



ORDINANCE 2015-05

AN ORDINANCE RELATING TO AND ENTITLED, "CURFEW HOURS FOR MINORS;" CREATING OFFENSES FOR MINORS, PARENTS AND GUARDIANS OF MINORS; BUSINESS ESTABLISHMENTS VIOLATING CURFEW REGULATIONS; PROVIDING EXCEPTIONS; PROVIDING FOR ENFORCEMENT BY THE POLICE DEPARTMENT; PROVIDING FOR WAIVER BY THE MUNICIPAL COURT OF JURISDICTION OVER A MINOR WHEN REQUIRED UNDER THE TEXAS FAMILY CODE; PROVIDING A PENALTY NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500.00); PROVIDING A SAVING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; REPEALING OF EXISTING LAW NUMBER 2012-02; AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS OPEN TO THE PUBLIC AND THAT A PUBLIC HEARING WAS HELD PRIOR TO THE PASSAGE OF THIS ORDINANCE AS REQUIRED BY LAW.

WHEREAS: the City Council has determined that there has been an increase in violence, and crime by persons under the age of (17) in areas surrounding the City of Tom Bean; and

WHEREAS: persons under the age of (17) 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: the City of Tom Bean has an obligation to provide for the protection of minors from each other and from other persons, for the enforcement of parental control over and their responsibility for their children, for the protection of the general public, and for the reduction of the incidence of juvenile criminal activities; and

WHEREAS: a curfew for those under the age of (17) will be in the 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 Tom Bean:

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TOM BEAN, TEXAS AS FOLLOWS:

Section 1: The short title of this ordinance shall be called **MINOR-CURFEW ORDINANCE.**

Section 2: Curfew hours for minors under (17) years of age,

- A.** Curfew hours means: 11:00 pm on any Sunday, Monday, Tuesday, Wednesday or Thursday until 6:00 am on the following day.
- B.** When school is legally in session, the following curfew hours will be law; 10:00 pm on any Sunday, Monday, Tuesday, Wednesday or Thursday until 6:00 am on the following day.
- C.** Curfew hours will be 12:01 am until 6:00 am on any Saturday or Sunday.

Section 3: DEFINITIONS:

- A.** 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.
- B.** ESTABLISHMENT means a privately-owned place of business operated for a profit to which one is invited, including but not limited to any place of amusement or entertainment.
- C.** GUARDIAN means:
 - 1.** A person who, under court order, is the guardian of the person or minor; or
 - 2.** A public or private agency with whom a minor has been placed by a court.
- D.** MINOR means any person under the age of (17)years.
- E.** OPERATOR means any individual, firm, association, partnership, 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.
- F.** 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.
- G.** 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.
- H.** 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.

- I. **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 4: OFFENSES:

- A. 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.
- B. 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 of on the premises of any establishment within the City during curfew hours.
- C. 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.

Section 5: EXCEPTIONS:

- A. It is an exception to prosecution under section (4) if a minor is:
 - 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 their private property;
 - 7. attending, going to and from an official school, religious, or other recreational activity supervised by adults and sponsored by the City of Tom Bean, the Tom Bean 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 to assembly.
 - 9. married or has been married or had disabilities of minority removed in accordance with Chapter 31 of the Texas Family Code.
- B. that under Section (4) the owner, operator, or employee of an establishment promptly notifies the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

Section 6: ENFORCEMENT:

- A. 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 exceptions in Section (5) is present or exists.

Section 7: PENALTIES:

- A.** A person who violates a provision of this chapter 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 FIVE HUNDRED DOLLARS (\$500.00).
- B.** 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 Section (4) Subsection (A) of this section and shall refer the minor to juvenile court.

Section 8: The terms and provisions of this Ordinance are severable and if any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

Section 9: This Ordinance shall under Section §370.002 of the Local Government Code be reviewed every three years from the date of passage by the City Council of Tom Bean.

Section 10: This Ordinance shall take effect immediately from and after its passage and publication in accordance required by law.

Section 11: It is hereby officially found and determined that the meeting at which this Ordinance was passed, followed as required by law, a public hearing concerning this Ordinance and that public notice was given of the time, place and purpose of said meeting was given as required by Section § 551,041 of the Texas Government Code.

**PASSED AND APPROVED BY THE CITY COUNCIL OF TOM BEAN, TEXAS
THIS 14TH DAY OF SEPTEMBER 2015.**



Sherry Howard, Mayor

Attest:



Cathy Pugh, City Secretary

