

Article 14.03 Minors

Division 2. Curfew

Sec. 14.03.031 Established

- (a) It shall be unlawful for any person sixteen (16) or less years of age to be or remain in or upon any public place or in or upon any establishment within the city between the hours of 11:00p.m. and 6:00 a.m. of the following day, official city time, except that on Fridays and Saturdays and nights next preceding school holidays (not including summer vacation) the hours shall be from 12:00 midnight to 6:00 a.m.
- (b) It shall be unlawful for any person aged six (6) to sixteen (16) years of age, inclusive, to be or remain in or upon any public place or in or upon any establishment within the city between the hours of 9:00 a.m. and 2:30 p.m. on a school day.

(1983 Code, sec, 18-47; Ordinance 2004-00114, sec. 1, adopted 10/11/2004; Ordinance 2012-00084, sec. 1, adopted 8/23/2012)

Sec. 14.03.032 Exceptions

- (a) Numerous exceptions will be provided in this section to indicate that this is not a mere prohibitory or presence type curfew ordinance. More exceptions become available to juveniles with increasing years and advancing maturity as appropriate in the interest of reasonable regulation. In the following exceptional cases a juvenile in or upon any public place or in and upon an establishment shall not be deemed in violation of this division. This section is intended as a clear general guide for juveniles, their parents and enforcement officials:
 - (1) When the juvenile is accompanied by his parent, legal guardian or authorized adult supervisor.
 - (2) When exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the rights of assembly whether parade or demonstration, has been permitted by the city pursuant to article 20.10 of this code, or other bona fide religious, social or school activities involving the right to assemble.
 - (3) When engaged in performing an errand or other legitimate business at the direction of a parent, guardian or supervisory adult, including travel to and from such location by a direct route.
 - (4) When the juvenile is on the sidewalk at the place where such juvenile resides, or on the sidewalk of either next-door neighbor, when said neighbor does not object to such presence.
 - (5) When the juvenile is engaged in employment activities, such as, but not restricted to, newspaper delivery.
- (b) All of the above cited exceptions to this division include travel to and from such activity by a direct route, and this division is in no way to be construed as a limitation upon normal travel by a juvenile engaged in interstate movement.
- (c) Each of the foregoing exceptions is severable and in addition other possible exceptions may be added hereto in the future as warranted by experience as illuminated by the views of

student government associations, school personnel, citizens, neighborhood spokesmen, parents, officers and persons in authority concerned positively with minors as well as juvenile delinquency.

- (d) With respect to section 14.03.031(b) of this division, it shall be an exception that the offense occurred during a scheduled school vacation or holiday observed by the school in which the juvenile is enrolled, or that the juvenile has graduated from high school or received a high school equivalency certificate; or that the juvenile has been emancipated by law; or that the juvenile has permission to be absent from school or to be in a public place from a school official, which in the case of a child being educated in a home school includes [a Parent.]

(1983 Code, sec. 18-48, Ordinance 2004, 00114, sec. 1, adopted 10/11/2004; Ordinance 2012-00084, sec. 1, adopted 8/23/2012)

Sec. 14.03.033 Parental responsibility

It shall be unlawful for a parent knowingly to permit or by insufficient control to allow a juvenile in his or her care to be or remain in any public place or to be or remain in any establishment other than for excepted activities during the curfew hours established by this division. The term "knowingly" includes knowledge that a parent should reasonably be expected to have concerning the whereabouts of a juvenile in such parent's custody. It shall be prima facie evidence of violation of this section if a responsible parent has no knowledge of the juvenile's whereabouts during the hours of curfew established by this division. The purpose of this section is to require neglectful or careless parents to meet the community standard of parental responsibility.

(1983 Code, sec. 18-49; Ordinance 2004-00114, sec. 1, adopted 10/11/2004; Ordinance 2012-00084, sec. 1, adopted 8/23/2012)

Sec. 14.03.034 Establishment owner's responsibility

It shall be unlawful for the owner or operator of a business establishment to allow a juvenile to remain upon such business premises during the hours of curfew established in this division beyond the time necessary to conduct an excepted activity. It shall be no defense to this section that a juvenile made a purchase, if the juvenile did not immediately make such purchase upon arrival and depart immediately thereafter. It shall be a defense to prosecution under this section that the owner or operator of such business establishment has promptly notified the Lubbock Police Department that juveniles present on the premises after hours have refused to depart.

