

ORDINANCE NO. 18-105

AN ORDINANCE OF THE CITY OF GARRETT, TEXAS, ADOPTING CURFEW HOURS FOR MINORS; DEFINING TERMS; CREATING OFFENSES FOR MINORS, PARENTS AND GUARDIANS OF MINORS, AND BUSINESS ESTABLISHMENTS VIOLATION CURFEW REGULATIONS; PROVIDING DEFENSES; 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 FOR REVIEW OF THIS ORDINANCE TWELVE MONTHS AFER THE DATE OF INITIAL ENFORCEMENT; PROVIDING A PENALTY NOT TO EXCEED \$500.00; PROVIDING A SAVING CLAUSE; PROVIDING A SERVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City council has determined that there has been an increase in juvenile violence, juvenile gang activity, and crime by persons under the age of seventeen (17) in the City of Garrett; and

WHEREAS, persons under the age of seventeen (17) 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 Garrett 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 the incidence of juvenile criminal activities; and

WHEREAS, a curfew for those under the age of seventeen (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 Garrett; NOW THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF GARRETT, TEXAS THAT:

SECTION 1: Curfew Hours for Minors.

(A) Definitions. In this section:

(1) **Curfew Hours** means:

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

(b) 12:00 a.m. until 6:00 a.m. on any Saturday or Sunday

(2) **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.

(3) **Establishment** means 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.

(4) **Guardian** means:

(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.

(5) **Minor** means any person under seventeen (17) years of age.

(6) **Officer** means a police officer.

(7) **Operator** means 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.

(8) **Parent** means a person who is:

(a) a natural parent, adoptive 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.

(9) **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 building, transport facilities, and shops.

(10) **Remain** means 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.

(11) **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.

## (B) Offenses

(1) 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.

(2) A parent or guardian of a minor commit an offense if he 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 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 Subsection (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 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 of Garrett, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home without any detour or stop;
  - (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; or
  - (i) Married or had been married or had disabilities of minority removed in accordance with Chapter 31 of the Texas Family Code.
- (2) It is a defense to prosecution under subsection (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 reasonable believe that an offense has occurred and that, based on any response and other circumstances, no defense in subsection (c) is present.

### (E) Penalties

- (1) A person who violates a provision of the section 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 \$500.00.

(2) 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 Subsection (b) (1) of this section and shall refer the minor to juvenile court.

**SECTION 2.** Any ordinance of the City of Garrett in conflict with the provisions of this ordinance be, and the same are hereby, repealed, and all other provisions of the ordinances of the City of Garrett not in conflict with the provisions of this ordinance shall remain in full force and effect.

**SECTION 3.** Should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole.

**SECTION 4.** That the recitals to this Ordinance are hereby incorporated into the body of this Ordinance as if fully set forth in this Section and are hereby found and declared to be true and correct legislative findings and are adopted as part of this Ordinance for all purposes.

**SECTION 5.** The City Secretary of the City of Garrett, Texas, is hereby directed to publish this ordinance in the official newspaper of the City of Garrett, Texas.

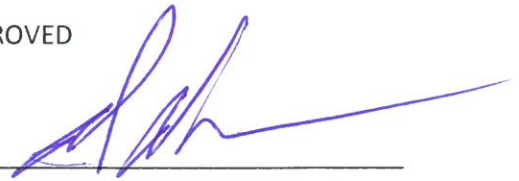
**SECTION 6.** That this ordinance shall take effect immediately from and after its passage and publication, as the law in such cases provide.

PASSED AND APPROVED ON 15<sup>th</sup> DAY OF MAY, 2018.

ATTEST

  
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Judy Braddock, City Secretary

APPROVED

  
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Matt Newsom, Mayor