

ORDINANCE NO. 2016-24

AN ORDINANCE ESTABLISHING A CURFEW FOR MINORS, ARTICLE I CHAPTER 13-3 OF THE CITY'S CODE OF ORDINANCES; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City of Copperas Cove adopted an ordinance on May 18, 1993 providing a curfew for minors within the corporate limits of the City of Copperas Cove; and

WHEREAS, the City of Copperas Cove continued the curfew for minors pursuant to Section 370.002 of the Texas Local Government Code in 2007 and in 2010 it expired by operation of law; and

WHEREAS, a curfew ordinance was approved on February 19, 2013 and will expire by operation of law on March 6, 2016; and

WHEREAS, in accordance with Section 370.002(a) the City is required every three years to review the ordinance and its 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. Failure to act on the ordinance as required shall cause the ordinance to expire; and

WHEREAS, the City Council has conducted two public hearings to determine if a curfew for minors is still necessary; and

WHEREAS, the City Council, after conducting two public hearings concerning a curfew for minors, determined that it is necessary to continue a curfew ordinance for minors for the public safety of its citizens and minors.

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

SECTION 1.

That Article I, Chapter 13-3, Curfew for Minors, attached as Exhibit "A" and incorporated herein by referenced is hereby adopted.

SECTION 2.

That all ordinances or resolutions or parts of ordinances or resolutions in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

SECTION 3.

That should any section, clause, or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this ordinance or any other ordinance of the City as a whole or any part thereof, other than the part so declared to be invalid.

SECTION 4.

That this ordinance shall become effective after its passage and publication according to law.

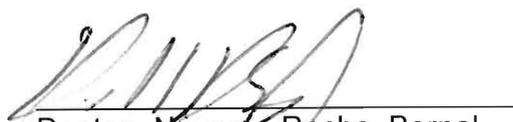
PASSED, APPROVED AND ADOPTED this 1st day of March 2016, at a regular meeting of the City Council of the City of Copperas Cove, Texas, which meeting was held in compliance with the Open Meetings Act, *Tex. Gov't Code* §551.001, et.seq., at which meeting a quorum was present and voting.


Frank Seffrood, Mayor

ATTEST:


Mariela Altott, City Secretary

APPROVED AS TO FORM:


Denton, Navarro, Rocha, Bernal,
Hyde & Zech P.C., City Attorney

- (a) Definitions. For the purposes of this section, the following words, terms and phrases shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:
- (1) Minor shall mean any person under seventeen (17) years of age.
 - (2) Parent shall mean a person who is the natural or adoptive parent of a minor. As used herein, "parent" shall also include a court-appointed guardian, or other person twenty-one (21) years of age or older who has been authorized by the parent, by a court order, or by the court-appointed guardian to have the care and physical control of a minor.
 - (3) Emergency shall include, but not be limited to, fire, natural disaster, an automobile accident or seeking immediate medical treatment for any person.
 - (4) Public places 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, transportation facilities, restaurants, and shops.
 - (5) Curfew hours means:
 - a. 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. on the following day; and
 - b. 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday.
 - c. While school is in session, it shall be unlawful for any minor, under seventeen (17) years of age, to remain, walk, run, idle, wander, stroll, or aimlessly drive or ride about in or upon any public place in the city between the hours of 9:00 a.m. and 2:30 p.m. on Monday, Tuesday, Wednesday, Thursday or Friday.
 - (6) Interstate transportation means transportation between states of the United States or between a state of the United States and a foreign country, to which any travel through the city is merely incidental.
 - (7) Intrastate transportation means transportation between locations within the state, to which any travel through the city is merely incidental.
- (b) Offenses.
- (1) It shall be unlawful for any minor to remain, walk, run, stand, drive or ride about in or upon any public place in the city during curfew hours.
 - (2) It shall be unlawful for a parent of any minor to allow or permit the minor to be in violation of the curfew imposed in subsection (b)(1) of this section.
 - (3) It shall be unlawful for any owner, operator, or employee of any privately owned place of business operated for a profit to which the public is invited, to allow a minor to remain upon the premises of said place of business during curfew hours.
 - (4) It shall not be a defense to the application of this section that a parent gave the minor the permission to violate this section for no purpose other than the parent had the authority over this minor to do so.
 - (5) No culpable mental state required. Unless specifically provided in this section, an offense under this section shall not require a culpable mental state. It is the intent of this section, curfew for minors, to impose strict liability for any violation of this section.
- (c) Exceptions and defenses. No officer shall detain a minor where an exception to the application hereof is apparent. It is a defense to prosecution under subsection (b) that, at the time of the act that otherwise would constitute an offense:
- (1) The minor was accompanied by his or her parent; or

