

**CITY OF LOG CABIN, TEXAS**

**ORDINANCE NO. 135**

AN ORDINANCE REPLACING ORDINANCE NO. 66D OF THE CITY COUNCIL OF LOG CABIN, TEXAS, ADOPTING "CURFEW HOURS FOR MINORS". DEFINING TERMS, CREATING HOURS OF CURFEW FOR MINORS, AND BUSINESS ESTABLISHMENTS VIOLATION CURFEW REGULATIONS; PROVIDING DEFENSES; PROVIDING FOR ENFORCEMENT BY THE POLICE DEPARTMENT; PROVIDING FOR REVIEW OF THIS ORDINANCE WITHIN 18 MONTHS AFTER THE DATE OF PASSAGE; PROVIDING PENALTIES NOT TO EXCEED \$500.00; PROVIDING A SAVING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

NOW, THERE BE IT ORDAINED BY THE CITY COUNCIL OF LOG CABIN, TEXAS.

SECTION I. CURFEW HOURS FOR MINORS

A. Definitions: In this section.

(1) CHIEF OF POLICE means the Chief of Police of Log Cabin, Texas or a designated representative.

(2) CURFEW HOURS means:

- (a) 10:00 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday until 6:00 a.m. of the following day; and
- (b) 11:00 p.m. on any Friday or Saturday until 6:00 a.m. of the following day.

(3) DIRECT ROUTE means the shortest path of travel through a public place to reach a final destination without any detour or stop along the way.

(4) EMERGENCY means, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury of loss of life.

(5) ESTABLISHMENT means any privately owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

(6) HOLDING LOCATION means a place designated by the Chief of Police which a minor taken into custody for a violation of this section will be delivered to await pick up by a parent or juvenile authorities.

(7) MINOR means anyone under 17 years of age.

(8) OPEARTOR means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association of partnership and the officers of a corporation.

(9) PARENT means a person who is:

- (a) A natural or adoptive parent of another person; or
- (b) A court appointed guardian or another person; or
- (c) At least 21 years of age and authorized by a parent or court appointed guardian to have the care and custody of another person.

(10) PUBLIC PLACE means any street, alley, highway, sidewalk, playground, park, beach area, or other place used by or open to the public.

(11) REMAIN means to:

- (a) Linger or stay unnecessarily; or
- (b) 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.

#### B. OFFENSES:

(1) 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.

(2) A parent 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.

(3) 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.

#### C. DEFENSES:

(1) It is a defense to prosecution under subsection B that the minor was;

- (a) Accompanied by the minor's parent;
- (b) On an errand at the direction of the minor's parent and was using a direct route;
- (c) In a motor vehicle involved in interstate travel;
- (d) Engaged in an employment activity, including but not limited to newspaper delivery, and was using a direct route;
- (e) Involved in an emergency;
- (f) On the sidewalk abutting the minor's residence or abutting the residence of next door neighbor if the neighbor did not complain to the police officer about the minor's presence;
- (g) Attending an official school or religious activity or returning home by a direct route from an official school or religious activity;
- (h) 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; or
- (i) Married or had been married or had the disabilities or minority removed in accordance with Chapter 31 of the Texas Family Code.

- (2) It is a defense to prosecution under subsection B, 3 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.

D. ENFORCEMENT:

- (1) A police officer, upon finding a minor in violation of Subsection B, 1 shall;
  - (a) Ascertain the name and address of minor;
  - (b) Issue to the minor a written warning that the minor is in violation of Subsection B, 1; and
  - (c) Order the minor to go promptly home by a direct route.
- (2) Notwithstanding Paragraph 1 of this Subsection, a police officer, upon finding a minor in violation of Subsection B, 1, may take the minor into custody and deliver the minor to a holding location if;
  - (a) The minor had received two previous written warnings for a violation of Subsection B, 1; or
  - (b) Reasonable grounds exist to believe the minor has engaged in delinquent conduct or conduct indication a need for supervision in accordance with Section 51.03 and 52.01 of the Texas Family Code.
- (3) When a minor is taken into custody under this subsection, the police department shall immediately notify a parent to pick up the minor at the holding location. After a parent arrives at a holding location and provides the information required by the Chief of Police to file an incident report, the minor shall be released into the custody of the parent. If a parent cannot be located or fails to take charge of the minor, the minor shall be released to the juvenile authorities.
- (4) If a minor is not taken into custody for a violation of Subsection B, 1, the Police department shall by certified mail, return receipt requested, notify a parent of the minor that the minor has violated Subsection B, 1 and include a warning that any subsequent violation may result in prosecution of the minor and the parent under this Section. If the minor was found in violation of subsection B, 1, at an establishment, the police department shall by certified mail, return receipt requested, notify the owner, operator, or employee if the establishment of the violation and include a warning that any subsequent violation may result in prosecution of the owner, operator, and employee under this Subsection.
- (5) A police officer shall, within 24 hours after finding a minor in violation of Subsection B, 1, file a written report on the incident or assist to the extent possible in the preparation and filing of the report by a supervisor.

E. PENALTIES:

- (1) Any minor who violates Subsection B, 1, of this section three or more times within any 24-month period is subject to appropriate action by a juvenile court in accordance with Chapters 51 and 52 of the Texas Family Code. A minor may not be prosecuted in Municipal Court for a violation of Subsection B, 1.

(2) A parent of a minor who violated Subsection B, 1 of this section is, upon conviction, punishable by a fine not to exceed \$500.00

(3) The owner, operator or employee of an establishment who violates Subsection B, 3 of this section is, upon conviction, punishable by a fine not to exceed \$500.00.

#### SECTION II

That within 18 months after the passage of this ordinance, the Mayor shall review this ordinance and make recommendations to the City Council concerning the effectiveness of the continuing need for the ordinance.

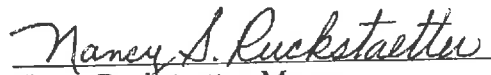
#### SECTION III

That the terms and provisions of this ordinance are severable.

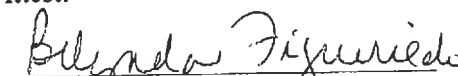
#### SECTION IV

That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of Log Cabin, Texas.

PASSED AND APPROVED THIS 21<sup>st</sup> DAY OF MARCH 2019.

  
Nancy Ruckstaetter, Mayor

Attest:

  
Belynda Figueriedo, City Secretary