

CITY OF ROANOKE, TEXAS

ORDINANCE NO. 2017-107

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROANOKE, TEXAS, READOPTING CHAPTER 7, ARTICLE 7.800, SECTION 7.801, ENTITLED "CURFEW HOURS FOR MINORS"; PROVIDING FOR CURFEW HOURS FOR MINORS IN THE CITY; MAKING FINDINGS; PROVIDING DEFINITIONS RELATIVE TO CURFEW HOURS FOR MINORS; REQUIRING THE CITY MANAGER TO MAKE PERIODIC REPORTS TO THE CITY COUNCIL CONCERNING THE EFFECTIVENESS AND NEED FOR THIS ORDINANCE; REQUIRING THE CITY COUNCIL TO PERIODICALLY REVIEW THE EFFECTS OF THIS ORDINANCE ON THE COMMUNITY AND THE PROBLEMS THIS ORDINANCE IS INTENDED TO REMEDY; PROVIDING A PENALTY CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on March 25, 2008, the City Council of the City of Roanoke, Texas, approved Ordinance No. 2008-108 approving a juvenile curfew ordinance; and

WHEREAS, on March 8, 2011, the City Council of the City of Roanoke, Texas, approved Ordinance No. 2011-103 readopting the juvenile curfew ordinance; and

WHEREAS, on February 11, 2014, the City Council of the City of Roanoke, Texas, approved Ordinance No. 2014-103 readopting the juvenile curfew ordinance; and

WHEREAS, the City Council of the City of Roanoke finds and determines the juvenile curfew ordinance in the City of Roanoke, Texas, should be continued.

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

Section 1. FINDINGS INCORPORATED

The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

Section 2. That Chapter 7, Article 7.800, Section 7.801 of the Code of Ordinances, City of Roanoke, Texas, is hereby readopted, and shall read as follows:

"Sec. 7.801.

CURFEW HOURS FOR MINORS

(A) *Definitions.* In this section:

(1) *Curfew Hours* mean:

- (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. on any day until 6:00 a.m. on any Saturday or Sunday.

- (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 or other motor vehicle 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 seventeen (17) years of age.
- (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 eighteen (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 an officer or 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 loss or impairment of the function of any bodily member of 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:
 - (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 of Roanoke, 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 of Roanoke, 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 in 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, an 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 Subsection (C) is present.
- (E) *Penalties.*
 - (1) 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. Each offense, upon conviction, is punishable by a fine not to exceed \$500.
 - (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 juvenile court.
- (F) *City Manager's Report.* Before the third anniversary of the date of the adoption of this Section, the City Manager shall review this Section, 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, where available;
 - (3) The number of persons successfully prosecuted for a violation of this Section; and
 - (4) The City's cost of enforcing this Section.
- (G) *City Council Review.* Before the third anniversary of the date of the adoption of this Section, and every third year thereafter, the City Council, pursuant to Section 370.002 of the Texas Local Government Code, as amended, 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.

Failure by the City Council to act in accordance with Subsection (G) shall cause this Section to expire."

Section 3. PENALTY CLAUSE

Any person, firm, or corporation violating any of the provisions or terms of this Ordinance shall be

guilty of a misdemeanor and upon conviction, shall be fined a sum not to exceed \$500.00 for each offense, and each and every violation or day such violation shall continue or exist, shall be deemed a separate offense.

Section 4. SEVERABILITY CLAUSE

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation of this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

Section 5. REPEALER CLAUSE

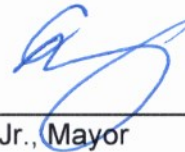
Any provision of any prior ordinance of the City whether codified or uncoded, which are in conflict with any provision of the Ordinance, are hereby repealed to the extent of the conflict, but all other provisions of the ordinances of the City whether codified or uncoded, which are not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

Section 6. EFFECTIVE DATE

This Ordinance shall become effective on February 28, 2017.

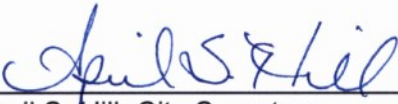
PASSED, APPROVED AND ADOPTED by the City Council of the City of Roanoke, Texas, on this the 28th day of February, 2017.

APPROVED:



Carl E. Gierisch, Jr., Mayor

ATTEST:



April S. Hill, City Secretary



APPROVED AS TO FORM:



Jeff Moore, City Attorney