

**Trini Lopez**  
Mayor

**Sergio Cox**  
At Large

**Josie Trillo**  
District 1



**Mary E. Perez**  
District 2 / Mayor Pro Tem

**Victor Perez**  
District 3

**Al Gutierrez**  
District 4

**Carol Garcia**  
City Manager

**ORDINANCE No. 136**  
**AMENDMENT No. 3**

***AN ORDINANCE DEFINING THE OFFENSE OF A CURFEW VIOLATION FOR MINORS UNDER THE AGE OF 17 AND ESTABLISHING EXCEPTIONS AND DEFENSES THERETO; CREATING THE OFFENSE OF ENCOURAGING OR ASSISTING IN THE COMMISSION OF A CURFEW OFFENSE; PROVIDING FOR THE ENFORCEMENT PROCEDURES; PROVIDING FOR THE SEVERABILITY OF ALL PROVISIONS AND FOR A REVIEW OF ORDINANCE; PENALTY***

***WHEREAS***, the Socorro City Council has found and determined that in the City of Socorro, Texas, there has been:

- a). an increase in juvenile gangs and juvenile gang activity; and
- b). an increase in violent crime, and an increase in crime by persons under the age of seventeen;

***WHEREAS***, persons under the age of seventeen are particularly susceptible, by the lack of maturity and experience, to participation in unlawful or gang-related activities and to be victimized by crime perpetrators, particularly during nocturnal hours; and

***WHEREAS***, a need has been shown for the City of Socorro to provide for the protection of minors from each other and from other persons in the City of Socorro during certain nighttime hours, for aiding parents carrying out their responsibility to exercise reasonable supervision of their children, for the protection of the general public, and for the reduction of the incidence of juvenile criminal activities; and

***WHEREAS***, the victimization of minors and the involvement of minors in crime and violent crime have reached an unacceptable and alarming level compelling the City Council to adopt this ordinance for public good, safety, and welfare.

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

**SECTION I.**  
**Curfew - Definitions**

In this section:

- (A). "Chief of Police" means Chief of Police of the City of Socorro, or a designated Representative.
- (B). "Curfew Hours" means the period beginning at 11:00 p.m. and ending at 6:00 a.m. of the following day. The time shall be determined by the prevailing standard of time, whether Mountain Standard Time or Mountain Daylight Savings Time, generally observed at that hour by the public in Socorro. The time then observed in the Socorro Police Department Dispatch shall be prima facie evidence of true and correct time.
- (C). "Direct Route" means the shortest path or travel through a public place to reach a final destination without any detour or stop along the way.
- (D). "Emergency" means, an unforeseen combination of circumstances or the resulting states 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.
- (E). "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.
- (F). "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.
- (G). "Minor" means a person who is under the age of 17 years of age.
- (H). "Parent" means a person who is:
  - (1). A natural or adoptive parent or stepparent of the minor;
  - (2). A court appointed guardian of the minor or the public or private agency with whom the minor has been placed by a court; or
  - (3). A custodian, at least eighteen years of age, and with whom the minor resides.
  - (4). A custodian, at least eighteen years of age and authorized in writing by the parent or guardian to have the care and custody of the minor.

- (I). “Public Place” means any street, alley, highway, sidewalk, driveway or yard, playground, park, plaza, building, shopping center, common areas of schools, hospitals, apartment houses, office buildings, transport facilities, shops or other place used by or open to the public. The term “street” includes the legal right-of-way, including but not limited to the traffic lanes, curb, sidewalk, whether paved or unpaved, parkway and any grass plots or other grounds found within the legal right-of-way of a street.
- (J). “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.
- (K). “Reprimand” means to:
  - (1). Linger, stop, or stay for any length of time, or to travel or move upon a street; or
  - (2). Fail to leave the premises when requested to do so by a Police Officer or the owner, operator, or other person in control of the premises.

***SECTION II.***  
**Curfew - 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 Limits during the curfew hours.
- (B). A parent of a minor commits an offense if he knowingly permits, or by insufficient controls, allows the minor to remain in any public place within the City Limits during curfew hours.
- (C). A parent of a minor commits an offense if he knowingly fails to respond within two hours of receipt of any notification by a law enforcement officer to take custody of a minor taken into custody for violation of this section, unless reasonably hindered from doing so.
- (D). 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 an establishment during curfew hours.
- (E). A person commits an offense if he induces, encourages, or assists a minor to appear in a public place in violation of the Ordinance.

**SECTION III.**  
**Curfew – Defenses**

- (A). It is a defense to prosecution under this Ordinance that the minor was:
- (1). Accompanied by the minor's parent;
  - (2). On an errand at the direction of the minor's parent, was using a direct route, and was carrying a written communication signed by the parent stating a brief description of the errand and that the named minor had consent to perform such errand;
  - (3). In a motor vehicle engaged in interstate travel, beginning, ending, or passing through Socorro;
  - (4). Engaged in an employment activity, including, but not limited to newspaper delivery, and was using a direct route;
  - (5). Involved in an emergency;
  - (6). On the driveway or yard of the minor's residence or on the sidewalk abutting the minor's residence;
  - (7). On the sidewalk abutting the residence of the next door neighbor if the neighbor did not complain to the Police Department about the minor's presence;
  - (8). Attending an official school, civil, or religious, or recreational activity supervised by adults and sponsored by the City, a civic organization, school district, or another similar activity that takes responsibility for the minor, or going to or returning home from, taking a direct route, an official school, civil, religious, or other recreational activity supervised by adults and sponsored by the City, a civic organization, school district, or another similar entity that takes responsibility for the minor;
  - (9). Attending or traveling directly to or from an activity involving the exercise of First Amendment rights protected by the United States Constitution, including the free exercise of religion, freedom of speech and the right of assembly;
  - (10). Married or had been married or had disabilities of minority removed in accordance with Chapter 31 of the Texas Family Code;

