

CITY OF COCKRELL HILL, TEXAS

ORDINANCE 2009 -B

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCKRELL HILL AMENDING THE CODE OF ORDINANCES BY ADOPTING SECTION 130.06 RELATIVE TO LOITERING; PROVIDING A PENALTY; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council City of Cockrell Hill ("City Council") desires to reduce the impediment of sidewalks and entryways; and

WHEREAS, the City Council desires to provide for free access to places within the City of Cockrell Hill, Texas ("City") by the residents of the City; and

WHEREAS, the City Council endeavors to adopt restrictions on loitering to achieve this purpose; and

WHEREAS, the City Council believes it is in the best interest of the citizens of the City of Cockrell Hill, Texas to adopt loitering restrictions as set forth herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COCKRELL HILL, TEXAS, THAT:

Section 1. All of the above premises are found to be true and correct and are incorporated into the body of this Ordinance as if copied in their entirety.

Section 2. A new Section 130.06 is hereby adopted and shall read as follows:

“§ 130.06 LOITERING.

(a) *When unlawful.* It shall be unlawful for any person to loiter in, on, or about any place, public or private, when such loitering is accompanied by activity or is under circumstances that afford probable cause for alarm or concern for the safety and well-being of persons or for the security of property in the surrounding area.

(b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Any place, public or private, means and includes, but is not limited to, the following: All places commonly known as being distinctively public, such as

public streets, public restrooms, sidewalks, parks, alleys, and buildings; all places privately owned but open to the public generally, such as shopping centers, transportation terminals, retail stores, movie theaters, amusement centers (outdoor or indoor), office buildings and restaurants; and all places distinctively private, such as homes or private residences and apartment houses.

Loiter means and includes walking about aimlessly without apparent purpose; lingering; hanging around; lagging behind; the idle spending of time; delaying; sauntering and moving slowly about, where such conduct is not due to physical defects or conditions.

Surrounding area means that area easily and immediately accessible to the person under observation.

(c) *Suspicious activities.* Without limitation, the following activities and circumstances may be considered in determining probable cause for alarm or concern:

- (1) The flight of a person upon the appearance of a peace officer or any other person;
- (2) Attempted concealment by a person upon the appearance of a peace officer or any other person;
- (3) The systematic checking by a person of doors, windows or other means of access to buildings, houses, or vehicles;
- (4) Repeated activity by a person, continuous or broken, which outwardly manifests no purpose, such as going from one place to another and back with no showing of use for such movement;
- (5) Continuous presence by a person in close proximity to any building, house, vehicle, or any other property or to any other person, at any time, when the activity of such person manifests possible unlawful activity, such continuous presence being for an unreasonable period of time under the circumstances then existing;
- (6) A change of direction by a person upon the appearance of a peace officer in order to avoid meeting or crossing paths with such officer;
- (7) If on private property, the continued refusal of a person to leave such private property when requested to do so by the owner, manager, proprietor, or lessee of such property.”

Section 3. Any person, firm or corporation violating any of the provisions or terms of this Ordinance or the Code of Ordinances as amended hereby shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine not to exceed the sum of Two Hundred Dollars (\$200.00) for each offense, and each and every day such violation shall continue shall constitute a separate offense.”

Section 4. This Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of said ordinances except in those instances where provisions of those ordinances are in direct conflict with the provisions of this Ordinance and such ordinances shall remain intact and are hereby ratified, verified and affirmed.

Section 5. If any section, article, paragraph, sentence, clause, phrase or word in this Ordinance, or application thereof to any person or circumstance, is held invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of the Ordinance, and the City Council hereby declares it would have passed such remaining portions of the Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

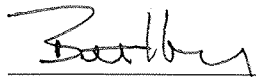
Section 6. This Ordinance shall become effective from and after the date of its final passage and publication as provided by law, and it is accordingly so ordained.

PASSED AND APPROVED on the 10 day of February , 2009.



Luis Carrera, Mayor
City of Cockrell Hill, Texas

ATTEST:



Bret Haney, Executive Assistant
City of Cockrell Hill, Texas

[SEAL]

APPROVED AS TO FORM:



Robert F. Brown, City Attorney
City of Cockrell Hill, Texas