

ORDINANCE 09-07

AN ORDINANCE OF THE CITY OF COMMERCE, AMENDING SECTION 62-2, OF THE CITY OF COMMERCE CODE OF ORDINANCES OF THE CITY OF COMMERCE, TEXAS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.

BE IT ORDAINED BY THE CITY OF COMMERCE, TEXAS:

SECTION 1. AMENDMENT.

Section 62-2 entitled Curfew hours for minors, is hereby amended so that said subsection shall hereafter read as follows

Sec. 62-2. Curfew hours for minors.

(a) *Definitions.*

Curfew hours.

- (1) 9:00 a.m. until 2:30 p.m. on a Monday, Tuesday, Wednesday, Thursday or Friday when school is in session;
- (2) 10:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. of the following day; and

(3) 11:00 p.m. on any Friday or Saturday until 6:00 a.m. the following day.

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.

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.

- (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.

Minor means any person under 17 years of age.

Operator means 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.

- (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.

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, apartment houses, office buildings, transport facilities, and shops.

Remain.

- (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.

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.

(b) *Offenses.*

- (1) 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.
- (2) 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.
- (3) 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.

(c) *Defenses.*

- (1) It is a defense to prosecution under subsection (b) that the minor was:
 - a. Accompanied by the minor's parent or guardian;
 - b. On an errand at the direction of the minor's parent or guardian, without any detour or stop;
 - c. In a motor vehicle involved in interstate travel;

d. Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;

e. Involved in an emergency;

f. On the sidewalk abutting the minor's residence or abutting the residents of a next-door neighbor, if the neighbor did not complain to the police department about the minor's presence;

g. Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the 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, a civic organization, or another similar entity that takes responsibility for the minor;

h. Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right to assembly; or

i. Married or had been married or had disabilities of minority removed in accordance with V.T.C.A., Family Code chapter 31.

j. Absent from school or in a public place with the permission of an authorized school official. In the case of a child being educated in a private school at home, a parent shall be deemed an authorized school official.

(2) It is a defense to prosecution under subsection (b)(3) 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.

(d) *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 subsection (c) is present.

(e) *Penalties.*

(1) A person who violates a provision of this chapter [section] 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 \$500.00

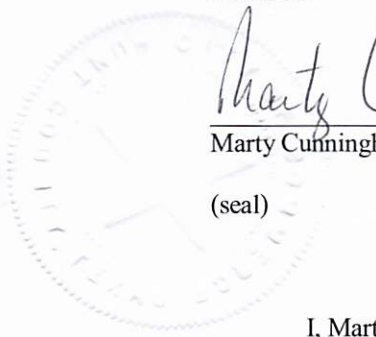
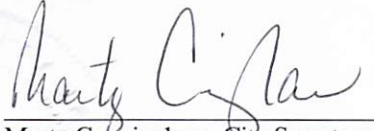
(2) When required by V.T.C.A., Family Code § 51.08, as amended, the municipal court shall waive original jurisdiction over a minor who violates Section (B) (1) of this section and shall refer the minor to juvenile court.

(Code 1969, § 13-10; Ord. No. 94-17, 10-18-94; Ord. No. 98-5, 3-17-98; Ord. 01-13, § 13-10, 4-3-01; Ord. No. 07-02, 4-3-07; Ord. No. 08-13, § 1, 8-19-08)

PASSED AND APPROVED at a regular meeting of the City Council of the City of Commerce, Texas on this the 15th day of September 2009 .

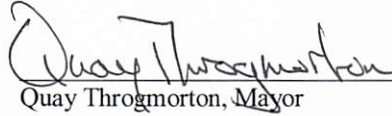
ATTEST:

CITY OF COMMERCE

Marty Cunningham, City Secretary

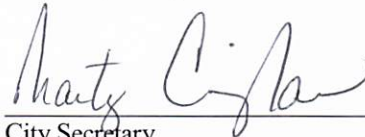
(seal)



Quay Throgmorton, Mayor

I, Marty Cunningham, City Secretary of the City of Commerce, Texas, do hereby certify that the above is a true and correct copy of an ordinance of the City of Commerce, Texas, and that the same has not been repealed and is in full force and effect;

(Seal)

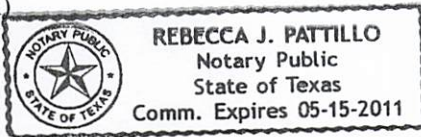


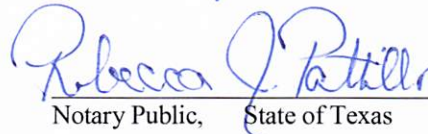
City Secretary

City of Commerce, Texas

Sworn to and subscribed before me, on this the 16th day of September, 2009 to certify which witness my hand and seal of office.

(Seal)





Notary Public,

State of Texas