- (11). Accompanied by a person of at least twenty-one (21) years of age, and the minor was carrying a written communication signed by the parent stating the name of the person who is at least twenty-one (21) years of age and accompanying the minor and that the named minor has consent to be in the company of the named person.
- (B). It is a defense to prosecution that the owner, operator, or employee of an establishment promptly notify the Police Department that a minor was present on the premises of the establishment during curfew hours and refused to leave.
- (C). Each of the foregoing exceptions/defenses, and their several limitations, are severable, as hereinafter provided but reemphasized here.

***SECTION IV.***  
**Curfew Enforcement**

- (A). A Police Officer, upon finding a minor in violation of Section II, shall take the necessary steps to determine whether the minor is remaining in a public place in the City Limits in violation of Section II, and whether any exceptions/defenses under Section III, may apply to the actions or activities of the minor. If the officer has probable cause to believe that the minor is in violation of Section II, the officer may take appropriate enforcement action against the minor in accordance with the applicable provisions of the Family Code, the Texas Penal Code, and this section.
- (B). If a minor is taken into custody under this section, the officer shall, without unnecessary delay:
  - (1). Release the minor to the minor's parent, guardian, or custodian; or
  - (2). Issue a citation and require the minor to answer the charge before a municipal court.

***SECTION V.***  
**Curfew – Violation – Penalty**

- (A). Any minor who violates Section II, of this ordinance shall be guilty of a Class C misdemeanor as defined in the Texas Penal Code 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 \$200.00 dollars.
- (B). A parent of a minor who violates any provision of Section II shall be guilty of a misdemeanor and shall be punished by a fine for the first offense by a fine not to exceed \$50.00 dollars and thereafter on any subsequent offense punished by a fine not to exceed \$200.00 dollars.

- (C). 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 III, and shall refer the minor to juvenile court.
- (D). In assessing punishment for either a parent or a child, the Municipal Court Judge is encouraged to consider community service as punishment.

***SECTION VI.***  
**Curfew – Construction**

- (A). Severability is intended throughout and within the provision of the Curfew Ordinance. If any provision, including inter alia any exception, defense, subsection, part, phrase, term or word, or the application thereof to any person or circumstance is held invalid or unconstitutional by valid judgment or decree of a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance codified in this ordinance, and such remaining portions shall remain in full force and effect.
- (B). It is intended that the Curfew Ordinance be held inapplicable in any cases, if any, where its application would be unconstitutional. A constitutional construction is intended and shall be given. The City Council does not intend to violate the Constitution of the State of Texas or the Constitution of the United States of America, and does not intend an interpretation of this Ordinance or an application thereof which is absurd, impossible or unreasonable.

***SECTION VII.***  
**Curfew – Review of Ordinance**

- (A). Before the third anniversary of the date of the adoption of this Ordinance, the City Manager, shall review this Ordinance, report to the City Council, and make recommendations concerning the effectiveness of and need for this section. The City Manager's report shall specifically include the following information:
  - (1). The practicality of enforcing this section and any problems with enforcement identified by the Police Department;
  - (2). The impact of this section on crime statistics;
  - (3). The number of persons successfully prosecuted for a violation of this section; and
  - (4). The City's net cost of enforcing this section.

- (B). Before the third anniversary of the date of the adoption of this section, and every third year thereafter, the City Council shall:
- (1). Review the section's effects on the community and on the problems the section was intended to remedy;
  - (2). Conduct Public Hearings on the need to continue the section; and
  - (3). Abolish, continue, or modify the section.
- (C). Failure to act in accordance with Subsections (B) (1)-(3) shall cause the Ordinance to expire.

**SECTION VIII.**

This ordinance shall be effective on and after 12:01 a.m., January 1, 2008.

**SECTION IX.**

This Ordinance amends Ordinance No. 136 and 136 amendment No. 2, and all provisions contained in Ordinance No. 136 and 136 Amendment No. 2 that are inconsistent or conflict with this amendment are hereby rescinded and are superseded by the provisions contained herein.

**SECTION X.**

That this Ordinance was duly enacted with all requisites and formalities incident thereto the enactment of ordinances, and such is evidenced by the below signatures.

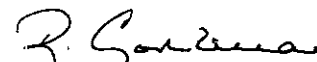
**SIGNED AND APPROVED THIS 17<sup>TH</sup> day of April, 2008.**

  
\_\_\_\_\_  
**Trini Lopez, Mayor**

**ATTEST:**

  
\_\_\_\_\_  
**Georgina Rodriguez, City Clerk**

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
**Richard Contreras, City Attorney**

**First Reading: March 20, 2008**  
**Second Reading: April 17, 2008**