

ORDINANCE NO. 081910

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FRANKSTON, TEXAS, ESTABLISHING A CURFEW FOR MINORS UNDER SEVENTEEN YEARS OF AGE TO PROHIBIT APPEARING IN A PUBLIC PLACE BETWEEN THE HOURS OF (MIDNIGHT) 12:00 A.M AND 5:00 A.M.; ESTABLISHING CRIMINAL PENALTIES FOR SAID VIOLATION OF A FINE NOT LESS THAN \$50.00 NOR MORE THAN \$500.00; ADOPTING CERTAIN EXCEPTIONS (DEFENSES); PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Frankston is obligated to provide for the protection of minors from each other and from other persons; and

WHEREAS, a curfew for those under the age of seventeen (17) will be in the best interest of the public health, safety, and general welfare, and will help to attain the foregoing objective and to diminish the undesirable impact of such conduct upon the citizens of the City of Frankston; and

THEREFORE, BE IT ORDAINED by the City Council of the City of Frankston, Texas:

SECTION 1

DEFINITIONS:

Curfew Hours. Between the hours of 12:00 a.m. (midnight) and 5:00 a.m. on any day of the week.

Emergency. An unexpected situation or occurrence that demands immediate attention. Shall include incidents such as medical emergency, automobile accident, fire, natural disaster, or providing transportation to a medical care center for another person.

Guardian. Any person who is legally responsible for the person. The custody must be directed by a court order.

Minor. Any person under seventeen years of age.

Parent. A natural father or mother or adoptive parent of a person.

Public Place. Any place the public or a substantial amount of the public has access, and includes but not limited to streets, highways, apartments, parks, shops, stores, and common areas of schools.

Remain. To linger or stay unnecessarily upon a public place.

SECTION 2

OFFENSES:

- (1) It is a violation for any minor to remain, appear, or enter a public place within the curfew hours regardless if the minor is walking, running, standing, or driving.
- (2) It is a violation for any parent or guardian to knowingly allow a minor to be in violation of the curfew hours as set forth in the above section.

SECTION 3

DEFENSES:

It is a defense to prosecute for any of the following circumstances:

- (1) The minor is accompanied by a parent or guardian
- (2) The minor is involved in an emergency situation as dictated by the above definition
- (3) The minor is accompanied by another adult approved by the parent
- (4) The minor is returning from a school or religious sponsored activity and is in the act of returning home from this event.
- (5) The minor is engaging in employment duties or is returning home from lawful employment.
- (6) In a motor vehicle involved in interstate travel.
- (7) Married or had been married or had disabilities of minority removed in accordance with Chapter 31 of the Texas Family Code.

SECTION 4

PENALTY:

- (1) 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 \$500.00

(2) 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 subsection (b)(1) of Section 51.08 of the Texas Family Code and shall refer the minor to juvenile court.

SECTION 5

That all Ordinances of the City of Frankston in conflict with the provision of this Ordinance, be and the same are hereby, repealed and all other ordinances of the City of Frankston not in conflict with the provision of the ordinances shall remain in full force and effect.

SECTION 6

That should any section, paragraph, sentence, clause or phrase of this ordinance be held or determined to be unconstitutional or invalid for any reason, such holding or determination shall not affect the remaining portions hereof, which are declared to be severable.

SECTION 7

The City Secretary of the City of Frankston, Texas is hereby directed to publish the caption and penalty clause of this Ordinance at least once in the Official Newspaper of the City of Frankston.

SECTION 8

That this ordinance shall take effect and be in full force immediately upon its final passage, approval and publication.

**PASSED AND APPROVED THIS _____ DAY OF _____,
2010.**

Al Mann, Mayor

ATTEST:

Jan Hamilton