



BEXAR COUNTY COMMISSIONERS COURT ORDER

No. 13.102.081595

TITLE:	COUNTY JUVENILE CURFEW
DATE APPROVED:	AMENDED JUNE 23, 2009; ORIGINAL 2006, 2000, AND 1995
EFFECTIVE DATE:	JUNE 23, 2009

ORDER

AUTHORIZING A CURFEW FOR MINORS WITHIN THE UNINCORPORATED AREAS OF THE COUNTY PURSUANT TO TEXAS LOCAL GOVERNMENT CODE § 351.903; PROVIDING A DEFINITION; AND PENALTY.

WHEREAS, the Legislature of the State of Texas, pursuant to Texas Local Government Code §351.903 allows the Commissioners Court of a county to adopt by order a county juvenile curfew;

WHEREAS, Bexar County Commissioners Court recognizes a risk to the public welfare juvenile violence, juvenile gang activity and crime by persons under the age of seventeen in Bexar County;

WHEREAS, Bexar County contains unincorporated areas, not subject to any municipal ordinance;

WHEREAS, the Bexar County Commissioners Court wishes to impress upon parents and guardians the serious nature of their legal duties to their minor children and to the community, and to ensure that they accept responsibility for the control of and accountability for the conduct of their minor children;

WHEREAS, Bexar County has an obligation to provide for the protections 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;

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 to attain the foregoing objectives and to diminish the undesirable impact of such conduct on the citizens of Bexar County;

WHEREAS, Bexar County Commissioners Court adopted by order a county juvenile curfew in 1995, 2000, and 2006;

WHEREAS, pursuant to Texas Local Government Code § 370.002, the Bexar County Commissioners Court held a public hearing on March 24, 2009, and on April 21, 2009, voted to continue the curfew order for juveniles in Bexar County in conformity with the requirements of the Texas Local Government Code §351.903;

WHEREAS, Commissioners Court desires to amend the juvenile curfew order to eliminate the day time curfew during times when schools are not in session and streamline the enforcement provisions; and

WHEREAS, in three years, Commissioners Court, pursuant to Texas Local Government Code §370.002, will hold public hearings and review the order's effects on the community and on the problems the order was intended to remedy;

NOW THEREFORE IT IS HERBY ORDERED BY THE COMMISIONERS COURT OF THE COUNTY OF BEXAR:

SECTION 1. Definitions:

- a. "Bexar County" means those areas within the geographical boundaries of Bexar County that are not part of any municipality.
- b. "Emergency" shall include but not be limited to fire, natural disaster, an automobile accident, or obtaining immediate medical care for another person.
- c. "Establishment" shall mean 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.
- d. "Guardian" shall mean any person to whom custody of a Minor has been given by a court order.
- e. "Minor" shall mean any person under seventeen (17) years of age and over nine (9) years of age.
- f. "Parent" shall mean a person who is the natural or adoptive Parent of a person. As used herein, "Parent" shall also include a court appointed Guardian or other person eighteen (18) years of age or older, authorized by a Parent, by a court order, or by the court appointed Guardian to have the care and custody of a person.
- g. "Peace Officer" means an officer as defined in Article 2.12 of the Texas Code of Criminal Procedure.
- h. "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.

SECTION 2: Offenses:

- a. It shall be unlawful for a Minor to purposefully remain, walk, run, stand, drive or ride about, in, or upon any Public Place or the premises of any Establishment in Bexar County between the hours of 10:30 p.m. and 6:00 a.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday

and between the hours of 12:00 a.m.(midnight) and 6:00 a.m. on Friday or Saturday.

- b. It shall be unlawful for a Minor to purposefully remain, walk, run, stand, drive or ride about in or upon any Public Place or Establishment in Bexar County between the hours of 9:00 a.m. and 2:30 p.m. on a Monday, Tuesday, Wednesday, Thursday or Friday that is also a school day.
- c. It shall be unlawful for the Parent(s) or Guardian of a Minor to knowingly allow or permit the Minor to be in violation of the curfew imposed in Sections 2(a) and 2(b).