(1983 Code, sec. 18-50; Ordinance 2004-00114, sec. 1, adopted 10/11/2004; Ordinance 2012-00084, sec. 1, adopted 8/23/2012)

Sec. 14.03.035 Police procedures

- (a) A city police officer, upon finding or having his or her attention call to any juvenile in or on a public place or in or on the premises of a business establishment in prima facie violation of this division, may take the juvenile into custody. Such juvenile may be transported to a juvenile curfew processing office designated by the police chief. Upon arrival at the juvenile curfew processing office, a parent, legal guardian or other responsible adult shall be immediately notified to pick up such juvenile at the juvenile curfew processing office. A police officer taking a juvenile into custody shall also have discretion to release such juvenile to a parent, legal guardian or other responsible adult under circumstances deemed appropriate by the officer. A police officer also may issue a warning notice to the juvenile in accordance with section 52.01 of the Texas Family Code and order such juvenile to go directly and promptly to his or her home. Delinquent conduct or conduct indicating a need for supervision under sections 51.03 and 52.01 of the Texas Family Code shall be handled in accordance with applicable provisions of the Family Code pertaining to such conduct, and juveniles in prima facie violation of such provisions may not be taken to the city's curfew processing facility.
- (b) Upon picking up a juvenile in custody, said parent, legal guardian or other responsible adult may be questioned about the circumstances of such activity by the juvenile. This is intended to permit ascertainment, under constitutional safeguards, of relevant facts, and to centralize responsibility for accurate, effective, fair, impartial and uniform enforcement and recording, thus making available experienced supervisory personnel, the best of facilities, and, if required, referral to social agencies equipped to handle family problems that may be disclosed by investigation. In the absence of convincing identification, a police officer on the street may use his or her best judgement in determining age. Police procedures shall be constantly refined in the light of experience, and changes herein may be made on the basis of such experience.
- (c) In any event, a police officer shall within twenty-four (24) hours file a written report on the juvenile incident or shall participate to the extent possible in the preparation and filing of such a report by his supervisor.
- (d) When a parent, legal guardian or other responsible adult has come to take charge of a juvenile and the appropriate information has been received, the juvenile shall be released to the custody of the parent, legal guardian or other responsible adult. If a parent, legal guardian or other responsible adult cannot be located or fails to take charge of the juvenile, then the juvenile shall be released to appropriate authorities. However, the police department shall have the discretion to refuse to release a juvenile to an adult other than the parent or legal guardian of the juvenile.
- (e) A juvenile may not be held at the juvenile curfew processing office for more than six (6) hours. During such time, the following procedures shall be observed:
 - (1) The office must be an unlocked, multipurpose area that is not designated, set aside, or used as a secure detention area or part of a secure detention area;
 - (2) The juvenile may not be secured physically to a cuffing rail, chair, desk, or stationary object;

- (3) The juvenile may not be held longer than necessary to accomplish the purpose of identification, investigation, processing, release to parents, guardians or custodians and arrangement of transportation to school or court;
- (4) The office may not be designated or intended for residential purposes; and
- (5) The juvenile must be under continuous visual supervision by a peace officer or other person during the time the juvenile is in the juvenile curfew processing office.

(1983 Code, sec. 18-51; Ordinance 2004-00114, sec. 1, adopted 10/11/2004; Ordinance 2012-00084, sec. 1, adopted 8/23/2012)

Sec. 14.03.036 Penalties

Prevailing community standards as reflected by this division require the availability of criminal penalties in order for this division to be viable instrument for the maintenance of such standards. Consequently, violation of this division by a juvenile, parent or business establishment owner or operator, shall be deemed a misdemeanor punishable in accordance with section 1.01.004 of this code,

(1983 Code, sec. 18-52; Ordinance 2004-00114, sec. 1, adopted 10/11/2004; Ordinance 2012-00084, sec. 1, adopted 8/23/2012)

Sec. 14.03.037 Severability

Severability is intended throughout and within this division. If any provision, including any section, paragraph, sentence, clause, phrase or word or the application thereof to any person or circumstance is held invalid, the application to other persons or under other circumstances shall not be affected thereby and the validity of the division in any and all other respects shall not be affected thereby. It is intended that this division be held inapplicable in any case if such exists, where its application would be unconstitutional. A constitutional construction hereof is intended and shall be given. There is no intent herein to violate either the Texas Constitution or the Constitution of the United States of America.

(1983 Code, sec. 18-53; Ordinance 2004-00114, sec. 1, adopted 10/11/2004; Ordinance 2012-00084, sec. 1, adopted 8/23/2012)

Sec. 14.03.038 Continuing evaluation

Ordinance 2004-00114, which is codified as this division, shall be reviewed every third year prior to October 30 of such year as required by section 370.002 of the Local Government Code. The first review shall be conducted no later than October 30, 2007, and every third year thereafter. Such review shall be conducted following a public hearing upon the need to continue this division, and the city council shall have the option to continue, abolish or modify this division based upon their review of this division's effects on the community and on the problems this division is intended to remedy.

(1983 Code, sec. 18-54; Ordinance 2004-00114, sec. 1, adopted 10/11/2004; Ordinance 2012-00084, sec. 1, adopted 8/23/2012)