

Curfew Ordinance
Dallas (city),
Texas

Sample Curfew Ordinance

The following is the text of Dallas, Tex.'s curfew ordinance. Since it passed strict scrutiny from the U.S. Court of Appeals for the Fifth Circuit in 1993, it is provided as an illustration of what local government leaders may consider when drafting a curfew ordinance. Local leaders should contact their city attorneys prior to taking any action. All local governments should list the reasons for curfew adoption either in legislative history or specifically in the ordinance.

MUNICIPAL CODE SEC. 31-33 CURFEW HOURS FOR MINORS

(a) Definitions. In this section:

(1) CURFEW HOURS means:

(A) 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. of the following day; and

(B) 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday.

(2) 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.

(3) 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.

(4) GUARDIAN means:

(A) a person who, under court order, is the guardian of the person of a minor; or

(B) a public or private agency with whom a minor has been placed by a court.

(5) MINOR means any person under 17 years of age.

(6) OPERATOR means any individual, firm, association, partnership, or corporation operation, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

(7) PARENT means a person who is:

(A) a natural parent, adoptive parent, or step-parent of another person; or

(B) at least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

(8) 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 area of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

(9) REMAIN means to:

(A) linger or stay; or

(B) 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.

(10) SERIOUS BODILY INJURY means 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.

(b) Offenses:

(1) A minor commits an offense if he remains in any public place or on the premises of any establishment within the city during curfew hours.

(2) 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.

(3) 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.

(c) Defenses:

(1) It is a defense to prosecution under Subsection (b) that the minor was:

(A) accompanied by the minor's parent or guardian;

(B) on an errand at the direction of the minor's parent or guardian, without any detour or stop;

(C) in a motor vehicle involved in interstate travel;

(D) engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;

(E) involved in an emergency;

(F) 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;

(G) attending 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, 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;

(H) 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

(I) married or had been married or had disabilities of minority removed in accordance with State law.

(2) It is a defense to prosecution under Subsection (c)(3) 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.

(d) 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 Subsection (d) is present.

(e) Penalties:

(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.

Ordinance Drafting Resources:

International Municipal Lawyers Association (IMLA) Model Juvenile Curfew Ordinance. To order, contact IMLA at 202/466-5424.

Juvenile Crime Prevention: Curfews and Youth Services. Includes the article entitled "Drafting a Juvenile Curfew Ordinance to Withstand Constitutional Challenges." To order, contact the National League of Cities Distribution Center at 301/725-4299.

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