

Motion was made by Curtis Ainsworth, seconded by Yvonne Cones, that the following Ordinance be passed:

**ORDINANCE NO. 342**

**AN ORDINANCE ESTABLISHING CURFEW HOURS FOR MINORS UNDER THE AGE OF SEVENTEEN YEARS; PROVIDING 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 \$500.00 UPON CONVICTION OF A VIOLATION OF THIS ORDINANCE; PROVIDING THAT ANY ORDINANCE IN CONFLICT HERewith IS EXPRESSLY REPEALED; PROVIDING THAT THIS ORDINANCE SHALL BE REVIEWED EVERY THREE (3) YEARS; DECLARING AN EMERGENCY; PROVIDING A SAVINGS CLAUSE; REPEALING ALL ORDINANCES IN CONFLICT; AND EFFECTIVE DATE AFTER PUBLICATION.**

**WHEREAS**, Section 341.95 of the Local Government Code, V.T.C.A. authorizes a general law municipality to adopt a "Juvenile Curfew" Ordinance; and

**WHEREAS**, the City Council of the City of Shepherd, Texas, has determined after review that after adoption this Ordinance should be subject to further review of the Council in three (3) years as required by law; and

**WHEREAS**, the City Council 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 the City of Shepherd, 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**, the City of Shepherd has an obligation 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 the incidence 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 the City of Shepherd, Texas.

**THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF SHEPHERD, TEXAS:**

**SECTION I.**

**That Curfew Hours for Minors Shall be Established**

1.1 Curfew Hours for Minors.

A. Definitions:

- (1) **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.
- (2) **Curfew hours** means 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday until 6:00 a.m. of the following day and 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday.
- (3) **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.
- (4) **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.
- (5) **Guardian** means a person who under court order is the guardian of the person of a minor, or a public or private agency with whom a minor has been placed by a court.
- (6) **Minor** means any person less than seventeen (17) years of age.
- (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 natural parent, adoptive parent, or step parent of another persons, or at least eighteen (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 buildings, transport facilities and shops.
- (10) **Remain** means to linger or stay, or to 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.
- (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/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/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/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 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 Shepherd, a civic organization, or another similar entity that takes the responsibility for the minor going to or returning home from, without any detour or stops, an official school, religious, or other recreational activity supervised by adults and sponsored by the City of Shepherd, a civic organization or another similar entity that takes responsibility for the minor;
  - (h) Exercising First Amendment rights protected by free exercise of religion, freedom of speech, and the right of assembly; or
  - (i) Married or has been married or had disabilities of minority removed in accordance with Chapter 31 of the Texas Family Code.

D. Enforcement

Before taking any enforcement action under this Section, a police officer shall ask the apparent offender's age and reason for being 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 Subsection C is present.

E. Penalties.

- (1) A person who violates a provision of this Ordinance is guilty of a separate offense of each day or part of a day during which the violations committed, continued, or permitted. Each offense upon conviction is punishable by a fine not to exceed Five Hundred and No/100ths Dollars (\$500.00).
- (2) When required by Section 52.08 of the Texas Family Code, as amended, the municipal court shall waive original jurisdiction over anyone who violates the Subsection B (1) of this Section and shall refer the minor to juvenile court.

**SECTION 2.**

**Savings Clause**

If any provisions, section, exception, subsection, paragraph, sentence, clause or phase 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 persons or sets of circumstances and to this end all provisions of this Ordinance are declared to be severable.

**SECTION 3.**  
**Repealing Clause**

That any all other ordinances or parts of ordinances in conflict with the provisions of this Ordinance, are hereby expressly repealed.

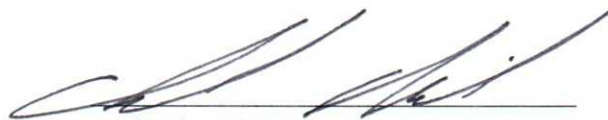
**SECTION 4**  
**Council Review**

This Ordinance shall be reviewed by the City Council every three (3) years as required by the Local Government Code No. 370.002.

**SECTION 5.**  
**Effective Date**

In view of the fact that this Ordinance is necessary for the immediate protection and preservation of the public health, safety and general welfare, it becomes necessary that this Ordinance shall be in full force and effect immediately from and after publication as provided by law.

PASSED AND APPROVED this 14<sup>th</sup> day of November 2022.



Charles Minton, Mayor

ATTEST:



Debra Hagler, City Secretary