

ORDINANCE 2009-02

AN ORDINANCE OF THE CITY OF MABANK, TEXAS, ADOPTING CURFEW HOURS FOR MINORS; DEFINING TERMS; 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 WAIVER BY THE MUNICIPAL COURT OF JURISDICTION OVER A MINOR WHEN REQUIRED UNDER THE TEXAS FAMILY CODE; PROVIDING FOR REVIEW OF THIS ORDINANCE TWELVE MONTHS AFTER THE DATE OF INITIAL ENFORCEMENT; PROVIDING A PENALTY NOT TO EXCEED \$500.00; PROVIDING A SAVING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council has determined that there has been an increase in juvenile violence and crime by persons under the age of seventeen (17) in the City of Mabank; and

WHEREAS, persons under the age of seventeen (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 Mabank 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 seventeen (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 Mabank.

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

SECTION 1. That adding the following hereby amends the Code of the City of Mabank:

Curfew Hours for Minors.

(A) Definitions. In this section:

(1) Curfew Hours means:

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

- (2) Emergency means an unforeseen combination of circumstances of 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.
- (3) Establishment means any privately owned place of business operated for profit to which the public is invited, including but not limited to any place of amusement or entertainment.
- (4) Guardian means;
  - (a) a person, who under court order, is the guardian of the person of a minor; or
  - (b) a public or private agency with whom a minor has been placed by a court.
- (5) Minor means any person under seventeen (17) years of age.
- (6) Officer means any police officer or city marshal.
- (7) Operator means any individual, firm, association, partnership or corporation operating, managing or conducting any establishment. The term includes the members or partners of any association or partnership and the officers of the corporation.
- (8) Parent means a person who is:
  - (a) a natural parent, adoptive parent or step-parent of another person; or
  - (b) At least eighteen (18) years of age and authorized by a parent or guardian to have the care and custody of a minor.
- (9) 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 common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.
- (10) Remain means to:
  - (a) linger or stay; or
  - (b) Fail to leave premises when requested to do so by an officer or the owner, operator or other person in control of the premises.
- (11) Serious Bodily Injury means a 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.

(B) Offenses

- (1) A minor commits an offense if he remains in any public place or on the premises of an establishment within the city during curfew hours.
- (2) 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.
- (3) 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.

(C) DEFENSES

- (1) It is defense to prosecution under Subsection (b) that the minor was:



- (a) accompanied by the minor's parent or guardian;
  - (b) on an errand at the direction of the minor's parent or guardian, without any detour or stop;
  - (c) in a motor vehicle involved in interstate travel;
  - (d) engaged in an employment activity, or going to or returning home from an employment activity without any detour or stop;
  - (e) involved in an emergency;
  - (f) 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 or fire marshals office about the minor's presence;
  - (g) attending an official school, religious or other recreational activity supervised by adults and sponsored by the City of Mabank, a civic organization or another similar entity that takes responsibility for the minor, or going to or returning home without any detour or stop, an official school, religious or other recreational activity supervised by adults and sponsored by the City of Mabank, a civic organization or another similar entity that takes responsibility for the minor;
  - (h) 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
  - (i) Married or had been married or had disabilities of minority removed in accordance with Chapter 31, Texas Family Code.
- (2) It is a defense to prosecution under subsection (b)(3) that the owner, operator or employee of an establishment promptly notified the police department or marshal's office that a minor was present on the premises of the establishment during curfew hours and refused to leave.

(D) Enforcement

Before taking any enforcement action under this Section, an 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 Subsection (c) is present.

(E) Penalties.

- (1) A person who violates a provision of this Section 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 \$500.00
- (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 violated Subsection (b)(1) of this Section and shall refer the minor to juvenile court.

SECTION 2.

That thirty-six months (36) from the adoption of this ordinance, the City Administrator shall review this ordinance and make recommendations to the City Council concerning the effectiveness and the continuing need for the ordinance. The City Administrator's report shall specifically include the following information:

- (a) the practicality of enforcing the ordinance and any other problems with enforcement identified by the police department and on the Ordinance's effects on the community;
- (b) Conduct public hearings on the need to continue the Ordinance;
- (c) the impact of the Ordinance on crime statistics;
- (d) the number of persons successfully prosecuted for a violation of the ordinance; and
- (e) The city's net cost of enforcing the ordinance; and
- (f) The need to abolish, continue or modify the Ordinance.


SECTION 3.


That the code of the City of Mabank, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 4.

That the terms and provisions of this ordinance are severable and are governed by the Code of the City of Mabank, as amended.

PASSED AND APPROVED ON THIS 6th DAY OF JANUARY 2009.

  
Larry Teague, Mayor

  
City Secretary/Administrator



ARTICLE 217.003b CURFEW HOURS FOR MINORS

SECTION 1. That adding the following hereby amends the Code of the City of Mabank:

Curfew Hours for Minors.