SECTION 3: Defenses:

It is a defense to prosecution under Section 2 of this Order that:

- a. The Minor is accompanied by his or her Parent or Guardian;
- b. The Minor is accompanied by another adult approved by the Parent(s) or Guardian;
- c. The Minor is on an Emergency errand;
- d. The Minor is attending a school, government sponsored or religious activity or is going to or coming from a school, religious, or government sponsored activity without detour or stop;
- e. The Minor is engaged in lawful employment, or volunteer work at a recognized charity institution, or is going to or coming from such activity without detour or stop;
- f. The Minor is on the sidewalk of the place where such Minor resides or on the sidewalk of a place where the Minor has permission from his/her Parent or Guardian to be or on the sidewalk of a next-door neighbor if the neighbor did not complain to the Peace Officer about the Minor's presence;
- g. The Minor is in a motor vehicle involved in intrastate or interstate transportation or transportation for which passage through the curfew area is the most direct route;
- h. The Minor is exercising his or her First Amendment rights protected by the United States or Texas Constitution, including but not limited to, the free exercise of religion, freedom of speech and freedom of assembly;
- i. The Minor is married or had been married or had disabilities of minority removed in accordance with Chapter 31 of the Texas Family Code;
- j. With respect to Section 2 (b) of this Order, that the offense occurred during the scheduled vacation or on a holiday observed by the school in which the Minor is enrolled; or that the Minor has graduated from high school or received a high school equivalency certificate; or that the Minor has permission to be absent from school or be in a public place from an authorized school official. In the case of a Minor being educated in a home school, a Parent shall be deemed a school official.

SECTION 4: Enforcement Procedure:

Any Peace Officer, upon finding a Minor in violation of Section 2 of this Order, shall determine the name and address of the Minor, and the name and address of his or her Parent(s) or Guardian(s). A warning notice shall be issued to the Minor, who shall be ordered to go home by the most direct means and route.

- a. If the curfew violation is the Minor's first, the Bexar County Sheriff's Office or a Bexar County Constable's Office shall send a notice of curfew violation to the Parent(s) or Guardian(s) of the Minor, advising of the fact that the Minor was found in violation of this Order, and soliciting cooperation in the future.
- b. If the curfew violation is the Minor's second, the Bexar County Sheriff's Office or a Bexar County Constable's Office shall send a second notice of curfew violation to the Parent(s) or Guardian(s) of the Minor, advising of the fact that the Minor was found in violation of this Order, and soliciting cooperation in the future.
- c. If the curfew violation is the Minor's third, the Bexar County Sheriff's Office or a Bexar County's Constable's Office shall issue a ticket to the Minor and shall transfer the case to a Justice of the Peace. In addition, a complaint may be filed against the Parent(s) or Guardian(s) in Justice of the Peace Court for violation of Section 2(c) hereof. Any Peace Officer shall file all necessary legal papers, supply all necessary documentation, and provide necessary testimony as required for pursuing a violation of this Order by either the Minor or by any Parent or Guardian.

SECTION 5: Penalties:

- a. Any Minor violating the provisions of this Order shall be guilty of a Class "C" misdemeanor as defined in the Texas Penal Code and shall be dealt with in accordance with the provisions of Title 3 of the Texas Family Code now in effect, or as may be amended in the future.
- b. A Parent or Guardian of a Minor violating this Order shall be guilty of a Class "C" misdemeanor, as defined in the Texas Penal Code.
- c. In assessing punishment for Parent(s), Guardian or a Minor, the Justices of the Peace are encouraged to consider the community service program.

SECTION 6: Severability:

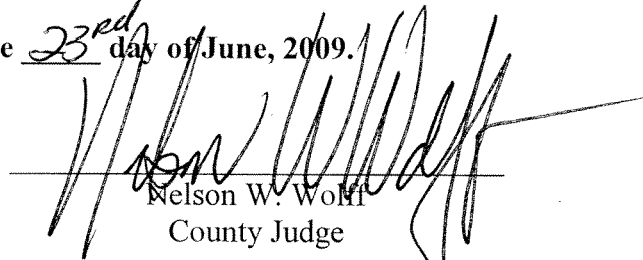
It is hereby declared to be the intention of the Bexar County Commissioners Court that if any of the sections, paragraphs, sentences, clauses or phrases of this Order shall be declared unconstitutional or otherwise illegal by the valid judgment or decree of any court of competent jurisdiction, such event shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Order, since the same would have been enacted

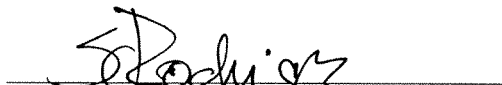
by the Bexar County Commissioners Court without the incorporation in this Order of any such unconstitutional or illegal phrase, clause, sentence, paragraph or section.


