

AN ORDINANCE OF THE CITY OF SEAGOVILLE, TEXAS

ORDINANCE NO. 06-2018

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, DALLAS COUNTY, TEXAS, READOPTING, RATIFYING, REPUBLISHING AND EXTENDING ORDINANCE NO. 12-06, CODIFIED AS CHAPTER 13, "OFFENSES AND NUISANCES", ARTICLE 13.06, "MINORS", DIVISION 2, "CURFEW", FOR A PERIOD OF THREE (3) YEARS; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the safety of children is a public concern; and

WHEREAS, the City Council has previously passed and adopted Ordinance, which provides for "Curfew Hours for Minors" establishing curfew hours and penalties for violations thereof; and

WHEREAS, such Ordinance, No. 12-06 was previously codified as Chapter 12, Article VI, Sections 12-63 through 12-67 of the Code of Ordinances; and

WHEREAS, such Ordinance, No. 05-12 is currently codified as Chapter 13, Offenses and Nuisances, Article 13.06, Minors, Division 2, "Curfew", Sections 13.06.031 through 13.06.035 of the Code of Ordinances; and

WHEREAS, Chapter 370.002 of the TEXAS LOCAL GOVERNMENT CODE, as amended, provides that the City Council shall review the Article and conditions the ordinance was intended to remedy three (3) years after its date of passage and every third year thereafter and conduct public hearings to determine the need to continue, modify or abolish the ordinance; and

WHEREAS, the Police Department has provided records and reports indicating the need for such ordinance to remain in effect in order to provide a safe environment for persons under the age of seventeen (17); and

WHEREAS, the City desires to continue the provisions of the Code without any modifications and schedule the same for review in May of 2021;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, DALLAS COUNTY, TEXAS:

SECTION 1. That the City Council hereby readopts, ratifies, republishes and extends Chapter 13, Offenses and Nuisances, Article 13.06, Minors, Division 2, "Curfew", Sections 13.06.031 through 13.06.035 of the Code of Ordinances, which reads as follows:

"ARTICLE 13.06 MINORS

Division 1. Generally

Secs. 1306.001-1306.030 Reserved

Division 2. Curfew

Sec. 1306.031 Definitions

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Curfew hours.

- (1) 11:00 p.m. on any 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, Saturday or Sunday.

Emergency. 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.

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 a court.

Minor. Any person under seventeen (17) 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:

- (1) A natural parent, adoptive parent, or stepparent of another person; or
- (2) At least eighteen (18) years of age and authorized by a parent or guardian to have the care and custody 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 the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

Remain. To:

- (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 in 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.

Sec. 13.06.032 Offenses

- (a) 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.
- (b) A parent or guardian 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.
- (c) 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.

Sec. 13.06.033 Defenses

- (a) It is a defense to prosecution under Section 13.06.032 that the minor was:
 - (1) Accompanied by the minor's parent or guardian;
 - (2) On an errand at the direction of the minor's parent or guardian, without any detour or stop;
 - (3) In a motor vehicle 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 a 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, 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, 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 the free exercise of religion, freedom of speech, and the right of assembly; or

(9) 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 13.06.032(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.

Sec. 13.06.034 Enforcement

Before taking any enforcement action under this division, 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 division unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense under Section 13.06.033 is present.

Sec. 13.06.035 Penalty; referral of minor to juvenile court

(a) A person who violates a provision of this division is guilty of a separate offense for each day or part of each day during which the violation is committed, continued, or permitted. Each offense, upon conviction, is punishable by a fine not to exceed five hundred dollars (\$500.00).

(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 Section 13.06.032(a) of this division and shall refer the minor to juvenile court."

SECTION 2. That all ordinances of the City of Seagoville in conflict with the provisions of this ordinance shall be, and the same are hereby, repealed; provided, however, that all other provisions of said ordinances not in conflict herewith shall remain in full force and effect.

SECTION 3. That should any word, sentence, paragraph, subdivision, clause, phrase or section of this ordinance or of the Code of Ordinances, as amended hereby, be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance or the Code of Ordinances, as amended hereby, which shall remain in full force and effect.

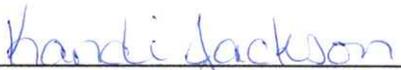
SECTION 4. This ordinance shall take effect immediately from and after its passage and publication of the caption as required by law.

DULY PASSED by the City Council of the City of Seagoville, Texas, on the 5th day of March 2018.

APPROVED:


DENNIS K. CHILDRESS, MAYOR

ATTEST:


KANDI JACKSON, CITY SECRETARY

APPROVED AS TO FORM:


ALEXIS G. ALLEN, CITY ATTORNEY