

CITY OF SANGER, TEXAS

ORDINANCE

AN ORDINANCE OF THE CITY OF SANGER, TEXAS, READOPTING AND AMENDING CHAPTER 8, “OFFENSES AND NUISANCES” ARTICLE 8.600, SECTIONS 8.601 THROUGH 8.605, OF THE CODE OF ORDINANCES RELATING TO THE JUVENILE CURFEW; MAKING SUCH OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Sanger (the “City”) is a home rule municipality regulated by state law and Charter; and

WHEREAS, it is the express purpose of this article to: (a) deter criminal conduct involving juveniles; (b) reduce the number of juvenile crime victims; (c) reduce injury from accidents involving juveniles; (d) reduce the additional time police officers are required to be in the field due to juvenile crime; (e) provide additional and more effective means and options for dealing with gang-related violence and crime; (f) reduce juvenile peer pressure to stay out late; (g) reduce juvenile peer pressure to participate in violent or criminal activities; and (h) assist parents in the control of their children; and

WHEREAS, the Chief of Police briefed the City Council regarding the Ordinance’s effects on the community and on problems the Ordinance was intended to remedy; and

WHEREAS, the City of Sanger City Council adopted Ordinance No. 08-23-18, on August 20, 2018, a Curfew for Minors, codified at Section 8.601-8.605 of the Code of Ordinances of the City of Sanger, Texas; and

WHEREAS, section 370.002 of the Texas Local Government Code requires the City Council, before the third anniversary of the date of adoption of the Juvenile Curfew Ordinance, and every third year thereafter, to review the Ordinance’s effects on the community and on problems the Ordinance was intended to remedy, to conduct public hearings on the need to continue the Ordinance, and to abolish, continue, or modify the Ordinance; and

WHEREAS, after conducting the public hearing required by Texas Local Government Code Section 370.002 TBD, the City Council found and determined that it would be in the best interest of the health, safety and welfare of the community to readopt and approve the amended juvenile ordinance as set forth herein; and

WHEREAS, the City Council has conducted public hearings on the need to continue the ordinance, and determined that it should be continued.

WHEREAS, the City Council finds that the passage of this Ordinance is in the best interest of the citizens of Sanger.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SANGER, TEXAS:

SECTION 1. That the above findings are hereby found to be true and correct and are incorporated as if fully set forth herein.

SECTION 2. That Article 8.600 of the Code of Ordinances, "Curfew for Minors" is amended, continued and readopted to read as follows:

8.601 Definition

Curfew hours means.

- (1) 11:00 p.m. on 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 Saturday or Sunday.
- (3) 9:00 a.m. until 2:30 p.m. on any Monday, Tuesday, Wednesday, Thursday or Friday; provided, however, the hours defined in this paragraph (3) shall not be considered as:

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.

- (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 the 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 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 stepparent 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 in which the public or 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.

Remain.

- (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.

Sec. 8.602 Offenses

- (a) Any minor commits an offense if he/she remains in any public place or on the premises of any establishment within the city 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 city 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.

Sec. 8.603 Defenses

- (a) It is a defense to prosecution under Section 8.602 that the minor was:
 - (1) Accompanied by the minor's parent, guardian or adult spouse.
 - (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 or returning home from an employment activity without any detour or stop.
 - (5) Involved in an emergency.
 - (6) On an errand made necessary by an illness, injury, or emergency;
 - (7) 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.
 - (8) Attending an official school, religious or other recreational activity supervised by adults 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 adults and sponsored by the city, a civic organization or another similar entity that takes responsibility for the minor.
 - (9) 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.
 - (10) A minor who has had disabilities of minority removed in accordance with Chapter 31 of the Texas Family Code.

(b) It is a defense to prosecution under Section 8.602(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.

Sec. 8.604 Enforcement

Before taking any enforcement action under this article, 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 issue an arrest under this article unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in Section 8.603 is present.

Sec. 8.605 Penalties

(a) A person who violates a provision of this article 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 as set forth in the general penalty provision found in Section 1.109 of this code.

(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 8.602(a) of this article and shall refer the minor to juvenile court.

(Ordinance 08-23-18 adopted 8/20/18)

SECTION 3. That if any section, article, paragraph, sentence, clause, phrase or word in this Ordinance, or its application to any person or circumstance is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect, for any reason, the validity of the remaining portions of Chapter 8, "Offenses And Nuisances" Article 8.600, Sections 8.601 through 8.605, of the Code Of Ordinances of the City of Sanger Code of Ordinances, and the remaining portions shall remain in full force and effect.

SECTION 4. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, phrases and words of this Ordinance are severable and, if any word, phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining portions of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional word, phrase, clause, sentence, paragraph, or section.

SECTION 5. This ordinance will take effect immediately from and after its passage and the publication of the caption, as the law and Charter in such case provides.

PASSED AND APPROVED by the City Council of the City of Sanger, Texas, on this TBD

ATTEST:

Kelly Edwards, City Secretary

APPROVED:

Thomas E. Muir, Mayor

APPROVED TO FORM:

Hugh Coleman, City Attorney