

ORDINANCE NO. 2996

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING CHAPTER 10, OFFENSES-MISCELLANEOUS, OF THE CODE OF THE CITY OF MESQUITE, TEXAS, BY ADDING ARTICLE VII, ENTITLED, "CURFEW HOURS FOR MINORS"; BY ADDING NEW SECTIONS 195-199; CREATING OFFENSES FOR MINORS, PARENTS AND GUARDIANS OF MINORS, AND BUSINESS ESTABLISHMENTS VIOLATING CURFEW REGULATIONS; PROVIDING DEFENSES; PROVIDING FOR ENFORCEMENT BY THE POLICE DEPARTMENT; PROVIDING FOR WAIVER BY THE MUNICIPAL COURT OF JURISDICTION OVER A MINOR WHEN REQUIRED UNDER THE TEXAS FAMILY CODE; PROVIDING FOR REVIEW OF THIS ORDINANCE WITHIN SIX MONTHS AFTER THE DATE OF INITIAL ENFORCEMENT; PROVIDING FOR A PENALTY; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Mesquite has determined that there has been an increase in juvenile violence, juvenile gang activity, and crime by persons under the age of 17 in the metroplex area and the majority of the neighboring cities have passed curfew hours for minors; and

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 and to be victims of older perpetrators of crime; and

WHEREAS, the City of Mesquite has an obligation to provide for the protection of minors from each other and from other persons, for the enforcement of parental control over and responsibility for children, for the protection of the general public, and for the reduction of the incidence of juvenile criminal activities; and

WHEREAS, a curfew for those under the age of 17 will be in the 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 the City of Mesquite;

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

SECTION 1. That Chapter 10, "OFFENSES - MISCELLANEOUS," of the Code of the City of Mesquite, Texas is hereby amended by adding Article VII, entitled "Curfew Hours for Minors," and adding new Sections 195-199 to read as follows, in all other respects said Code and Chapter to remain in full force and effect:

**ARTICLE VII. CURFEW HOURS FOR MINORS****Sec. 10-195. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Curfew hours* means:

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

*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.

*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.

*Guardian* means:

- (1) a person who, under courts order, is the guardian of the person of a minor.
- (2) a public or private agency with whom a minor has been placed by a court.

*Minor* means any person under 17 years of age.

*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.

*Parent* means a person who is:

- (1) a natural parent, adoptive parent or step-parent of another person.
- (2) at least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

*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.

*Remain* means:

- (1) to linger or stay.
- (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.

*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.

**Sec. 10-196. Offenses.**

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

(b) A parent or guardian of a minor commits an offense if he 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.

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

**Sec. 10-197. Defenses.**

- (a) It is a defense to prosecution under Section 10-196 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 of Mesquite, 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 of Mesquite, 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 Chapter 31 of the Texas Family Code.

(b) It is a defense to prosecution under 10-196(c) 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.

**Sec. 10-198. 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 10-197 is present.

**Sec. 10-199. Penalties.**

(1) 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 (\$500.00) dollars.

(2) When required by Section 51.08 of the Texas Family Code, as amended, the municipal court shall waive original jurisdiction over a minor who violates Section 10-196(a) of this section and shall refer the minor to juvenile court.

**SECTION 2.** That within six months after the initial enforcement of this ordinance, the city manager shall review this ordinance and report and make recommendations to the city council concerning the effectiveness of and the continuing need for the ordinance. The city manager's report shall specifically include the following information:

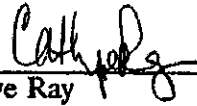
- (a) the practicality of enforcing the ordinance and any problems with enforcement identified by the police department;
- (b) the impact of the ordinance on crime statistics;
- (c) the number of persons successfully prosecuted for a violation of the ordinance; and
- (d) the city's net cost of enforcing the ordinance.

**SECTION 3.** That should any word, sentence, clause, paragraph, or provision of this ordinance be held to be invalid or unconstitutional, illegal, or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provision hereof other than the part or provision so decided to be unconstitutional, illegal, or invalid and shall not affect the validity of the remainder of Chapter 10 or any other provision of the Code of the City of Mesquite.

**SECTION 4.** That any person, firm, or corporation violating any of the provisions or terms of this ordinance shall be deemed to be guilty of a Class C Misdemeanor and upon conviction in the Municipal Court shall be punished by a fine not to exceed Five Hundred (\$500.00) Dollars for each offense.


**SECTION 5.** The fact that the present ordinances of the City of Mesquite are inadequate to provide for Curfew Hours for Minors, creates an urgency and emergency for the preservation of the public health, safety, and welfare and requires that this ordinance shall take effect immediately from and after its passage and publication of said ordinance, as the law in such cases provides.


DULY PASSED AND APPROVED by the City Council of the City of Mesquite,  
Texas, on the 3rd day of October, 1994.

  
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Cathye Ray  
Mayor

ATTEST:

APPROVED:

  
\_\_\_\_\_  
Lynn Prugel  
City Secretary

  
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B.J. Smith  
City Attorney