

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF REDWATER, TEXAS, RELATING TO THE ESTABLISHMENT OF CURFEW HOURS FOR MINORS; DEFINING TERMS; CREATING OFFENSES FOR MINORS AND BUSINESS ESTABLISHMENTS VIOLATING CURFEW REGULATIONS; CREATING THE OFFENSE OF ENCOURAGING OR ASSISTING IN THE COMMISSION OF A CURFEW OFFENSE, PROVIDING DEFENSES; PROVIDING FOR ENFORCEMENT; PROVIDING FOR A PENALTY; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, persons under the age of seventeen (17) are particularly susceptible, by their lack of maturity and experience, to participate in unlawful and gang-related activities and to be victims of older perpetrators of crime; and

WHEREAS, the City of Redwater, Texas has an obligation to provide for the protection of minors from each other and from other persons, for the protection of the general public, and for the reduction of the incidence of juvenile criminal activities; and

WHEREAS it is believed that a curfew for those under seventeen (17) years of age will be in the interest of the public health, safety, and general welfare, and will help to attain the foregoing objectives and to diminish the undesirable impact of such conduct on the citizens of the City of Redwater, Texas;

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

SECTION 1: PUPROSES AND FINDINGS.

1.1 Purposes. The purposes of this Ordinance are to:

- (A) protect minors from criminal activity that occurs after the curfew hour;
- (B) protect minors from improper influences that prevail after the curfew hour;
- (C) protect the public from illegal acts of minors committed after the curfew hour; and
- (D) help parents, guardians, custodians, or other responsible persons, in carrying out their responsibility to exercise reasonable supervision of the children entrusted to their care.

1.2 Findings. In determining that a need exists for this Ordinance, the City Council finds and determines as follows:

- (A) The City of Redwater, Texas is a stable family community where parental responsibility for the whereabouts of children is the norm.
- (B) During nocturnal hours children are at greater risk of victimization or becoming involved in delinquent or criminal behavior.
- (C) As parental control increases, the likelihood of children being victimized or becoming involved in delinquent or criminal behavior decreases.

SECTION 2: DEFINITIONS

2.1 For the purposes of this Ordinance, when not inconsistent with the context, words used in the present tense include the future tense, words in the plural include the singular, and words in the singular include the plural, and the use of any gender shall be applicable to all genders whenever the sense requires. Words not defined in this Section shall be given their common and ordinary meaning.

2.2 For the purposes of this Ordinance, the following words, terms and phrases shall have the meanings ascribed to them in this Section 2.2:

(A) **CURFEW HOURS** means:

- (1) 12:00 A.M. until 6:00 a.m. on any Monday, Tuesday, Wednesday, Thursday, or Friday;
and
- (2) 1:00 a.m. until 6:00 a.m. on any Saturday or Sunday.

(B) **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.

(C) **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.

(D) **GUARDIAN** means:

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

(E) **MINOR** shall mean any person under seventeen (17) years of age.

(F) **OPERATOR** means any individual, firm, association, partnership, or corporation operating, managing or conducting any establishment, including the members or partners of an association or partnership and the officers of a corporation.

(G) **PARENT** shall mean a person who is the natural parent, adoptive parent, or the step-parent of a person. As used herein, "parent" shall also include a court appointed guardian or other person twenty-one (21) years of age or older and authorized by the parent, by a court order, or by the court appointed guardian to have the care and custody of a minor.

(H) **PREMISES** means the structure within which the establishment is housed.

(I) **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.

(J) **REMAIN** means to:

- (1) Linger or stay; or
- (2) Fail to leave premises when requested to do so by a peace officer or the owner, operator

or other person in control of the premises.

- (K) **SERIOUSLY 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.

SECTION 3: OFFENSES

- 3.1** It shall be unlawful for any minor to intentionally or knowingly remain, walk, run, stand, drive or ride about in or upon any public place in the City of Redwater, Texas, during curfew hours.
- 3.2** It shall be unlawful for the parent of a minor to knowingly permit, or by inefficient control to allow such minor to remain, walk, run, stand, drive or ride about, in or upon any public place in the City of Redwater, Texas during curfew hours. The term "knowingly" includes knowledge which a parent should reasonably be expected to have concerning the whereabouts of a minor in that parent's legal custody.
- 3.3** It shall be unlawful for a person to induce, encourage or assist a minor to remain, walk, run, stand, drive or ride about, in or upon any public place in the City of Redwater, Texas during curfew hours.
- 3.4** It shall be unlawful for the owner, operator, or any employee of an establishment to knowingly allow a minor to enter or to remain upon the premises of the establishment during curfew hours.

