution under § 131.16 of this subchapter that:

- (A) The minor was accompanied by his or her parent or guardian;
- (B) The minor was accompanied by an adult designated by his or her parent or guardian;
- (C) The minor was on an errand made necessary by an emergency;
- (D) The minor was attending a school, religious, or government-sponsored activity;
- (E) The minor was engaged in a lawful employment activity or was going directly to or coming directly from lawful employment;
- (F) The minor was on the sidewalk of the place where he resides;
- (G) The minor was on an errand directed by his or her parent or guardian;
- (H) The minor was in a motor vehicle involved in intrastate or interstate transportation;
- (I) The minor was engaged in, participating in, or traveling to or from any event, function or activity for which the application of § 131.16 of this subchapter would contravene his or her rights protected by the State of Texas or United States Constitutions;
- (J) The minor was married or had been married or had disabilities of minority removed in accordance with V.T.C.A., Family Code ch. 31; or
- (K) With respect to the hours between 9:00 a.m. and 2:30 p.m. only, that the offense occurred during the school summer vacation break period of the school in which the minor is enrolled or on a holiday observed by the closure of classes in the school in which the minor is enrolled or that the minor has graduated from high school or received a high school equivalency certificate.

Sec. 131.18. - Provisions supplemental.

The provisions of this subchapter are supplemental and shall be cumulative with all other laws and ordinances applicable in any manner to juveniles.

Sec. 131.19. - Enforcement.

Notwithstanding the penal effect of this subchapter, the Chief of Police is encouraged to develop alternative enforcement strategies, which may include, but need not be limited to, the return of minors to their residences or schools, counseling with minors and their parents or guardians, the issuance of warning citations to minors or their parents or guardians, or the referral of instances that appear to also involve the violation of school attendance laws of those officers who are responsible for the enforcement of those laws. The enforcement strategies shall be promulgated in writing to members of the Police Department so that this subchapter may be enforced in a uniform manner.

PASSED, ADOPTED AND APPROVED by the City Commission of the City of Hitchcock this the 20th day of May, 2019.


RANDY STRICKLIND, MAYOR

Attest:


LUCY DIERINGER
City Secretary

Approved as to Legal Form:

KYLE L. DICKSON
City Attorney