

ORDINANCE NO. 10062020-01

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLORENCE, WILLIAMSON COUNTY, TEXAS PURSUANT TO SECTION 341.904 OF THE TEXAS LOCAL GOVERNMENT CODE, RE-ESTABLISHING A JUVENILE CURFEW IN THIS GENERAL LAW CITY; PROVIDING FOR DEFINITIONS, DEFINING THE OFFENSE(S), DEFENSES, ENFORCEMENT PROCEDURES; PROVIDING FOR A PENALTY OF A CLASS “C” MISDEMEANOR FOR VIOLATION(S) OF THE ORDINANCE; AND PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; ESTABLISHING AN EFFECTIVE DATE.

PREAMBLE

WHEREAS, in ORD NO. 08042009-01 Adopted on August 12, 2009, the City Council (“City Council”) of the City of Florence, Williamson County, Texas (“City”) passed a Juvenile Curfew Ordinance pursuant to Section 341.905 of the Texas Local Government code; and

WHEREAS, state law requires that a General Law Municipality periodically (1) review the effects of such curfew ordinance on the community and the problems the ordinance was intended to remedy; (2) conduct public hearings on the need to continue the ordinance; and (3) determine whether or not to abolish, continue or modify such ordinance; and

WHEREAS, on August 4, 2020, and September 1, 2020, the City Council held public hearings on the need to continue the ordinance as required by law; and

WHEREAS, the City Council further finds that the re-adoption of the original juvenile curfew ordinance and the amendments within, is in the best interest of the City and is necessary for the protection, safety and welfare of its citizens, both young and old.

SECTION I. **FACTUAL FINDINGS**

- 1.01. That the matters set forth in the preamble to this ordinance adopted herein verbatim.
- 2.01. For the purpose of this chapter, the following words shall have the meaning ascribed to them as indicated.

SECTION II **DEFINITIONS**

- a. **CURFEW AREA** means all areas within the incorporated City limits of the City of Florence, Texas.
- b. **DIRECT ROUTE** means the shortest path of travel through public places to reach the destination without detours or additional stops at any other destinations along the way.

- c. **EMERGENCY** means an unforeseen circumstance to include but not limited to fire, natural disaster, an automobile accident or obtaining immediate medical care for another person.
- d. **ESTABLISHMENT** means any privately owned place of business operated for a profit to which the public is invited, including but not limited to, any of amusement or entertainment.
- e. **GUARDIAN** means any person, public or private agency to whom custody of a minor has been given by court order.
- f. **MINOR** means any person under the age of 17 years of age.
- g. **OPERATOR** means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The terms include the members or partners of an association or partnership and the officers of a corporation.
- h. **PARENT** means a parent who is the natural or adoptive parent of any person. As used herein, parent shall also include a court appointed guardian or other person 21 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.
- i. **PUBLIC PLACE** means any street, alley, highway, sidewalk playground, park, plaza or place used or open to members of the public or any public building, place of business, amusement or entertainment.
- j. **RELIGIOUS ACTIVITY** means any function or event sponsored by a religious organization that has received tax exemption under Section 501C (3) of U.S. C.

SECTION III **OFFENSES**

- 3.01. It shall be unlawful for any minor to remain, walk, run, idle, wander, stroll or aimlessly drive or ride about in or upon any public place or be on the premises of any establishment in the Curfew Area between the hours of **10:01 P.M. and 6:00 A.M. on Sunday, Monday, Tuesday, Wednesday or Thursday.**
- 3.02. It shall be unlawful for a minor to remain, walk, run, idle, wander, stroll, or aimlessly drive or ride about in or upon any public place or be on the premises of any establishment in the Curfew Area between the hours of **11:01 P.M. and 6:00 A.M. on Friday or Saturday.**
- 3.03. It shall be unlawful for the parent or guardian having legal custody of a minor to knowingly allow or permit the minor to be in violation of this chapter.

- 3.04. The owner , operator, or any employee of an establishment located in the Curfew Area commits an offense if he knowingly allows a minor to remain upon the premises of the establishment during the curfew hours.

SECTION IV **DEFENSES**

- 4.01. It is a defense to prosecution under Sections 3.01., 3.02., 3.03. or 3.04. of this ordinance that:
- a. The minor is accompanied by his or her parent, guardian or spouse.
 - b. The minor is on an errand authorized by his or her parent, guardian or spouse, or one made necessary by an emergency.
 - c. The minor is moving by a direct route through a Curfew Area or to his or her home in a Curfew Area.
 - d. The minor is in a motor vehicle involved in intrastate or interstate transportation or transportation for which passage through a Curfew Area is the most direct route.
 - e. The presence of the minor is connected with or required with respect to a religious activity, government activity, educational activity or business, trade, profession or occupation in which said minor is lawfully engaged.
 - f. The minor is on the sidewalk of the place where such minor resides or on the sidewalk of either a next door neighbor not communicating an objection as to the presence of the minor to the police officer; or
 - g. The minor is exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religious freedom of speech and the right of assembly.
 - h. It is a defense to prosecution that the owner, operator, or employee of an establishment promptly notified the Police Department that the minor was present on the premises of the establishment during curfew hours and refused to leave after being requested to do so by the owner, operator, or employee.

SECTION V **ENFORCEMENT PROCEDURES**

- 5.01. All enforcement procedures adopted by the Police Department shall be in compliance with the provisions of the Texas Family code.

SECTION VI
PENALTY

- 6.01. Any other person violating this chapter shall be guilty of a Class “C” misdemeanor, which shall be punishable by a fine of not less than \$50 nor more than \$500.

SECTION VII
REPEAL OF CONFLICTING ORDINANCES

- 7.01. That any ordinance in conflict with this ordinance, in whole or in part, are repealed to the extent of the conflict.

SECTION VIII
EFFECTIVE DAE OF ORDINANCE

- 8.01. This ordinance shall become effective ten (10) days from and after the date of its second approval, adoption, and publication as provided by law.

PRESENTED, PASSED AND APPROVED on the first reading this ____day of _____, 2020, _____affirmative votes at a meeting of the City Council of the City of Florence, Texas.

BY:_____
MARY CONDON, MAYOR

ATTEST:

AMY L. CRANE
CITY SECRETARY

PRESENTED, PASSED AND APPROVED on the second reading this ____day of _____, 2020, _____affirmative votes at a meeting of the City Council of the City of Florence, Texas.

BY:_____
MARY CONDON, MAYOR

ATTEST:

AMY L. CRANE
CITY SECRETARY

CERTIFICATE OF POSTING

STATE OF TEXAS

COUNTY OF WILLIAMSON

I, AMY L CRANE, being the current City Secretary of the City of Florence, Texas, do hereby certify that the attached is a approved and correct copy of Ordinance #10062020-01, passed and approved by the City Council of the City of Florence, Texas, on the ____ day of _____, 2020, and such Ordinance was duly adopted at a meeting open to the Public and notice of said meeting, given the date, place, and subject thereof, was posted as prescribed by Government Code Section 551.043.

Witness my hand and seal of Office this ____ day of _____, 2020.

Amy L Crane- City Secretary