

ORDINANCE NO. CO11.19.02.28.E1

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS, READOPTING CEDAR PARK CODE OF ORDINANCES, CHAPTER 8 OFFENSES AND NUISANCES, ARTICLE 8.04 JUVENILE CURFEW; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, pursuant to Texas Local Government Code, Chapter 51, the City may adopt, publish, amend, or repeal an ordinance, rule or police regulation that is for the good government, peace, and order of the municipality; and

WHEREAS, the City has adopted the Juvenile Curfew Ordinance, Chapter 8 Offenses And Nuisances, Article 8.04 Juvenile Curfew, in the interest of public health, safety, and welfare and for the purposes of protecting juveniles and preventing juvenile crime; and

WHEREAS, Texas Local Government Code Section 370.002 requires the governing body of a municipality to review an existing juvenile curfew ordinance's effects on the community and the problems it was meant to address and hold public hearings on the need to continue the ordinance every three years; and

WHEREAS, the City Council has reviewed the Juvenile Curfew Ordinance's effects on the community and on problems it was intended to remedy; and

WHEREAS, after reviewing the City's existing Juvenile Curfew Ordinance, the Legal Department and Police Department recommend re adoption of Article 8.04 in its entirety to further the City's interest protecting juveniles and preventing juvenile crime.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS:

SECTION 1. That the City Council finds the Juvenile Curfew Ordinance has a positive effect on the community and is effective in both protecting juveniles and reducing juvenile crime.

SECTION 2. That Cedar Park Code of Ordinances, Chapter 8 Offenses and Nuisances, Article 8.04 Juvenile Curfew is hereby readopted in its entirety, as reflected in the attached Exhibit A.

SECTION 3. That the provisions of this ordinance are severable and the invalidity of any word, phrase or part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

SECTION 4. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 5. That it is hereby officially found and determined that the meetings at which this ordinance was introduced and passed were open to the public and that public notice of the time, place and purpose of said meetings were given all as required by law.

SECTION 6. This ordinance shall be and remain in full force and effect from and after the date of approval.

READ AND CONSIDERED ON FIRST READING by the City Council of Cedar Park at a regular meeting on the 7th day of February, 2019, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

READ, CONSIDERED, PASSED AND APPROVED ON SECOND AND FINAL READING by the City Council of Cedar Park at a regular meeting on the 28th day of February, 2019, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

CITY OF CEDAR PARK, TEXAS

Corbin Van Arsdale, Mayor

ATTEST:

LeAnn M. Quinn, TRMC
City Secretary

APPROVED AS TO FORM
AND CONTENT:

J.P. LeCompte, City Attorney

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EXHIBIT A

ARTICLE 8.04 JUVENILE CURFEW*

Sec. 8.04.001 Definitions

Curfew hours.

- (1) 11:00 p.m. Sunday evening until 6:00 a.m. Monday morning;
- (2) 11:00 p.m. Monday evening until 6:00 a.m. Tuesday morning;
- (3) 11:00 p.m. Tuesday evening until 6:00 a.m. Wednesday morning;
- (4) 11:00 p.m. Wednesday evening until 6:00 a.m. Thursday morning;
- (5) 11:00 p.m. Thursday evening until 6:00 a.m. Friday morning;
- (6) 1:00 a.m. Saturday morning until 6:00 a.m. Saturday morning; and
- (7) 1:00 a.m. Sunday morning until 6:00 a.m. Sunday morning.

Emergency. 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 loss of life or serious bodily injury that creates a substantial risk of death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

Establishment. 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.

- (1) A person who, under court order, is the guardian of the person of a juvenile; or
- (2) A public or private agency with whom a juvenile has been placed by a court.

Juvenile. Any person under seventeen (17) years of age.

Operator. Any individual, firm, 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. A person who is:

- (1) A natural parent, adoptive parent, or stepparent of another person; or
- (2) At least eighteen (18) years of age and authorized by a parent or guardian to have the care and custody of a juvenile.

Public place. 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.

Remain. 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.

Sec. 8.04.002 Offenses

- (a) A juvenile 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 juvenile commits an offense if he knowingly permits, or by insufficient control allows, the juvenile 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 juvenile to remain upon the premises of the establishment during curfew hours.

Sec. 8.04.003 Exemptions

(a) It shall be an affirmative defense to a violation under [section 8.04.002](#) if the juvenile:

(1) Is accompanied by the juvenile's parent or guardian;

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

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

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

(5) Is involved in an emergency;

(6) Is on the sidewalk abutting the juvenile's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the Police Department about the juvenile's presence;

(7) Is participating in a work-study program; or attending a sponsored activity or event through the juvenile's school, the City, a religious or civic organization, or other person or entity that takes responsibility for the juvenile, including travel without detour or stop to a destination as required by such coursework, program, activity, or event;

(8) 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; or

(9) Is married or has been married or had disabilities of minority removed in accordance with [chapter 31 of the Texas Family Code](#).

(b) It shall be an affirmative defense to a violation under [section 8.04.002\(c\)](#) if the owner, operator, or employee of an establishment promptly notified the Police Department that a juvenile was present on the premises of the establishment during curfew hours and refused to leave.

Sec. 8.04.004 Enforcement

Before taking any enforcement action under this Article, 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 Article unless the officer reasonably believes that an offense has occurred and that, based on the juvenile's response and other circumstances, no affirmative defense in [section 8.04.003](#) is present.

Sec. 8.04.005 Penalties

(a) A person who violates a provision of this Article 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 in accordance with the general penalty provision found in [section 1.01.009](#) of this Code.

(b) When required by [section 51.08 of the Texas Family Code](#), as amended, the Municipal Court shall waive original jurisdiction over a juvenile who violates [section 8.04.002\(a\)](#) of this Article and shall refer the juvenile to juvenile court.

(Ordinance CO34-16-03-10-C1 adopted 3/10/16)