



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		03/22/2010		
Department:		Police		
Department Head		Gregory W. Rushin		
Agenda Coordinator (include phone #): Pam Haines, Ext 2538				
CAPTION				
Conduct a public hearing on the need to continue the City of Plano's Juvenile Curfew Ordinance (Ordinance No. 94-11-11); to receive a city staff report on the effectiveness of the Juvenile Curfew Ordinance; and to determine whether the ordinance should be abolished, continued, or modified.				
FINANCIAL SUMMARY				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(S):				
COMMENTS: This item has no fiscal impact.				
SUMMARY OF ITEM				
Section § 370.002 of the Texas Local Government Code requires that every three years the City Council review its juvenile curfew ordinance (Ordinance No. 94-11-11) to determine its effect on the community and on problems the ordinance was intended to remedy; to conduct a public hearing on the need to continue the ordinance; and to decide whether to abolish, continue or modify the curfew ordinance.				
List of Supporting Documents: Memo, Exhibit "A" & "B"			Other Departments, Boards, Commissions or Agencies	



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MEMORANDUM

DATE: March 9, 2010
TO: Bruce D. Glasscock, Deputy City Manager
FROM:  Gregory W. Rushin, Chief of Police
SUBJECT: Juvenile Curfew Ordinance

Texas Local Government Code Section 370.002, as added by the 74th Legislature, reads:

(a) Before the third anniversary of the date of adoption of a juvenile curfew ordinance by a general-law municipality or a home-rule municipality or an order of a county commissioners court, and every third year thereafter, the governing body of the general-law municipality or home-rule municipality or the commissioners court of the county shall:

- (1) Review the ordinance or order's effects on the community and on problems the ordinance or order was intended to remedy;
- (2) Conduct public hearings on the need to continue the ordinance or order; and
- (3) Abolish, continue, or modify the ordinance or order.

(b) Failure to act in accordance with Subsections (a)(1)-(3) shall cause the ordinance or order to expire.

SUMMARY

1. It is the position of the Police Department and the Municipal Court that the Juvenile Curfew Ordinance is an effective tool in providing for the protection of minors and the general public, and for the reduction of the incidence of juvenile criminal activities. It is recommended that Council continue the Juvenile Curfew Ordinance in its current form. The reasons for this conclusion are explained below.

TERMINOLOGY

The following terms are used in this report; these definitions should be helpful:

1. Minor – used in the City of Plano curfew ordinance; means a person younger than 17.
2. Juvenile – used by the Police Department Planning and Research Unit; means a person younger than 18 and is applicable only to the City of Plano population numbers.
3. Juvenile offense – determined by state law; means any conduct that violates a penal law of this state or a political subdivision; includes status offenses such as runaway and truancy; state law defines a juvenile as a person aged 10, but younger than 17.

OVERVIEW OF PLANO'S ORDINANCE:

Our curfew ordinance restricts minors from being in a public place, or on a business premise, during curfew hours. Curfew hours are from 11:00 pm until 6:00 am, Sunday through Thursday; and 12:01 am through 6:00 am on Friday and Saturday. There are also penalties for parents and business owners who permit minors to engage in the prohibited conduct. The ordinance includes exemptions for minors who are out during curfew hours for certain, specific purposes. Persons younger than age 10 would not be cited – enforcement action in such a case would be directed at a parent or business owner, if appropriate. A copy of the ordinance is attached for your convenience (Exhibit "A").

DATA USED IN ORDINANCE REVIEW:

The Police Department, with the assistance the Municipal Court Clerk's office, the Plano Independent School District (PISD), and the Frisco Independent School District (FISD), reviewed data pertaining to the ordinance and its effects. A short summary of that information follows and is offered to the Council to facilitate this review.

1. PISD records indicate that as of February 2010, the 2009/2010 school year population for students in elementary school was 25,932, an increase of 9 students over the 2006/07 school year elementary student population. The PISD middle school student population for 2009/2010 was 12,461, an increase of 358 students. The Frisco Independent School District (FISD), which has Fowler Middle School in Plano, reports that the 2009/10 middle school student population at Fowler was 973, an increase of 266 students over the 2006/07 school year. PISD high school (9th and 10th Grades) student population for the 2009/10 school year was 15,437, an increase of 170 students above the 2006/07 school year. These student populations represent the vast majority of persons who are affected by the curfew ordinance, i.e. persons younger than 17
2. Data obtained by the Police Department's Planning and Research Unit from the U.S. Census Bureau indicates the number of juveniles in Plano increased approximately .20 of a percent from 67,416 in 2006 to 67,550 in 2008.*

