

ORDINANCE

133-A

REPLACED BY

133-B

CITY OF WALLIS ORDINANCE NO. 133-B

ANY ORDINANCE CREATING A DAYTIME AND NIGHTTIME JUVENILE CURFEW; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; DECLARING CERTAIN CONDUCT TO BE UNLAWFUL AND PROVIDING PENALTIES THEREFORE; AND PROVIDING FOR SEVERABILITY.

WHEREAS, the City Council has determined that there has been an increase in juvenile violence, juvenile gang activity and an increase in crime by persons under the age of eighteen in and around the City of Wallis; and

WHEREAS, persons under the age of eighteen are particularly susceptible by their lack of maturity and experience to participate in unlawful and gang-related activities and to be victims of older perpetrators of crime; and

WHEREAS, the City of Wallis has an obligation to provide for the protection of minors from each other and from other persons, for the enforcement of parental control of and responsibility for their children, for the protection of the general public, and for the reduction of the incidence of juvenile criminal activities, and

WHEREAS, a curfew for those under eighteen years of age will be in the best interest of the public health, safety, and general welfare, and will help to attain the forgoing objectives and diminish the undesirable impact of such conduct on the citizens of the City of Wallis;

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

SECTION 1. The findings contained in the preamble to the ordinance are determined to be true and correct and are hereby adopted as part of the ordinance.

SECTION 2. Definitions.

The following words, terms and phrases, when used in the Ordinance, shall have the meanings ascribed to them in this Section, unless the context of their usage clearly indicated another meaning;

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

Guardian shall mean the person who, under the 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 the Ordinance, shall mean and person under eighteen (18) years of age.

Parent shall mean a natural parent, adoptive parent or step-parent of a minor.

Public Place means any place in Wallis, Texas, 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 school, hospitals, apartments, houses, offices buildings, transport facilities, theaters, game rooms, shops, shopping malls, or any other place engaged in the sale of provision of merchandise, services or entertainment.

SECTION 3. 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 9:00 p.m. on any day of the week to 6:00 a.m. of the following day.
- 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. the following Monday;
 - 10:00 p.m. Monday and 6:00 a.m. the following Tuesday;
 - 10:00 p.m. Tuesday and 6:00 a.m. the following Wednesday;
 - 10:00 p.m. Wednesday and 6:00 a.m. the following Thursday;
 - 10:00 p.m. Thursday and 6:00 a.m. the following Friday;
 - 12:00 Midnight Friday and 6:00 a.m. the following Saturday; and
 - 12:00 Midnight Saturday and 6:00 a.m. the following Sunday.
- C. It shall be unlawful for any minor, thirteen (13) years 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 Monday through Friday, inclusive.
- D. It shall be unlawful for the parents or guardian having legal custody of a minor, thirteen (13) years to sixteen (16) years of age, inclusive or an 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 3 (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 punishable by a fine not to exceed five hundred dollars (\$500.00).

SECTION 4. Compulsory school age to in attendance at school; parental duties imposed.

- A. No minor between the ages of six (6) and sixteen (16) years inclusive, other than a minor that has been suspended or expelled from school, shall be at any public 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 an 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) years and sixteen (16) years 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 of 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 punishable by a fine not to exceed five hundred dollars (\$500.00).

SECTION 5. Children suspended or expelled from school to remain under supervision; parental duties imposed.

- A. If a minor between the ages of (6) years and sixteen (16) years, 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 supervise the minor, or to arrange for an 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 in the City 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 an adult selected by the parent or legal guardian to supervise the minor; or
 - b. When the minor is on an emergency errand; or
 - c. When the minor is married or had been married or had disabilities or minority removed in accordance with Chapter 31 of the Texas Family Code; or
 - d. When the minor is employed pursuant to approval of school authorities, during the times of 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) years and sixteen (16) years, 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) years, inclusive, that has been suspended or expelled from school shall be in any public place in the City at the times that he or she would have he or she not been suspended to expelled, except in the circumstances described in Section 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 punishable by a fine not to exceed five hundred dollars (\$500.00).

SECTION 6. Defenses.

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

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; or
 5. The minor was engaged in a lawful employment activity or was going directly to or coming directly from lawful employment; or
 6. The minor was on a sidewalk of the place where he or she permanently resides; or
 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; or
 8. The minor is married or had been married or had disabilities of minority removed in accordance with Chapter 31 of the Texas Family Code; or
 9. The minor was exercising his or her First Amendment Rights.
- B. It is a defense to prosecution under Section 4 of this Ordinance that the minor, at the time he or she was found at a place other than school, was not required by law to be in attendance at school.
- C. It is a defense to prosecution under Section 3, 4 or 5 of this Ordinance that the minor has been directed by his or her parent or legal guardian, or a responsible adult sanctioned by the parent or legal guardian to supervise the minor, to engage in a specific activity or to carry out express instruction, during the time that the minor is actually engaged in fulfilling those directions or responsibilities.

SECTION 7. Supplemental Effect.


This provision of this Ordinance is supplemental and shall be cumulative with all other laws and ordinance applicable in any manner to juveniles.

SECTION 8. 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 are in conflict with this Ordinance.

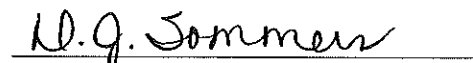
SECTION 9. If any provision, section, subsection, sentence, clause, or phrase of this ordinance, or the application of same to any person or set of circumstance is for any reason held to be unconstitutional, void or invalid, the validity of the remaining proportions of this Ordinance or their application to other persons sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason or any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

SECTION 10. This Ordinance shall supersede and cancel Ordinance No 133 and 133-A.

PASSED AND APPROVED by City Council this 20th day of April 2011.



Mayor Tony I. Salazar Jr.



City Secretary – DJ Sommers

ATTEST: