

ORDINANCE No. 21-05

AN ORDINANCE EXTENDING THE JUVENILE CURFEW, OFFENSES, DEFENSES, AND PENALTIES FOUND IN CHAPTER 62, ARTICLE II, DIVISION 2 OF THE CITY OF KENEDY CODE OF ORDINANCES AS AMENDED IN EXHIBIT "A"; PROVIDING A REPEALING CLAUSE; PROVIDING FOR SEVERABILITY; PROVIDING FOR PROPER NOTICE AND MEETING; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Kenedy, pursuant to Texas Local Government Code 341.905, has previously adopted a juvenile curfew within the city limits of the City of Kenedy; and

WHEREAS, Chapter 62, Article II, Division 2 of the Kenedy Code of Ordinances establishes a juvenile curfew, creates offenses, provides defenses to prosecution, and sets forth the penalties for violating the juvenile curfew; and

WHEREAS, pursuant to Texas Local Government Code 370 .002, the City Council is to review the juvenile curfew ordinance every three years, and, after a public hearing, may vote to renew, modify or abolish the curfew; and

WHEREAS, the City Council conducted a public hearing on March 9, 2021 regarding the proposed extension of the existing juvenile curfew;

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

1. That Chapter 62, ("Offenses"), Article II ("Minors"), Division 2 ("Curfew") be extended for an additional three (3) years, to expire on March 8, 2024; as hereby amended, updated, and set forth in Exhibit "A".

[Note – additions to the current code of ordinances are shown as underlined and deletions are shown as ~~strikethrough~~]:

2. All ordinances, or part thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters ordained herein for the period of time stated.
3. It is hereby declared to be the intention of the City Council of the City that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Resolution, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

EXHIBIT "A"

Chapter 62 – OFFENSES

ARTICLE II. – MINORS

Sec. 62-53. - Hours restricted.

A minor commits an offense if such minor is present in or on any public place within the city unless accompanied by a parent or guardian between the following hours:

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| (1) Monday 10:00 p.m. until Tuesday 6:00 a.m. | <u>Monday 11:00 p.m. until Tuesday 3:00 p.m.</u> |
| (2) Tuesday 10:00 p.m. until Wednesday 6:00 a.m. | <u>Tuesday 11:00 p.m. until Wednesday 3:00 p.m.</u> |
| (3) Wednesday 10:00 p.m. until Thursday 6:00 a.m. | <u>Wednesday 11:00 p.m. until Thursday 3:00 p.m.</u> |
| (4) Thursday 10:00 p.m. until Friday 6:00 a.m. | <u>Thursday 11:00 p.m. until Friday 3:00 p.m.</u> |
| (5) Saturday 12:30 a.m. until Saturday 6:00 a.m. | <u>Saturday 12:00 a.m. until Saturday 6:00 a.m.</u> |
| (6) Sunday 12:30 a.m. until Sunday 6:00 a.m. | <u>Sunday 12:00 a.m. until Sunday 6:00 a.m.</u> |
| (7) Sunday 10:00 p.m. until Monday 6:00 a.m. | <u>Sunday 11:00 p.m. until Monday 3:00 p.m.</u> |
- (Ord. of 8-12-1986(1), § 2; Ord. of 10-14-1986; Ord. of 12-17-1998; Ord. No. 13-5A, 3-12-2013)

Sec. 62-55. - Defenses.

(a) It is a defense to prosecution under section 62-53 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 the city, 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 the city, 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; or
- (9) Married or had been married or had disabilities of minority removed in accordance with V.T.C.A., Family Code ch. 31.

(b) It is a defense to prosecution under subsection 62-54(b) 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.

(c) It is a defense to prosecution under subsections 62-53 and 62-54(a) if the minor is homeschooled or is part of a homeschool group.

(Ord. No. 13-5A , 3-12-2013)