

ORDINANCE No. 2762

AN ORDINANCE OF THE CITY OF SULPHUR SPRINGS, AMENDING THE CITY OF SULPHUR SPRINGS CODE OF ORDINANCES BY AMENDING CHAPTER 15 BY ADDING ARTICLE VII, ENTITLED CURFEW HOURS FOR PERSONS UNDER 16 YEARS OF AGE; CREATING A CURFEW FOR UNACCOMPANIED PERSONS UNDER 16 YEARS OF AGE EACH NIGHT OF THE WEEK; ESTABLISHING A PENALTY FOR VIOLATIONS THEREOF; ESTABLISHING DEFENSES TO PROSECUTION OF SAID OFFENSES; PROVIDING AN EFFECTIVE DATE AND A SUNSET DATE AFTER WHICH THE ORDINANCE AUTOMATICALLY EXPIRES; AND REPEALING ALL OTHER ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.

WHEREAS, the City of Sulphur Springs, Texas seeks to foster an environment within the City that is safe and wholesome for persons of all ages; and

WHEREAS, within the City, large gatherings of minors, unaccompanied by parents or supervising adults have caused many citizens to feel unsecure, and creates potentially unsafe conditions for the minors themselves; and

WHEREAS, the City Council has determined that the creation of a reasonable curfew for unaccompanied minors will enhance the safety of all residents and will foster an environment that will increase the enjoyment and attractiveness of the municipal landscape during curfew hours.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF SULPHUR SPRINGS, TEXAS:

SECTION 1. AMENDMENT TO THE TITLE OF CHAPTER 15.

Chapter 15 of the City of Sulphur Springs Code of Ordinances is hereby amended by adding Article VII as follow:

Article VII. Curfew Hours

Sec. 15-301 Definitions

Curfew hours.

- (1) 10:00 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday until 6:00 a.m. of the following day; and
- (2) 11:00 p.m. on any Friday or Saturday until 6:00 a.m. on any Saturday or Sunday.

Emergency. 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.

Establishment. 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.

- (1) A person who, under court order, is the guardian of the person of a minor; or
- (2) A public or private agency with whom a minor has been placed by a court.

Person Subject to Curfew. Any person under sixteen (16) years of age. Gender specific personal pronouns used in this Ordinance are intended to be and should be interpreted as non-gender specific.

Operator. Any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

Parent. A person who is:

- (1) A natural parent, adoptive parent, or stepparent of another person; or
- (2) At least eighteen (18) years of age and authorized by a parent or guardian to have the care and custody of a minor.

Public place. 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.

Remain. To:

- (1) Linger or stay; or
- (2) 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. 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.

Sec. 15-302 Offenses

- (a) A Person Subject to Curfew commits an offense if he 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 Person Subject to Curfew 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 city during curfew hours.

(c) The owner, operator, or any employee of an establishment commits an offense if he knowingly allows a Person Subject to Curfew to remain upon the premises of the establishment during curfew hours.

Sec. 15-303 Defenses

- (a) It is a defense to prosecution under section 15-302 that the Person Subject to Curfew was:
- (1) Accompanied by the Person Subject to Curfew 's parent or guardian;
 - (2) On an errand at the direction of the Person Subject to Curfew'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 Person Subject to Curfew'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;
 - (7) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the city, the Sulphur Springs Independent School District, 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, the Sulphur Springs Independent School District, a civic organization, or another similar entity that takes responsibility for the minor;
 - (8) Attending a function or event sponsored and supervised by an establishment that prohibits ingress and egress to the establishment during curfew hours and the management of the establishment has registered the function or event with the city at least forty-eight (48) hours in advance;
 - (9) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or
 - (10) Married or had been married or had disabilities of minority removed in accordance with chapter 31 of the Texas Family Code.
- (b) It is a defense to prosecution under section 15-302 (c) that the owner, operator, or employee of an establishment promptly notified the police department that a Person Subject to Curfew was present on the premises of the establishment during curfew hours and refused to leave.

Sec. 15-304 Sunset

(a) This ordinance shall be effective first on the first day of May 2020 and thereafter until April 30, 2022, at which time it shall no longer be in effect unless extended or amended by subsequent action by the City Council of the City of Sulphur Springs.

SECTION 2. All ordinances and parts of ordinances inconsistent with or in conflict with the provisions of this Ordinance shall be and the same are hereby expressly repealed.

SECTION 3. If any section, subsection, word, sentence, or phrase of this ordinance is declared to be invalid it shall not effect the validity of this ordinance.

PASSED AND APPROVED on its **FIRST READING** at a regular meeting of the City Council of the City of Sulphur Springs, Texas on this the ____ day of _____, 2020.

PASSED AND APPROVED on its **SECOND READING** at a regular meeting of the City Council of the City of Sulphur Springs, Texas on this the _____ day of _____, 2020.

ATTEST:

CITY OF SULPHUR SPRINGS, TEXAS:

Gale Roberts, City Secretary

John A. Sellers, Mayor

(seal)

I, Gale Roberts, City Secretary of the City of Sulphur Springs, Texas, do hereby certify that the above is a true and correct copy of an Ordinance, and that the same has not been repealed and is in full force and effect.

Gale Roberts, City Secretary

(seal)

A public hearing will be conducted April 7, 2020 for the final reading of Ordinance No. 2765 at 7PM at the Municipal Building located at 201 North Davis Street.