SECTION 7: Renewal:

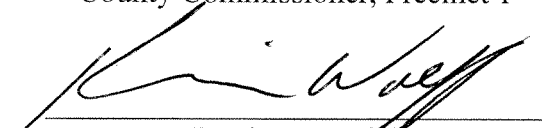
Before the third anniversary of the date of the adoption of this Order, and every third year thereafter, Commissioners Court shall review the Order's effects on the community and on the problems the Order was intended to remedy and conduct a public hearing on the need to continue the Order. Failure to review the Order and conduct a public meeting shall cause the Order to expire pursuant to Texas Local Government Code § 370.002.

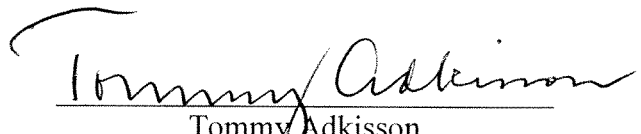
Passed and approved this the 23rd day of June, 2009.


Nelson W. Wolff
County Judge


Sergio "Chico" Rodriguez
County Commissioner, Precinct 1


Paul Elizondo
County Commissioner, Precinct 2


Kevin A. Wolff
County Commissioner, Precinct 3


Tommy Adkisson
County Commissioner, Precinct 4

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ORDER

AUTHORIZING A CURFEW FOR MINORS WITHING THE UNINCORPORATED AREAS WITHIN THE COUNTY PURSUANT TO TEXAS LOCAL GOVERNMENT CODE §351.903; PROVIDING A DEFINITION; AND PROVIDING A PENALTY.

WHEREAS, the Legislature of the State of Texas, pursuant to Texas Local Government Code, §351.903 et. seq. Allows the Commissioners Court of a county to adopt by order a county juvenile curfew;

WHEREAS, Bexar County Commissioners Court recognizes a risk to the public welfare by the increase in juvenile violence, juvenile gang activity and crime by persons under the age of seventeen in Bexar County;

WHEREAS, Bexar County contains unincorporated areas, not subject to any municipal ordinance; and

WHEREAS, the Bexar County Commissioners Court has considered the matter and deems it appropriate to adopt procedures to implement a curfew for juveniles in Bexar County in conformity with the requirements of the Texas Local Government Code §351.903;

WHEREAS, the Bexar County Commissioners Court wishes to impress upon Parents and Guardians the serious nature of their legal duties to their minor children and to the community, and to ensure that they accept responsibility for the control of and accountability for the conduct of their minor children;

WHEREAS, Bexar County has an obligation to provide for the protections 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;

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 to attain the foregoing objectives and to diminish the undesirable impact of such conduct on the citizens of Bexar County;

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- (f) "Parent" shall mean a person who is the natural or adoptive Parent of a person. As used herein, "Parent" shall also include a court appointed Guardian or other person eighteen (18) years of age or older, authorized by the Parent, by a court order, or by the court appointed Guardian to have the care and custody of a person.
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- (b) It shall be unlawful for a Minor to purposefully remain, walk, run, stand, drive or ride about in or upon any public place or Establishment in Bexar County between the hours of 9:00 a.m and 2:30 p.m. on a Monday, Tuesday, Wednesday, Thursday or Friday.

SECTION 3. Defenses

It is a defense to prosecution under Section 2 of this Order that:

- (a) The Minor is accompanied by his or her Parent or Guardian;
- (b) The Minor is accompanied by another adult approved by the Parent(s) or Guardian;
- (c) The Minor is on an Emergency errand;
- (d) The Minor is attending a school, government sponsored or religious activity or is going to or coming from a school, religious, or government sponsored activity without detour or stop;
- (e) The Minor is engaged in lawful employment, or volunteer work at a recognized charity institution, or is going to or coming from such activity without detour or stop;
- (f) The Minor is on the sidewalk of the place where such Minor resides or on the sidewalk of a place where the Minor has permission from his/her Parent or Guardian to be or on the sidewalk of a next-door neighbor if the neighbor did not complain to the Peace Officer about the Minor's presence;
- (g) The Minor is upon an errand directed by his or her Parent or Guardian;
- (h) The Minor is in a motor vehicle involved in intrastate or interstate transportation

or transportation for which passage through the curfew area is the most direct route;

- (i) The Minor is exercising his or her First Amendment rights protected by the United States or Texas Constitution, including but not limited to, the free exercise of religion, freedom of speech and freedom of assembly;
- (j) The Minor is married or had been married or had disabilities of minority removed in accordance with Chapter 31 of the Texas Family Code;
- (k) With respect to Section 2 (b) of this Order, that the offense occurred during the scheduled vacation or on a holiday observed by the school in which the Minor is enrolled; or that the Minor has graduated from high school or received a high school equivalency certificate; or that the Minor has permission to be absent from school or be in a public place from an authorized school official. In the case of a Minor being educated in a home school, a Parent shall be deemed a school official.

