

ORDINANCE NO. O-2016-3984

AN ORDINANCE TO READOPT AND CONTINUE CHAPTER 24, ARTICLE II, CODE OF ORDINANCES, CITY OF ROUND ROCK, TEXAS, 2010, REGARDING A JUVENILE CURFEW IN CONFORMITY WITH SECTION 370.002 OF THE TEXAS LOCAL GOVERNMENT CODE; PROVIDING FOR A SAVINGS CLAUSE AND REPEALING CONFLICTING ORDINANCES OR RESOLUTIONS.

WHEREAS, a Texas home-rule municipality may adopt ordinances that are for the good government, peace, or order of the municipality; and

WHEREAS, the City of Round Rock, Texas has previously enacted provisions in its Code of Ordinances relating to juvenile curfew hours; and

WHEREAS, state law requires a home-rule municipality that has adopted a juvenile curfew ordinance to review that ordinance every three years to determine the ordinance's effects on the community and on the problems the ordinance was intended to remedy, to conduct public hearings on the need to continue the ordinance and then abolish, continue, or modify the ordinance; and

WHEREAS, after conducting the required review of the juvenile curfew ordinance in 2013, the City of Round Rock continued the ordinance.

WHEREAS, after conducting a current review of the juvenile curfew ordinance to determine its effects on the community and on the problems the ordinance was intended to remedy, a report of which is attached as Exhibit A, the City of Round Rock has determined that readopting and continuing the ordinance will enhance the good government, peace, or order of the municipality; Now Therefore

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROUND ROCK,
TEXAS,**

I.

That Chapter 24, Article II, Code of Ordinances, City of Round Rock, Texas, 2010, is hereby adopted to read as follows:

ARTICLE II. YOUTH CURFEW

Sec. 24-25. 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:

Curfew Hours means;

- (1) 12:01 a.m. until 6:00 a.m. on any Monday, Tuesday, Wednesday, Thursday or Friday;
- (2) 1:00 a.m. until 6:00 a.m. on any Saturday or Sunday; and
- (3) 9:00 a.m. until 2:30 p.m. on Monday, Tuesday, Wednesday, Thursday or Friday.

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.

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.

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.

Minor means any person under 17 years of age.

Operator means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term "operator" includes the members or partners of an association or partnership and the officers of a corporation.

Parent means a person who is:

- (1) A natural parent, adoptive parent, or step-parent of another person; or
- (2) At least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

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.

Remain means to:

- (1) Linger or stay; or
- (2) Fail to leave premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.

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. 24-26. Offenses.

(a) A minor commits an offense if he remains, walks, runs, stands, drives or rides about in or upon any public place or on the premises of any establishment within the city during curfew hours.

(b) The owner, operator, or any employee of an establishment commits an offense if he knowingly allows a minor to remain, walk, run, stand, drive or ride about in or upon the premises of the establishment during curfew hours.

Sec. 24-27. Defenses.

(a) It is a defense to prosecution under section 24-26 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, without any detour or stop;
- (3) In a motor vehicle involved in interstate travel;
- (4) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
- (5) Involved in an emergency;
- (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) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the city, Round Rock Independent School District, 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, Round Rock Independent School District, a civic organization, or another similar entity that takes responsibility for the minor;
- (8) 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
- (9) Married or had been married or had disabilities of minority removed in accordance with V.T.C.A., Family Code ch. 31.

(b) It is a defense to prosecution under section 24-26(b) 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 the curfew hours and refused to leave.

(c) It is a defense to prosecution under section 24-26 with respect to the curfew hours of 9:00 a.m. until 2:30 p.m. on Monday, Tuesday, Wednesday, Thursday or Friday, that the offense occurred during the scheduled vacation of or on a holiday observed by the school in which the minor is enrolled; or that the minor has graduated from high school or received a high school equivalency certificate; or that the minor has permission to be absent from the school or be in a public place from an authorized school official or a parent or guardian. In the case of a minor being educated in a home school, a parent or guardian shall be deemed a school official.

Sec. 24-28. Enforcement.

Before taking any enforcement action under this article, a police 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 article unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in section 24-27 is present.

Sec. 24-29. Penalties.

When required by V.T.C.A., Family Code § 51.08, the municipal court shall waive original jurisdiction over a minor who violates section 24-26(a) of this article and shall refer the minor to juvenile court.

II.

A. All ordinances, parts of ordinances, or resolutions in conflict herewith are expressly repealed.

B. The invalidity of any section or provision of this ordinance shall not invalidate other sections or provisions thereof.

C. The City Council hereby finds and declares that written notice of the date, hour, place and subject of the meeting at which this Ordinance was adopted was posted and that such meeting was open to the public as required by law at all times during which this Ordinance and the subject matter hereof were discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended.

READ and **APPROVED** on first reading this the _____ day of _____, 2016.

READ, APPROVED and **ADOPTED** on second reading this the _____ day of _____, 2016.

ALAN MCGRAW, Mayor
City of Round Rock, Texas

ATTEST:

SARA L. WHITE, City Clerk