



ORDINANCE NO. 610-2017-12

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VENUS, JOHNSON AND ELLIS COUNTIES, TEXAS ADOPTING AND CONTINUING ITS JUVENILE CURFEW ORDINANCE; AMENDING CHAPTER 16 – OFFENSES AND MISCELLANEOUS PROVISIONS, ARTICLE II. – JUVENILE CURFEW, PROVIDING A PUBLICATION CLAUSE; CERTIFYING THIS ORDINANCE WAS PASSED IN STRICT COMPLIANCE WITH THE TEXAS OPEN MEETINGS ACT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City of Venus (“City”) is a Type A General Law municipality located in Johnson and Ellis Counties, Texas, created in accordance with the provisions of the TEXAS LOCAL GOVERNMENT CODE, Title 2, Chapter 6, and operating pursuant to enabling legislation of the State of Texas;

WHEREAS, the City enacted Ordinance No. 334-2007, establishing a juvenile curfew, then renewed said curfew regulations with Ordinance No. 370-2010;

WHEREAS, the City codified both ordinances as Article II. – Juvenile Curfew in Chapter 16 – Offenses and Miscellaneous Provisions of the CITY OF VENUS CODE OF ORDINANCES;

WHEREAS, the City enacted said ordinance after determining that there had been an increase in criminal activity among individuals under the age of 17 and that such increase required restrictions and enforcement to curb the problem;

WHEREAS, persons under the age of 17 are more prone to perpetrate crime or to be the victim of crime because of their youth and lack of experience;

WHEREAS, the City has an obligation to provide for the protection of juveniles, for the protection of the general public, and for the reduction of the incidence of juvenile criminal activities;

WHEREAS, while the effectiveness studies of juvenile curfew ordinances for large population municipalities have showed only a minimal reduction in juvenile crime and victimization, the city’s experience has been significantly more positive as the instances of juvenile curfew violation in this small community are generally juveniles acting without parental knowledge or permission, and once identified and brought to the parents’ attention, recidivism is quite low;

WHEREAS, city staff and the City Council (“Council”) have read and reviewed articles and research that show juvenile curfew ordinances also have a strong effect on reducing juvenile traffic accidents, trauma (ambulance) transports and fatalities;¹

WHEREAS, because of these studies, the Council also finds that continuing the juvenile curfew ordinance may also serve the important interest of keeping juveniles safe from traffic related accidents and injury; a general promotion of juvenile health and safety, not related to criminality or victimization;

WHEREAS, after a thorough review and research of the policy and weighing the alternatives, the Council finds it in the best interest to continue the juvenile curfew ordinance to reduce juvenile crime and juvenile victimization as well as to promote the public health and safety of juveniles on our roads and streets; and

WHEREAS, the TEXAS LOCAL GOVERNMENT CODE Sec. 370.002 requires the City to review its juvenile curfew ordinance every three years, to conduct a public hearing regarding the review, and to act on whether to abolish, continue, or modify the ordinance, which the City has completed prior to the discussion and action to adopt this continuation ordinance.

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

SECTION 1. ARTICLE II. – JUVENILE CURFEW AMENDMENT

Article II. – JUVENILE CURFEW of Chapter 16. – OFFENSES AND MISCELLANEOUS PROVISIONS of the CITY OF VENUS CODE OF ORDINANCES is hereby amended as follows:

Sec. 16-24. – Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) *Curfew hours* means:

(a) from 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday until 6:00 a.m. of the following day; and

(b) from 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday.

¹ Levy D.T. “The effects of driving age, driver education, and curfew laws on traffic fatalities of 15-17 year olds.” *Risk Analysis*. 1988; 8:569-574; Preusser D.F., Williams A.F., Lund A.K. and Zador P.L., “City curfew ordinances and teenage motor vehicle injury.” *Accident Analysis & Prevention*. 1990; 22:391-397; Preusser D.F., Zador P.L., Williams A.F., “The effect of city curfew ordinances on teenage motor vehicle fatalities.” *Accident Analysis & Prevention*. 1993; 25:641-645; and (for the proposition that graduated juvenile driver’s license curfew restrictions reduce traffic crime and fatalities among juveniles) “Do Nighttime Driving Restrictions Reduce Criminal Participation Among Teenagers? Evidence From Graduated Driver Licensing.” *Journal of Policy Analysis and Management*, https://www.maxwell.syr.edu/uploadedFiles/.../Deza_GDL_JPAM_R2_fullpaper.pdf.

- (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 situations requiring immediate action to prevent serious bodily injury and/or loss of life or to obtain medical care for another person.
- (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 less than seventeen (17) years of age and over nine (9) 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 a partnership or association and the officers of a corporation and any adult employee in charge of its operation.
- (7) *Parent* means a person who is:
- (a) a natural parent, adoptive parent or step-parent of a minor; or
 - (b) at least twenty-one (21) 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 substantial group of the public has access. The term includes, but is not limited to, streets, alleys, highways and the common areas of apartment houses, office buildings, transport facilities and shops. For purposes of this article, a minor found inside a motor vehicle in a location or area otherwise defined as a public place is also in the public place.
- (9) *Remain* means to:
- (a) linger or stay on or in premises; or
 - (b) fail to leave premises when requested to do so by police 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 or organ.

