

## ORDINANCE O-5-20

AN ORDINANCE OF THE CITY OF MCGREGOR, TEXAS RE-ADOPTING A JUVENILE CURFEW ORDINANCE AS DIVISION 2 OF ARTICLE V. OF THE CODE OF ORDINANCES; RE-ADOPTING SECTIONS 36-163 THROUGH 36-168 OF THE CODE OF ORDINANCES OF THE CITY OF MCGREGOR; AND MAKING CERTAIN FINDINGS

WHEREAS, the City Council of the City of McGregor, Texas has on multiple occasions adopted the juvenile curfew ordinance for the City of McGregor; and

WHEREAS, a public hearing was held on the proposition of re-adopting the juvenile curfew ordinance of the City of McGregor which has been found at Division 2 of Article V-Minors of the Code of Ordinances of the City of McGregor; and

WHEREAS, testimony was received from the McGregor Police Department regarding problems that have existed in the absence of a juvenile curfew ordinance and the need to have such an ordinance to promote public safety and the protection of individuals and property; and

WHEREAS, all persons wishing to testify for or against a juvenile curfew ordinance were given an opportunity to speak; and

WHEREAS, the City Council finds that it is in the best interest of the citizens of the City of McGregor for the protection of the health, safety and general welfare of the City and its citizens to have and re-adopt a juvenile curfew ordinance.

IT IS, THEREFORE, ORDAINED BY THE CITY COUNCIL OF THE CITY OF MCGREGOR, TEXAS AS FOLLOWS:

**Section 1.** That DIVISION 2. – CURFEW of ARTICLE V. – MINORS to the Code of Ordinances of the City of McGregor is hereby re-adopted as Sections 36-163 through 36-168 as shown on Exhibit "A" to this Ordinance.

PASSED on this the 16<sup>th</sup> day of March, 2020.

CITY OF MCGREGOR, TEXAS

By: \_\_\_\_\_

Jim Hering, Mayor

ATTEST: \_\_\_\_\_

City Secretary



**EX. A****Sec. 36-163. - Curfew hours; compliance by juveniles required.**

It shall be unlawful for any juvenile to knowingly remain, walk, run, stand, drive or ride about, in, or upon any public place in the city or on the premises of any establishment within the city during curfew hours, which are from 11:00 p.m. until 6:00 a.m. Sunday through Thursday and from 12:01 a.m. until 6:00 a.m. on Saturday and Sunday.

(Code 2004, § 130.42(A); Ord. No. 24-23, 10-13-1997; Ord. No. O-03-12, § 2(Exh. A), 6-11-2012)

**State Law reference**—Municipal authority to establish a juvenile curfew, V.T.C.A., Local Government Code § 341.905; requirement that juvenile curfew ordinances be reviewed and readopted every three years, V.T.C.A., Local Government Code § 370.002.

**Sec. 36-164. - Parental responsibility.**

- (a) 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:

*Knowingly* includes knowledge that a parent or guardian should reasonably be expected to have, concerning the whereabouts of a juvenile.

- (b) It shall be unlawful for a parent or guardian to knowingly permit or by insufficient control allow a juvenile to remain in any public place or on the premises of any establishment within the city during curfew hours.
- (c) It shall be prima facie evidence of a violation of this section if a parent or guardian has no knowledge of a juvenile's whereabouts during the hours of curfew established herein.

(Code 2004, § 130.42(B); Ord. No. 24-23, 10-13-1997)

**Sec. 36-165. - Business personnel prohibited from allowing violations; defenses.**

- (a) It shall be unlawful for any owner, operator, or employee of an establishment to allow a juvenile to remain upon the premises of the establishment during curfew hours beyond the time necessary to conduct an activity permitted under this division.
- (b) It is a defense to prosecution under this section that the owner, operator, or employee of an establishment promptly notified the police department that a juvenile was present on the premises of the establishment during curfew hours and

refused to leave after being asked to leave.

(Code 2004, § 130.42(C); Ord. No. 24-23, 10-13-1997)

Sec. 36-166. - Affirmative defenses.

It is a defense to prosecution under this division that the juvenile was:

- (1) Accompanied by the juvenile's parent, guardian, or responsible adult;
- (2) On an errand at the direction of the juvenile's parent or guardian, without making any unnecessary detour or stop;
- (3) In a motor vehicle involved in intrastate or interstate travel;
- (4) Engaged in a lawful employment activity or going to or returning home by a direct route from a lawful employment activity, without any detour or stop;
- (5) Involved in an emergency or on an errand made necessary by an emergency;
- (6) On the sidewalk abutting the juvenile's residence or abutting the residence of a next door neighbor, if the neighbor did not complain to the police department about the juvenile's presence;
- (7) Attending a school, religious, or government-sponsored activity supervised by adults, or traveling by direct route to or from a school, religious, or government-sponsored activity supervised by adults, without any detour or stop;
- (8) Engaging in, participating in, or traveling to or from any event, function, or activity constituting exercise of the juvenile's rights protected under the federal or state constitutions; or
- (9) Married or had been married or had disabilities of minority removed in accordance state law.

(Code 2004, § 130.43; Ord. No. 24-23, 10-13-1997)

Sec. 36-167. - Enforcement.

- (a) Before taking any enforcement action under this division, a police officer shall ask the apparent juvenile offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this division unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense provided in this division is present.
- (b) If a juvenile is found in violation of this division, the police department shall mail a

notice to the parent or guardian of the juvenile informing the parent or guardian of the violation and warning the parent or guardian that a violation of this division can result in the prosecution of the juvenile and the parent.

- (c) If a juvenile is found in violation of this division at an establishment, the police department shall mail a notice to the operator informing the operator of the violation and warning the operator that a violation of this division can result in the prosecution of the operator.
- (d) When required by state law, the municipal court shall waive its original jurisdiction over a juvenile who violates this division and shall refer the juvenile to the juvenile court.

(Code 2004, § 130.44; Ord. No. 24-23, 10-13-1997)

Sec. 36-168. - Penalty.

Violations of this division shall constitute Class C misdemeanors. Any juvenile violating the provisions of this division shall be dealt with in accordance with the provisions of state law, which may include prosecution in municipal court. Any other person violating this division shall be subject to a fine of not less than \$1.00 and not more than \$500.00. Each violation shall constitute a separate offense, punishable as provided in this section.

(Code 2004, § 130.99; Ord. No. 24-23, 10-13-1997)