

**ORDINANCE NO. 191-3-2007**  
***(Juvenile Curfew Ordinance)***

**AN ORDINANCE OF THE TOWN OF SHADY SHORES, TEXAS ESTABLISHING A CURFEW FOR MINORS, TO PROHIBIT MINORS UNDER SEVENTEEN (17) YEARS OF AGE FROM BEING IN A PUBLIC PLACE BETWEEN THE HOURS OF 12:00 A.M. 6:00 A.M.; PROVIDING AFFIRMATIVE DEFENSES; PROVIDING A PENALTY NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE; PROVIDING A REPEALING CLAUSE AND A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town Council of the Town of Shady Shores has deliberated the issues regarding the activity and safety of minors under the age of seventeen in the Town of Shady Shores between the hours of 12:00 A.M. and 6:00 AM., and

**WHEREAS**, the Chief of Police has briefed the Town Council regarding the effect a curfew might have on the community and on problems this Ordinance is intended to remedy, and

**WHEREAS**, the Town Council believes it will provide for the public safety for the Town of Shady Shores, its citizens and minors under the age of seventeen (17) to provide for a daily curfew for minors between the hours of 12:00 A.M. and 6:00 AM.. and

**WHEREAS**, Section 370002 of the Texas Local Government Code requires the Town Council, before the third anniversary of the date of adoption of the Juvenile Curfew Ordinance, and every third year thereafter, to review the Ordinance's effects on the community and on problems the Ordinance was intended to remedy, to conduct public hearings on the need to continue the Ordinance, and to abolish, continue, or modify the Ordinance; and

**WHEREAS**, the Town Council finds that it will provide for the safety and it is in the best interest, health, safety and welfare of the Town to enact the Juvenile Curfew Ordinance;

**NOW THEREFORE: BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SHADY SHORES, TEXAS:**

**SECTION 1. DEFINITIONS**

- A) All definitions contained within this Ordinance are for the purpose of this Ordinance only and shall have no impact on any other rule, law or ordinance unless referenced directly within said rule, law or ordinance.

- B) "ADULT" shall mean any person seventeen years of age or older, or who is not defined as in "JUVEINILE" in this Ordinance.
- C) "BUSINESS OPERATOR" shall mean any employee, individual, firm, associate, partnership or corporation engaged in or responsible for operating, conducting business or managing any business or establishment.
- D) "CURFEW" or "CURFEW HOURS" shall mean those hours between 12:00 AM. and 6:00 AM. inclusive, every day of the week.
- E) "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.
- F) "ESTABLISHMENT" shall mean any privately owned place of business operated for profit to which the public is invited.
- G) "GUARDIAN" shall mean any person or public or private agency to whom legal custody of a child has been given.
- H) "MINOR" shall mean all persons under seventeen years of age whom has not had the disabilities of minority removed in accordance with Chapter 31 of the Texas Family Code or whom is not legally married at the time.
- I) "PARENT" shall mean any natural, adoptive or step parent or any guardian of any minor child.
- J) "PUBLIC PLACE" shall mean any place to which the public or a portion of the public has access, to include, but not be limited to, parks, alleys, streets, roads, highways, lakes, and the common areas of schools, hospitals, apartment complexes, office buildings, stores, businesses and shops.
- K) "REMAIN" means to:
  - 1. linger or stay; or
  - 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.

## **SECTION 2. OFFENSES**

- A) Violation by Minor. It shall be unlawful for any minor to remain, walk, run, stand, drive or ride in or about any public place or Establishment in the Town of Shady Shores between the hours of 12:00 AM. and 6:00 AM. inclusive.

- B) Violation by Parent or Guardian - It shall be unlawful for any parent or guardian to knowingly permit, or by insufficient control, allow any minor to remain, *walk*, run, stand, chive or ride in or about any public place or Establishment in the Town of Shady Shores between the hours of 12:00 AM. and 6:00 AM. inclusive.
- C) Violation by Owner or Operator of Establishment - It shall be unlawful for any business operator to allow any minor to remain upon the premises of any establishment during curfew hours.

### **SECTION 3. PENALTY CLAUSE; CUSTODY PROVISIONS; JURISDICTION**

- A) Any person, firm or corporation violating any of the provisions of this Ordinance or of the Code of Ordinances, as amended hereby, shall be guilty of a misdemeanor and, upon conviction in the Municipal Court of the Town of Shady Shores, Texas, shall be subject to a fine not to exceed the sum of five hundred dollars (\$500.00) for each offense and each and every day said violation is continued shall constitute a separate offense.
- B) Each minor upon the premises of any establishment constitutes a separate violation under Section 2 (C) of this Ordinance and shall result in a separate fine.
- C) Any child taken into custody for a violation of this Ordinance shall be held in accordance with Article 45.059, Texas Code of Criminal Procedure.
- D) 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 Subsection (b) (1) of this section and shall refer the minor to juvenile court.

### **SECTION 4. AFFIRMATIVE DEFENSES**

It is an affirmative defense to prosecution under Section 2 (A) and 2 (B) of this Ordinance that:

- A) The minor was accompanied by his/her parent or legal guardian.
- B) The minor was accompanied by an adult approved by the minor's parent.
- C) The minor was attending, going to or returning from, without stop or detour and using the most direct route, any school, religious or other activity supervised by adults and sanctioned by a government, civic or church entity that takes responsibility for the minor.
- D) The minor was out as a result of an emergency.

- E) The minor was engaged in lawful employment activity or going to or returning from, without stop or detour and using the most direct route any lawful employment.
- F) The minor was married or had been married or had disabilities of minority removed in accordance with Chapter 31 of the Texas Family Code.

It is an affirmative defense to prosecution under Section 2 (C) of this Ordinance that:

- A) The business operator notified the police department that the minor was present during curfew hours and refused to leave.
- B) The business operator was unaware of the presence of the minor and assisted the police in identifying the minors.
- C) The minor is an employee of the establishment, is actually engaged in duties related to that employment and is receiving payment for the activity.

## **SECTION 5. 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 4 is present.

## **SECTION 6. REPEALER**

That all provisions of the Ordinances of the Town of Shady Shores in conflict with the provisions of this Ordinance be, and the same are hereby, repealed, and all other provisions of the Ordinance of the Town of Shady Shores not in conflict with the provisions of this Ordinance shall remain in full force and effect.

## **SECTION 7. SEVERABILITY**

It is hereby declared by the Town Council of the Town of Shady Shores that if any of the sections, paragraphs, sentences, clauses or phrases of this Ordinance shall be declared unconstitutional or otherwise illegal by the valid judgment or decree of any court of competent jurisdiction, such event shall not effect any remaining the sections, paragraphs, sentences, clauses or phrases of this Ordinance.

## **SECTION 8. EFFECTIVE DATE**

This Ordinance shall be in full force and effect from and after its passage and publication, and it is so ordained.

**PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF  
SHADY SHORES, TEXAS ON THIS 5<sup>TH</sup> DAY OF MARCH, 2007,**

**Approved:**

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**MAYOR OLIVE STEPHENS**

Attest:

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Angie Warner, Town Secretary

Approved as to form:

James Shepherd, Town Attorney