

## **TITLE XIII: GENERAL OFFENSES**

### **Chapter**

#### **130.SEX OFFENDERS**

#### **131.FIREARMS AND WEAPONS**

#### **132.CURFEW**



## CHAPTER 130: SEX OFFENDERS

### Section

- 130.01 Incorporation of premises
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- 130.04 Residency prohibition; exception
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- 130.06 Savings clause
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### § 130.01 INCORPORATION OF PREMISES.

The premises attached to the ordinances codified herein are true and correct and are hereby adopted and incorporated as part of this code of ordinances as fully as if set out at length herein. (Ord. 2014-05-13-01, passed 5-13-2014)

### § 130.02 FINDINGS.

After due deliberations, the Town Board has concluded that the adoption of this chapter is in the best interest of the town, and of the public health, safety, and welfare. (Ord. 2014-05-13-01, passed 5-13-2014)

### § 130.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***PERMANENT RESIDENCE.*** A place where the person abides, lodges, or resides for 14 or more consecutive days.

***TEMPORARY RESIDENCE.*** A place where the person abides, lodges, or resides for a period of 14 or more days in the aggregate during any calendar year and which is not the person's permanent

address, or a place where the person routinely abides, resides, or lodges for a period of four or more consecutive or non-consecutive days in any month and which is not the person's permanent residence. (Ord. 2014-05-13-01, passed 5-13-2014)

#### **§ 130.04 RESIDENCY PROHIBITION; EXCEPTION.**

(A) If a person is required to register on the State Department of Public Safety's sex offender database because of a violation involving a victim who was less than 16 years of age, it is unlawful for that person to:

(1) Establish a permanent residence or temporary residence within 2,000 feet of any premises where children commonly gather, including a playground, school, daycare facility, video arcade facility, public or private youth center, or public swimming pool, as those terms are defined in Tex. Health and Safety Code § 481.134. It shall be prima facie evidence that this section applies to such a person if the person's record appears on the database and the database indicates that the victim was less than 16 years of age; or

(2) Go in, on, or within 2,000 feet of a premises where children commonly gather, including a playground, school, daycare facility, video arcade facility, public or private youth center, or public swimming pool, as those terms are defined in Tex. Health and Safety Code § 481.134.

(B) For the purpose of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent or temporary residence to the nearest property line of the premises where children commonly gather, as described herein, or in the case of multiple residences on the one property, measuring from the nearest wall of the building or structure occupied or the parking/driveway, whichever is closer to the nearest property line of the premises where children commonly gather, as described herein.

(C) Nothing in this chapter shall be interpreted to modify or reduce the state's child safety ban. A person, as described in division (A) above, residing within 2,000 feet of those places where children commonly gather does not commit a violation of this section if any of the following apply:

(1) The person established the permanent or temporary residence and has complied with all the sex offender registration laws of the state, prior to the date of the adoption of this section;

(2) The person was a minor when he or she committed the offense and was not convicted as an adult;

(3) The person is a minor;

(4) The premises where children commonly gather, as specified herein, within 2,000 feet of the person's permanent or temporary residence was opened after the person established the permanent or temporary residence and complied with all sex offender registration laws of the state; or

(5) The person proves that the information on the database is incorrect and that, if corrected, this section would not apply to the person.

(D) Neither allegation nor evidence of a culpable mental state is required for the proof of an offense as defined in chapter.

(Ord. 2014-05-13-01, passed 5-13-2014) Penalty, see § 130.99

**§ 130.05 PROPERTY OWNERS PROHIBITED FROM RENTING REAL PROPERTY TO SEX OFFENDERS.**

It is unlawful to let or rent any place, structure, or part thereof, with the knowledge that it will be used as a permanent residence or temporary residence by any person prohibited from establishing such permanent or temporary residence pursuant to the terms of this chapter, if such place, structure, or part thereof, is located within 2,000 feet, of any premises where children commonly gather, including a playground, school, daycare facility, video arcade facility, public or private youth center, or public swimming pool, as those terms are defined in Tex. Health and Safety Code § 481.134.

