

ORDINANCE NO. 18-\_\_\_

AN ORDINANCE OF THE CITY OF GALVESTON, TEXAS, ADOPTING THE PROVISIONS OF CHAPTER 24, "OFFENSES—MISCELLANEOUS", SECTION 24-6, "CURFEW FOR MINORS" OF "THE CITY CODE OF GALVESTON, 1982, AS AMENDED"; PROVIDING FOR AN EFFECTIVE DATE AND SUNSET PROVISION; MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT.

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**WHEREAS**, on January 22, 2015, the City Council of the City of Galveston adopted Juvenile Curfew for Minors Ordinance, No. 15-003, found at Section 24-6 in The City Code of Galveston, 1982, as amended; and,

**WHEREAS**, pursuant to Section 370.002 of the Texas Local Government Code, before the third anniversary of the date of adoption of a juvenile curfew ordinance, and every third year thereafter, the governing body of the home-rule municipality is required to "review the ordinance's effects on the community and on the problems the ordinance was intended to remedy, conduct public hearings on the need to continue, abolish, or modify the ordinance,"

**WHEREAS**, City Council is scheduled to meet outside of the three year review time frame for Ordinance No. 15-003 which expires on January 21, 2018; and,

**WHEREAS**, on December 14, 2017, the City Council reviewed the statistics from the Municipal Court of Record regarding citations and curfew cases, as well as, information provided from the Sergeant of the Galveston Family Services Unit; and,

**WHEREAS**, the City Council finds that minors are particularly susceptible, by their lack of maturity and experience, to participate in unlawful activities and to be victims of older perpetrators of crime; and,

**WHEREAS**, a juvenile curfew ordinance also encourages parents to take responsibility for their minor children's whereabouts; and,

**WHEREAS**, the City Council wishes to provide for the protection of minors from each other and from other persons, and for the enforcement of parental control; and,

**WHEREAS**, the City Council hopes to deter an increase in juvenile violence, juvenile gang activity, and crime by continuing such a curfew; and,

**WHEREAS**, the City Council deems it necessary and proper and in the best interests of the public health, safety, and general welfare to continue a curfew for persons under 17 years of age.

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

**SECTION 1.** The findings and recitations set out in the preamble to this Ordinance are found to be true and correct and they are hereby adopted by the City Council and made a part hereof for all purposes.

**SECTION 2.** Section 24-6, "Curfew for minors" of Chapter 24, "Offenses-Miscellaneous" of "The Code of the City of Galveston 1982, as amended" is hereby adopted to read and provide as follows:

Sec. 24-6. Curfew for minors.

(a) Definitions. As used in this section, the following words and terms shall have the meanings ascribed to them in this subsection, unless the context of their usage clearly indicates another meaning:

Emergency - shall mean an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term shall include, but not be limited to, a fire, natural disaster, vehicular accident, or obtaining immediate medical care, or a serious medical condition of sudden onset for another person.

Guardian - shall mean any person who, under a court order, has care and custody of a minor, or a public or private agency with whom a minor has been placed by a court.

Minor - shall mean any person under seventeen (17) years of age and over ten (10) years of age.

Parent - shall mean a person who is the natural or adoptive parent of a person. As used herein, "parent" shall also include a court-appointed guardian; or any other person eighteen (18) years of age or older who is authorized by the parent, by a court order, or by the court-appointed guardian to have care and custody of the minor.

Public place - shall mean any place in which the public or a substantial group of the public has access and includes; but is not limited to, streets, highways, the common areas of schools, hospitals, apartments, houses, office buildings, transport facilities, and shops and stores.

(b) Offenses.

(1) It shall be unlawful for any minor who is under the age of fifteen (15) years to purposefully remain, walk, run, stand, drive or ride about, be in or upon any public place in the city between the hours of 10:00 p.m. and 5:00 a.m. on any day of the week, or between the hours of 7:30 a.m. and 3:30 p.m. on a Monday, Tuesday, Wednesday, Thursday, or Friday, on school days only.

(2) It shall be unlawful for any minor who is between the ages of fifteen (15) years and under seventeen (17) years to purposefully remain, walk, run, stand, drive or ride about, be in or upon any public place in the city between the hours of 12:00 midnight and

5:00 a.m., or between the hours of 7:30 a.m. and 3:30 p.m. on a Monday, Tuesday, Wednesday, Thursday, or Friday, on school days only.

(3) It shall be unlawful for the parent having legal custody of a minor to knowingly allow or permit the minor to be in violation of the curfew imposed in subsections (b)(1) or (b)(2).

