

ORDINANCE NO. 119-A

AN ORDINANCE AMENDING ORDINANCE NO. 119; ADOPTING CURFEW HOURS FOR MINORS IN A PUBLIC PLACE OR ON THE PREMISE OF ANY ESTABLISHMENT WITHIN THE CITY; ADOPTING A PENALTY CLAUSE AND DEFENSES FOR A VIOLATION OF SAID ORDINANCE; PROVIDING A SAVINGS CLAUSE AND REPEALING CONFLICTING ORDINANCES AND RESOLUTIONS.

WHEREAS, the City Council has determined that in the City of Manor there has been an increase of juvenile arrests, particularly during the nighttime hours; and

WHEREAS, the City Council has determined there has been an increase of crimes committed by persons under the age of seventeen; and

WHEREAS, persons under the age of seventeen are particularly susceptible by their lack of maturity and experience both to participate in unlawful or gang-related activities and to be victims of older perpetrators; and

WHEREAS, the City of Manor has an obligation to provide for the protection of minors from each other and from other persons in the area during nighttime hours, for the enforcement of parental control and responsibility of their children, for the reduction of the incidence of juvenile criminal activities, and for the protection of the general public; and

WHEREAS, juveniles are increasingly being truant from schools during day time hours, further causing an increase in juvenile criminal activities.

WHEREAS, it is in the interest of the public health, safety, morals and general welfare to attain the foregoing objectives and to diminish undesirable impact of juvenile and adult crime on the citizens of the City of Manor; Now therefore

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MANOR, TEXAS, THAT:

Ordinance No. 119 is amended in it's entirety and after such amendment shall read as follows :

I.

Section 1. Definitions

(a) Curfew Hours

(1) 11:01 p.m. until 6:00 a.m. for every day of the week.

(2) 8:00 a.m. until 3:00 p.m. on any Monday through Friday, inclusive when the Manor Independent School District's schools are in session.

(b) 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.

(c) 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.

(d) Guardian means

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

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

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

(f) Operator means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term included the members or partners of an association or partnership and the officers of a corporation.

(g) Parent means a person who is:

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

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

(h) 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.

(i) Remain means to:

(1) Linger or stay; or

(2) 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.

(j) 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.

## Section 2. Offenses

(a) 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.

(b) 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.

(c) The owner, operator, or any employee of any establishment commits an offense if he knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

## Section 3. Defenses

(a) It is a defense to prosecution under Section 2 that the minor was:

(1) Accompanied by the minor's parent or guardian;

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

(3) In a motor vehicle involved in interstate travel;

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

(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 department about the minor's presence;

(7) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the City of Manor, Manor Independent School District, 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 of Manor, Manor Independent School District, a civic organization, or another similar entity that takes responsibility for the minor;

(8) 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

(9) Married or had been married or had disabilities of minority removed in accordance with Chapter 31 of the Texas Family Code.

(b) It is a defense to prosecution under Section 2 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.

Section 4. 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 under Section 3 is present.

Section 5. Penalties

(a) 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.

(b) 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 Section 2 (a) of this section and shall refer the minor to juvenile court.

II.

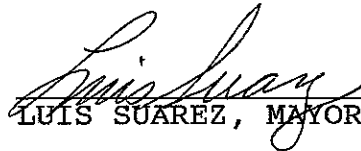
It is hereby declared that this Ordinance shall become effective on July 1, 1995 at 12:01 o'clock a.m.

III.

A. All ordinances, parts or ordinances, or resolutions in conflict herewith are expressly repealed.

B. The invalidity of any section or provision of this ordinance shall not invalidate other sections or provisions thereof.

By motion duly MADE, SECONDED, PASSED and ADOPTED this 21 day of June, 1995.

  
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LUIS SUAREZ, MAYOR

ATTEST:

  
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NANCY BOATRIGHT, Secretary