

## ARTICLE 8.05 MINORS CURFEW

### Sec. 8.05.001 Definitions

- (a) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, unless the context of their usage clearly indicates another meaning:

*Curfew hours.*

- (1) 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday, until 5:00 a.m. of the following day; and
- (2) 12:01 a.m. until 5:00 a.m. on any Friday or Saturday; and
- (3) During school hours on any Monday, Tuesday, Wednesday, Thursday, or Friday when Bastrop Independent School District public schools are in session.

*Custodian.* A person over the age of twenty-one (21) who is authorized or designated by a parent, guardian, or court of competent jurisdiction to supervise and control a minor.

*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. Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage or loss which demands immediate action.

*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.*

- (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:

- (1) Ten (10) years of age or older and under seventeen (17) years of age; or
- (2) Seventeen (17) years of age or older and under eighteen (18) 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 a natural parent, adoptive parent, or stepparent of the minor (excluding any person whose parental rights have been terminated in accordance with the Texas Family Code).

*Public place.* Any place in which the public or a substantial group of the public has access, but excluding areas where access is controlled by property owners and/or management by use of signs, policy or personnel. Public places may include but are not limited to, streets, highways, common areas beyond the exterior walls of school buildings, hospitals, apartment houses, office buildings, transport facilities, shops, and shopping centers.

*Remain.* To:

- (1) Linger or stay; or

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- (2) Fail to leave premises when requested to do so by a peace 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.

(Ord. No. 2019-56 , § 2(Att. B), 11-26-19; Ord. No. 2020-09 , § 2(Att. A), 4-28-20)

#### **Sec. 8.05.002 Offenses.**

- (a) A minor commits an offense if he knowingly remains, walks, runs, stands, drives, rides, or otherwise is present in, on or upon any public place, or any private place other than his place of residence, or on the premises of any establishment within the city during curfew hours.
- (b) A parent, guardian, or custodian of a minor commits an offense if he knowingly permits, or by insufficient control allows, the minor to remain, walk, run, stand, drive, ride, or otherwise be present in, on, or upon any public place or on the premises of any establishment within the city during curfew hours.
- (c) The owner, operator, or any other person in control of a public place or establishment commits an offense if he or she intentionally and knowingly allows or permits a minor to remain upon the premises of the public place or establishment during curfew hours.

(Ord. No. 2019-56 , § 2(Att. B), 11-26-19; Ord. No. 2020-09 , § 2(Att. A), 4-28-20)

#### **Sec. 8.05.003 Defenses.**

- (a) It is a defense to prosecution under section 8.05.002 that the minor was:
  - (1) Accompanied by the minor's parent, guardian, or spouse, or custodian;
  - (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 with the consent of the minor's parent, guardian, or custodian;
  - (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 private property at which the minor resides or is present with consent of the parent, guardian, custodian, or spouse;
  - (7) Attending an official school, religious, or other recreational activity supervised by a person over the age of twenty-one (21) 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 any detour or stop, an official school, religious, or other recreational activity supervised by a person over the age of twenty-one (21) 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) A minor who has had disabilities of minority removed in accordance with V.T.C.A., Family Code, ch. 31.

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- (b) It is a defense to prosecution under section 8.05.002(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.
  - (c) With respect to the school hours curfew only (see section 8.05.001, definition of "curfew hours," subsection (3)), it is a defense that the school which the minor attends was not in session, that the minor is a high school graduate or has equivalent certification, that the minor is on an excused absence from his or her place of schooling, or that the minor is participating in a work-study program which requires the minor to be off campus during school hours.

(Ord. No. 2019-56 , § 2(Att. B), 11-26-19; Ord. No. 2020-09 , § 2(Att. A), 4-28-20)

#### **Sec. 8.05.004 Enforcement procedures.**

All enforcement procedures adopted by the police department shall be in compliance with the provisions of the Texas Family Code.

(Ord. No. 2019-56 , § 2(Att. B), 11-26-19; Ord. No. 2020-09 , § 2(Att. A), 4-28-20)

#### **Sec. 8.05.005 Penalties.**

- (a) Any minor violating this division shall be guilty of a class C misdemeanor.
- (b) Any other person violating this division shall be guilty of a class C 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) When required by V.T.C.A. Family Code, § 51.08, as amended, the municipal court shall waive original jurisdiction over a minor who violates section 8.05.002 of this division and shall refer the minor to juvenile court.

(Ord. No. 2019-56 , § 2(Att. B), 11-26-19; Ord. No. 2020-09 , § 2(Att. A), 4-28-20)