

ORDINANCE NO. 356

AN ORDINANCE RENEWING AND SETTING OF A CURFEW FOR PERSONS UNDER AGE SEVENTEEN (17) WITH APPLICATION TO THE PARENT AND GUARDIAN OF MINORS AND PROVIDING FOR A FINE NOT TO EXCEED TWO HUNDRED AND NO/100DOLLARS (\$200.00) TOGETHER WITH REFERRAL TO APPROPRIATE JUVENILE COURT.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF POTEET, TEXAS:

(a) Definition of terms for purposes of this Ordinance:

1. CURFEW HOURS means:
 - A. Sunday, Monday, Tuesday, Wednesday, Thursday
Beginning at 11:00 p.m. until 6: 00 a.m. of the following day
 - B. Friday and Saturday
Beginning at 12:01 a.m. until 6:00 a.m. of the following day
2. 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.
3. 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.
4. GUARDIAN means:
 - A. a person who, under court order, is the guardian of the person of a minor; or
 - B. a public or private agency with whom a minor has been placed by the court.
5. MINOR means a person under 17 years of age.
6. PARENT means a person who is:
 - A. a natural parent, adoptive parent, or step-parent of another person; or
 - B. at least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.
7. 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, any shops.

8. REMAIN means to:
 - A. linger or stay; or
 - B. fail to leave when requested to do so by a police officer or the owner, operator, or other person in control of the premises.
9. SERIOUS BODILY INURY means bodily injury that creates a substantial risk of death or that causes death, serious 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 or she remains in any public place or on the premises of any establishment within the City of Poteet during curfew hours.
2. A parent or guardian of a minor commits an offense if he or she 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 of Poteet during curfew hours, unless the minor is accompanied by a parent or guardian.

(c) Defenses:

It is 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 residence of a next-door neighbor if the neighbor did not complain to the police department about minor's presence;
- G. attending an official school, religious, or other recreational activity supervised by adults and sponsored by the city of Poteet, 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 of Poteet, a civic organization, or other similar entity that takes responsibility for the minor;
- H. exercising First Amendment rights protected by the United States Constitution, such as free exercise of religion, freedom of speech, and the right of assembly; or

- I. married or had been married or had disabilities of minority removed in accordance with Chapter 31 of the Texas Family Code.

(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 occurred and that, based on any response and other circumstances, no defense in Subsection (c) is present.

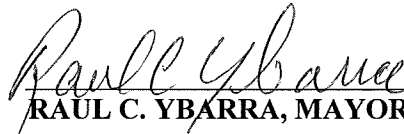
(e) Penalties:

1. A person who violates a provision of this chapter 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 fine not to exceed \$200.00.
2. When required by Section 81.08 of the Texas Family Code, as amended, the municipal court shall waive original jurisdiction over minor who violates Subsection (b) (1) of this section and shall refer the minor to juvenile court.

(f) Effective Date:

Providing the ordinance to be effective immediately upon passage.

PASSED and APPROVED this 18 day of March, 2008



RAUL C. YBARRA, MAYOR PRO-TEM

ATTEST:



LISA S. GUZMAN, SECRETARY