

ORDINANCE NO. 2004-21

AN ORDINANCE REVIEWING AND RENEWING THE JUVENILE CURFEW, ESTABLISHING DEFINITIONS, CITING SPECIFIC EXCEPTIONS; PROVIDING FOR ENFORCEMENT; PROVIDING A PENALTY CLAUSE; AND PROVIDING FOR SEVERABILITY; SUPERCEDING ORDINANCE NUMBER 2001-08.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SHOREACRES:

SECTION 1. DEFINITIONS:

That the following words, terms, and phrases when use in this Ordinance shall have the meanings ascribed to them in this Section, unless the context of their usage clearly indicates another meaning:

Emergency shall mean an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term shall include but not be limited to a fire, natural disaster, vehicular accident, or a serious medical condition of sudden onset.

Guardian shall mean the person who, under a court order, is the guardian of the person of a minor or the public or private agency with whom a minor has been placed by a court.

Minor for purposes of this ordinance shall mean any person under eighteen (18) years of age or as herein otherwise specifically indicated.

Parent shall mean the natural mother or father, adoptive mother or father of a minor, or a responsible adult selected by the parent or legal guardian to supervise the child.

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, apartments, houses, office buildings, transport facilities, theaters, game-rooms, shops, shopping malls, or any other place for the sale of merchandise.

SECTION 2. OFFENSES:

A. It shall be unlawful for any minor, twelve (12) years of age or under to be upon any public place in the City during the period from 10:00 p.m. to 6:00 a.m. on any day of the week.

B. It shall be unlawful for any minor, thirteen (13) years of age or older and under the age of eighteen (18) years, inclusive, to remain, walk, run, stand, drive or ride about, in or upon any public place in the City between the hours as follows:

10:00 p.m. Sunday and 6:00 a.m. Monday
10:00 p.m. Monday and 6:00 a.m. Tuesday
10:00 p.m. Tuesday and 6:00 a.m. Wednesday
10:00 p.m. Wednesday and 6:00 a.m. Thursday

10:00 p.m. Thursday and 6:00 a.m. Friday
1:00 a.m. Saturday and 6:00 a.m. Saturday and
1:00 a.m. Sunday and 6:00 a.m. Sunday.

C. It shall be unlawful for any minor, thirteen (13) to sixteen (16) years of age, inclusive, to remain, walk, run, stand, drive or ride about, in or upon any public place in the City, on school days, between the hours of 9:00 a.m. and 2:30 p.m. on a Monday through Friday, inclusive.

D. It shall be unlawful for the parent or guardian having legal custody of a minor, thirteen (13) to sixteen (16) years of age, inclusive, or a responsible adult selected by the parent or legal guardian to supervise the minor, to allow or permit the minor to be in violation of the curfew imposed in Section 2 (A, B, and C) of this Ordinance.

E. It shall be unlawful to intentionally, knowingly, recklessly, or with criminal negligence violate this Section. Such violation shall be a Class "C" misdemeanor punishable by a fine not to exceed five hundred dollars (\$500.00).

**SECTION 3. COMPULSORY SCHOOL AGE TO BE IN ATTENDANCE AT SCHOOL;
PARENTAL DUTIES IMPOSED:**

A. No minor between the ages of six (6) and sixteen (16), inclusive, other than a minor that has been suspended or expelled from school, shall be at any place within the City except in attendance at school between the hours of 9:00 a.m. and 2:30 p.m. during any school day, unless the minor has written proof from school authorities excusing him or her from attending school at that particular time, or unless the minor is accompanied by a parent or legal guardian, or a responsible adult selected by the parent or legal guardian to supervise the minor.

B. Each parent or legal guardian of a minor between the ages of six (6) and sixteen (16), inclusive, shall have a duty to prohibit the minor from behaving contrary to Section A of this Section. No person shall fail to fulfill the duty imposed by this Section.

C. Any person who violates subsection B of this Section is guilty of failing to supervise a minor of compulsory school age.

D. It shall be unlawful to intentionally, knowingly, recklessly, or with criminal negligence violate this Section. Such violation shall be a Class C misdemeanor punishable by a fine not to exceed five hundred dollars (\$500.00).

