

JOHNSON COUNTY COMMISSIONERS COURT

APR 13 2020



Becky Ivey
County Clerk, Johnson County Texas
BY MI DEPUTY

RICK BAILEY
Commissioner Pct. #1

ROGER HARMON
County Judge

JERRY D. STRINGER
Commissioner Pct. #3

KENNY HOWELL
Commissioner Pct. #2

Carla Hester
Assistant to Commissioner's Court

LARRY WOOLLEY
Commissioner Pct. #4

THE STATE OF TEXAS

§

ORDER #2020-22

COUNTY OF JOHNSON

§

JOHNSON COUNTY JUVENILE CURFEW

An order to provide for the public safety pursuant to section 351.903 of the Local Government Code, that adopts a County Juvenile curfew to regulate the movements or actions of persons under 17 years of age in the unincorporated areas of the county.

WHEREAS, on April 13, _____, 2020 the Commissioners Court held a public hearing on the Johnson County Juvenile Curfew Order and heard all persons desiring to speak on the matter; and

WHEREAS, the Commissioners Court of Johnson County, Texas, finds that a juvenile curfew encourages parents to take responsibility for the whereabouts of their minor children; and

WHEREAS, the Commissioners Court desires to provide for the protection of minors and for the enforcement of parental control; and

WHEREAS, persons under the age of 17 are particularly susceptible by their lack of maturity and experience to participate in unlawful activities and to be victims of older perpetrators of crime; and

WHEREAS, Johnson County has an obligation to provide for the protection of minors from each other and from other persons, for the protection of the general public, and for the reduction of the incidence of juvenile criminal activities; and

WHEREAS, a curfew for those under the age of 17 will be in the interest of the public health, safety and general welfare and will help attain the foregoing objectives and to diminish the undesirable impact of such conduct on the citizens of Johnson County.

NOW, THEREFORE, BE IT ORDERED BY THE COMMISSIONERS COURT OF JOHNSON COUNTY, TEXAS, THAT THE FOLLOWING COUNTY JUVENILE CURFEW IS ESTABLISHED FOR THE UNINCORPORATED AREAS OF JOHNSON COUNTY, TEXAS.

SECTION ONE.

(a) Definitions. In this section:

- (1) Curfew hours means:
 - (a) 11:00 p.m. on any Monday, Tuesday, Wednesday, or Thursday until one-half hour before sunrise of the following day; and
 - (b) 11:59 p.m. on any Friday, Saturday, or Sunday until one-half hour before sunrise of the following day.
- (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) Officer means peace officer of the Johnson County Sheriff's Department or Constable of Johnson County.
- (7) Operator means any individual, firm, association, partnership, or corporation operating, managing or conducting any establishment. The term includes the members of partners of an association or partnership and the officers of a corporation.
- (8) Parent means a person who is:
 - (a) a natural parent, foster 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.
- (9) 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 areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.
- (10) Remain means to:
 - (a) Linger or stay; or
 - (b) fail to leave premises when requested to do so by an officer or the owner, operator or other person in control of the premises.
- (11) 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 unincorporated areas of Johnson County during the 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 unincorporated areas of Johnson County.
- (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 from 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 Johnson County, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by Johnson County, 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 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 Chapter 31 of the Texas Family Code.

- (2) It is a defense to prosecution under Subsection (b)(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) Enforcements.

Before taking any enforcement action under this Section, an office shall ask the apparent offender's age and reason for being in the public place or establishment. 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 (c) is present. A peace officer taking into custody a person under 17 years of age for a violation of the County Juvenile Curfew shall, without unnecessary delay:

- (1) release the person to the person's parent, guardian, or custodian;
- (2) take the person before a justice court to answer the charge; or

- (3) take the person to a place designated as a juvenile curfew processing office by the head of the law enforcement agency having custody of the person.

(e) Penalties.

- (1) A person who violates a provision of this Section 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.
- (2) When required by Section 51.08 of the Texas Family Code, as amended, the Justice Court shall waive original jurisdiction over a minor who violates Subsection (b) (1) of this Section and shall refer the minor to juvenile court.

SECTION TWO. It is hereby declared to be the intention of the Commissioners Court that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if any 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, and unconstitutionally shall not effect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the Commissioners Court without the incorporation in this ordinance of any unconstitutional phrase, clause, sentence, paragraph or section.

SECTION THREE. Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Five Hundred Dollars (\$500.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense. The Juvenile Board of Johnson County recommends that the fine assessed shall not exceed Two Hundred and Fifty Dollars (\$250.00) for the first violation of this Johnson County Juvenile Curfew Order.

SECTION FOUR. This Order shall be in full force and effect as of the

13 day of April, 2020.

GIVEN UNDER OUR HAND AND THE SEAL OF JOHNSON COUNTY

THIS 13 **day of** April, 2020.

Roger Harmon
Roger Harmon, Johnson County Judge
Voted: yes, no, abstained

Rick Bailey
Rick Bailey, Comm. Pct. #1
Voted: yes, no, abstained

Kenny Howell
Kenny Howell, Comm. Pct. #2
Voted: yes, no, abstained

Jerry D. Stringer
Jerry D. Stringer, Comm. Pct. #3
Voted: yes, no, abstained

Larry Woolley
Larry Woolley, Comm. Pct. #4
Voted: yes, no, abstained

ATTEST: *Becky Ivey*
Becky Ivey, County Clerk

