

Ordinance No. 14-016

AN ORDINANCE OF THE CITY OF MARLIN, TEXAS ESTABLISHING A JUVENILE CURFEW, PROVIDING FOR DEFINITIONS, SETTING DATES AND TIMES FOR CURFEW, PROVIDING PENALTIES, REPEALING ANY OTHER ORDINANCE IN CONFLICT, AND PROVIDING FOR PUBLICATION.

WHEREAS, to ensure the safety and well-being of Marlin's youth it is necessary to limit unsupervised activities during certain nighttime hours, and

WHEREAS, the City Council finds and determines that in order to protect its youth and to provide for the safety of the public at large, a juvenile curfew is necessary.

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

(a) **Definitions.** In this section:

(1) **Curfew hours** mean:

- a. From 10:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. of the following day; and
- b. From 11:00 p.m. on any Friday or Saturday until 6:00 a.m. of the following day.

(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 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 less than 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 twenty-one (21) years of age and has court-ordered 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 a 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.

(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, 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;
 - 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, 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 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 two hundred dollars (\$200.00).
- (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) **Publication.**

The City Secretary shall publish caption of said ordinance in local newspaper upon final passage of ordinance.

FIRST READING PASSED this 10th day of June, 2014 by a vote of 5 AYES to 0 NAYS with 2 Absentions.



Elizabeth Nelson
Elizabeth Nelson, Mayor
Sandra Herring
Sandra Herring, City Secretary

SECOND READING PASSED this 8th day of July, 2014 by a vote of 5 AYES to 0 NAYS with 2 Absentions.



Elizabeth Nelson
Elizabeth Nelson, Mayor
Sandra Herring
Sandra Herring, City Secretary