

AN ORDINANCE 2009-06-04-0445

**MODIFYING, READOPTING, AND CONTINUING IN
EFFECT THE CITY'S YOUTH CURFEW ORDINANCE.**

WHEREAS, the City of San Antonio has since July 25, 1991 had a curfew restricting unsupervised youths between 10 and 16 years of age from public places during certain hours; and

WHEREAS, Section 370.002 of the Texas Local Government Code requires that before every third anniversary of the adoption of a juvenile curfew ordinance, the governing body of a home rule city must review the ordinance's effect on the community and on the problems the ordinance was intended to remedy, conduct public hearings on the need to continue the ordinance, and abolish, continue or modify the ordinance, or else the ordinance will automatically expire; and

WHEREAS, the San Antonio Police Department has reviewed the effects of the Youth Curfew on the community and on the problems it was intended to remedy and presented that review to the City Council on June 4, 2009, prior to the continuation and re-adoption of the Youth Curfew through the passage of this ordinance; and

WHEREAS, public hearings on the need to continue the Youth Curfew Ordinance were held on May 20, 2009 and June 4, 2009 prior to the enactment of this ordinance; and

WHEREAS, after careful consideration, the City Council has determined that it is in the best interest of the citizens of the City of San Antonio to modify and continue the Youth Curfew Ordinance in effect; and

WHEREAS, the City Council believes that revisions to the current ordinance will improve its effectiveness; and

WHEREAS, in order to accomplish such revisions, it is necessary to modify Article V. of Chapter 21 of the City Code of San Antonio, Texas; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The Youth Curfew Ordinance No. 74025, originally adopted on July 25, 1991, is hereby continued, readopted, and modified as set out below.

SECTION 2. Article V of Chapter 21 of the City Code of San Antonio, Texas will remain in full force and effect, save and except as modified by this ordinance, until July 25, 2012, unless sooner terminated or extended by City Council ordinance, as follows:

ARTICLE V. YOUTH CURFEW

Sec. 21-121. Definitions.

[As used in this article the following words and terms shall have the meanings respectively ascribed:]

- (a) *Minor* shall mean any person less than seventeen (17) years of age and over nine (9) years of age.
- (b) *Parent* shall mean a person who is the natural or adoptive parent of a person. As used herein, "parent" shall also include a court appointed guardian or other person eighteen (18) years of age or older, authorized by the parent, by a court order, or by the court appointed guardian to have the care and custody of a person.

- (c) *Guardian* shall mean any person to whom custody of a minor has been given by a court order.
- (d) *Emergency* shall include but not be limited to fire, natural disaster, an automobile accident, or obtaining immediate medical care for another person.
- (e) *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 building, transport facilities, and shops.

Sec. 21-122. Offenses.

- (a) It shall be unlawful for a child to purposefully remain, walk, run, stand, drive or ride about in or upon any public place in the City of San Antonio between the hours of ~~10:30 p.m. and 6:00 a.m. on a Sunday, Monday, Tuesday, Wednesday, or Thursday~~ and between the hours of ~~12:00 a.m. (midnight)~~ 11:00 p.m. and 6:00 a.m.
- (b) It shall be unlawful for a child to purposefully remain, walk, run, stand, drive or ride about in or upon any public place in the City of San Antonio between the hours of 9:00 a.m. and 2:30 p.m. on a Monday, Tuesday, Wednesday, Thursday or Friday on school days only.
- (c) It shall be unlawful for the parent having legal custody of a minor to knowingly allow or permit the minor to be in violation of the curfew imposed in sections 21-122(a) and 21-122(b).

Sec. 21-123. Defenses.

It is a defense to prosecution under section 21-122 of this article that:

- (a) The minor was accompanied by his or her parent or another adult approved by the parents;

