

## CHAPTER 95: CURFEW HOURS FOR MINORS

### Section

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### § 95.01 Definitions

Chief of Police means the chief of Police of the City of Overton or a designated representative.

Curfew hours means:

- (a) 11:00 p.m. to 6:00 a.m. any day except Friday or Saturday; and
- (b) 12:00 midnight to 6:00 a.m. Friday and Saturday.

Emergency means, but is not limited to, a fire, a natural disaster, and automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

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.

Holding Location means a place designated according to law, by the chief of police to which a minor taken into custody for a violation of the section will be delivered to await pick up by a parent or juvenile authorities.

Minor means any person under seventeen (17) years of age.

Parent means a person who is:

- (a) a natural or adoptive parent of a minor.
- (b) a court-appointed guardian of a minor; or
- (c) at least eighteen (18) years of age and authorized by a parent or court-appointed guardian to have the care and custody of a minor.

Public Place means any street, alley, highway, sidewalk, playground, park, plaza, building, or other place used by or open to the public.

Remain means to:

- (a) linger or stay unnecessarily; 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.

## **§ 95.02 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 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.

## **§ 95.03 Defenses to Prosecution**

It is a defenses to prosecution under Subsection § 95.02 that the minor was:

1. Accompanied by the minor's parents.
2. On an errand or other legitimate business at the direction of the minor's parent;
3. In a motor vehicle involved in interstate or intrastate travel;
4. Engaged in an employment activity, including but not limited to newspaper delivery;
5. Involved in an emergency
6. 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 officer about the minor's presence;
7. Attending an official school or religious activity or returning home from an official school or religious activity;
8. 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
9. Married or had been married or has disabilities of minority removed in accordance with Chapter 13 of the Texas Family Code.

## **§ 95.04 Enforcement**

1. A police officer, upon finding a minor in violation of Subsection § 95.02 (1), shall ascertain the name and address of the minor and shall inquire into the reasons for the minor being in a public place. If the police officer reasonably believes that the minor has violated the ordinance and that no defenses apply, a citation may be issued

to the minor, and the police officer may order the minor to go promptly home by a direct route or may take the minor into custody and deliver the minor to a holding location.

2. When a minor is taken into custody under this subsection, the police department shall immediately notify a parent to pick up the minor at the holding location. After a parent arrives at the holding location and provides the information required by the chief of police to file an incident report, the minor shall be released into the custody of the parent. If a parent cannot be located or fails to take charge of the minor, the minor shall be released to the juvenile authorities,
3. If a minor is not taken into custody for a violation of Subsection § 95.02 (1), the police department shall notify a parent of the minor that the minor has violated Subsection § 95.02 (2) and may issue a citation to the minor's parent if reasonable grounds exist to believe that the parent has violated Subsection § 95.02 (2) of this section.
4. A police officer shall, within 24 hours after finding a minor in violation of Subsection (§ 95.02 (1), file a written report on the incident.

#### **§ 95.05 Penalties**

1. Any minor who violates Subsection § 95.02 (1) of this section is guilty of a misdemeanor and upon conviction, shall be punishable by a fine as provided for class C misdemeanor offenses by the State of Texas.
2. A parent of a minor who violates Subsection § 95.02 (2) of this section is guilty of a misdemeanor and, upon conviction, shall be punishable by a fine as provided for class C misdemeanor offenses by the State of Texas.