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- (a) Any Peace Officer, upon finding a Minor in violation of Section 2 of this Order, shall determine the name and address of the Minor, and the name and address of his or her Parent(s) or Guardian(s). A warning notice shall be issued to the Minor, who shall be ordered to go home by the most direct means and route. A copy of the notice shall be forwarded to the Juvenile Probation Department, which shall send a letter to the Parent(s) or Guardian(s) of the Minor, advising of the fact that the Minor was found in violation of this Order, and soliciting cooperation in the future.
- (b) Provided, that if a Peace Officer shall find a Minor in violation of Section 2, who has once previously been so found, and warned as in (a) above, the officer shall again record the name and address of the Minor and his Parent(s) or Guardian(s), shall issue a second warning notice, and direct the Minor to go home by the most direct means and route. A copy of the second warning shall be forwarded to the Juvenile Probation Department, which at this point, shall schedule a person to person conference with the Parent(s) or Guardian(s) and the Minor concerning this Curfew Order and the County's expectation and requirement for Parental control.
- (c) Any Peace Officer, upon finding a Minor in violation of Section 2, who has twice previously been found in violation and issued warnings as provided for in (a) and (b) above, shall transfer the case to proper authorities for handling under the provisions of Title 3 of the Family Code now in effect, or as may be amended in the future. In addition, a complaint may be filed against the Parent(s) or

Guardian(s) in Justice of the Peace Court for violation of Section 2(c) hereof. Any Peace Officer shall file all necessary legal papers, supply all necessary documentation, and provide necessary testimony as required for pursuing a violation of this Order by either the Minor or by any Parent or Guardian.

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- (c) In assessing punishment for Parent(s), Guardian or a Minor, the Justices of the Peace are encouraged to consider the community service program.

SECTION 6. Severability

It is hereby declared to be the intention of the Bexar County Commissioners Court that if any of the sections, paragraphs, sentences, clauses or phrases of this Order shall be declared unconstitutional or otherwise illegal by the valid judgment or decree of any court of competent jurisdiction, such event shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Order, since the same would have been enacted by the Bexar County Commissioners Court without the incorporation in this Order of any such unconstitutional or illegal phrase, clause, sentence, paragraph or section.

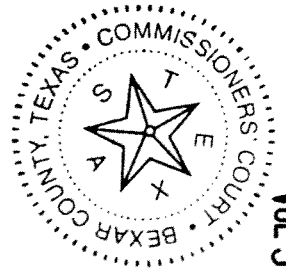
SECTION 7. Effective Period:

This Order shall be effective on and after November 15, 2000.

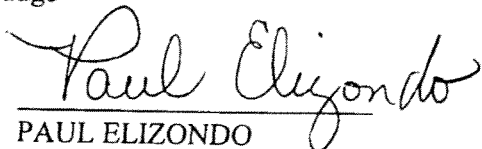
PASSED and APPROVED this 14th day of Nov., 2000.



CYNDI TAYLOR KRIER
County Judge



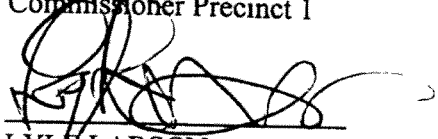
ROBERT TEJADA



PAUL ELIZONDO

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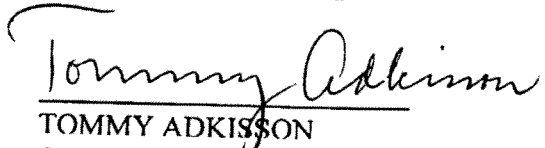
Commissioner Precinct 1



LYLE LARSON

Commissioner Precinct 3

Commissioner Precinct 2



TOMMY ADKISSON

Commissioner Precinct 4

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