

# **OFFENSES**

## **CHAPTER 14**

### **Article 1. General**

#### **Sec. 14-1. Firearms, discharge prohibited.**

It shall be unlawful for any person to discharge any gun, pistol or firearm of any kind within the city limits. This section shall not apply to licensed shooting galleries or to police officers acting in the line of duty.

#### **Sec. 14-2. Hindering officers discharging official duties.**

(A) It shall be unlawful for any person to hinder, obstruct, resist or otherwise interfere with any city officer or member of the police force of the City of Big Spring in the discharge of his official duties, nor shall any person attempt to prevent any such member of the police force from lawfully arresting any person, nor shall any person attempt to rescue from such member of said police force any person in his custody.

(B) Any person, violating any of the provisions of this section, shall be deemed guilty of a misdemeanor and upon conviction thereof, any such violation shall be punishable by a fine of not more than two hundred dollars (\$200.00). (Ord. of 3-25-69, §§1,2)

#### **Sec. 14-3. Noise.**

(A) It shall be unlawful for any person, firm, corporation or association to permit or allow the transmission or emission or to emit or transmit any loud and raucous noise upon or from any public street, highway or public place within the city.

(B) For the purpose of this section, the term "loud and raucous noise" shall be defined to mean any noise or any unreasonable loud, disturbing, unnecessary noise which causes material distress, discomfort or injury to persons of ordinary sensibilities in the immediate vicinity, and any noise of such character, intensity and continued duration which substantially interferes with the comfortable enjoyment of persons of ordinary sensibilities.

(C) The following types of noise, among others, are declared to be per se loud and raucous noise and in violation of this section and such an enumeration shall not be deemed to be exclusive:

(1) Any noise made by the motor of any automobile, truck, tractor, motorcycle or other motor vehicle of any kind not reasonably required in the operation thereof under the circumstances then existing.

(2) The sound or discharge of any gun or other explosive except by or with the permission of the governing body having control of the highway, street or public place.

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(3) The human voice or any record or recording thereof when amplified by any device, whether electrical or mechanical or otherwise, to such an extent as to cause it to carry on to private property or to be heard by others using the public highways, public streets and public places within the city where it is amplified in such a manner as to annoy or disturb the quiet, comfort, repose or enjoyment of persons of ordinary sensibilities.

(D) Any person, firm, association or corporation violating any of the provisions of this section or causing the same to be violated shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not to exceed two hundred dollars (\$200.00) for such offense. Each day's violation shall constitute a separate offense. (Ord. of 3-23-71, §§1,4)

### **Sec. 14-4. Sleeping in public places.**

It shall person to be found asleep upon the sidewalks, streets, alleys or public thoroughfares of the city. (Ord. of 9-29-29, §18)

### **Sec. 14-5. Urinating in a public place.**

No person shall urinate in or on a public place, street, alley, sidewalk, yard, park, building, structure, plaza, public or utility right-of-way or any other public place.

Any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined an amount not less than five dollars (\$5.00) nor more than two hundred dollars (\$200.00). (Ord. of 9-27-66, §§1,3)

### **Sec. 14-6. Violation of entrance fee requirements.**

Any person who shall enter upon any properties belonging to the City of Big Spring for which entry thereon requires that an entrance fee or use fee be paid to the city whether by purchase of a ticket or not, then such person so entering upon the property of the city without first paying such fee or purchasing said ticket shall be deemed guilty of a misdemeanor and upon the conviction thereof shall be fined in an amount not less than five dollars (\$5.00) nor more than one hundred dollars (\$100.00).

The presence of any person upon or in city property where an entrance fee or a use fee is required by the city and said person has not paid said fee, then such presence of said person on or in said property shall constitute a prima facie case that said person is guilty of the violation of this section. (Ord. of 11-12-63, §§1, 2)

### **Sec. 14-7. BB-guns, air guns, slingshots, etc.**

(A) Definitions:

(1) Pellet gun, air gun, air pistol or BB-gun. A gun that discharges shots, pellets, BB's, or any other solid objects by means of compressed air, compressed gas, springs, or other similar means.

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(2) Slingshot. A forked stick or forked piece of wood, plastic or other hard material, with a rubber band or other type of elastic material capable of shooting, discharging, or catapulting hard objects.

(B) Shooting guns. It shall be unlawful for any person to shoot or in any manner whatsoever discharge any kind, brand, or type of pellet gun, air gun, air pistol, or BB-gun within the corporate limits of the city.

