

ORDINANCE 142-C

**AN ORDINANCE PROVIDING FOR A CURFEW AND PROHIBITING MINORS FROM REMAINING IN A PUBLIC PLACE OR ON THE PREMISES OF ANY ESTABLISHMENT DURING CURFEW HOURS: ALSO PROHIBITING PARENTS OF MINORS AND OWNERS, OPERATORS OR EMPLOYEES OF ESTABLISHMENTS FROM ALLOWING MINORS TO REMAIN IN A PUBLIC PLACE OR ON THE PREMISES OF ANY ESTABLISHMENT DURING CURFEW HOURS WITHIN THE CITY OF ARCHER CITY.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARCHER CITY:**

**1. 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 an establishment commits an offense if he knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

**2. DEFENSES:**

- A. It is a defense to prosecution under Section 1 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 Archer 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 of Archer City, 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.
  - a. It is a defense to prosecution under Section (1)(C) 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.

### **3. 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 Section 2 is present.

### **4. 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.
- 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 (1)(A) of this section and shall refer the minor to juvenile court.

### **5. DEFINITIONS, IN THIS ORDINANCE:**

A. Curfew Hours means:

10:01 p.m. to 6:00 a.m. on any Sunday, Monday, Tuesday, Wednesday, Thursday, Friday and Saturday.

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 the 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 substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of school, 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.

#### **6. Severability**

If any section, subsection, sentence, phrase, or word of this Ordinance shall be held to be unconstitutional by a court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance.

#### **7. Repealer and effective date**

This Ordinance shall become effective ten (10) days after its publication in the *Archer County News*, upon which time Ordinance 142-B shall be repealed in its entirety.

PASSED AND APPROVED on the 19th day of August 2010.

David A. Levy  
Mayor

Kim Whitsitt,  
City Administrator