

AN ORDINANCE OF THE CITY OF SEAGOVILLE, TEXAS

ORDINANCE NO. 04-2023

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, ADOPTING A CURFEW FOR JUVENILES AS PART OF THE CODE OF ORDINANCES OF THE CITY OF SEAGOVILLE, BY ADDING NEW SECTIONS 13.06.031 THROUGH 13.06.035 TO CHAPTER 13, "OFFENSES AND NUISANCES", ARTICLE 13.06, "MINORS", DIVISION 2, "CURFEW"; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

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

WHEREAS, the City Council has previously passed and adopted ordinances providing curfew hours for minors, which ordinances were codified most recently 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, pursuant to Chapter 370.002 of the Texas Local Government Code, said ordinance has expired; and

WHEREAS, on February 6, 2023, the Chief of Police of the City of Seagoville briefed the City Council regarding the effects a juvenile curfew ordinance would have on the community and on problems an ordinance intends to remedy; and

WHEREAS, on February 6, 2023, the City Council of the City of Seagoville conducted a public hearing on the need to adopt a juvenile curfew ordinance; and

WHEREAS, the City Council for the City of Seagoville has considered the effects of the proposed juvenile curfew ordinance on the community and on the problems it is intended to remedy and has concluded that there is a need for the ordinance and that it is in the best interest of the citizens of the City of Seagoville to adopt the juvenile curfew ordinance as set forth herein;

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

SECTION 1. The findings and facts recited above are found to be true and correct and are incorporated by this reference herein.

SECTION 2. The Code of Ordinances of the City of Seagoville, Texas is hereby amended by adding Sections 13.06.031 through 13.06.035 under Chapter 13, Offenses and Nuisances, Article 13.06, Minors, Division 2, "Curfew", to read in their entirety as follows:

"CHAPTER 13 OFFENSES AND NUISANCES

...

ARTICLE 13.06 MINORS

...

Division 2. Curfew

Sec. 13.06.031 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/she 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/she 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 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 3. Any person, firm, or corporation violating any provision of this Ordinance shall be subject, upon conviction, to a fine not to exceed the sum of Five3 Hundred Dollars (\$500) for each offense.

SECTION 4. 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 5. 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.

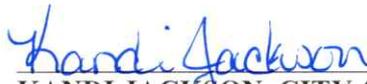
SECTION 6. This ordinance shall take effect immediately from and after its passage and publication of the caption as required by law.

DULY PASSED by the City Council of the City of Seagoville, Texas, on the 6th day of February, 2023



DENNIS K. CHILDRESS, MAYOR

ATTEST:



KANDI JACKSON, CITY SECRETARY



VICTORIA THOMAS, CITY ATTORNEY
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