

ORDINANCE NO. 2023.03

AN ORDINANCE ADOPTING CURFEW HOURS FOR MINORS; DEFINING TERMS, CREATING OFFENSES AND DEFENSES FOR MINORS, PARENTS AND GUARDIANS OF MINORS, AND BUSINESS ESTABLISHMENTS; PROVIDING FOR ENFORCEMENT BY THE POLICE DEPARTMENT; PROVIDING A PENALTY; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETING CLAUSE.

WHEREAS, persons under the age of 17 are particularly susceptible by their lack of maturity and experience to participate in unlawful and gang-related activities or are likely to be victims of crimes committed by youths or other adults; and

WHEREAS, the City Council desires to provide for the protection of minors from each other and from other persons, to promote parental control over and responsibility for children, in order to protect the general public, and reduce the incidence of juvenile criminal activities; and

WHEREAS, on January 14, 2020, the City Council conducted a public hearing on the need to adopt a Juvenile Curfew Ordinance; and

WHEREAS, a curfew for those under the age of 17 is in the best 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 Morgan's Point Resort.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MORGAN'S POINT RESORT THAT:

- 1) Chapter 8 of the Code of Ordinances of the City of Morgan's Point Resort is amended to include the following.

ARTICLE 8.02 MINORS

Division 1. Generally

Sec's. 8.02.001–8.02.030 Reserved

Division 2. Curfew

Sec. 8.02.031 Definitions

For the purpose of this division, the following words, terms and phrases shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Curfew hours.

- (1) 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. on the following day; and
- (2) 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday.

Direct Route. The shortest path of travel through a public place to reach a final destination without any detour or stop along the way.

Emergency. A sudden or unexpected occurrence of a serious and urgent situation which requires immediate action to preserve life or property, including but not be limited to a fire, a natural disaster, an automobile accident, or seeking immediate medical treatment for any person.

Interstate transportation. Transportation between states of the United States or between a state of the United States and foreign country, to which any travel through the city is merely incidental.

Intrastate transportation. Transportation between locations within the state, to which any travel through the city is merely incidental.

Minor. Any person less than seventeen (17) years of age.

Parent. A person who is the assumed parent or adoptive parent of a minor; as used herein “parent” shall also include a court-appointed guardian, or other person 21 years of age or older who has been authorized by the parent [or] by a court order or by the court-appointed guardian to have the care and physical control of a minor.

Public place. 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, transportation facilities, restaurants and shops.

Sec. 8.02.032 Offenses

- (a) It shall be unlawful for any minor to intentionally or knowingly remain, walk, run, stand, drive or ride about in or upon any public place in the city during curfew hours.
- (b) It shall be unlawful for a parent of a minor to knowingly allow or permit the minor to be in violation of the curfew imposed in subsection (a) of this section.
- (c) It shall be unlawful for any owner, operator, or employee of any privately owned place of business operated for a profit, to which the public is invited, to knowingly allow a minor or minors to remain upon the premises of said place of business during curfew hours.
- (d) It shall not be a defense to the application of this division that a parent gave the minor the permission to violate this division for no purpose other than the parent had the authority over his minor to do so.

Sec. 8.02.033 Exceptions and defenses

(a) No officer shall detain a minor where an exception to the application hereof is apparent. It is a defense to prosecution under Section 8.02.032 that, at the time of the act that otherwise would constitute an offense:

- (1) The minor was accompanied by his or her parent; or
- (2) The minor was accompanied by an adult twenty-one (21) years of age or older approved by the parent; or

- (3) The minor was on an emergency errand; or
- (4) The minor was attending a school, religious or government-sponsored activity, or going to or coming from a school, religious or government-sponsored activity; or
- (5) The minor was engaged in a lawful employment activity or labor organization meeting or going to or coming from said lawful employment or labor organization meeting; or
- (6) The minor was on the premises of the place where such minor resides or on the premises of a next-door neighbor and said neighbor was not communicating an objection to a peace officer regarding the presence of said minor; or
- (7) The minor was in a motor vehicle involved in intrastate or interstate transportation or was awaiting transportation by such means; or
- (8) The minor was married or had been married or had disabilities of minority removed in accordance with the Texas Family Code; or
- (9) The minor was on a direct route to his or her place of residence from an activity which he or she left within the lawful curfew time; or
- (10) In a prosecution under Section 8.02.032(c), the owner/operator or employee of the place of business promptly notified the police department that a minor was present on the premises of the business during curfew hours and refused to leave: or
- (11) The minor was exercising his or her First and Fourteenth Amendment rights protected by the United States Constitution, including but not limited to, the free exercise of religion, freedom of speech, and the right of assembly.

(b) It shall not be a defense to the application of this subchapter that a parent gave the minor permission to violate this subchapter.

Sec. 8.02.034 Enforcement procedure

(a) Any peace officer, upon finding a minor in violation of Section 8.02.032(a), shall record the name and address of the minor and his or her parent(s) or guardian(s), and shall issue a citation to the minor for the violation of this division referring said juvenile and parent to appear before the municipal court. At the discretion of the investigating police officer, a written warning citation may be issued. Said minor shall be ordered by the officer to go home by the most direct means and route. In the event said minor is in pedestrian mode or has no transportation, the officer shall transport the minor to his or her residence or shall make arrangements for said minor's parents or guardian to take custody of said minor.

(b) A copy of the citation shall be forwarded to the Morgan's Point Resort Police Department, which shall send correspondence to the parent(s) or guardian(s) of the minor who was found in violation of this division, advising of the violation of this division and addressing the city's expectation and requirement of parental control of the minor.

Sec. 8.02.035 Periodic Review

- (a) This subchapter shall be reviewed before the third anniversary of the passage of this Section, and every three years thereafter, as required by Texas Local Government Code, Section 370.002, as amended. Such review shall be conducted following a public hearing upon the need to continue the subchapter, and the City Council shall have the option to continue, abolish, or modify the subchapter based upon its review of the subchapter's effects on the community and on the problems the subchapter is intended to remedy.

Sec. 8.02.036 Penalty

- (a) Any minor violating the provisions of this division shall be guilty of a class C misdemeanor as defined in the Texas Penal Code and shall be dealt with in accordance with the provisions of title 3 of the Texas Family Code and Texas Code of Criminal Procedure.
- (b) A parent who violate Section 8.02.032(b) or a person who violates Section 8.02.032(c) shall be guilty of a misdemeanor, which shall be punishable by a fine of not less than \$100.00 or more than \$500.00
- (c) In assessing punishment for either a parent or a minor, the municipal court judge may consider community service.

Sec. 8.02.04 Severability

- (a) If any provision of this Ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

Sec. 8.02.05 Effective Date

- (a) This Ordinance shall take effect immediately from and after its passage.

Sec. 8.02.06 Open Meeting

- (a) It is officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that the public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this ____ day of March, 2023, by ____ (ayes) to ____ (nays) with no abstentions by a vote of the City Council of the City of Morgan's Point Resort, Texas.

Dennis Green, Mayor
City of Morgan's Point Resort, Texas

Attest:

APPROVED AS TO FORM:

Ophelia Rodriguez, City Secretary
City of Morgan's Point Resort, Texas

Neale Potts, City Attorney