(Ord. 2014-05-13-01, passed 5-13-2014) Penalty, see § 130.99

**§ 130.06 SAVINGS CLAUSE.**

All rights and remedies of the town are expressly saved as to any and all violations of the provisions of this code of ordinances or of any other ordinance affecting boards and commissions, which have been secured at the time of the effective date of this chapter; and, as such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, the same shall not be affected by this chapter, but may be prosecuted until final disposition by the court.

(Ord. 2014-05-13-01, passed 5-13-2014)

**§ 130.07 EFFECTIVE DATE.**

This chapter shall become effective from and after its date of passage in accordance with law.

(Ord. 2014-05-13-01, passed 5-13-2014)

**§ 130.99 PENALTY.**

(A) (1) It shall be unlawful for any person to violate any provision of this chapter, and any person violating or failing to comply with any provision of this chapter shall be fined, upon conviction, an amount not to exceed \$500, and a separate offense shall be deemed committed upon each day during or on which a violation occurs and continues.

(2) If the governing body of the town determines that a violation of this chapter has occurred, the town may bring suit in District Court to enjoin the person, firm, partnership, corporation, or association from engaging in the prohibited activity.

(B) Any person violating a provision of §130.04 shall be guilty of a misdemeanor, and upon conviction, shall be subject to a fine in accordance with the general penalty as stated in division (A) above.

(C) Any person, firm, or corporation violating a provision of § 130.05 shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine in accordance with division (A) above. (Ord. 2014-05-13-01, passed 5-13-2014)

## CHAPTER 131: FIREARMS AND WEAPONS

### Section

- 131.01 Definitions
- 131.02 Discharge of firearms
- 131.03 Brandishing of firearm or replica or facsimile
- 131.04 Exemptions to prosecution
- 131.05 Firearms; air guns; explosives
- 131.06 Carrying of firearms
- 131.07 Effective date
  
- 131.99 Penalty

### § 131.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ARROW.** A slender shaft usually pointed at one end and feathered at the other for shooting from a bow.

**BLOWGUN.** A long, tube-like weapon through which darts or pellets are blown.

**BOW.** A device for shooting arrows, a flexible, curved strip of wood or other material, with a taut cord connecting the two ends.

**BULLET.** A projectile, part of a cartridge, for firing from a firearm.

**BULLET TRAP.** An area or device specifically designed and constructed for the purpose of the occasional and safe test firing of a firearm, not to be construed to mean a target practice or firing range.

**COMMERCIAL SHOOTING GALLERY.** A commercial shooting gallery that possesses a permit from the town allowing the discharge of a firearm, bow and arrow, crossbow, or blow gun on the premises.

**CROSSBOW.** A medieval weapon consisting of a bow set transversely on a stock.

***EXTRA TERRITORIAL JURISDICTION (ETJ).*** Territory extending one-half mile from the town limits in a type B general law municipality.

***EXPLOSIVE WEAPON.*** Any type of incendiary bomb, grenade, rocket, or mine that is designed, made, or adapted for the purpose of inflicting serious bodily injury, death, or substantial property damage, or for the principal purpose of causing such a loud report as to cause undue public alarm or terror, and includes a device designed, made, or adapted for delivery or shooting an explosive weapon.

***FIREARM.*** Any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use, including, but not limited to, a pistol, revolver, shotgun, sawed-off shotgun, rifle, machine gun, rocket launcher, starter pistol, BB gun, air gun, inoperative firearm, or other firearm. For the purpose of this chapter, the term shall include an explosive weapon.