(A) Definitions. In this section:

- (1) Curfew Hours means:
  - (a) 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday until 6:00 a.m. of the following day; and
  - (b) 12:01 a.m. until 6:00 a.m. on any Friday or Saturday
- (2) Emergency means an unforeseen combination of circumstances of 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.
- (3) Establishment means any privately owned place of business operated for profit to which the public is invited, including but not limited to any place of amusement or entertainment.
- (4) Guardian means:
  - (a) a person, who under court order, is the guardian of the person of a minor; or
  - (b) a public or private agency with whom a minor has been placed by a court.
- (5) Minor means any person under seventeen (17) years of age.
- (6) Officer means any police officer or city marshal.
- (7) Operator means any individual, firm, association, partnership or corporation operating, managing or conducting any establishment. The term includes the members or partners of any association or partnership and the officers of the corporation.
- (8) Parent means a person who is:
  - (a) a natural parent, adoptive parent or step-parent of another person; or
  - (b) At least eighteen (18) years of age and authorized by a parent or guardian to have the care and custody of a minor.
- (9) 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 common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.
- (10) Remain means to:
  - (a) linger or stay; or
  - (b) Fail to leave premises when requested to do so by an officer or the owner, operator or other person in control of the premises.
- (11) Serious Bodily Injury means a 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.

(B) Offenses

- (1) A minor commits an offense if he remains in any public place or on the premises of an establishment within the city during curfew hours.
- (2) 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.
- (3) 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.

(C) DEFENSES

- (1) It is defense to prosecution under Subsection (b) that the minor was:
  - (a) accompanied by the minor's parent or guardian;
  - (b) on an errand at the direction of the minor's parent or guardian, without any detour or stop;
  - (c) in a motor vehicle involved in interstate travel;
  - (d) engaged in an employment activity, or going to or returning home from an employment activity without any detour or stop;
  - (e) involved in an emergency;
  - (f) 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 or fire marshals office about the minor's presence;
  - (g) attending an official school, religious or other recreational activity supervised by adults and sponsored by the City of Mabank, a civic organization or another similar entity that takes responsibility for the minor, or going to or returning home without any detour or stop, an official school, religious or other recreational activity supervised by adults and sponsored by the City of Mabank, a civic organization or another similar entity that takes responsibility for the minor;
  - (h) 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
  - (i) Married or had been married or had disabilities of minority removed in accordance with Chapter 31, Texas Family Code.
- (2) It is a defense to prosecution under subsection (b)(3) that the owner, operator or employee of an establishment promptly notified the police department or marshal's office that a minor was present on the premises of the establishment during curfew hours and refused to leave.

(D) Enforcement

Before taking any enforcement action under this Section, an 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 reasonable believes that an offense has occurred and that, based on any response and other circumstances, no defense in Subsection (c) is present.



(E) Penalties.

- (1) A person who violates a provision of this Section 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 \$500.00
- (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 violated Subsection (b)(1) of this Section and shall refer the minor to juvenile court.

SECTION 2.

That thirty-six months (36) from the adoption of this ordinance, the City Administrator shall review this ordinance and make recommendations to the City Council concerning the effectiveness and the continuing need for the ordinance. The City Administrator's report shall specifically include the following information:

- (a) the practicality of enforcing the ordinance and any other problems with enforcement identified by the police department and on the Ordinance's effects on the community;
- (b) Conduct public hearings on the need to continue the Ordinance;
- (c) the impact of the Ordinance on crime statistics;
- (d) the number of persons successfully prosecuted for a violation of the ordinance; and
- (e) The city's net cost of enforcing the ordinance; and
- (f) The need to abolish, continue or modify the Ordinance.

SECTION 3.

That the code of the City of Mabank, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 4.

That the terms and provisions of this ordinance are severable and are governed by the Code of the City of Mabank, as amended.

Ordinance # 2005-07 – adopted September 6, 2005

ORDINANCE 2005-07

AN ORDINANCE OF THE CITY OF MABANK, TEXAS, ADOPTING CURFEW HOURS FOR MINORS; DEFINING TERMS; 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 WAIVER BY THE MUNICIPAL COURT OF JURISDICTION OVER A MINOR WHEN REQUIRED UNDER THE TEXAS FAMILY CODE; PROVIDING FOR REVIEW OF THIS ORDINANCE TWELVE MONTHS AFTER THE DATE OF INITIAL ENFORCEMENT; PROVIDING A PENALTY NOT TO EXCEED \$500.00; PROVIDING A SAVING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council has determined that there has been an increase in juvenile violence and crime by persons under the age of seventeen (17) in the City of Mabank; and

WHEREAS, persons under the age of seventeen (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 Mabank 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 seventeen (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 Mabank.

