

ORDINANCE NO. 191

AN ORDINANCE OF THE CITY OF GREY FOREST, TEXAS CONTINUING WITH A CURFEW FOR MINORS UNDER SEVENTEEN YEARS OF AGE AND OVER NINE YEARS OF AGE; PROHIBITING MINORS FROM BEING IN ANY PUBLIC PLACE BETWEEN THE HOURS OF MIDNIGHT AND 6:00 A.M.; PROVIDING FOR ENFORCEMENT; ESTABLISHING CRIMINAL PENALTIES; SETTING AN EFFECTIVE DATE; AND PROVIDING FOR FINES FOR VIOLATION UPON CONVICTION OF NOT LESS THAN \$50.00 NOR MORE THAN \$500

WHEREAS, the City Council has determined that there has been an increase in juvenile violence, juvenile gang activity and an increase of crime by persons under the age of seventeen in Bexar County which includes the City of Grey Forest; and

WHEREAS, persons under the age of seventeen 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; and

WHEREAS, the City of Grey Forest has and continues to provide for the protection of minors from each other and from other persons, for the enforcement of parental control of and responsibility for their minors, for the protection of the general public, and for the reduction of the incidence of juvenile criminal activities; and

WHEREAS, it is believed that the curfew ordinance is 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 Grey Forest;

WHEREAS, Ordinance No. 167 was passed and approved on June 24, 2008. Texas Local Government Code Section 370.002 requires triennial review of the curfew ordinance and public hearing was held on June 28, 2011 in compliance with Section 370.002; and

WHEREAS, after receiving the report of the Chief of Police for the City, the City Council has determined there is a continuing need to keep the curfew ordinance in place in the manner provided by law;

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GREY FOREST, TEXAS:

Section 1: City of Grey Forest curfew ordinance is hereby to read as follows:

Definitions.

Emergency shall include but not be limited to fire, natural disaster, an automobile accident, or obtaining immediate medical care for another person.

Guardian shall mean any person to whom custody of a minor has been given by a court order.

Minor shall mean any person under 17 years of age and over nine years of age.

Parent shall mean a person who is the natural or adoptive parent of a person. As used herein, "parent" shall also include a court appointed guardian or other person 18 years of age or older, authorized by the parent, by a court order, or by the court appointed guardian to have the care and custody of a person.

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

Sec. 001, Offenses.

- (a) It shall be unlawful for a minor to purposefully remain, walk, run, stand, drive or ride about in or upon any public place in the City of Grey Forest between the hours of 12:00 a.m. (Midnight) and 6:00 a.m. on a Sunday, Monday, Tuesday, Wednesday, Thursday, Friday or Saturday.
- (b) It shall be unlawful for a minor to purposefully remain, walk, run, stand, drive or ride about in or upon any public place in the City of Grey Forest during school days between the hours of 9:00 a.m. and 2:30 p.m. on a Monday, Tuesday, Wednesday, Thursday, or Friday.
- (c) It shall be unlawful for the parent having legal custody of a minor to knowingly allow or permit the minor to be in violation of the curfew imposed in Sec. 001 (a) and (b) of this ordinance.

Sec. 002, Defenses.

It is a defense to prosecution under Sec. 001 of this article that:

- (a) The minor was accompanied by his or her parent;
- (b) The minor was accompanied by another adult approved by the parents;
- (c) The minor was on an emergency errand;
- (d) The minor was attending school, government sponsored, or religious activity or is going to or coming from a school, religious, or government sponsored activity without detour or stop;
- (e) The minor was engaged in a lawful employment or volunteer work at a recognized charity institution or is going to or coming directly from such activity without detour or stop;
- (f) The minor was on the sidewalk of the place where such minor resides or on the sidewalk of a place where the minor has permission for his/her parent or guardian to be or on the sidewalk of a next-door neighbor not communicating an objection to the police officer;

- (g) The minor was upon an errand directed by his or her parent;
- (h) The minor was in a motor vehicle involved in intrastate or interstate transportation or transportation for which passage through the curfew area is the most direct route;
- (i) The minor was married or had been married or had the disabilities of minority removed in accordance with Family Code, Chapter 51: and
- (j) With respect to Subsection 001 (b) of this article, that the offense occurred during the scheduled vacation of or on a holiday observed by the school in which the minor is enrolled; or that the minor has graduated from high school or received a high school equivalency certificate; or that the minor has permission to be absent from school or be in a public place from an authorized school official. In the case of a child being educated in a home school, a parent shall be deemed a school official.

Sec. 003, Enforcement Procedure.

- (a) Any police officer, upon finding a minor in violation of Sec. 001, Offenses of this article, shall determine the name and address of the minor, and the name and address of his or her parent(s) or guardian(s). The minor's parent(s) or guardian(s) shall be notified and required to pick up their child and a warning notice shall be issued to the minor and the parent(s) or guardian(s) of the minor advising of the fact that the minor was found in violation of this ordinance, and soliciting cooperation in the future.
- (b) Any police officer, upon finding a minor in violation of Sec. 001, Offenses, who has previously been found in violation and issued a warning as provided for in (a) above, shall transfer the case to proper authorities for handling under the provisions of Family Code, Title 3. In addition, a complaint will be filed against the parents in the Municipal Court for violation of Subsection 001 hereof. The Police Department shall file all necessary legal papers, supply all necessary documentation, and provide necessary testimony as required for pursuing violations of this ordinance by either the minor or by any parent or guardian.

Sec. 004, Penalty.

- (a) Any minor violating this ordinance, upon conviction shall be guilty of a Class "C" misdemeanor as defined in the Texas Penal Code and shall be dealt with in accordance with the provisions of Family Code, Title 3.
- (b) A parent of a minor violating this ordinance, upon conviction shall be guilty of a misdemeanor, which shall be punishable by a fine of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500).
- (c) In assessing punishment for either a parent or a minor, the Municipal Court Judges are encouraged to consider the community service program.

Sec. 005, Triennial Review.

- (a) Within three (3) years of the adoption, modification or renewal of this ordinance, the Police Chief shall review the ordinance, prepare a written report and make recommendations to the City Council concerning its effectiveness and continuing need. The report shall review the ordinance or order's effects on the community and on problems the ordinance or order was intended to remedy;
- (b) After presentation of the Police Chief's report to the City Council as required by Subsection (a) of this section, the City shall:
 - (1) Make a determination on the need to continue the ordinance or order; and
 - (2) Abolish, continue, or modify the ordinance.

Section 2: Severability

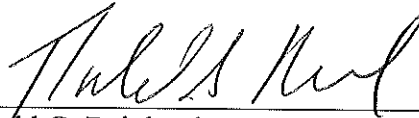
It is hereby declared to be the intention of the City Council that if any of the sections, paragraphs, sentences, clauses and phrases of this ordinance shall be declared unconstitutional or otherwise illegal by the valid judgment or decree of any court of competent jurisdiction, such event shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation of this ordinance of any such unconstitutional or illegal phrase, clause, sentence, paragraph or section.

Section 3: Effective Date.

As provided by Texas Local Government Code Section 370.002, the ordinance shall take effect immediately after its passage and publication in the manner required by Texas Local Government Code Section 52.011.

PASSED AND APPROVED AT GREY FOREST, TEXAS, This 28th Day of June 2011.

CITY OF GREY FOREST, TEXAS



Ronald G. Reinhard, Mayor

ATTEST:



Shannan Kinsley, City Secretary

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