

ORDINANCE NO. 2014-486

AN ORDINANCE OF THE CITY OF KEENE, TEXAS, REPLACING SECTION 130.05 OF THE CITY OF KEENE CODE OF ORDINANCES WITH A NEW SECTION 130.05 OF THE CITY OF KEENE CODE OF ORDINANCES BY ADOPTING AND IMPLEMENTING A JUVENILE CURFEW; PROVIDING FOR DEFINITIONS, OFFENSES, DEFENSES TO PROSECUTION, ENFORCEMENT, SEVERABILITY AND SAVINGS/REPEALING CLAUSES, AND PENALTIES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Keene, Texas ("City Council"), has investigated and determined that there has been an increase in juvenile violence and crime by persons under the age of seventeen (17) in the City of Keene, Texas ("Keene"); and

WHEREAS, the City Council has further investigated and determined that passage of this Ordinance will promote the general welfare and protect the general public through the reduction of juvenile crime and violence within Keene; and

WHEREAS, the City Council has further investigated and determined that persons under the age of seventeen (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 Council, on behalf of Keene and its citizens, 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 responsibility for children; for the protection of the general public; and for the reduction of incidence of juvenile criminal activities; and

WHEREAS, the City Council has further investigated and determined that its goals in enacting this ordinance include, but are not limited to, the following: (1) reducing the number of juvenile crime victims; (2) reducing injury accidents involving juveniles; (3) allow for reduced time for officers related to juvenile crime activities and accidents; (4) provide a tool for dealing with gang activity; (5) reduce juvenile peer pressure to stay out late; and (6) assist parents in the control of their children; and

WHEREAS, the City Council has further investigated and determined that it is in the best interests of Keene and its citizens to establish a curfew for those under the age of seventeen (17) years, as set forth below, which will promote public health, safety and general welfare; help attain the foregoing objectives; and diminish the undesirable impact of such conduct on the citizens of Keene; and

WHEREAS, the City's previous juvenile curfew ordinance, codified in Section 130.05, "Curfew Hours for Minors," of Chapter 130, "General Provisions," of the Code of Ordinances of the City of Keene, Texas, has expired by its terms and as a consequence, this Ordinance is adopted due to such prior ordinance's expiration by law.

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

Section 1. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

Section 2. Section 130.05 of the City of Keene Code of Ordinances is hereby amended by adding a new Section 130.05, entitled "Curfew Hours for Minors," which shall read as follows:

"§ 130.05 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.

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

- (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.

MINOR. Any person under 17 years of age.

OFFICER. Police officer of the city.

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:

- (a) A natural parent, foster parent or step-parent of another person; or
- (b) At least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

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, highways and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.

REMAIN. To:

- (a) Linger or stay; or
- (b) Fail to leave premises when requested to do so by an officer or the owner, operator or other person in control of the premises.

SERIOUS BODILY INJURY. 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 or she 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 or she 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 or she 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 division (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 from 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 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; and/or
- (i) Married or had been married or had disabilities of minority removed in accordance with Tex. Family Code Ch. 31.

(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, an 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 division (C) above is present.”

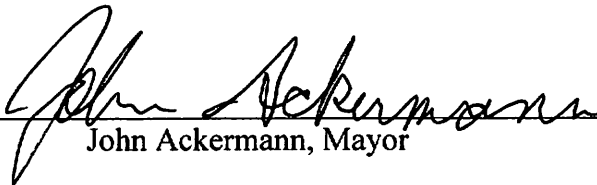
Section 3. If any section, article paragraph, sentence, clause, phrase or word in this Ordinance, or application thereto any persons or circumstances is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance; and the City Council hereby declares it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

Section 4. That all provisions of the Ordinances of the City of Keene, Texas, in conflict with the provisions of this Ordinance be, and the same are hereby amended, repealed, and all other provisions of the Ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

Section 5. A person who violates a provision of this Ordinance 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 \$500. When required by Tex. Family Code § 51.08, as amended, the Municipal Court shall waive original jurisdiction over a minor who violates § 130.05(B)(1) of this Ordinance and shall refer the minor to Juvenile Court.

Section 6. This Ordinance shall become effective from and after its date of passage and publication in accordance with law.

PASSED AND APPROVED the 22 day of May, 2014.


John Ackermann, Mayor

ATTEST:


Keesha Lay, TRMC, City Secretary

APPROVED AS TO FORM:

Robert F. Brown, City Attorney