**2008 data is the latest data available from the U.S. Census Bureau's American Community Survey (ACS)*

3. From 1991 to 1994, with no curfew ordinance in effect, there was a rise in crimes involving minor offenders. In fact, from 1991 through 1993, the number of minors involved in violent offenses increased approximately 75 percent. Since the ordinance was adopted in 1994, although the juvenile population has increased, the number of offenses committed by minors during curfew hours has declined, and the trend line continues downward. See attached graph (Exhibit "B").
4. The number of crimes for which minors were arrested or cited for during curfew hours declined by 19.45 percent between 2007 and 2009.
5. Court records indicate that approximately 440 notices were issued to minors in Plano for violation of the Juvenile Curfew ordinance from March 1, 2007 through February 28, 2010 (an average of 147 each year).
6. The Municipal Court Judges see the curfew violations as an opportunity to refer first time offenders into various programs that require parental cooperation to resolve the charges. The violations normally do not result in fines, but instead involve counseling and the performance of a specified number of hours of community service, e.g. the First Offender program. According to Plano Municipal

Court records from March 2007 through February 2010, a vast majority of the Juvenile Curfew Ordinance violators (more than 82 percent) were referred to either Teen Court or the First Offender program.

7. Police Officers use the ordinance as a tool for the protection of minors and the general public, and for the reduction of the incidence of juvenile criminal activities.

CONCLUSION:

The ordinance has proven to be an effective tool in curbing crimes committed by, and against, persons younger than 17. I recommend that the City of Plano continue the current Juvenile Curfew Ordinance with no changes.



Gregory W. Rushin
Chief of Police

GWR/dra

Attachment

EXHIBIT "A"

CITY OF PLANO CODE OF ORDINANCES
ARTICLE III. JUVENILE CURFEW*

***Editor's note:** Ord. No. 94-11-11, § I, adopted Nov. 14, 1994, repealed Ord. No. 94-10-36, adopted October 24, 1994, in effect repealing Ch. 14, Art. III, §§ 14-46--14-50, which pertained to juvenile curfew and derived from Ordinance No. 94-10-36. Section II of Ord. No. 94-11-11 adopted new provisions as Art. III of this chapter to read as herein set out.

Cross references: Youth advisory commission, § 2-231 et seq.

Sec. 14-46. Definitions.

In this article:

Civic organization means a nonprofit organization that sponsors or conducts social or recreational activities for youths.

Curfew hours means 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday, until 6:00 a.m. of the following day; and 12:01a.m. until 6:00 a.m. on any Saturday or Sunday.

Emergency means an unforeseen circumstance or the resulting state that calls for immediate action. "Emergency" 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 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 under seventeen (17) years of age.

Operator means 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 means a person who is a natural parent, adoptive parent, or stepparent of another person; or 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 means any place to which the public or 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 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 protracted loss or impairment of the function of any bodily member or organ.

(Ord. No. 94-11-11. § II, 11-14-94)

EXHIBIT "A"

Sec. 14-47. 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 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, operator, or any employee 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. 94-11-11. § II, 11-14-94)

Sec. 14-48. Defenses.

- (a) It is a defense to prosecution under section 14-47 that 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 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, 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, a civic organization, or another similar entity that takes responsibility for the minor.
 - (8) 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;
 - (9) Married or had been married or had disabilities of minority removed in accordance with Chapter 31 of the Texas Family Code, as amended.
- (b) It is a defense to prosecution under section 14-47(c) 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.

(Ord. No. 94-11-11. § II, 11-14-94)

EXHIBIT "A"

Sec. 14-49 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 section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in section 14-48 is present.

(Ord. No. 94-11-11. § II, 11-14-94)

Sec. 14-50. Penalty.

- (a) Any person violating this article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 1-4.
- (b) When required by section 51.08 of the Texas Family Code, as amended, the municipal court shall waive original jurisdiction over a minor who violates section 14-47(a) and shall refer the minor to juvenile court.

(Ord. No. 94-11-11. § II, 11-14-94)

Secs. 14-51-14-65. Reserved.

EXHIBIT "B"

JUVENILE CURFEW IMPACT STUDY 2010
Offenses Committed By Minors vs. Juvenile Population

