

CURFEW
ORDINANCE NO. 0705-2

AN ORDINANCE TO PROVIDE FOR THE PUBLIC SAFETY BY ESTABLISHING A CURFEW TO REGULATE THE MOVEMENTS AND ACTIONS OF PERSONS UNDER 17 YEARS OF AGE; ESTABLISHING THE HOURS OF CURFEW; CREATING OFFENSES FOR PERSONS UNDER 17 YEARS OF AGE, PARENTS OF PERSONS UNDER 17 YEARS OF AGE, GUARDIANS OF PERSONS UNDER 17 YEARS OF AGE AND OPERATORS OF BUSINESS ESTABLISHMENTS; PROVIDING A FINE OF NOT MORE THAN \$500.00 FOR EACH VIOLATION; PROVIDING DEFENSES; PROVIDING FOR ENFORCEMENT BY THE POLICE DEPARTMENT; DIRECTING THE CHIEF OF POLICE TO DESIGNATE A JUVENILE CURFEW PROCESSING OFFICE; ESTABLISHING PROCEDURES FOR A POLICE OFFICER TAKING INTO CUSTODY A PERSON UNDER 17 YEARS OF AGE FOR VIOLATION OF THE CURFEW; PROVIDING THE PROCEDURE FOR A JUVENILE CURFEW PROCESSING A SEVERABILITY CLAUSE; CONTAINING A REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

THE COUNCIL OF THE CITY OF GRAPELAND HEREBY ORDAINS:

SECTION 1: DEFINITIONS

In this Ordinance:

- (a) Curfew hours means the hours between 11:00 o'clock p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday and 6:00 o'clock a.m. for the following day; and the hours between 12 o'clock (midnight) on any Friday and Saturday and 6:00 o'clock a.m. of the following day.
- (b) Emergency means unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes a medical emergency or any situation requiring immediate action to prevent serious bodily injury or loss of life.
- (c) Establishment means any privately owned place of business operated for profit which the public is invited, including but not limited to any place of amusement for entertainment.
- (d) Guardian means a person who, under court order, is the guardian of the person of a minor or a person or public or private agency with whom a minor has been placed by a court.
- (e) Minor means any person less than 17 years of age.

(f) Operator means any person, firm, association, partnership or corporation operating, managing or conducting any establishment. The term includes the members and partners of an association or Partnership and the officers of a corporation.

(g) Parent means:

- (1) a person who is a natural parent, adoptive parent, or step-parent of a minor, or
- (2) a person who is at least 20 years of age and is authorized by a natural parent, adoptive parent, step-parent or guardian of a minor to have the care and custody of a minor.

(h) 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, parks and the common areas of schools, hospitals, apartments houses, office buildings, transport facilities and shops.

(i) Premises means a building a portion of a building or a private driveway, street, sidewalk, walkway, parking lot, parking garage, or other private parking area.

(j) 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.

SECTION 2: OFFENSES

(a) A minor commits an offense if he/she is present in a public place or on the premises of any establishment within the city limits of Grapeland, Texas during curfew hours.

(b) A parent or guardian of a minor commits an offense if he/she knowingly permits, or by insufficient control, allows the minor to be present and unaccompanied by a parent or guardian in any public place or on the premises of any establishment during curfew hours.

(c) The owner, operator, or any employee of an establishment commits an offense if he knowingly allows as a minor to be present upon the premises of the establishment during curfew hours.

SECTION 3: DEFENSES

- (1) It is a defense to prosecution under Section 2 (a) that the minor was
 - (a) Accompanied by the minor's parent or guardian;
 - (b) on an errand made necessary by an illness, injury, or emergency;
 - (c) on an errand at the direction of the minor's parent or guardian without any detour or stop;
 - (d) in a motor vehicle involved in interstate, inter-city or inter-country travel;
 - (e) involved in any emergency;
 - (f) engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
 - (g) on the sidewalk abutting the residence of the minor's next door neighbor if the neighbor did not complain to Police Department about the minor's presence.
 - (h) Attending an official school, religious or other recreational activity supervised by adults or the City of Grapeland, a civic organization, or other similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, official school, religious or other recreational organization, or other similar entity that takes responsibility for the minor.
 - (i) exercising First Amendment rights protected by the United States Constitution, such as free exercise of religion, freedom of speech, and the right to assembly; or
 - (j) married or had been married, or had disabilities of minority removed in accordance with Chapter 13 of the Texas Family Code.
- (2) It is a defense to prosecution under Section 2 (c) that the owner, operator, or employee of an establishment directed the minor to leave the establishment and promptly thereafter notified the Police Department that a minor was in violation of the curfew.

SECTION 4: 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 under Section 3 is applicable.

SECTION 5: JUEVENILLE CURFEW PROCESSING OFFICE

The Chief of Police of the City of Grapeland, Texas is hereby directed to designate a juvenile curfew processing office. The juvenile curfew processing office must be an office that is unlocked, multipurpose area that is not designated, set aside or used as a secure detention area or part of a Secure detention area, and it may not be designated or intended for residential purposes.

SECTION 6: PROCEDURES FOR POLICE OFFICER TAKING A MINOR INTO CUSTODY FOR VIOLATION OF THIS ORDINANCE

- (a) A Police Officer taking into custody a person under 17 years of age for violation of this Ordinance shall, with unnecessary delay:
- (1) Release the minor to the minor's parent, guardian or custodian;
 - (2) Take the minor before the Municipal Court to answer the charge; or:
 - (3) Take the minor to the juvenile curfew processing office designated by the Chief of Police of the City of Grapeland, Texas.
- (b) The minor may not be secured physically to a cuffing rail, chair, desk or stationary object.
- (c) The minor may not be held in the juvenile curfew processing office longer than necessary to accomplish the purpose of identification, investigation, processing and release to parents, guardian, or custodians or arrangement of transportation to school or court.
- (d) The minor must be under continuous visual supervision by a peace officer or other adult during the time the minor is in the juvenile curfew processing office.
- (e) A minor may not be held in the juvenile curfew processing office for more than six (6) hours.

SECTION 7: REVIEW OR ORDINANCE

Before the third anniversary of the date of the adoption of this juvenile curfew ordinance by the City of Grapeland, Texas, and every third year thereafter, the city council shall;

- (a) Review this ordinance's effects on the community and on problems the Ordinance was intended to remedy;
- (b) Conduct public hearings on the need to continue this Ordinance; and
- (c) Abolish, continue or modify this Ordinance.

SECTION 8: SEVERABILITY

The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses or phrases of this Ordinance, but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION 10: REPEALING CLAUSE

All Ordinances or parts of Ordinances, inconsistent or in conflict with the provisions of this Ordinances are hereby repealed.

SECTION 11: EFFECTIVE DATE

A descriptive caption of this Ordinance shall be published two (2) times in The Messenger, the official newspaper of the City of Grapeland, within fourteen (14) days after the date of passage thereof, and said Ordinance shall remain effective.

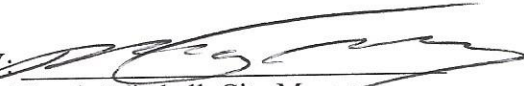
PASSED AND READOPTED this 8th day of June, 2021 at a regular meeting of the City Council of the City of Grapeland, Texas.

CITY OF GRAPELAND

ATTEST:



BY:


Woody Mitchell, City Mayor