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- (b) 12:01 a.m. until 6:00 a.m. on any Friday or Saturday



- (2) Emergency means an unforeseen combination of circumstances of 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.
- (3) Establishment means any privately owned place of business operated for profit to which the public is invited, including but not limited to any place of amusement or entertainment.
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(B) Offenses

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(C) DEFENSES

- (1) It is defense to prosecution under Subsection (b) that the minor was:

- (a) accompanied by the minor's parent or guardian;
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  - (c) in a motor vehicle involved in interstate travel;
  - (d) engaged in an employment activity, or going to or returning home from an employment activity without any detour or stop;
  - (e) involved in an emergency;
  - (f) 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 or fire marshals office about the minor's presence;
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- (2) It is a defense to prosecution under subsection (b)(3) that the owner, operator or employee of an establishment promptly notified the police department or marshal's office that a minor was present on the premises of the establishment during curfew hours and refused to leave.

(D) Enforcement

Before taking any enforcement action under this Section, an 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 reasonable believes that an offense has occurred and that, based on any response and other circumstances, no defense in Subsection (c) is present.

(E) Penalties.

- (1) A person who violates a provision of this Section 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 \$500.00
- (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 violated Subsection (b)(1) of this Section and shall refer the minor to juvenile court.



SECTION 2.

That thirty-six months (36) from the adoption of this ordinance, the City Administrator shall review this ordinance and make recommendations to the City Council concerning the effectiveness and the continuing need for the ordinance. The City Administrator's report shall specifically include the following information:

- (a) the practicality of enforcing the ordinance and any other problems with enforcement identified by the police department and on the Ordinance's effects on the community;
- (b) Conduct public hearings on the need to continue the Ordinance;
- (c) the impact of the Ordinance on crime statistics;
- (d) the number of persons successfully prosecuted for a violation of the ordinance; and
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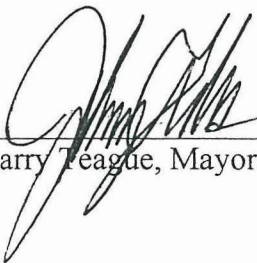
SECTION 3.

That the code of the City of Mabank, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

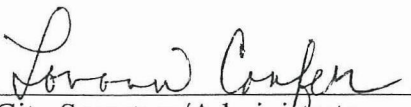
SECTION 4.

That the terms and provisions of this ordinance are severable and are governed by the Code of the City of Mabank, as amended.

PASSED AND APPROVED ON THIS 6<sup>th</sup> DAY OF SEPTEMBER 2005.



Larry Teague, Mayor

  
City Secretary/Administrator

ORDINANCE 011107

AN ORDINANCE OF THE CITY OF MABANK, TEXAS, ADOPTING CURFEW HOURS FOR MINORS; DEFINING TERMS; 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 WAIVER BY THE MUNICIPAL COURT OF JURISDICTION OVER A MINOR WHEN REQUIRED UNDER THE TEXAS FAMILY CODE; PROVIDING FOR REVIEW OF THIS ORDINANCE TWELVE MONTHS AFTER THE DATE OF INITIAL ENFORCEMENT; PROVIDING A PENALTY NOT TO EXCEED \$500.00; PROVIDING A SAVING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

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WHEREAS, the City of Mabank 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

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- (a) accompanied by the minor's parent or guardian;
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  - (d) engaged in an employment activity, or going to or returning home from an employment activity without any detour or stop;
  - (e) involved in an emergency;
  - (f) 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 or fire marshals office about the minor's presence;
  - (g) attending an official school, religious or other recreational activity supervised by adults and sponsored by the City of Mabank, a civic organization or another similar entity that takes responsibility for the minor, or going to or returning home without any detour or stop, an official school, religious or other recreational activity supervised by adults and sponsored by the City of Mabank, a civic organization or another similar entity that takes responsibility for the minor;
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- (1) A person who violates a provision of this Section 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 \$500.00
- (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 violated Subsection (b)(1) of this Section and shall refer the minor to juvenile court.



SECTION 2.

That twelve (12) months after the initial enforcement of this ordinance, the City Administrator shall review this ordinance and make recommendations to the City Council concerning the effectiveness and the continuing need for the ordinance. The City Administrator's report shall specifically include the following information:

- (a) the practicality of enforcing the ordinance and any other 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.

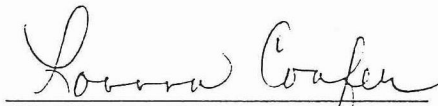
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SECTION 4.

That the terms and provisions of this ordinance are severable and are governed by the Code of the City of Mabank, as amended.

PASSED AND APPROVED ON THIS 6<sup>TH</sup> DAY OF NOVEMBER 2001.

  
\_\_\_\_\_  
Larry Teague, Mayor

  
\_\_\_\_\_  
City Secretary/Administrator