

#12 16. A

JUN 16 2015

RESOLUTION AND ORDER

On this the 16th day of June 2015, at a Regular Session Meeting of the Commissioners Court of Montgomery County, Texas, there came for consideration and approval a motion to adopt a juvenile curfew ordinance for the unincorporated areas of Montgomery County, under the authority granted in Section 351.903 of the Texas Local Government Code, for the protection of minors from each other and from other persons, for the enforcement of parental control over the responsibility for children, for the protection of the general public, and for the reduction of juvenile violence and criminal activity.

Motion was made by Commissioner Riley and seconded by Commissioner Clark that Commissioners Court adopt the proposed juvenile curfew ordinance for the unincorporated areas of Montgomery County.

Said Motion being put to a vote, it carried by a vote of 3 aye votes to 0 nay votes.

THEREFORE, IT IS HEREBY APPROVED AND ORDERED that this Commissioners Court adopts a juvenile curfew ordinance, to be effective throughout the unincorporated areas of Montgomery County.

MONTGOMERY COUNTY, TEXAS

Craig Doyal
Craig Doyal, County Judge

Mike Meador
Mike Meador, Commissioner Pct. 1

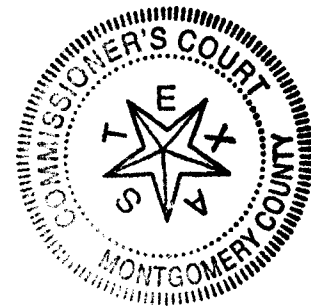
Charlie Riley
Charlie Riley, Commissioner Pct. 2

Absent
James Noack, Commissioner Pct. 3

Jim Clark
Jim Clark, Commissioner Pct. 4

Attest:

Mark Turnbull
Mark Turnbull, County Clerk



#12 / 16.A.

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State of Texas §
County of Montgomery §

Juvenile Curfew Ordinance

An ordinance of the Commissioners Court of Montgomery County, Texas, establishing curfew hours for persons under the age of seventeen (17) years. Providing it is an offense for a parent or guardian to knowingly permit a minor to violate the curfew hours established herein; providing it is an offense for an owner, operator, or employee of an establishment to allow a minor to remain on the premises of the establishment in violation of the curfew hours; providing defenses; providing a fine not to exceed five hundred dollars (\$500.00) upon conviction of a violation of this ordinance; providing that any ordinance in conflict herein is expressly repealed; providing a savings clause; effective date and expiration.

WHEREAS, the Commissioners Court of Montgomery County, Texas, has determined that there has been an increase in juvenile violence, juvenile gang activity, and crime committed by persons under the age of seventeen (17) years in Montgomery County, Texas, and;

WHEREAS, due to the lack of maturity and experience, persons under the age of seventeen (17) years are particularly susceptible to participate in unlawful and gang related activities and to be victims of older perpetrators of crime; and

WHEREAS, Montgomery County desires to provide for the protection of minors from each other and from other persons, for the enforcement of parental control over the responsibility for children, for the protection of the general public, and for the reduction of juvenile violence and criminal activity; and

WHEREAS, a curfew applicable to persons under the age of seventeen (17) years will be in the interest of public health, safety, and the general welfare and will diminish the undesirable impact of such conduct on the citizens of Montgomery County, Texas:

It is therefore, ORDERED that Commissioners Court does hereby enact and adopt this juvenile curfew ordinance as allowed by Texas Local Government Code § 351.903.

ARTICLE 1. CURFEW HOURS FOR MINORS

Section 1-1. Definitions.

In this Article:

- (a) *Curfew hours* means 12:01 a.m. until 6:00 a.m. every day of the week, Monday through Sunday.
- (b) *Civic organization* means a non-profit corporation or association formed for the use, benefit, and enjoyment of its members to achieve religious, recreational, charitable, municipal, and/or educational pursuits.
- (c) *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.
- (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 place of amusement or entertainment.
- (e) *Guardian* means:
 - (1) A person who, under court order, is the guardian of the person of a minor, and
 - (2) A public or private agency with whom a minor has been placed by a court.
- (f) *Minor* means any person under seventeen (17) years of age.
- (g) *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.
- (h) *Parent* means a person who is:
 - (1) A natural parent, adoptive parent, or step-parent of another person; or
 - (2) At least eighteen (18) years of age and authorized by a parent or guardian to have the care and custody of a minor.
- (i) *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 buildings, office buildings, transport facilities, and shops.

(j) *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.

(k) *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 1-2. Offenses.

(a) A minor commits an offense if he remains in any public place or on the premises of any establishment within the unincorporated areas of the county during curfew hours.

(b) 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 unincorporated areas of the county during curfew hours.

(c) The owner, operator, or any employee of an establishment within the unincorporated areas of the county commits an offense if he knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

Section 1-3. Defenses.

(a) It is a defense to prosecution under Section 1-2 that the minor was:

(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 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;

- (7) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by Montgomery County, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by Montgomery County, 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 of assembly; and
 - (9) Married, had been married, or had disabilities of minority removed in accordance with Chapter 31 of the Texas Family Code.
- (b) It is a defense to prosecution under Section 1-2 (c) that the owner, operator, or employee of an establishment promptly notified the Montgomery County Sheriff's Department, or the appropriate Constable's office, that a minor was present on the premises of the establishment during curfew hours and refused to leave.

Section 1-4. Enforcement.

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 defense in Section 1-3 is present.

Section 1-5. 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).
- (b) When required by Section 51.08 of the Texas Family Code, as amended, the justice courts shall waive original jurisdiction over a minor who violates Section 1-2 of this Article and shall refer the minor to juvenile court.

Section 2. All ordinances or parts of ordinances inconsistent with the terms of this ordinance are hereby repealed; provided however, that such repeal shall be only to the

extent such inconsistency of other ordinances regulating and governing the subject matter covered by this ordinance.

Section 3. If any provisions, section, exception, subsection, paragraph, sentence, clause, or phrase of this ordinance or the application of same to any person or set of circumstances, shall for any reason be held unconstitutional, void, or invalid, such provisions of this ordinance or their application to other sets of circumstances are declared to be severable.

Section 4. This ordinance shall be effective immediately upon its adoption by Commissioners Court. This ordinance shall expire on the third anniversary of its adoption unless Commissioners Court takes the actions required under Texas Local Government Code § 370.002, as amended, or its successor statute.