(C) Shooting slingshots. It shall be unlawful for any person to shoot a slingshot, or catapult or discharge therefrom any object, within the corporate limits of the city. (Ord. of 12-11-73)

**Sec. 14-8 to 14-19. Reserved.**

### **Article 2. Abandoned, Lost or Stolen Property**

**Sec. 14-20. Impoundment by chief of police.**

The chief of police shall take into his custody all abandoned, lost, stolen or recovered property of every kind. All such property taken into custody by the chief of police shall, by him, be registered in a record book provided for that purpose and shall be tagged. The chief of police shall enter upon his register and upon the tag the following information:

- (A) Description of the property
- (B) Time and place seized, and by whom
- (C) Name of owner, if known
- (D) Storage and hauling charges accrued against the property

The charges made against such property shall be the actual expense incurred by the city in hauling and storing the same, except there shall be a minimum charge of one dollar (\$1.00) per day for storage of automobiles and other motor vehicles. (Ord. No. 670307, 3-14-67, §§1, 2)

**Sec. 14-21. Abandoned or wrecked motor vehicles.**

The provisions in section 14-20, as to registration and tagging, shall apply to all motor vehicles impounded by the police department of the city under the traffic regulations of the city, and the ordinances pertaining to the impoundment of dilapidated, wrecked, damaged, disabled and inoperative automobiles, trucks and other motor vehicles and part(s) thereof, and the procedures for the sale of abandoned, lost, stolen and recovered property contained in this article shall also apply to such impounded vehicles or part(s) thereof. (Ord. No. 670307, 3-14-67, §3)

**Sec. 14-22. Unclaimed property sold at auction.**

All abandoned, lost, stolen or recovered property which shall remain unclaimed with the chief of police for a period of sixty (60) days after the first charges accrued without being claimed, or reclaimed, by the owners, whether known or not, may be sold at public auction. (Ord. No. 670307, 3-14-67, §4)

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### **Sec. 14-23. Notice of sale; procedure.**

Notice of sale of abandoned, lost, stolen or recovered property shall be given in the following manner:

The chief of police shall give the owner of such property, if his residence is known, ten (10) days notice to come forward and pay the charges due, and after ten (10) days after such notice has been given to him to pay such charges, if said charges are not paid the chief of police shall refer such property to the assistant city manager, the purchasing agent, or his duly authorized representative for sale.

The purchasing agent shall give thirty (30) days notice of the time and place of the sale. He shall also post, or have posted, at the courthouse door and at or near any regular entrance to city hall and the city police station, a list of property to be offered for sale. He shall also send a copy of such list, by certified mail, to the last known address of the owner, if he is known to him. The public auction provided for herein shall be conducted at the place designated in the notice and all the articles sold for cash to the highest bidder for each piece of property, separately or assembled in lots, whichever in the discretion of the assistant city manager, purchasing agent, or his duly authorized representative, shall be the best price obtainable for such property, except motor vehicles, which shall be sold separately. (Ord. No. 670307, 3-14-67, §5)

### **Sec. 14-24. Conduct of auction; records.**

The assistant city manager, purchasing agent, or his duly authorized representative shall conduct the auction sale referred to in this article. He shall keep an accurate statement of each article sold and the price bid and payment therefor. He shall make a report in writing to the finance department of the place and manner of conducting the auction sale, the article(s) sold and the price paid therefor, and together with such report the funds received in account of the auction shall be delivered to the finance director who shall give a receipt therefor. All funds received in the account of any auction held under these provisions shall go to the General Fund. (Ord. No. 670307, 3-14-67, §§6,7)

### **Sec. 14-25. Purchaser entitled to bill of sale.**

The assistant city manager, purchasing agent, or his duly authorized representative, who is conducting the sale shall give to the purchaser at the sale appropriate bills of sale, if requested by such purchaser. (Ord. No. 670307, 3-14-67, §8)

### **Sec. 14-26. Disposal of unsold property.**

Any property which has been listed and offered for sale and for which no price or sum has been offered, if determined by the assistant city manager purchasing agent to be worthless and without sale value, shall be disposed of in such manner as the city council may direct. (Ord. No. 670307, 3-14-67, §9)

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### Sec. 14-27. Indemnity insurance.

If, in the opinion of the chief of police, the assistant city manager or the purchasing agent, a policy of insurance is needed to protect and indemnify the city and its agents and employees against claims arising from loss or damage to any property in the custody of the chief of police, assistant city manager or purchasing agent, under the provisions of this article or ordinances relating to the

impoundment of motor vehicles, the assistant city manager or purchasing agent shall procure such policy of insurance from a reputable insurance company. (Ord. No. 670307, 3-14-67, §10)

### Sec. 14-28 Reserved.

## Article 3. Minors

### Sec. 14-29 Curfew Ordinance Extended

(A)

#### Definitions

(1) CURFEW HOURS means:

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

(2) EMERGENCY means:

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.

(3) 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.