(c) Defenses. It is a defense to prosecution under subsection 24-6(b) that:

(1) The minor was accompanied by the minor's parent or guardian;

(2) The minor was accompanied by an adult seventeen (17) years of age or older, designated by the minor's parent or guardian;

(3) The minor was on an emergency errand made necessary by an emergency directed by his or her parent;

(4) The minor was attending a school, religious, or government-sponsored activity or was traveling to or from a school, religious, or government-sponsored activity without detour or stop;

(5) The minor was engaged in a lawful employment activity or volunteer work at a recognized charitable institution or was going directly to or coming directly from lawful employment or such activity without detour or stop;

(6) The minor was on an errand directed by the minor's parent or guardian;

(7) The minor was in a motor vehicle involved in intrastate or interstate transportation;

(8) The minor was engaging in, participating in, or traveling to or from any event, function, or activity for which the application of subsection 24-6(b) would contravene the minor's rights protected by the Texas Constitution or by the United States Constitution;

(9) The minor was married or had been married or has had disabilities of minority removed pursuant to Chapter 31 of the Texas Family Code;

(10) The minor was on the sidewalk of the place where the minor resides or on the sidewalk of a place where the minor has permission from his/her parent or guardian to be;

(11) The minor was 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;

(12) With respect only to the hours between 7:30 a.m. and 3:30 p.m. on Monday, Tuesday, Wednesday, Thursday, and Friday, it is a defense if:

- a. The offense occurred during the school summer vacation break period of the school in which the minor is enrolled;
- b. The offense occurred on a holiday observed by the closure of classes in the school in which the minor is enrolled; or
- c. The minor has graduated from high school or has received a high school equivalency certificate; or
- d. The minor was not subject to compulsory school attendance pursuant to §25.085, Texas Education Code, as amended, on days or during periods in which the school where the applicable minor is enrolled has been canceled under the order and direction of officials authorized to issue such orders and directives, or similar language;
- e. The minor has permission to be absent from school or be in a public place from an authorized school official. In the case of a child being educated in a home school, a parent shall be deemed a school official; or

(d) Enforcement. Any police officer, upon finding a minor in violation of this section shall ascertain the name and address of such minor. The officer shall warn the minor that the minor is in violation of the curfew and shall direct the minor to proceed by the most direct route to the minor's residence.

If a minor refuses to heed such warning or direction by any police officer, or refuses to provide the police officer with the minor's correct name and address, or if the police officer deems it in the best interest of the minor or the public, the minor shall be taken into custody.

(1) 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 also request proof of age and status, and may seek the assistance of the parents, guardians, or school.

(2) Notwithstanding the penal effect of this section, the Chief of Police is encouraged to develop alternative enforcement strategies, which may include, but are not limited to returning minors to their residence or school, counseling with minors and their parents or guardians, issuing citations and/or warning to minors or their parents or guardians, and referring instances that appear to also involve the violation of school attendance laws to those officers who are responsible for the enforcement of such laws.

(e) Penalties.

(1) Any minor violating the provisions of this section shall be guilty of a Class "C" misdemeanor. When required by §51.08 of the Texas Family Code, as amended, the municipal court shall waive original jurisdiction over a minor who violates section 24-6(b) of this section and shall refer the minor to the juvenile court.

(2) The parents or guardian of a minor violating this section shall each be guilty of a Class "C" misdemeanor, which shall be punishable by a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00).

(3) In assessing punishment of either a parent or a minor, the municipal court judge is encouraged to consider any available community service program.

(f) Sunset Provision.

This Section expires on January 25, 2021 unless otherwise renewed or amended."

**SECTION 3.** It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

**SECTION 4.** All Ordinances or parts thereof in conflict herewith are repealed to the extent of such conflict only.

**SECTION 5.** In accordance with the provisions of Sections 12 and 13 of Article II of the City Charter this Ordinance has been publicly available in the office of the City Secretary for not less than 72 hours prior to its adoption; that this Ordinance may be read and published by descriptive caption only.

**SECTION 6.** This Ordinance shall be and become effective from and after its adoption and publication in accordance with the provisions of the Charter of the City of Galveston. This Ordinance shall expire on January 25, 2021 unless otherwise renewed or amended.

APPROVED AS TO FORM:

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DONNA M. FAIRWEATHER  
ASSISTANT CITY ATTORNEY

I, Janelle Williams, Secretary of the City Council of the City of Galveston, do hereby certify that the foregoing is a true and correct copy of an Ordinance adopted by the City Council of the City of Galveston at its regular meeting held on the January 25, 2018, as the same appears in records of this office.

IN TESTIMONY WHEREOF, I subscribe my name hereto officially under the corporate seal of the City of Galveston this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

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Secretary for the City Council  
of the City of Galveston