

ORDINANCE NO. 41

AN ORDINANCE REQUIRING ALL MINORS UNDER THE AGE OF 17 AND OVER THE AGE OF 9 TO NOT PURPOSELY REMAIN, WALK, RUN, STAND, DRIVE OR RIDE ABOUT IN OR UPON ANY PUBLIC PLACE IN THE CITY OF HILLCREST VILLAGE DURING CURFEW HOURS AND DECLARING AN EMERGENCY

SECTION ONE: DEFINITIONS

In this Ordinance the following definitions shall apply:

Chief of Police: The Chief of Police of the City of Hillcrest Village or a designated representative.

Curfew hours: 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. of the following day and 12:01 a.m. on any Saturday or Sunday.

Direct route: The shortest path of travel through a public place to reach a final destination without any detour or stop along the way.

Emergency: Means, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate medical care of another person.

Establishment: Any privately owned place of business operating for a profit to which the public is invited, including, but not limited to, any place of amusement or entertainment.

Holding location: A place designated by the chief of police to which a minor taken into custody for a violation of this article will be delivered to await pick-up by a parent or juvenile authorities.

Minor: Any person under seventeen (17) years of age and over nine (9) years of age.

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 person who is (i) a natural or adoptive parent of another person; (ii) a court-appointed guardian of another person; or (iii) at least eighteen (18) years of age and authorized by a parent, court order or court-appointed guardian to have the care and custody of another person.

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 the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.

Remain: To linger or stay unnecessarily or fail to leave a premises when requested to do so by a police officer or the owner, operator or other person in control of the premises.

SECTION TWO: OFFENSES

(a) It shall be unlawful for any minor to purposefully remain, walk, run, stand, drive or ride about in or upon any public place in the City of Hillcrest Village during curfew hours.

(b) It shall be unlawful for the parent of a minor to knowingly permit or allow the minor to remain, walk, run, stand, drive or ride about in or upon any public place in the City of Hillcrest Village during curfew hours.

(c) The owner, operator, or an employee of an establishment commits an offense if he/she knowingly allows a minor to remain upon the premises of an establishment during curfew hours.

SECTION THREE: DEFENSES

(a) It is a defense to prosecution under Section Three (3) that the minor was:

- (1) Accompanied by the minor's parent;
- (2) On an errand at the direction of the minor's parent and was using a direct route.
- (3) In a motor vehicle involved in interstate travel;
- (4) Engaged in a lawful employment activity, including, but not limited to newspaper delivery, and was using a direct route;
- (5) Engaged in volunteer work at a recognized charitable or civic institution or going to or from such activity by direct route;
- (6) Involved in an emergency;
- (7) On the sidewalk abutting the minor's residence or abutting the residence of the next-door neighbor if the minor has permission from the parent to be on the sidewalk of the next-door neighbor and the neighbor did not complain to the police officer about the minor's presence;
- (8) Attending a school, government-sponsored or religious activity or going to or returning home by a direct route from an official school, government-sponsored or religious activity;

- (9) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right to assembly;
- (10) Married or had been married or had disabilities of minority removed in accordance with Chapter 31 of the Texas Family Code

(b) It is a defense to prosecution under Section Two (2) (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.

SECTION FOUR: ENFORCEMENT PROCEDURE

(a) Any police officer, upon finding a minor in violation of Section Two (a) of this ordinance, shall determine the name and address of the minor and the name and address of his or her parent(s). A warning notice shall be issued to the minor, who shall be ordered to go home by the most direct means and route. A copy of the notice shall be forwarded to the City Marshal of the City Police Department, who shall send a letter to the parent(s) of the minor advising the parent(s) that the minor was found in violation of this article and soliciting parental cooperation in the future.

(b) If a police officer shall find a minor in violation of Section Two (a) who has once previously been so found and warned as in paragraph (a) above, the officer shall again record the name and address of the minor and his parent(s), shall issue a second warning notice, and direct the minor to go home by the most direct means and route. A copy of the second warning shall be forwarded to the City Marshal of the City Police Department, who at this point shall send another letter to the parent(s) and schedule a person-to-person conference with the parent(s) and the child concerning this Curfew Ordinance and the City's expectations and requirement for parental control.

(c) Any police officer upon finding a minor in violation of Section Two (2) (a) who has twice previously been found in violation and issued warnings as provided for in paragraphs (a) and (b) above shall transfer the case to proper authorities for handling under the provision of Title 3 of the Family Code. In addition, a complaint may be filed against the parents in Municipal Court for violation of Section Two (b) hereinabove.

SECTION FIVE: PENALTIES

(a) Any minor violating the provisions of this ordinance shall be guilty of a Class "C" misdemeanor as defined in the Texas Penal Code and shall be dealt with in accordance with the provisions of Title 3 of the Texas Family Code.

(b) A parent of a minor violating this article shall be guilty of a misdemeanor which shall be punishable by fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00).

(c) The owner, operator or employee of an establishment who violates Section Two (c) of this article shall be guilty of a misdemeanor which shall be punishable by a fine not to exceed five hundred dollars (\$500.00).

SECTION SIX: SURVIVOR CLAUSE

If any portion, paragraph or part of this Ordinance shall be held to be illegal or unconstitutional, then such holdings shall in no wise affect the remainder of such Ordinance and the same shall be and remain in full force and effect as if such portions so held to be unlawful or unconstitutional had never been passed or adopted.

SECTION SEVEN: EMERGENCY

The Board of Aldermen finds that an emergency is apparent in that the municipality now has no suitable Ordinance covering the matters covered by this Ordinance and the need for a suitable Ordinance and proper regulation of minors after hours is an imperative public necessity and immediate passage of this Ordinance is necessary and required for the preservation of order, health, safety and the general welfare of the public, and accordingly this Ordinance shall become effective immediately from and after the date of its passage.

PASSED and APPROVED on this 12th day of July, 1996.

CITY OF HILLCREST VILLAGE, TEXAS

Mayor, Kay Kubeczka

ATTEST:

Becky Schuenemann, City Secretary

I, Becky Schuenemann, City Secretary of the City of Hillcrest Village, do hereby certify that the foregoing is a true and correct copy of Ordinance Number 41, passed and approved by the City Council of Hillcrest Village at a regular meeting held on the 23rd day of July, 1996.

In witness whereof, I have set my hand and affix the official seal of the City of Hillcrest Village on the above date.

Becky Schuenemann
City Secretary