- ~~(b) The minor was accompanied by another adult approved by the parents;~~
- (eb) The minor was on emergency errand directed by his or her parent;
- (ec) The minor was attending a school, government sponsored, or religious activity or is going to or coming from a school, religious, or government sponsored activity without detour or stop.
- (ed) The minor was engaged in a lawful employment or volunteer work at a recognized charity institution or is going to or coming from such activity without detour or stop.
- (ee) The minor was on the sidewalk of the place where such minor resides or on the sidewalk of a place where the minor has permission from his/her parent or guardian to be; ~~or on the sidewalk of a next door neighbor not communicating an objection to the police officer;~~
- ~~(e) The minor was upon an errand directed by his or her parent;~~
- (ef) The minor was in a motor vehicle involved in intrastate or interstate transportation or transportation for which passage through the curfew area is the most direct route;
- (eg) The minor was exercising his or her First Amendment Rights protected by the United States or Texas Constitution, including but not limited to the free exercise of religion, freedom of speech, and freedom of assembly;
- (eh) The minor was married or had been married or had disabilities of minority removed in accordance with Chapter 31 of the Texas Family Code.
- (i) With respect to section 21-122(b) of this article, that the offense occurred during the scheduled vacation of or on a holiday observed by the school in which the minor is enrolled; or that the minor has graduated from high school or received a high school equivalency certificate; or that the minor has permission to be absent from school or be in a public place from an authorized school official. In the case of a

child being educated in a home school, a parent shall be deemed a school official.

Sec. 21-124. Enforcement Procedure.

- (a) Any peace officer, upon finding a minor in violation of section 21-122 of the San Antonio City Code, shall determine the name and address of the minor, and the name and address of his or her parent(s) or guardian(s). A warning notice shall be forwarded to the youth services division of the community initiatives department, which shall send a letter to the parent(s) or guardian(s) of the minor advising of the fact that the minor was found in violation of this Ordinance No. 86567, and soliciting cooperation in the future.
- (b) Provided, that if a police officer shall find a minor in violation of section 21-122 of the San Antonio City Code, who has once previously been so found, and warned as in (a) above, the peace officer may transfer the case to proper authorities for handling under the provisions of Title 3 of the Family Code. In addition, a complaint will be filed against the parents in Municipal Court for violation of City Code section 21-122(c). The police department shall file all necessary legal papers, supply all necessary documentation, and provide necessary testimony as required for pursuing violation of this article by either the minor or by any parent or guardian. If a peace officer does not file such a complaint against a minor who has once previously been found in violation of section 21-122 of the San Antonio City Code, and warned as in (a) above, the officer shall again record the name and address of the minor and the name and address of his or her parent(s) or guardian(s), the peace officer may issue a warning notice and direct the minor to go home by the most direct route. A copy of the second warning shall be forwarded to the youth services division of the community initiatives department, which shall schedule a person to person conference with the parent(s) or guardian(s) of the minor and the minor concerning this curfew ordinance and the city's expectation and requirement for parental control.

- (c) Any peace officer, upon finding a minor in violation of section 21-122 of the San Antonio City code, who has previously been found in violation of an issued warning as provided for in (a) above, shall transfer the case to proper authorities for handling under the provisions of Title 3 of the Family Code. In addition, a complaint will be filed against the minor and any parents or guardian in Municipal Court for violation of section 21-122(b) hereof. The police department shall file all necessary legal papers, supply all necessary documentation, and provide necessary testimony as required for pursuing violation of this article by either the minor or by any parent or guardian.

Sec. 21-125. Penalties.

- (a) Any minor violating the provisions of this article 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 a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00).
- (c) In assessing punishment for either a parent or a child, the municipal court judges are encouraged to consider the community service program.

Secs. 21-126--21-150. Reserved.

SECTION 2. The publishers of the City Code of San Antonio, Texas are authorized to amend said code to reflect the changes adopted herein and to correct typographical errors and to format and number paragraphs to conform to the existing code.

SECTION 3. The City Clerk of the City of San Antonio is hereby directed to publish notice of this ordinance as required by the Charter of the City of San Antonio and the laws of the State of Texas.

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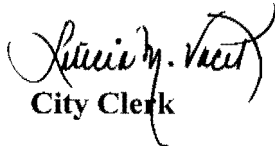
SECTION 4. This ordinance shall take effect fifteen (15) days following the date of the publication provided for above.

PASSED AND APPROVED this 4th day of June, 2009.



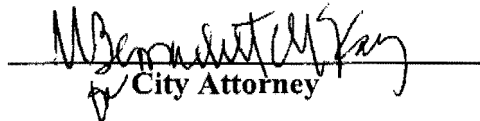
M A Y O R
JULIÁN CASTRO

ATTEST:



City Clerk

APPROVED AS TO FORM:



City Attorney