

CITY OF HUMBLE

ORDINANCE NO. 16-782

AN ORDINANCE OF THE CITY OF HUMBLE, TEXAS READOPTING CITY OF HUMBLE ORDINANCE 13-719 WHICH ESTABLISHED A CURFEW FOR PERSONS UNDER THE AGE OF 17 YEARS, BETWEEN 11:00 P.M. ON SUNDAY, MONDAY, TUESDAY, WEDNESDAY, OR THURSDAY AND 6:00 A.M. ON THE FOLLOWING DAY, BETWEEN THE HOURS OF 12:01 A.M. AND 6:00 A.M. ON ANY SATURDAY OR SUNDAY, AND BETWEEN THE HOURS OF 9:00 A.M. AND 2:30 P.M. FOR SCHOOL-AGED CHILDREN ON SCHOOL DAYS; PROVIDING IT UNLAWFUL FOR ANY PERSON SUBJECT TO A CURFEW HEREUNDER TO REMAIN IN ANY PUBLIC PLACE OR ON THE PREMISES OF ANY ESTABLISHMENT WITHIN THE CITY DURING CURFEW HOURS; PROVIDING IT UNLAWFUL FOR ANY PARENT OR GUARDIAN OF A PERSON SUBJECT TO A CURFEW HEREUNDER TO KNOWINGLY PERMIT, OR BY INSUFFICIENT CONTROL, ALLOW SUCH PERSON TO REMAIN IN ANY PUBLIC PLACE OR ON THE PREMISES OF ANY ESTABLISHMENT WITHIN THE CITY DURING CURFEW HOURS; PROVIDING IT UNLAWFUL FOR ANY PERSON OWNING, OPERATING, OR IN THE EMPLOYMENT OF ANY ESTABLISHMENT IN THE CITY TO KNOWINGLY ALLOW A PERSON SUBJECT TO A CURFEW HEREUNDER TO REMAIN ON THE PREMISES OF SUCH ESTABLISHMENT DURING CURFEW HOURS; PROVIDING DEFENSES TO PROSECUTION FOR VIOLATIONS HEREUNDER; PROVIDING A PENALTY OF AN AMOUNT NOT TO EXCEED \$500.00 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF; MAKING CERTAIN FINDINGS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HERewith AND PROVIDING FOR SEVERABILITY. IT IS THE INTENTION OF THE CITY COUNCIL AND IT IS HEREBY ORDAINED THAT THE PROVISIONS OF THIS ORDINANCE SHALL BECOME AND BE MADE PART OF THE CODE OF ORDINANCES, CITY OF HUMBLE, TEXAS AND THE SECTIONS OF THIS ORDINANCE MAY BE RENUMBERED TO ACCOMPLISH SUCH INTENTION.

WHEREAS, public hearings were conducted on July 28, 2016 and August 11, 2016 to consider an extension of the juvenile curfew ordinance for a term of three years and it was the opinion of the City Council to extend the ordinance for three years as the City Council has determined that the curfew ordinance has had a positive effect as a deterrent to juvenile violence, juvenile gang activity, and crime committed by persons under the age of 17 years in the City of Humble, Texas; and

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

WHEREAS, the City of Humble has an obligation to provide for the protection of minors from each other and from other persons, for the enforcement of parental control over the responsibility for children, for the protection of the general public and for the reduction of the incidence of juvenile violence and criminal activity; and

WHEREAS, a curfew applicable to persons under the age of 17 years will be in the interest of public health, safety and general welfare and will diminish the undesirable impact of such conduct on the citizens of the City of Humble;

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

Section 1. The facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. Purpose. It is the express purpose of this ordinance to (a) deter criminal conduct involving juveniles, (b) reduce the number of juvenile crime victims, (c) reduce injury from accidents involving juveniles, (d) reduce the additional time police officers are required to be in the field due to juvenile crime, (e) provide additional and more effective means and options for dealing with gang-related violence and crime, (f) reduce juvenile peer pressure to stay out late, (g) reduce juvenile peer pressure to participate in violent or criminal activities and (h) assist parents in the control of their children.

Section 3. Definitions. For the purposes of this Ordinance the following words or terms shall have the meanings ascribed thereto:

(A) Curfew Hours shall mean:

- (1) 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. of the following day;
- (2) 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday; and
- (3) 9:00 a.m. until 2:30 p.m. on any Monday, Tuesday, Wednesday, Thursday or Friday; provided, however, the hours defined in this paragraph (3) shall not be considered as Curfew Hours for minors not subject to compulsory school attendance pursuant to §21.032, Texas Education Code, nor shall the hours defined in this paragraph (3) be considered as Curfew Hours on days or during periods in which the school where the applicable minor is enrolled is closed or classes for which the applicable minor is enrolled have been canceled under the order and direction of officials authorized to issue such orders and directives.