Sec. 16-25. – Offenses.

- (A) A minor commits an offense if he or she remain, walk, run, stand, drive or ride about in any public place or on the premises of any establishment within the city during curfew hours.
- (B) A parent or guardian of a minor, or other adult person having care and custody of a minor, commits an offense if he or she knowingly permits, or by insufficient control allows, the minor to remain, walk, run, stand, drive or ride in any public place or on the premises of any establishment within the city during curfew hours.
- (C) The owner, operator or any other adult person or employee in charge of any establishment commits an offense if he or she does knowingly allow a minor to remain upon the premises of the establishment during curfew hours.

Sec. 16-26. – Defenses.

- (A) It is a defense to prosecution under Section 16-25, subsections (A) and (B) that the minor was:
- (1) accompanied by the minor's parent or guardian;
 - (2) on an errand directed by the minor's parent or guardian without any detour or stop;
 - (3) 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;
 - (4) involved in an emergency;
 - (5) engaged in a lawful employment or volunteer work at a recognized charity institution or was going to or coming from such activity without detour or stop;
 - (6) 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;
 - (7) in a motor vehicle involved in intrastate or interstate transportation;

(8) exercising his or her First Amendment rights protected by the United States or Texas Constitution, including, but not limited to the free exercise of religion, freedom of speech and freedom of assembly;

(9) married or had been married or had disabilities of minority removed in accordance with the TEXAS FAMILY CODE, Chapter 31.

(B) It is a defense to prosecution under Section 16-25(C) if the owner, operator or other adult person or employee in charge of an establishment promptly notified a police agency that a minor was present on the premises of the establishment during curfew hours and the minor refused to leave.

Sec. 16-27. – Enforcement.

(A) Before taking any enforcement action under this article, an officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation under this chapter unless the officer reasonably believes that an offense has occurred and that, based on any responses and other circumstances, no defense in Section 16-26 is present.

(B) An apparent offender is not entitled under this article to receive a warning before being issued a criminal citation, if the officer reasonably believes an offense has occurred.

(C) Officers enforcing this article shall also be mindful of TEXAS EDUCATION CODE Sections 37.141(2) and 37.143 which provide that no citation may be issued for "school offense[s]" which are "offense[s] committed by a child enrolled in a public school that [are] a Class C misdemeanor other than a traffic offense and that [are] committed on property under the control and jurisdiction of a school district."

Sec. 16-28. – Penalties.

(A) Any person violating provisions of this article shall be deemed to be guilty of a Class C misdemeanor and upon conviction shall be fined in an amount not in excess of \$500.00. Each violation of this article shall be deemed a separate offense and each day that the violation continues shall be deemed a separate offense. Nothing herein shall prevent the enforcement of this article by another means authorized by law and this article may be enforced by any and or all means, and the choice of one remedy is not to the exclusion of any other remedy.

(B) When required by TEXAS FAMILY CODE Section 51.08, as amended, the municipal court shall waive original jurisdiction over the minor who violates Section 16-25(A) and shall refer the minor to juvenile court.

SECTION TWO. PUBLICATION

The City Secretary is hereby directed, if required by law, to post or publish in the official

newspaper of the city, the caption, publication clause and effective date clause of this ordinance in one issue of the official newspaper of the city, provided that the official newspaper is a weekly paper, in accordance with Section 52.011 of the TEXAS LOCAL GOVERNMENT CODE. The City Secretary is also hereby directed to incorporate the provisions of this Ordinance into the CITY OF VENUS CODE OF ORDINANCES by submitting it to www.municode.com for incorporation and online publication.

SECTION THREE. OPEN MEETINGS ACT COMPLIANCE

The Council and Mayor are committed to open government and are strong supporters of The TEXAS OPEN MEETINGS ACT. And as such, the meeting at which this ordinance was approved was in all things conducted in strict compliance with the TEXAS OPEN MEETINGS ACT, TEXAS GOVERNMENT CODE, Chapter 551.

SECTION FOUR. SEVERABILITY

Should any section, clause, subsection, sentence, clause or phrase of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this ordinance shall remain in full force and effect. The Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause and/or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and/or phrases be declared unconstitutional or invalid.

SECTION FIVE. REPEALER

All ordinances or parts of ordinances not consistent or conflicting with the provisions of this ordinance are hereby repealed; provided that such repeal shall be only to the extent of such inconsistency and in all other respects this ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered in this ordinance. Any cause of action accruing prior to the passage of this ordinance shall continue as if this ordinance was not passed or any other ordinance had not been repealed.

SECTION SIX. EFFECTIVE DATE

This ordinance shall become effective immediately from and after its passage by Council.

PASSED AND APPROVED by the City Council of the City of Venus, Texas, on this the 11th day of December, 2017.


APPROVED: _____

MAYOR JAMES BURGESS

PASSED: MONDAY, DECEMBER 11, 2017

I, the undersigned, City Secretary do hereby certify that the above is a true and correct copy of an ordinance duly adopted by the City of Venus City Council at a regular meeting duly convened on Monday, December 11, 2017.

ATTEST:



RANA GAMEL, CITY SECRETARY

APPROVED AS TO FORM:



CASS CALLAWAY, CITY ATTORNEY

