



# City of Saginaw

**Meeting Date:** 04/05/2016

**Staff Contact:** Roger Macon  
Police Chief

**Agenda Item:** 7  
(CC-0416-07)

**E-mail:** [rmacon@saginawtx.org](mailto:rmacon@saginawtx.org)

**Phone:** 817-232-0311

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**SUBJECT: Public Hearing** – Consideration and Action regarding Ordinance No. 2016-03, Continuation of Curfew for Minors

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**BACKGROUND/DISCUSSION:**

The Local Government code requires that public hearings be held every third year following the adoption of a juvenile curfew ordinance. The hearing tonight is the second of two hearings for public input regarding the continuation of the curfew for minors. The first public hearing was held on March 1, 2016. There was no public input. Following the public hearing, the Council will consider approval of the ordinance to continue the curfew for minors.

**FINANCIAL IMPACT:**

N/A

**RECOMMENDATION:**

N/A

Attachments

Memo from Roger Macon  
City Code, Chapter 54, Article III. Curfew for Minors  
Minutes of the March 1, 2016 City Council Meeting  
Proposed Ordinance



# MEMORANDUM

## SAGINAW POLICE DEPARTMENT

505 W. McLeroy Blvd. Saginaw, TX 76179  
(817) 232-0311

DATE: 02/19/16	TO: Nan Stanford City Manager	FROM: Roger Macon Chief of Police	SUBJECT: Curfew Ordinance
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Section 54-61 *et seq* of the Saginaw City Code establishes a “curfew for minors” ordinance. This ordinance was originally passed on September 20, 1994, and was renewed most recently in March 2013. Section 370.002 of the Local Government Code requires that municipalities review such ordinances every three years. When doing so, the city must determine the effectiveness of the ordinance, conduct public hearings on the need to continue the ordinance, and abolish, continue, or modify the ordinance as determined by the council. I still feel that nighttime juvenile curfew ordinances are appropriate, and that there is a legitimate need to renew this ordinance.

The City of Saginaw originally passed a nighttime curfew to give police a tool in controlling late night juvenile crime. Officers were given the ability to detain minors for a brief period of time to establish whether they had parental permission to be out late at night. The premise was that these minors were either: a) likely to become victims of crime, or b) likely to be committing crimes during late night hours.

In recent weeks I have spoken with Judge Irby regarding this ordinance. She continues to be supportive of the curfew, and has dealt with juveniles cited. Since March 2013, fewer than 85 curfew citations have been issued (down from 125 in the previous three year period), with most offenders being convicted or receiving deferred adjudication.

It is my recommendation that the city renew its curfew ordinance by holding a public hearing at the council’s March 1<sup>st</sup> meeting.

Thanks!

### ARTICLE III. CURFEW FOR MINORS\*

#### Sec. 54-61. Adoption.

That this article establishing curfew regulations for minors in public places in the city, which shall be valid each day of the calendar year, is hereby adopted.

(Ord. No. 2001-06, § I, 3-6-01; Ord. No. 2007-04, § 1, 2-6-07)

#### Sec. 54-62. Definitions.

That the following words shall have the meaning herein set forth when used in this article.

*Curfew hours* means:

- (1) 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday and Thursday until 6:00 a.m. of the following day; and
- (2) 12:01 a.m. until 6:00 a.m. on any Saturday and Sunday.

\***Editor's note**—Ord. No. 2001-06, §§ I—IV, adopted March 6, 2001, repealed the former Art. III, §§ 54-61—54-65, and enacted a new Art. III as set out herein. The former Art. III pertained to similar subject matter. See the Code Comparative Table.

Ord. No. 2013-06, § 1, adopted March 5, 2013, states the following: "Ordinance No. 2001-06, as continued by official vote of the City Council of the City of Saginaw, Texas on March 2, 2010, is hereby continued in accordance with the requirements of Section 370.002(a) of the Texas Local Government Code."

**State law reference**—Juvenile curfew, V.T.C.A., Local Government Code § 341.904.

*Emergency* means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The word includes, but is not limited to a fire, 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 profit to which the public is invited, including, but not limited to any place of amusement or entertainment.

*Guardian* means:

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

*Minor* means any person under 17 years of age.

*Operator* means any individual, firm, association, partnership or corporation that is operating, managing or conducting any establishment. The word includes the members or partners of a partnership or association, and the officers of a corporation, and any adult employee in charge of its operation.

*Parent* means a person who is:

- (1) A natural parent, adoptive parent or step-parent of a minor; and
- (2) Anyone else at least 18 years of age who is 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 a substantial group of the public has access. The words include, but are not limited to streets, alleys, highways and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.

