

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF CARROLLTON, TEXAS, ADOPTING A NEW SECTION 130.19 INTO CHAPTER 130 THE CITY'S CODE OF ORDINANCES ENTITLED "CURFEW HOURS FOR MINORS" ESTABLISHING CURFEW HOURS FOR PERSONS UNDER SEVENTEEN YEARS OF AGE; DEFINING TERMS; CREATING OFFENSES FOR MINORS, PARENTS AND GUARDIANS OF MINORS, AND BUSINESS ESTABLISHMENTS VIOLATING CURFEW REGULATIONS; PROVIDING ENFORCEMENT PROVISIONS; PROVIDING SAVINGS, SEVERABILITY AND PENALTY CLAUSES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Carrollton, Texas (the "City") is a Home Rule municipality possessing the full power of local self-government pursuant to Article 11, Section 5 of the Texas Constitution, Section 51.072 of Texas Local Government Code and its Home Rule Charter;

WHEREAS, pursuant to Section 370.002 of the Texas Local Government Code, the former curfew ordinance expired on January 22, 2016;

WHEREAS, the City of Carrollton City Council has determined that the former curfew ordinance had its intended effect of reducing the problems the ordinance was intended to remedy, such as to decrease crime against juveniles, juvenile violence, juvenile gang activity, and crime by persons under the age of 17 years in the City of Carrollton, Texas;

WHEREAS, persons under the age of 17 years are particularly susceptible by their lack of maturity and experience to participate in unlawful and gang-related activities and to be victims of older perpetrators of crime;

WHEREAS, the City of Carrollton has an obligation to provide for the protection of minors, for the enforcement of parental control over and responsibility for children, for the protection of the general public and for the reduction of the incidence of juvenile criminal activities; and

WHEREAS, the City Council has determined that a curfew for those under the age of 17 years is in the best interest of the public health, safety, and general welfare and will help to attain the foregoing objectives and to diminish the undesirable impact of such conduct on the citizens of the City of Carrollton.

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

SECTION 1.

Title XIII, Chapter 130, Section 130.19 of the Carrollton City Code is added to read as follows:

"Sec. 130.19. Curfew hours for minors.

(A) Definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Curfew hours.

- (1) 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. of the following day; and
- (2) 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday.

Emergency. 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. 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.

- (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. Any person under 17 years of age.

Operator. 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.

Parent. 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 court-appointed guardian to have the care and custody of another person.

Public place. Any place to which the public or a substantial group of the public has access, and includes but is not limited to streets, alleys, highways, sidewalks, playgrounds, parks, plazas, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

Remain.

- (1) To linger or stay unnecessarily; or
- (2) To 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.

(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 divisions (B) (1) &(2) , above, 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 and was using a direct route without any unnecessary detour or stop;
- (c) In a motor vehicle involved in interstate travel;
- (d) Engaged in an employment activity, or going to or returning from an employment activity, without any unnecessary 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 a religious, recreational, or social activity which is supervised by adults and which is sponsored by a church, school, the city, or a nonprofit organization that sponsors or provides recreational social activities for minors, or going to or returning home therefrom without any unnecessary detour or stop;
- (h) Exercising first amendment rights protected by the united state 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 division (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 response and other circumstances, no defense in division (C) is present.”

SECTION 2.

Save and except as amended by this ordinance, Title XIII of the Carrollton City Code shall remain in full force and effect. The offenses established by this ordinance apply only to an offense committed on or after the effective date of this ordinance. Offenses under Title XIII, Chapter 130, Section 130.19 prior to January 22, 2016 are covered by the law in effect when the offense was committed, and the former law is continued in effect only for that purpose.

SECTION 3.

All ordinances or parts of ordinances in conflict with this ordinance are specifically repealed.

SECTION 4.

The provisions of this ordinance are severable in accordance with Section 10.07 of the Carrollton City Code.

SECTION 5.

Any violation of this ordinance shall be punished by a penalty of fines as set forth in Section 10.99 of this Code of Ordinances for each offense.

SECTION 6.

This ordinance shall become effective from and after its passage as permitted by law.

DULY PASSED AND APPROVED by the City Council of the City of Carrollton, Texas this 2nd day of February, 2016.

CITY OF CARROLLTON, TEXAS

Matthew Marchant, Mayor

ATTEST:

Laurie Garber, City Secretary

APPROVED AS TO FORM:

Susan Keller, Assistant City Attorney

APPROVED AS TO CONTENT:

Rex D. Redden, Chief of Police