- (B) Emergency shall mean any unforeseen combination of circumstances or the resulting state that calls for immediate action. This term shall include, but not be limited to, a fire, natural disaster, automobile accidents or any situation requiring immediate action to prevent serious bodily injury or loss of life.
- (C) Establishment shall mean 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 shall mean a person who, under court order, is the guardian of the person of a minor or a public or private agency with whom a minor has been placed by a court.
- (E) Minor shall mean any person under 17 years of age.
- (F) Operator shall mean 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.
- (G) Parent shall mean a person who is a natural parent, adoptive parents, stepparent of a minor, a responsible adult or a person at least 18 years of age who is authorized by the parent or guardian to have the care and custody of such minor.
- (H) Police Department shall mean the Humble Police Department or any successor police department of the City of Humble.
- (I) Public Place shall mean any place to which the public or a substantial group of the public has access and shall include but not be limited to, streets, highways and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, restaurants, theaters, game rooms, shops, shopping centers or any other place that offers for sale services or merchandise.
- (J) Remain shall mean to linger or stay or fail to leave premises when required to do so by a police officer or the owner, operator or other person in control of the premises.
- (K) Serious Bodily Injury shall mean 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 4 Offenses.

- (A) It shall be unlawful for any minor to knowingly remain, walk, run, stand or operate or ride about in any motor vehicle or bicycle in or upon any public place or on the premises of any establishment within the City during curfew hours.
- (B) It shall be unlawful for the parent or guardian of a minor to knowingly permit, or by insufficient control, allow a minor to remain in or upon any public place or on the premises of any establishment within the City during curfew hours.
- (C) It shall be unlawful for the owner, operator or any employee of an establishment to knowingly allow a minor to remain upon the premises of the establishment during curfew hours.

Section 5

Defenses.

- (A) It shall be a defense to prosecution under Section 4 of this Ordinance that 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;
 - (3) in a motor vehicle involved in interstate travel;
 - (4) engaged in lawful employment activity or going directly to the employment activity or returning directly to the minor's residence from the employment activity;
 - (5) involved in an emergency;
 - (6) on an errand made necessary by an illness, injury, or emergency;
 - (7) on the sidewalk abutting the minor's permanent residence or abutting the residence of a next door neighbor of the minor's permanent residence if the neighbor did not complain to the police department about the minor's presence thereon;
 - (8) attending a school, religious or government sponsored or other civic activity supervised by adults and sponsored by an educational, religious, or governmental institution, civic organization or other similar entity, or traveling directly to or returning from any such school, religious, governmental or civic activity.
 - (9) engaged, participating in or traveling to or from any event, function, or activity for which the application of Section 4 of this Ordinance would contravene the minor's rights protected by the United States Constitution including, but not limited to, First Amendment rights such as the free exercise of religion, freedom of speech or 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.

- (B) It is a defense to prosecution under Section 4(C) 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 the minor refused to leave.
- (C) It is a defense to prosecution under Section 4 of this Ordinance that the minor has been directed by his or her parent or guardian to engage in a specific activity or to carry out expressed instructions during the time that the minor is actually engaged in fulfilling those directions or responsibilities.

Section 6 Enforcement. Before taking any enforcement action under this Ordinance, a police officer shall ask the apparent offender's age and reason for being in the public place or establishment. 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 5 is present.

Section 7 Penalties.

- (A) A person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed \$500.00. Each day of violation shall constitute a separate offense.
- (B) 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 4(A) of this Ordinance and shall refer the minor to juvenile court.

Section 8 All ordinances or parts of ordinances inconsistent or in conflict herewith, are, to the extent of such inconsistency or conflict, hereby repealed.

Section 9 In the event any clause, phrase, provision, sentence or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Humble, Texas declared that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

Section 10 It is the intention of the City Council and it is hereby ordained, that the provisions of this Ordinance shall become and be made part of the Code of Ordinances, City of Humble, Texas and the sections of this Ordinance may be renumbered to accomplish such intention.

Section 11 The provisions of this Ordinance shall take effect from the adopting date by the City Council, and ten (10) days after the publication of the caption of

said Ordinance as the law in such cases provides, and it is accordingly so ordained.

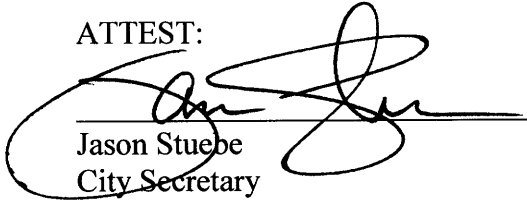
INTRODUCED and CONSIDERED in an open meeting of the City Council of the City of Humble on the 11th day of August, 2016.

PASSED, APPROVED, AND ADOPTED this 11th day of August 2016.

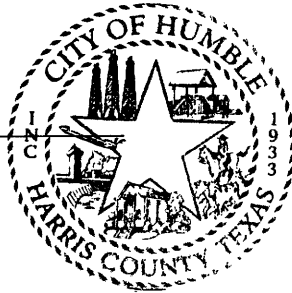


Merle Aaron
Mayor

ATTEST:

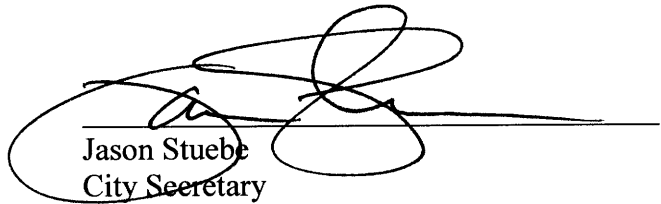


Jason Stuebe
City Secretary



CERTIFICATION OF PUBLICATION:

I, Jason Stuebe, as the City Secretary of the City of Humble do hereby certify in the performance of my office that the above Ordinance was published in the official newspaper of the City of Humble on: August 31, 2016



Jason Stuebe
City Secretary

THE TRIBUNE

AUGUST 31, 2016

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