

THE STATE OF TEXAS

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KNOW ALL MEN BY THESE PRESENTS

COUNTY OF WILLIAMSON

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On this the 3rd day of March 2009, the Commissioners Court of Williamson County, Texas, met in a duly called Regular Meeting at the Williamson County Courthouse in Georgetown, Texas, with the following members present:

Dan A. Gattis, County Judge,
Lisa Birkman, Commissioner Precinct One,
Cynthia Long, Commissioner Precinct Two,
Valerie Covey, Commissioner Precinct Three, and
Ron Morrison, Commissioner Precinct Four;

and at said meeting, among other business, the Court considered the following:

RESOLUTION

RESOLUTION OF THE COMMISSIONERS COURT OF WILLIAMSON COUNTY, TEXAS, TO PROVIDE FOR THE PUBLIC SAFETY AND PURSUANT TO SECTION 351.903, TEXAS LOCAL GOVERNMENT CODE, THE FOLLOWING RESOLUTION AND ORDER WAS ADOPTED IN ORDER TO REESTABLISH AND REPLACE THE NON-EMERGENCY CURFEW RESOLUTION THAT WAS ORIGINALLY ADOPTED BY THIS COURT ON JULY 2, 1996 AND AMENDED THEREAFTER ON MARCH 3, 1998:

NON-EMERGENCY CURFEWS

Sections

1. Definitions
2. Offenses
3. Defenses
4. Enforcement Procedure
5. Penalty
6. Effective Date; Expiration

SECTION 1 DEFINITIONS

For the purposes of this Resolution and Order, the following words and phrases shall have the meanings ascribed to them, as indicated in herein below.

Curfew Area means all unincorporated areas located within Williamson County, Texas.

Direct Route means the shortest path of travel through Public Places to reach the destination without detours or additional stops at any other destinations along the way.

Emergency means an unforeseen circumstance to include, but not be limited to fire, natural disaster, an automobile accident or obtaining immediate medical care for another person.

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.

Guardian means any person, public or private agency, to which custody of a Minor has been given by a court order.

Minor means any person less than 17 years of age.

Operator means any individual, farm, association, partnership or corporation operating, managing or conducting any Establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

Parent means a parent who is the natural or adoptive parent of any person. As used herein, Parent shall also include a court-appointed Guardian or other person 21 years of age or older, authorized by the Parent, by a court order or by the court-appointed Guardian to have the care and custody of a person.

Public Place means any street, alley, highway, sidewalk, playground, park, plaza or place used or open to members of the public; any public building; place of business, amusement or entertainment; or any Establishment.

Religious Activity means any function or event sponsored by a religious organization that has received tax exemption under Section 501(C)(3) of U.S.C.

SECTION 2 **OFFENSES**

- (A) It shall be unlawful for any Minor to remain, walk, run, idle, wander, stroll or aimlessly drive or ride about in or upon any Public Place in the Curfew Area between the hours of 12:01 a.m. and 6:00 a.m. on Monday, Tuesday, Wednesday, Thursday or Friday.
- (B) It shall be unlawful for any Minor to remain, walk, run, idle, wander, stroll, or aimlessly drive or ride about in or upon any Public Place in the Curfew Area between the hours of 1:00 a.m. and 6:00 a.m. of Saturday or Sunday.

- (C) It shall be unlawful for the Parent or Guardian having legal custody of a Minor to knowingly allow or permit the Minor to be in violation of this Resolution and Order.
- (D) The owner, Operator, or any employee of an Establishment (1) that is located in the Curfew Area; and (2) that is in the business of selling goods, services and/or entertainment primarily to Minors commits an offense if he/she/it intentionally and knowingly allows a Minor to remain upon the premises of an Establishment during curfew hours. For purposes of this provision, an Establishment will be deemed to be in the business of providing goods, services and/or entertainment primarily to Minors if more than fifty percent (50%) of the Establishment's gross revenues come from the sale of goods, services and/or entertainment to Minors.

SECTION 3 **DEFENSES**

It is a defense to prosecution under Section 2 of this Resolution and Order if:

- (A) The Minor is accompanied by his or her Parent or Guardian;
- (B) The Minor is on an errand authorized and at the direction of his or her Parent or Guardian, without any detour or stop;
- (C) The Minor is involved in an Emergency;
- (D) The Minor is in a motor vehicle involved in either intrastate travel between three or more counties or interstate travel for which passage through a Curfew Area is the most Direct Route;
- (E) The presence of the Minor is connected with or required with respect to a Religious Activity, governmental activity, educational activity or a business, trade, profession or occupation in which said Minor is lawfully engaged;
- (F) The Minor is on the sidewalk of the place where such Minor resides or on the sidewalk of either adjoining next-door neighbors who are not communicating an objection as to the presence of the Minor to the local police agency, the Williamson County Sheriff's Office, or to one of the local Williamson County Constable's Office;
- (G) The Minor is 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;
- (H) The Minor is married or had disabilities of minority removed in accordance with Chapter 31 of the Texas Family Code;

- (I) It is a defense to prosecution under Section 2(D) if the owner, operator, or employee of such an Establishment promptly notified the local police agency, the Williamson County Sheriff's Office or a local Williamson County Constable's Office of the Minor's presence on the premises of the Establishment during curfew hours and the Minor refused to leave after being requested to do so by the owner, Operator or employee.

SECTION 4

ENFORCEMENT PROCEDURE

All enforcement procedures adopted by any agency enforcing this Resolution and Order shall be in compliance with the provisions of any statutes, laws or regulations relating to the enforcement of county juvenile curfews in Texas. Specifically, any agency enforcing this Resolution and Order shall comply with Article 45.059 of the Texas Code of Criminal Procedure, as amended. Before taking any enforcement action under this Resolution and Order, a police officer, sheriff's deputy, or deputy constable shall ask the apparent offender's age and reason for being in the Public Place during curfew hours. The officer or deputy shall not issue a citation or take any enforcement action under this Resolution and Order unless the officer or deputy reasonably believes that an offense has occurred and that, based on any response or other circumstances, no defense under Section 3 of this Resolution and Order is present.

SECTION 5

PENALTY

- (A) Any Minor violating the provisions of this Resolution and Order shall be guilty of a Class 'C' misdemeanor.
- (B) Any other person violating this Resolution and Order shall be guilty of a Class 'C' misdemeanor, which shall be punishable by a fine of not less than \$50 and not more than \$500.
- (C) A person who violates a provision of this Resolution and Order is guilty of a separate offense for each day or part of a day during which the violation is committed, continued or permitted.
- (D) When required by Section 51.08 of the Texas Family Code, as amended, the municipal or justice court shall waive original jurisdiction over a Minor who violates this Resolution and Order and such court shall refer the Minor to juvenile court.

SECTION 6

EFFECTIVE DATE; EXPIRATION

This Resolution and Order shall become effective immediately from and after its approval. This Resolution and Order shall expire if it is not reviewed and readopted every three years as

prescribed by Chapter 370 (*Miscellaneous Provisions Relating to Municipal and County Health and Public Safety*) of the Texas Local Government Code.

The foregoing Resolution and Order was duly moved by Commissioner Birkman seconded by Commissioner Long, and was then adopted by a vote of 5 Voting for and 0 Voting against. County Judge Dan A. Gattis was duly authorized to sign said Resolution and Order as the act and deed of Commissioner's Court of Williamson County and of Williamson County, Texas.

By: 

Dan A. Gattis, Williamson County Judge

ATTEST:

Nancy E. Rister
Nancy Rister, Williamson County Clerk