

ORDINANCE 95-01

AN ORDINANCE OF THE CITY OF VILLAGE OF JAMAICA BEACH, TEXAS, ESTABLISHING A CURFEW BETWEEN THE HOURS OF 9:00 A.M. AND 2:30 P.M. ON MONDAY THROUGH FRIDAY FOR MINORS REQUIRED BY LAW TO BE IN ATTENDANCE AT PUBLIC, PRIVATE, OR HOME SCHOOL AND PROVIDING FOR A PENALTY NOT TO EXCEED \$500.

WHEREAS, juveniles 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 wishes to provide for the protection from each other and from other persons, and for the enforcement of parental control; and

WHEREAS, a curfew will be in the best interest of the public health, safety, and general welfare, and will help to attain the foregoing objectives and to diminish the undesirable impact of such conduct on the citizens of the City of Jamaica Beach.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JAMAICA BEACH, TEXAS, as follows:

Definitions.

Curfew Hours for Minors. Curfew Hours for minors are 9:00 a.m. until 2:30 p.m. Monday, Tuesday, Wednesday, Thursday, and Friday. This provision shall apply to minors required by law to be in attendance at public, private, or home school.

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, 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 a profit to which the public is invited, including, but not limited to any place of amusement or entertainment.

Guardian means a person who under court order is the guardian of the person of a minor or a public or private agency with whom a minor has been placed by a court.

Minor means any person who is under 18 years of age that has not otherwise been emancipated. Adult means any person who is not a minor.

Parent means an adult who is authorized 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, apartment houses, office buildings, shops, and beaches.

Remain means to linger or stay or 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 protected loss or impairment of the function of any bodily member or organ.

Offense.

(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.

Defense.

(1) It is a defense to prosecution that the minor was: Accompanied by the minor's parent, in a motor vehicle involved in interstate travel; engaged in an employment activity, or going to or returning from an employment activity or extra curricular school activity; involved in an emergency; is accompanied by another adult approved by the parents; exercising constitutional rights under the Texas and Federal Constitution.

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 also request proof of age and status and may seek the assistance of the parents, guardians, or schools.

Judicial Procedures.

The Municipal Court Judge, in reviewing cases involving minors under the ordinance shall do the following:

(1) Hear the cases of minors only on the juvenile docket. The minors must appear in court and shall be accompanied by a parent or guardian.

(2) If the Court determines that it has jurisdiction to proceed, the Judge shall hear the facts of the case in accordance with the procedures as dictated by state and federal law. When required by the Texas Family Code, as amended, the Municipal Court shall waive original jurisdiction over such minor and shall refer the minor to juvenile court or the Justice of the Peace.

(3) The Municipal Court Judge, in reviewing cases involving minors, shall only find a violation of this ordinance if he determines that the minor knowingly or intentionally violated the juvenile curfew. If the court determines that there was no defense applicable and determines that there was a violation of the juvenile curfew, the court shall assess such appropriate remedies as the Court deems necessary as is allowed by judicial precedent under federal state, and local law. Under no circumstances shall such remedies, including fines, exceed the jurisdictional levels of the Court as defined by City Ordinance.

(4) The Judge in reviewing cases involving operators of businesses, shall only find a violation of this Ordinance if he determines that the operator intentionally or knowingly contributed to the violation of the juvenile curfew by a minor by allowing the minor to stay at his business unsupervised by an adult. If the Court determines that there was no defense applicable and determines that there was a violation of the juvenile curfew, Court shall assess such appropriate remedies as the Court deems necessary as is allowed by judicial precedent under federal, state, and local law. Under no circumstances shall such remedies including fines, exceed the jurisdictional levels of the Court as defined under the City Ordinance.

(5) The Municipal Court Judge in reviewing cases involving parents shall only find a violation if he determines that the parent intentionally or knowingly contributed to the violation of the Juvenile curfew, court shall assess such appropriate remedies as the court deems necessary as is allowed by Judicial precedent under federal, state and local law. Under no circumstances shall such remedies, including fines, exceed the jurisdictional levels of the court as defined under the city ordinances.

(6) The court, upon the recommendation of the prosecutor, does have the discretion to dismiss the case.


Penalties.

A person who violates a provision of this ordinance 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.

THE COUNCIL OF THE CITY OF VILLAGE OF JAMAICA BEACH BOARD OF ALDERMEN, TO DETER AND/OR PREVENT AN INCREASE IN JUVENILE VIOLENCE AND JUVENILE GANG ACTIVITY, HEREBY ENACTS A DAYTIME CURFEW.

IF ANY WORD, PHRASE, CLAUSE, SENTENCE, PARAGRAPH, SECTION OR OTHER PART OF THIS ORDINANCE, OR THE APPLICATION THEREOF TO ANY PERSON OR CIRCUMSTANCES, SHALL EVER BE HELD TO BE INVALID OR UNCONSTITUTIONAL BY ANY COURT OF COMPETENT JURISDICTION, THE REMAINDER OF THIS ORDINANCE AND THE APPLICATION OF SUCH WORK, PHRASE, CLAUSE, SENTENCE, PARAGRAPH, SECTION OR OTHER PART OF THIS ORDINANCE TO ANY OTHER PERSONS OR CIRCUMSTANCES SHALL NOT BE AFFECTED HEREBY. ALL ORDINANCES AND AGREEMENTS IN CONFLICT HEREWITH ARE HEREBY REPEALED TO THE EXTENT OF THE CONFLICT ONLY.

PASSED AND APPROVED ON this the 20 day of March 1995.


Kenneth Dennis, Mayor
City of Village of Jamaica Beach,
Texas

ATTEST:


T. D. White
City Secretary