**SECTION 4. Children suspended or expelled from school to remain under supervision;
parental duties imposed.**

A. If a minor between the ages of six (6) and sixteen (16), inclusive, is suspended or expelled from school, then each parent or legal guardian of the minor shall have the following duties for the duration of the suspension or expulsion:

1. The duty to personally supervise the minor, or to arrange for a responsible adult to supervise the minor, at the times that the minor would have been required to be in attendance at school had he or she not been suspended or expelled;

and

2. The duty to prohibit the minor from being at any public place at the times that the minor would have been required to be in attendance at school had he or she not been suspended or expelled, except in the following circumstances:

- a. When the minor is accompanied by the parent or legal guardian, or responsible adult selected by the parent or legal guardian to supervise the minor; or
- b. When the minor is on an emergency errand; or
- c. the minor is married or had been removed in accordance with Chapter 31 of the Texas Family Code.
- d. When the minor is employed pursuant to approval of school authorities, during the times that the minor is actually on the job or traveling directly to or from the job site.

No person shall negligently fail to fulfill the duties imposed by this Section.

- B. No minor between the ages of six (6) and sixteen (16), inclusive, that has been suspended or expelled from school shall fail to comply with supervision provided or arranged by a parent or legal guardian pursuant to Section A (1) of this Section.
- C. No minor between the ages of six (6) and sixteen (16), inclusive, that has been suspended or expelled from school shall be in any public place at the times that he or she would have been required to be in attendance at school had he or she not been suspended or expelled, except in the circumstances described in Sections A (2) a, A (2) b, A (2) c or A (2) d of this Section.
- D. It shall be unlawful to intentionally, knowingly, recklessly, or with criminal negligence violate this Section. Such violation shall be a Class "C" misdemeanor punishable by a fine not to exceed five hundred dollars (\$500.00).

SECTION 5. DEFENSES:

- A. It is a defense to prosecution under Section 2 of this Ordinance that:
 1. The minor was accompanied by his or her parent or guardian;
 2. The minor was accompanied by a responsible adult selected by the parent or legal guardian to supervise the minor;
 3. The minor was on an errand made necessary by an emergency;

4. The minor was attending a school, religious, or government-sponsored activity or was traveling to or from a school, religious, or government-sponsored activity;
 5. The minor was engaged in a lawful employment activity or was going directly to or coming directly from lawful employment;
 6. The minor was on the sidewalk of the place where he or she permanently resides;
 7. The minor was engaged in, participating in, or traveling to or from any event, function or activity for which the application of Section 2 of this Ordinance would contravene his or her rights protected by the Texas or United States Constitution;
 8. The minor is married or had been married or had legally been declared an adult in accordance with Chapter 31 of the Texas Family Code.
- B. It is a defense to prosecution under Section 3 of this Ordinance that the minor, at the time he or she was found at a place other than in school, was not required by law to be in attendance at school.
- C. It is a defense to prosecution under Section 2,3 or 4 of this Ordinance that the minor has been directed by his or her parent or legal guardian , or a responsible adult selected by the parent or legal guardian to supervise the minor, to engage in a specific activity or to carry out express instructions, during the time that the minor is actually engaged in fulfilling those directions or responsibilities.

SECTION 6. SUPPLEMENTAL EFFECT:

The provisions of this Ordinance are supplemental and shall be cumulative with all other laws and ordinances applicable in any manner to juveniles.

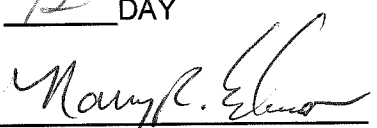
SECTION 7. That all ordinances in force when this Ordinance becomes effective which are inconsistent with, or in conflict with this Ordinance are hereby expressly repealed insofar as said ordinances are inconsistent with or in conflict with this Ordinance.

SECTION 8. That all rights and remedies which have accrued in favor of the City under this Ordinance and amendments thereto shall be and are preserved for the benefit of the City.

SECTION 9. That the City Council of the City of Shoreacres, Texas does hereby declare that if any Section, subsection, paragraph, sentence, clause, phrase, word or portion of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, the City council would have passed and ordained and all remaining portions of this Ordinance without the inclusion of that portion or portions which may be so found to be unconstitutional or invalid, and declares that its intent is to make no portion of this Ordinance dependent upon the validity of any other portion thereof, and

that all said remaining portions shall continue in full force and effect.

PASSED AND APPROVED BY COUNCIL ON THIS 12 DAY
OF July, 2004.



Nancy R. Edmonson, Mayor

ATTEST:


Shari Tait
City Secretary