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BOSQUE COUNTY COMMISSIONERS COURT

THE STATE OF TEXAS §
COUNTY OF BOSQUE §

ORDER NO. 2010-039
BETTY GUTLAW, COUNTY CLERK
BOSQUE COUNTY, TEXAS

BOSQUE COUNTY JUVENILE CURFEW

An order to provide for the public safety pursuant to Section 351.903 of the Local Government Code, that adopts a County Juvenile Curfew to regulate the movements or actions of persons under 17 years of age in the unincorporated areas of the county.

WHEREAS, the Commissioners Court of Bosque County, Texas, has determined that a need exists to prevent an increase in crime by persons under the age of 17 in the unincorporated areas of the county; and

WHEREAS, persons under the age of 17 are particularly susceptible by their lack of maturity and experience to participate in unlawful and gang-related activities and to be victims or older perpetrators of crime; and

WHEREAS, Bosque County has an obligation to provide for the protection of minors from each other and from other persons, for the enforcement of parental control over and responsibility for 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 the age of 17 will be in the interest of the public health, safety and general welfare and will help attain the foregoing objectives and to diminish the undesirable impact of such conduct on the citizens of Bosque County.

NOW, THEREFORE, BE IT ORDERED BY THE COMMISSIONERS COURT OF BOSQUE COUNTY, TEXAS, THAT THE FOLLOWING COUNTY JUVENILE CURFEW IS ESTABLISHED FOR THE UNINCORPORATED AREAS OF BOSQUE COUNTY, TEXAS.

SECTION ONE.

- (a) Definitions. In this section:
 - (1) Curfew hours means:

- (a) 11:00 p.m. on any Monday, Tuesday, Wednesday, or Thursday until one-half hour before sunrise of the following day; and
 - (b) 11:59 p.m. on any Friday, Saturday, or Sunday until one-half hour before sunrise 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 by 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 any person under 17 years of age.
- (6) Officer means police officer of the Bosque County Sheriff's Department or Constable of Bosque County.
- (7) Operator means any individual, firm, association, partnership, or corporation operating, managing or conducting any establishment. The term includes the members of partners of an association or partnership and the officers of a corporation.
- (8) Parent means a person who is:
- (a) a natural parent, foster 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.
- (9) 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.
- (10) Remain means to:

- (a) Linger or stay; or
- (b) fail to leave premises when requested to do so by an officer or the owner, operator or other person in control of the premises.

(11) 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 unincorporated areas of Bosque County during the 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 unincorporated areas of Bosque County.
- (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 from 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 the minor's presence.
 - (g) attending an official school, religious, or other recreational activity supervised by adults and sponsored by Bosque County, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by Bosque County, 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 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.

(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) Enforcements.

Before taking any enforcement action under this Section, an office shall ask the apparent offender's age and reason for being in the public place or establishment. 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. A peace officer taking into custody a person under 17 years of age for a violation of the County Juvenile Curfew shall, without unnecessary delay:

- (1) release the person to the person's parent, guardian, or custodian;
- (2) take the person before a justice court to answer the charge; or
- (3) take the person to a place designated as a juvenile curfew processing office by the head of the law enforcement agency having custody of the person.

(e) Penalties.

- (1) A person who violates a provision of this 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.
- (2) When required by Section 51.08 of the Texas Family Code, as amended, the Justice Court shall waive original jurisdiction over a minor who violates Subsection (b)(1) of this Section and shall refer the minor to juvenile court.

SECTION TWO. It is hereby declared to be the intention of the Commissioners Court that the phrases, clauses, sentences, paragraphs, and section of this ordinance are severable, and if any phrase, clause, sentence paragraph or section of this ordinance, shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, and unconstitutionally shall not effect any of the remaining phrases,

clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the Commissioners court without the incorporation in this ordinance of any unconstitutional phrase, clause, sentence, paragraph or section.

SECTION THREE. Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Five Hundred Dollars (\$500.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION FOUR. This Order shall be in full force and effect as of the 10th day of May, 2010.

GIVEN UNDER OUR HAND AND THE SEAL OF BOSQUE COUNTY THIS 10th day of June 2010.

Cole Word
Cole Word, Bosque County Judge

Kent Harbison, Commissioner Pct. #1
Durwood Koonsman
Durwood Koonsman, Commissioner Pct. #2

Gary Arnold, Commissioner Pct. #3
Jimmy Schmidt
Jimmy Schmidt, Commissioner Pct. #4

Attest: Betty Outlaw
Betty Outlaw, County Clerk