- (2) The minor was accompanied by an adult twenty-one (21) years of age or older approved by the parent; or
 - (3) The minor was on an emergency errand; or
 - (4) The minor was attending a school, religious or government-sponsored activity, or going to or coming from a school, religious or government-sponsored activity; or
 - (5) The minor was engaged in a lawful employment activity or labor organization meeting, or going to or coming from said lawful employment or labor organization meeting; or
 - (6) The minor was on the premises of the place where such minor resides or on the premises of a next-door neighbor and said neighbor was not communicating an objection to a peace officer regarding the presence of said minor; or
 - (7) The minor was upon an errand directed by his or her parent; or
 - (8) The minor was in an aircraft or motor vehicle involved in intrastate or interstate transportation, or was awaiting transportation by such means; or
 - (9) The minor was exercising his or her First and Fourteenth Amendment rights protected by the United States Constitution, including but not limited to the free exercise of religion, freedom of speech, and the right of assembly; or
 - (10) The minor was married or had been married or had disabilities of minority removed in accordance with the Texas Family Code; or
 - (11) The minor was on a direct route to his or her place of residence from an activity which he or she left within the lawful curfew time; or
 - (12) In a prosecution under subsection (b)(3) the owner, operator or employee of the place of business promptly notified the police department that a minor was present on the premises of the business during curfew hours and refused to leave; or
 - (13) It is a defense to prosecution hereunder that the minor under seventeen (17) years of age was enrolled in a home school authorized by the laws of the state, at a time the daytime curfew was in effect.
- (d) Enforcement procedure and administrative appeals.
- (1) Any peace officer, upon finding a minor in violation of subsection (b) shall determine the name and address of the minor, and the name and address of his or her parent(s) or guardian(s). A warning notice shall be issued to the minor, who shall be ordered to go home by the most direct means and route. A copy of the notice shall be forwarded to the youth services unit of the Copperas Cove Police Department, which shall send a letter to the parent(s) or guardians of the minor advising that the minor was found in violation of this section, and soliciting cooperation in the future.
 - (2) Any peace officer, upon finding a minor in violation of subsection (b) when said minor has once previously been so found and warned as in subsection (d)(1) above, the officer shall record the name and address of the minor and his or her parent(s) or guardians, and shall issue a citation to the minor for the violation of this section. The minor shall be ordered by the officer to go home by the most direct means and route. A copy of the citation shall be forwarded to the youth services unit of the police department, which shall send a letter to the parent(s) or guardians of the minor who was found in violation of this section a second time, and advising of the consequences of a third violation of this section and addressing the city's expectation and requirement of parental control of the minor.
 - (3) Any peace officer, upon finding a minor in violation of subsection (b), when said minor has at least twice previously been found in violation and issued a warning and citation as provided in subsections (d)(1) and (d)(2) above, shall order said minor to go home by the most direct means and route, and thereafter shall file a complaint against the minor and his or her parent(s) or guardians in municipal court for violation of subsection (b). The police department shall file all

necessary documentation and provide necessary testimony required for pursuing prosecution of this violation by the minor and/or the parent(s) or guardians.

- (4) If, after receiving a warning notice or letter as provided or in subsections (d)(1) and (d)(2) above, a person believes that said document was issued without justification, the person shall have ten (10) days from receipt of said document to present an appeal in writing to the chief of police. The appeal shall state the facts and circumstances which the appellant believes make the issuance of the document in question unjustified. The chief of police or his designated representative shall respond in writing to the appellant not later than twenty (20) days after receipt of the appeal, stating whether the issuance of the document or documents in question will be upheld or rescinded, and stating the reasons for said decision. All decisions shall be final with the ruling of the chief of police or his representative. If a document is ordered rescinded after issuance, the status of the minor and the parent or parents in question thereafter shall be the same as if the document ordered rescinded had never been issued, and all city records shall be corrected accordingly.

(e) Penalties.

- (1) Any minor violating the provisions of this section shall be guilty of a Class "C" misdemeanor as defined in the Texas Penal Code and shall be dealt with in accordance with the provisions of Title 3 of the Texas Family Code, and Texas Code of Criminal Procedure.
- (2) A parent who violates subsection (b)(2) or a person who violates subsection (b)(3) shall be guilty of a misdemeanor, which shall be punishable by a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00).
- (3) In assessing punishment for either a parent or a minor the municipal court judge may consider a community service or teen court program.

(Ord. No. 1993-17, 5-18-93; Ord. No. 96-06, 3-5-96; Ord. No. 2001-09, § 1, 2-6-01; Ord. No. 2004-12, § 1(Exh. A), 3-16-04; Ord. No. 2007-02, § 1(Exh. A), 3-6-07; Ord. No. 2010-10, § 1(Exh. A), 3-2-10; Ord. No. 2013-09, § 1(Exh. A), 2-19-13)