

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MONTGOMERY, TEXAS, REPEALING CHAPTER 62 (OFFENSES), ARTICLE II (MINORS), DIVISION 2 (JUVENILE CURFEW), SECTIONS 62-40 THROUGH 62-45 OF THE CITY OF MONTGOMERY CODE OF ORDINANCES IN RESPONSE TO HOUSE BILL 1819, EFFECTIVE SEPTEMBER 1, 2023; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; AND PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE

WHEREAS, the City Council of the City of Montgomery, Texas ("City Council") previously adopted a juvenile curfew ordinance as authorized by state law to help protect the public health, safety and general welfare of City of Montgomery, Texas has in place a juvenile curfew ordinance the ("Curfew Ordinance"); and

WHEREAS, said Curfew Ordinance is codified in Sections 62-40 through 62-45 of the City of Montgomery, Texas Code of Ordinances; and

WHEREAS, in the 2023 regular session of the Texas Legislature the Legislature passed and adopted House Bill 1819; and

WHEREAS, the Governor of the State of Texas signed House Bill 1819 into law on June 9, 2023, which bill had an effective date of September 1, 2023; and

WHEREAS, House Bill 1819 enacted section 370.007 of the Texas Local Government Code; however, this section does not apply to a curfew implemented under Chapter 418, Texas Government Code, for purposes of emergency management which specifically precludes political subdivisions of the State, such as the City, from adopting or enforcing ordinances imposing curfews to regulate the movements or actions of any person under 18 years of age; and

WHEREAS, the City Council has determined that in light of the adoption of House Bill 1819, the City's Curfew Ordinance should be in all things repealed.

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

SECTION 1: Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2: Repeal of Curfew Ordinance. Chapter 62 (Offenses), Article II (Minors), Division 2 (Juvenile Curfew), Section 62-40 through Section 62-45 are hereby repealed in their entirety.

SECTION 3: Reservation of Codified Sections. Sections 62-40 through Sections 62-45 of the City of Montgomery, Texas Code of Ordinances are hereby reserved for future use in codification.

SECTION 4: Savings/Repealing Clause. All provisions of any ordinance in conflict with this Ordinance are hereby repealed.

SECTION 5: Severability. Should any section, subsection, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION 6: Effective Date. This Ordinance shall become effective upon its passage by City Council.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, on this ____ day of _____, 2023.

CITY OF MONTGOMERY, TEXAS

Byron Sanford, Mayor

ATTEST:

Nicola Browe, City Secretary

APPROVED AS TO FORM:

Alan Petrov, City Attorney