

AN ORDINANCE OF THE CITY OF TIOGA, GRAYSON COUNTY TEXAS, SETTING A CURFEW, REPEALING ORDINANCE NUMBER 284 AND ALL OTHER ORDINANCES IN CONFLICT HEREWITH PREVIOUSLY ADOPTED BY THIS COUNCIL; ESTABLISHING A PENALTY FOR VIOLATION OF THE CONDITIONS OF THIS ORDINANCE AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TIOGA, TEXAS:

Section 1. Definitions.

For the purposed of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CURFEW HOURS. Means:

- (1) 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. of the following day; and
- (2) 11:59 p.m. on any Friday or Saturday until 6:00 a.m. of the following day.

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 a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

GUARDIAN. Means:

- (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 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 step-parent of another person; or
- (2) At least 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 use areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

REMAIN. Means 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.

Section 2. Offenses.

- (1) A minor commits an offense if he or she remains in any public place or on the premises of any establishment within the city during curfew hours.
- (2) A parent or guardian of a minor commits an offense if he or 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.
- (3) The owner, operator, or any employee of an establishment commits an offense if he or she knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

Section 3. Defenses.

- (1) It is a defense to prosecution under Section 2 that the minor was:
 - a. Accompanied by the minor's parent or guardian.
 - b. On an errand at the direction of the minor's parent or guardian, without any detour or stop;
 - c. In a motor vehicle involved in interstate travel;
 - d. Engaged in an employment activity, or going to or returning home from an employment activity, without an detour or stop;
 - e. Involved in an emergency.
 - f. On the 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.
 - g. Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the city, the school district, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious or other recreational activity supervised by adults and sponsored by the city, the school district, a civic organization, or another similar entity that takes responsibility for the minor.
 - h. Attending a function or event sponsored and supervised by an establishment that prohibits ingress and egress to the establishment during curfew hours and the management of the establishment has registered the function or event with the city at least 48 hours in advance.
 - i. 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
 - j. Married or had been married or had disabilities of minority removed in accordance with Tex. Family Code Chapter 31.
- (2) It is a defense to prosecution under section 2 (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.

Section 4. Penalties.

- (1) A person who violates a provision of this section is guilty of a separate offense for each day or part of a day during which the violation is committed, continued, or permitted. Each offense, upon conviction, is punishable by a fine of not less than \$25 or more than \$100.
- (2) When required by Texas Family Code §51.08, as amended, the Municipal Court shall waive original jurisdiction over a minor who violates section 2 (1) of this section and shall refer the minor to juvenile court.

Section 5. Severability.

If any Section or part of any Section or paragraph of the Ordinance is declared invalid or unconstitutional for any reason, it shall not invalidate or impair the validity, force or effect of any other Section or Sections or part of a Section or paragraph of this Ordinance.

Section 6. Repealer.

Ordinance number 284 and any other ordinances or portion of ordinances previously adopted by this Council in conflict herewith are hereby repealed.

Section 7. Declaration of Emergency.

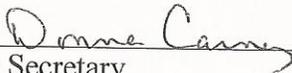
The City Council having determined that there is an immediate need for the public welfare, the maintaining of the law and order of Tioga, Texas, that an emergency exists and that this Ordinance shall be in full force and effect upon passage.

Passed and approved this the 8th day of October, 2012.



Mayor

Attest:



City Secretary