

ORDINANCE 2011-03

**AN ORDINANCE ESTABLISHING A CURFEW FOR MINORS IN THE CITY OF PENITAS; AND  
PROHIBITED CONDUCT OF PARENTS AND OTHERS CONCERNING CURFEW**

**VIOLATIONS BY MINORS**

**WHEREAS**, the City Council of Penitas, Texas finds that there is a need to establish Certain laws governing the curfew of all minors within the city limits of Penitas;

**WHEREAS**, the City Council of Penitas, Texas finds that the enforcement of an ordinance governing the curfew of minors in the City of Penitas, Texas will promote the public health, safety and welfare of all citizens of the City of Penitas, Texas:

**BE IT ORDAINED BY THE** City Council of and for the City of Penitas that the following be adopted as the City's ordinance regulating the curfew for minors in said city;

**Section I**

**CURFEW HOURS**

- a) A person commits an offense if he/she;
  - 1) Is a minor; and
  - 2) Appears in a public place between the hours of 11:00 p.m. and 6:00 a.m.; or
  - 3) Appears in a public place between the hours of 9:00 a.m. and 4:00 p.m. on any Monday, Tuesday, Wednesday, Thursday, or Friday, provided the minor is subject to compulsory school attendance pursuant to Section 21.032, Texas Education Code and provided the school in which minor is enrolled is not closed or classes for which minor is enrolled have not been cancelled under the order and direction of officials authorized to issue such orders and directives.

**Section II.**

**DEFINITIONS**

- 1) "Minor" means an individual under the age of seventeen (17) years or any person subject to compulsory school attendance.
- 2) "Parent" means a natural or adoptive parent, step-parent, person in loco parentis or legal guardian of the person of the child.
- 3) "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 buildings, transport facilities and shops, but does not include a lot containing and used with a residential dwelling if the minor is there with consent of his parents and the owner or tenant who occupies the residential premises.

- 4) "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.
- 5) "Operator" means any individual, firm association, partnership or corporation operating, managing or conducting any establishment, including the members or partners of an association or partnership and the officers of a corporation.
- 6) "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.
- 7) "Remain" means to
  - a. Linger or stay; or
  - b. Fail to leave the premises when requested to do so by a peace officer or the owner, operator or other person in control of the premises.

### Section III.

#### **Affirmative Defenses**

It is an affirmative defense in prosecution under the section that the person appeared in a public place:

- 1) Because of an emergency which the person reasonably believed would affect the physical well-being or the property interests of himself or another;
- 2) At the direction of a peace officer;
- 3) Was accompanied by his parent or another adult over the age of twenty-one whom his parent entrusted with his care:
- 4) As an incident of attendance with parental consent at a meeting, dance, theater, sporting event or other activity, supervised by adults and sponsored by a school, church, civic organization or other similar entity, which takes responsibility for such minor.
- 5) As an incident of lawful employment or going to or returning from home from an employment activity.
- 6) As an incident of interstate travel;
- 7) Was emancipated; or
- 8) While necessarily travel in a direct route to or from a place he is permitted to be under this section.
- 9) Attending a official school, religious or other recreational activity supervised by adults and sponsored by the City of Penitas, a civic organization or another similar entity that takes responsibility for the minor or going to or returning home from such activity, without any detour or stop.

Before making an arrest under this ordinance, a peace officer shall inquire of the apparent offender his age and reason for being in the public place and will not arrest unless the officer

reasonable believes that an offense has occurred and that based on any response and other circumstances, that one of the defenses is not present.

**Section IV.**

**DUTY OF PARENTS, ETC.**

A natural or adoptive parents, legal guardian, person I loco parentis, or other person with legal custody or control of a minor commits an offense if he/she knowingly. Permits, or by criminally negligent control allows, the minor to appear in a public place in violation of any section of this Ordinance.

**Section V.**

**INDUCEMENT OF VIOLATION**

- A. Person commits an offense if he/she induces, encourages, or assists a minor to appear in a public place in violation of section of this Ordinance.

**Section VI.**

**PERMITTING CURFEW VIOLATION ON PREMISES**

- (A) The owner, operator, or any employee of an establishment commits an offense if he/she knowingly allows a minor to enter or remain upon the premises of the establishment in violation of this Ordinance.

**Section VII.**

**PENALTIES**

Any person who knowingly and intentionally violates any of the foregoing provisions of this Ordinance shall be fined up to \$200.00 for each violation.

The motion to adopt said ordinance was made by City of Penitas

PASSED AND APPROVED THIS 28<sup>th</sup> DAY OF March 2011.

ATTEST:

CITY OF PENITAS

Ana Centeno

Interim City of Penitas

Marcos Ochoa

Mayor Marcos Ochoa