

ORDINANCE NO. 95-6

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF WOODLOCH, TEXAS, ESTABLISHING CURFEW HOURS FOR PERSONS UNDER THE AGE OF SEVENTEEN (17) YEARS; PROVIDING IT IS AN OFFENSE FOR A PARENT OR GUARDIAN TO KNOWINGLY PERMIT A MINOR TO VIOLATE THE CURFEW HOURS ESTABLISHED HEREIN; PROVIDING IT IS AN OFFENSE FOR AN OWNER, OPERATOR OR EMPLOYEE OF AN ESTABLISHMENT TO ALLOW A MINOR TO REMAIN ON THE PREMISES OF THE ESTABLISHMENT IN VIOLATION OF THE CURFEW HOURS; PROVIDING DEFENSES; PROVIDING A FINE NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500.00) UPON CONVICTION OF A VIOLATION OF THIS ORDINANCE; PROVIDING THAT ANY ORDINANCE IN CONFLICT HEREIN IS EXPRESSLY REPEALED; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE PUBLICATION THEREOF; EFFECTIVE DATE AND OTHER RELATED MATTERS.

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WHEREAS, the Town Council of the Town of Woodloch, Texas, has determined that there has been an increase in juvenile violence, juvenile gang activity and crime committed by persons under the age of seventeen (17) years in the Town of Woodloch, Texas, and;

WHEREAS, due to the lack of maturity and experience, persons under the age of seventeen (17) years are particularly susceptible to participate in unlawful and gang related activities and to be victims of older perpetrators of crime; and,

WHEREAS, the Town of Woodloch desires to provide for the protection of minors from each other and from other persons, for the enforcement of parental control over the responsibility for children, for the protection of the general public, and for the reduction of the incidence of juvenile violence and criminal activity; and

WHEREAS, a curfew applicable to persons under the age of seventeen (17) years will be in the interest of public health, safety and the general welfare and will diminish the undesirable impact of such conduct on the citizens of the Town of Woodloch, Texas:

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF WOODLOCH, TEXAS:

Section 1. The purpose of this ordinance is to protect the public health, safety and general welfare of the citizens of the Town of Woodloch by providing for a curfew for all persons under the age of seventeen (17) years.

Section 2. Definitions.

- (a) 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) 12:01 a.m. until 6:00 a.m. on any Friday or Saturday.
- (b) Civic organization means a non-project corporation or association formed for the use, benefit and enjoyment of its members to achieve religious, recreational, charitable, municipal and/or education pursuits.
- (c) Emergency means 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.
- (d) 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.
- (e) Guardian means:
 - (1) A person who, under court order, is the guardian of the person of a minor; and
 - (2) a public or private agency with whom a minor has been placed by a court.
- (f) Minor means any person under seventeen (17) years of age.
- (g) Operator means 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.
- (h) Parent means a person who is:
 - (1) A natural parent, adoptive parent or step parent 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.
- (i) 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 buildings, transport facilities and shops.

- (j) 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.
- (k) Serious bodily injury means bodily injury that creates a substantial risk of death of 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 3. Offenses.

- (a) A minor commits an offense if he remains in any public place or on the premises of any establishment within the Town 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 Town 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.

Section 4. Defenses.

- (a) It is a defense to prosecution under Section 3 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 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;

- (7) Attending an official school, religious or other recreational activity supervised by adults and sponsored by the Town of Woodloch, 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 Town of Woodloch, 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; and
- (9) Married or had been married or had disabilities of minority removed in accordance with Chapter 31 of the Texas Family Code.

Section 5. Enforcement

Before taking any enforcement action under this section 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 section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in Section 4 is present.

Section 6. Penalties

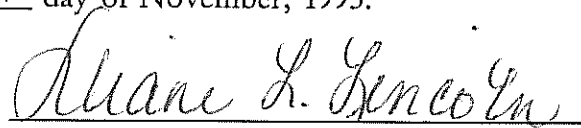
- (a) A person who violates a provision of this chapter is guilty of a separate offense for each day or part of a day during which the violation is committed, continued or permitted. Each offense, upon conviction is punishable by a fine not to exceed five hundred dollars (\$500.00).
- (b) When required by Section 51.08 of the Texas Family Code, as amended, the municipal court shall waive original jurisdiction over a minor who violates Section 3 of this Ordinance and shall refer the minor to juvenile court.

Section 7. All ordinances or parts of ordinances inconsistent with the terms of this ordinance are hereby repealed; provided however, that such repeal shall be only to the extent such inconsistency of other ordinances regulating and governing the subject matter covered by this ordinance.

Section 8. If any provisions, section, exception, subsection, paragraph, sentence, clause or phrase of this ordinance or the application of same to any person or set of circumstances, shall for any reason be held unconstitutional, void and invalid, such provision of this ordinance or their application to other sets of circumstance and to this end all provisions of this ordinance are declared to be severable.

Section 9. The Town Secretary shall cause notice of the adoption of this ordinance to be given by publication of the caption hereof in a newspaper of general circulation within the Town. This ordinance shall be effective ten (10) days following adoption and upon publication as herein required.

PASSES AND APPROVED this the 14 day of November, 1995.


DIANE LINCOLN, Mayor

ATTEST:

PATTY GREEN, Town Secretary

APPROVED AS TO FORM:

R. A. DEISON, Town Attorney