*Remain* means:

- (1) To linger or stay on or in premises; and
- (2) To 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. 2001-06, § II, 3-6-01)

**Sec. 54-63. 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, or other adult person having care and custody 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 or operator, or any other adult person or employee in charge 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. 2001-06, § III, 3-6-01)

**Sec. 54-64. Defenses.**

(a) It is a defense to prosecution under section 54-63 of this article if 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, provided 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 such activity, without detour or stop;
- (8) Exercising rights protected by the Fifth Amendment of the United States Constitution, such as free exercise of religion, freedom of speech, and the right of peaceable assembly; or
- (9) Married or had been married, or had otherwise had the disabilities of minority removed in accordance with V.T.C.A., Family Code, ch. 31.

(b) It is a defense to prosecution under subsection 54-63(c) of this article if the owner, operator or other adult person or employee in charge 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. 2001-06, § IV, 3-6-01)

**Sec. 54-65. 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 ordinance unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in section 54-64 of this article is present.

(Ord. No. 2001-06, § V, 3-6-01)

**Sec. 54-66. Penalties.**

(a) A person who violates a provision of this article 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 \$500.00.

(b) When required by V.T.C.A., Family Code, § 51.08, as amended, the municipal court shall waive jurisdiction over a minor charged with violation of subsection 54-63(a) of this article, and shall refer the minor to a juvenile court. (Ord. No. 2001-06, § VI, 3-6-01)

- (7) CC-0316-04  
**Public Hearing** – Continuation of Curfew for Minors

Mayor Brinkley declared the public hearing for this item opened at 6:13 p.m. Police Chief Macon explained that the Local Government Code requires that municipalities review their curfew ordinance every three years, and hold public hearings for input on the continuation of the ordinance. He explained that this is the first of two required public hearings. He stated that the curfew ordinance is a valuable tool for officers in dealing with juveniles. There was a brief discussion regarding the current ordinance. He added that he spoke with Municipal Court Judge Irby and she is supportive of the continuation of the curfew ordinance.

There being no public input, Mayor Brinkley declared the public hearing closed at 6:17 p.m.

**ORDINANCE NO. 2016-03**

**AN ORDINANCE OF THE CITY OF SAGINAW, TEXAS, AMENDING ARTICLE III OF CHAPTER 54 OF THE SAGINAW CITY CODE; CONTINUING CURFEW REGULATIONS; PROVIDING A CUMULATIVE CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Saginaw, Texas is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

**WHEREAS**, the City Council previously adopted Ordinance No. 2001-06 imposing a mandatory curfew for minors; and

**WHEREAS**, after holding public hearings regarding the need to continue the Ordinance, the same was continued on March 5, 2013; and

**WHEREAS**, in accordance with Section 370.002(a) of the Texas Local Government Code, on March 1, 2016 and on April 5, 2016, the City Council held public hearings regarding the need to further continue Ordinance No. 2001-06; and

**WHEREAS**, the City Council finds that persons under the age of 17 who are allowed to stay out late without adult supervision are particularly susceptible due to their lack of maturity and experience to become involved in unlawful and gang-related activities and to be victims of older perpetrators of crime; and

**WHEREAS**, the City Council further finds that a curfew for those under the age of 17 is in the interest of the public health, safety and general welfare, and will help to attain the foregoing objectives and diminish the undesirable impact of such conduct on the citizens of the City of Saginaw; and

**WHEREAS**, after holding public hearings regarding the need for curfew regulations, the City Council desires to further continue the curfew regulations in order to address the community concerns set forth above.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAGINAW, TEXAS:**

**SECTION 1.  
ORDINANCE CONTINUED**

That Ordinance No. 2001-06, as continued by official vote of the City Council of the City of Saginaw, Texas on March 5, 2013, is hereby continued in accordance with the requirements of Section 370.002(a) of the Texas Local Government Code.

**SECTION 2.  
CUMULATIVE CLAUSE**

This ordinance shall be cumulative of all provisions of ordinances of the City of Saginaw, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

**SECTION 3.  
SEVERABILITY**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections 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, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City

Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

**SECTION 4.  
SAVINGS CLAUSE**

All rights and remedies of the City of Saginaw are expressly saved as to any and all violations of the provisions of Ordinance 2001-06 or any ordinances governing curfews for minors which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

**SECTION 5.  
PENALTY**

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 Two Thousand Dollars (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

**SECTION 6.  
PUBLICATION IN OFFICIAL NEWSPAPER**

The City Secretary of the City of Saginaw is hereby directed to publish at least twice in the official newspaper of the City of Saginaw, the caption and the penalty clause of this ordinance in accordance with Section 52.013(b) of the Local Government Code.

**SECTION 7.  
EFFECTIVE DATE**

This ordinance shall be in full force and effect from and after its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED ON THIS 5<sup>th</sup> DAY OF APRIL, 2016.

APPROVED:

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Gary Brinkley, Mayor

ATTEST:

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Janice England, City Secretary

APPROVED AS TO FORM AND LEGALITY:

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Bryn Meredith, City Attorney