SECTION 4: EXCEPTIONS - DEFENSES

- 4.1** It is a defense to prosecution under Section 3: Offenses of this Ordinance that, at the time of the act that otherwise would constitute an offense:
- (A) the minor was accompanied by his or her parent;
 - (B) the minor was accompanied by an adult twenty-one (21) years of age or older designated by his or her parent;
 - (C) the minor was on an errand made necessary by an emergency;
 - (D) the minor was attending a school, religious activity, or government sponsored activity, or going to or coming from a school, religious, or government sponsored activity without detour or stop;
 - (E) the minor was engaged in a lawful employment activity or volunteer work at a recognized charity institution, or going to or coming from such activity without detour or stop;
 - (F) the minor was, with parental consent, in a motor vehicle engaged in interstate travel, beginning, ending or passing through the City of Redwater, Texas;
 - (G) the minor was on an errand at the direction of the minor's parent, without any detour or stop;
 - (H) the minor was on the property or the sidewalk directly adjacent to the place where such minor resides or the place immediately adjacent thereto if the owner or occupant of the adjacent building does not communicate an objection to both the minor and city official or peace officer;
 - (I) the minor was attending or traveling directly to or from an activity involving the exercise of First and Fourteenth Amendment rights protected by the United States Constitution, including, but not

limited to the free exercise of religion, freedom of speech, and the right of assembly;

- (J) the minor was married or had been married or had disabilities of minority removed in accordance with Chapter 31 of the Texas Family Code;
- (K) the minor was following the direction of a peace officer; or
- (L) In a prosecution under Section 3 Offenses (D), the owner, operator or employee of the place of business promptly notified a peace officer that a minor was present on the premises of the business during the curfew hours and refused to leave.

4.2 Each of the foregoing exceptions, and their several limitations, are severable, as hereinafter provided but re-emphasized here.

SECTION 5: SUPPLEMENTAL EFFECT

The provisions of this section are supplemental and shall be cumulative with all other laws and ordinances applicable in any manner to juveniles.

SECTION 6: ENFORCEMENT

Before taking any enforcement action under this section, a peace 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 4 Exceptions - Defenses is present.

SECTION 7: PENALTIES

- 7.1** A minor who violates Section 3 Offenses (A) of this section shall be guilty of a misdemeanor and, upon conviction, shall be punishable by a fine not to exceed Five Hundred Dollars (\$500.00).
- 7.2** A parent, person, or an owner, operator, or any employee of an establishment who violates a provision of this Section shall be guilty of a misdemeanor and, upon conviction, shall be punishable by a fine of not less than \$25.00 or to exceed \$500.00.
- 7.3** A person who violates a provision of this section is guilty of a separate offense for each day or part of a day during which the violation is committed, continued or permitted.
- 7.4** In assessing punishment for a minor, the municipal court judge may consider a community service.

SECTION 8: CONSTRUCTION AND SEVERABILITY

- 8.1** Severability is intended throughout and within the provisions of this 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, and such remaining portions shall remain in full force and effect.
- 8.2** It is intended that the Curfew Ordinance be held inapplicable in such 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.

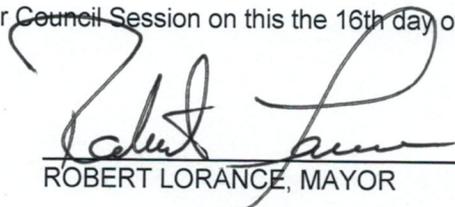
SECTION 9: SAVINGS/REPEALING CLAUSE

That all ordinances or parts of ordinances in conflict herewith are specifically repealed.

SECTION 10: EFFECTIVE DATE

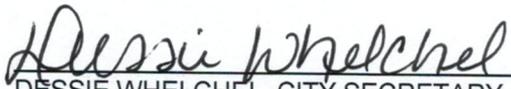
That this Ordinance shall be in full force and effect immediately upon its passage, approval and publication.

PASSED AND APPROVED in Regular Council Session on this the 16th day of May, 2016.



ROBERT LORANCE, MAYOR

ATTEST:



DESSIE WHELCHER, CITY SECRETARY, TRMC