



City of Saginaw

Meeting Date: 03/01/2016

Staff Contact: Roger Macon
Police Chief

Agenda Item: 7
(CC-0316-04)

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SUBJECT: **Public Hearing** – Continuation of Curfew for Minors

BACKGROUND/DISCUSSION:

The Local Government code requires that public hearings be held every third year following the adoption of a juvenile curfew ordinance. The hearing tonight is the first of two hearings for public input regarding the continuation of the curfew for minors. The second public hearing and consideration of the ordinance continuing the curfew will be on the March 15th agenda.

FINANCIAL IMPACT:

N/A

RECOMMENDATION:

N/A

Attachments

Memo from Roger Macon
City Code, Chapter 54, Article III. Curfew for Minors



MEMORANDUM

SAGINAW POLICE DEPARTMENT

505 W. McLeroy Blvd. Saginaw, TX 76179
(817) 232-0311

DATE: 02/19/16	TO: Nan Stanford City Manager	FROM: Roger Macon Chief of Police	SUBJECT: Curfew Ordinance
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Section 54-61 *et seq* of the Saginaw City Code establishes a “curfew for minors” ordinance. This ordinance was originally passed on September 20, 1994, and was renewed most recently in March 2013. Section 370.002 of the Local Government Code requires that municipalities review such ordinances every three years. When doing so, the city must determine the effectiveness of the ordinance, conduct public hearings on the need to continue the ordinance, and abolish, continue, or modify the ordinance as determined by the council. I still feel that nighttime juvenile curfew ordinances are appropriate, and that there is a legitimate need to renew this ordinance.

The City of Saginaw originally passed a nighttime curfew to give police a tool in controlling late night juvenile crime. Officers were given the ability to detain minors for a brief period of time to establish whether they had parental permission to be out late at night. The premise was that these minors were either: a) likely to become victims of crime, or b) likely to be committing crimes during late night hours.

In recent weeks I have spoken with Judge Irby regarding this ordinance. She continues to be supportive of the curfew, and has dealt with juveniles cited. Since March 2013, fewer than 85 curfew citations have been issued (down from 125 in the previous three year period), with most offenders being convicted or receiving deferred adjudication.

It is my recommendation that the city renew its curfew ordinance by holding a public hearing at the council’s March 1st meeting.

Thanks!

ARTICLE III. CURFEW FOR MINORS*

Sec. 54-61. Adoption.

That this article establishing curfew regulations for minors in public places in the city, which shall be valid each day of the calendar year, is hereby adopted.

(Ord. No. 2001-06, § I, 3-6-01; Ord. No. 2007-04, § 1, 2-6-07)

Sec. 54-62. Definitions.

That the following words shall have the meaning herein set forth when used in this article.

Curfew hours means:

- (1) 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday and Thursday until 6:00 a.m. of the following day; and
- (2) 12:01 a.m. until 6:00 a.m. on any Saturday and Sunday.

***Editor's note**—Ord. No. 2001-06, §§ I—IV, adopted March 6, 2001, repealed the former Art. III, §§ 54-61—54-65, and enacted a new Art. III as set out herein. The former Art. III pertained to similar subject matter. See the Code Comparative Table.

Ord. No. 2013-06, § 1, adopted March 5, 2013, states the following: "Ordinance No. 2001-06, as continued by official vote of the City Council of the City of Saginaw, Texas on March 2, 2010, is hereby continued in accordance with the requirements of Section 370.002(a) of the Texas Local Government Code."

State law reference—Juvenile curfew, V.T.C.A., Local Government Code § 341.904.

Emergency means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The word includes, but is not limited to a fire, natural disaster or 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 profit to which the public is invited, including, but not limited to any place of amusement or entertainment.

Guardian means:

- (1) A person who, under court order, is the guardian of the person of a minor; and
- (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 that is operating, managing or conducting any establishment. The word includes the members or partners of a partnership or association, and the officers of a corporation, and any adult employee in charge of its operation.

Parent means a person who is:

- (1) A natural parent, adoptive parent or step-parent of a minor; and
- (2) Anyone else at least 18 years of age who is 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. The words include, but are not limited to streets, alleys, highways and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.

Remain means:

- (1) To linger or stay on or in premises; and
- (2) To 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.

(Ord. No. 2001-06, § II, 3-6-01)

Sec. 54-63. Offenses.

(a) A minor commits an offense if he or she 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 minor, or other adult person having care and custody 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 during curfew hours.

(c) The owner or operator, or any other adult person or employee in charge of an establishment commits an offense if he or she knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

(Ord. No. 2001-06, § III, 3-6-01)

Sec. 54-64. Defenses.

(a) It is a defense to prosecution under section 54-63 of this article if the minor was:

- (1) Accompanied by the minor's parent or guardian;
- (2) On an errand at the direction of the minor's parent or guardian, without any detour or stop;
- (3) In a motor vehicle involved in interstate travel;
- (4) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
- (5) Involved in an emergency;
- (6) On the sidewalk abutting the minor's residence, or abutting the residence of a

next-door neighbor, provided the neighbor did not complain to the police department about the minor's presence;

- (7) 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 such activity, without detour or stop;
- (8) Exercising rights protected by the Fifth Amendment of the United States Constitution, such as free exercise of religion, freedom of speech, and the right of peaceable assembly; or
- (9) Married or had been married, or had otherwise had the disabilities of minority removed in accordance with V.T.C.A., Family Code, ch. 31.

(b) It is a defense to prosecution under subsection 54-63(c) of this article if the owner, operator or other adult person or employee in charge 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.

(Ord. No. 2001-06, § IV, 3-6-01)

Sec. 54-65. 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 ordinance unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in section 54-64 of this article is present.

(Ord. No. 2001-06, § V, 3-6-01)

Sec. 54-66. 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 not to exceed \$500.00.

(b) When required by V.T.C.A., Family Code, § 51.08, as amended, the municipal court shall waive jurisdiction over a minor charged with violation of subsection 54-63(a) of this article, and shall refer the minor to a juvenile court.
(Ord. No. 2001-06, § VI, 3-6-01)