(4) GUARDIAN means:

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

(5) MINOR means:

Any person under 17 years of age.

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(6) 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.

(7) PARENT means a person who is:

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

(8) 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.

(9) REMAIN means to:

- (a) Linger or stay; or
- (b) Fail to leave premises when requested to do so by a police officer of the owner, operator, or other person in control of the premises.

(10) SERIOUS BODILY INJURY means:

Bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted losses of impairment of the function of any bodily member or organ.

(B) Offenses

- (1) A minor commits an offense if he remains in any public place or on the premises of any establishment within the city during curfew hours.
- (2) A parent or guardian of a minor 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.
- (3) The owner, operator, or any employee of an establishment commits an offense if he knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

(C) Defenses

- (1) It is a defense to prosecution under Subsection (B) that the minor was:

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- (a) Accompanied by the minor's parent or guardian;
- (b) On an errand at the direction of the minor's parent or guardian, without any detour or stop;
- (c) In a motor vehicle involved in interstate travel;
- (d) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop.
- (e) Involved in an emergency;
  
- (f) 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;
- (g) 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;
- (h) 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
- (i) Married or had been married or had disabilities of minority removed accordance with Chapter 31 of the Texas Family code.

- (2) It is a defense to prosecution under Subsection (B)(3) 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.

### (D) Enforcement

Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being 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 Subsection (C) is present.

### (E) Penalties

- (1) A person who violates a provision of this chapter 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.

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- (2) 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 Subsection (B)(1) of this section and shall refer the minor to teen court. (Ord. of 7-26-94, Ord. of 5-22-01)

### **Article 4. Sex Offenders**

#### **Sec. 14-30 Regulation of Sex Offender Residency**

Definitions. For the purposes of the Section, the following terms, words, and the derivations thereof shall have the meanings given herein.

- (1) Minor. A minor is a person younger than seventeen (17) years of age.
- (2) Permanent Residence. A place where a person abides, lodges, or resides for fourteen (14) or more consecutive days.
- (3) Temporary Residence. A place where a person abides, lodges, or resides for a period of 14 or more days in the aggregate during any calendar year and which is not the person's permanent address, or a place where a person routinely abides, resides, or lodges for a period of 4 or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.

#### **Sec. 14-31 Offenses**

For each person required to register on the Texas Department of Public Safety's Sex Offender Database (the "Database") because of a violation involving a victim who was less than sixteen (16) years of age, it is unlawful for that person to establish a permanent residence or temporary residence within 1,000 feet of any premise where children commonly gather, which, for purposes of this ordinance, shall be a public park; private or public school; or day care center, as such terms are defined in the Comprehensive Zoning Ordinance of the City of Big Spring. For the purposes of this Ordinance, planted street medians are not public parks.

#### **Sec. 14-32 Evidentiary Matters; Measurements**

- (a) It shall be prima facie evidence that this Article applies to such a person if that person's record appears on the Database and the Database indicates that the victim was less than sixteen (16) years of age.



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- (b) For the purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent or temporary residence to the nearest property line of the premises where children commonly gather, as described herein above, or, in the case of multiple residences on one property, measuring from the nearest property line of the premises to the nearest property line of the premises where children commonly gather, as described herein.
  
- (c) A map depicting the prohibited areas shall be maintained by the City of Big Spring. The City shall review the map at least annually for changes. Said map will be available to the public at the Big Spring Police Department.

### Sec. 14-32     **Culpable mental state not required**

Neither allegation nor evidence of a culpable mental state is required for the proof of an offense defined by this Chapter.

### Sec. 14-33     **Affirmative Defenses**

It is an affirmative defenses to prosecution that any of the following conditions apply:

- (a) The person required to register on the Database established the permanent or temporary residence and has complied with all of the sex offender registration laws of the State of Texas, prior to the date of the adoption of this ordinance.
- (b) The person required to register on the Database was a minor when he or she committed the offense requiring such registration and was not convicted as an adult.
- (c) The person required to register on the Database is a minor.
- (d) The premises where children commonly gather, as specified herein, within 1,000 feet of the permanent or temporary residence of the person required to register on the Database was opened after the person established the permanent or temporary residence and complied with all sex offender registration laws of the State of Texas.
- (e) The information of the Database is incorrect, and, if corrected, this Section would not apply to the person who was erroneously listed on the Database.

### Sec. 14-34     **Penalty**

Any person who shall violate any of the provision of this Ordinance or who shall fail to comply with any of the provisions of this Ordinance, shall be guilty of a misdemeanor and may be

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fined in the amount of not less than \$1.00 or more than \$500.00. Each day a violation of this article shall continued shall constitute a separate offense. (Ord. of 7-25-06)

**Sec. 14-35 to 14-45. Reserved.**