***GUN, PISTOL, RIFLE, SHOTGUN, and FIREARM.*** Any device designed, made, or adapted to expel a projectile through a barrel by using explosive energy generated by an explosion or burning substance, or any device readily convertible to that use, and shall include all air guns, air pistols, air rifles, and all other firearms using air pressure to propel a projectile. For purposes of this section, ***“TASER” TYPE WEAPONS, CROSSBOWS, and BOWS AND ARROWS*** are considered to be ***FIREARMS.***

***HANDGUN.*** Any firearm that is designed, made, or adapted to be fired, with one hand, and the term “concealed handgun” as used in this chapter is defined as a ***HANDGUN***, the presence of which is not openly discernable to the ordinary observation of a reasonable person.

***MARSHAL.*** The chief law enforcement officer of the town.

***PRIVATE SHOOTING GALLERY.*** A shooting gallery maintained for personal, noncommercial use that possesses a permit from the town allowing the discharge of a firearm, bow and arrow, crossbow, or blowgun on the premises.

***PUBLIC PLACE.*** Any place to which the general public has a right to resort; not necessarily a place devoted solely to the uses of the public, but a place which is in point of fact public rather than private, a place visited by many persons and usually accessible to the neighboring public (e.g., a park or public beach). Also, a place in which the public has an interest as affecting the safety, health, morals, and welfare of the community. A place exposed to the public, and where the public gather together or pass to and fro.

***REPLICA OR FACSIMILE OF A FIREARM.*** Any device or object made of plastic, wood, metal, or any other material, which is a replica, facsimile, or toy version or is otherwise recognizable as a pistol, revolver, shotgun, sawed-off shotgun, rifle, machine gun, rocket launcher, starter pistol, air gun, inoperative firearm, or other firearm. As used in this chapter, ***REPLICA OR FACSIMILE OF A FIREARM*** shall include, but is not limited to, toy guns, theatrical production props, hobby models



(either in kit form or fully assembled), or any other device which might reasonably be perceived to be a real firearm.

**TOWN.** The Town of Rose Hill Acres, Texas.

**TOWN BOARD.** The Town Board of Aldermen of the Town of Rose Hill Acres, Texas.

**TOWN BUILDING AND TOWN VEHICLE.** Any building or portion of a building or any vehicle owned, occupied, leased, or under the authorized use or control of the town for town operations and activities. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area.

**URGENT NECESSITY.** The exercise of a right conferred by the laws of the state, including, but not limited to, lawful arrest, lawful prevention of crime, and lawful exercise of the right to self-defense. (Ord. 2015-10-13-03, passed - -)

### **§ 131.02 DISCHARGE OF FIREARMS.**

It shall be unlawful and an offense for any person to discharge, fire, or shoot or cause to be discharged, fired, or shot any firearm, as that term is defined herein, rifle, shotgun, automatic rifle, handgun, or any weapon designed for the purpose of firing, whether such is blank or live or discharging any projectile as a bow and arrow, crossbow or blow gun, in any place within the corporate limits of the town.

(Ord. 2015-10-13-03, passed - -) Penalty, see § 131.99

### **§ 131.03 BRANDISHING OF FIREARM OR REPLICA OR FACSIMILE.**

(A) It shall be unlawful to draw, exhibit, or brandish a firearm or a replica or facsimile firearm in a rude, threatening, or angry manner with intent to frighten, vex, harass, or annoy any other person.

(B) It shall be unlawful for a person having knowledge that a peace officer, firefighter, emergency medical technician, or paramedic is engaged in the performance of duties to draw, exhibit, or brandish a firearm or replica or facsimile firearm in their presence.

(Ord. 2015-10-13-03, passed - -) Penalty, see § 131.99

### **§ 131.04 EXEMPTIONS TO PROSECUTION.**

It is a defense to prosecution under this section that:

(A) This section shall not be construed to prohibit any peace officer of the United States or the state or any of its political subdivisions while in the performance of his or her official duties, or from

discharging a firearm in the performance of and provided that any such discharge is made in the course and scope of his or her official duties;

(B) This section shall not be construed to prohibit a duly appointed animal control officer from discharging a firearm in the course and scope of his or her official duties as confronted by a dangerous or a predatory animal;

(C) This section shall not be construed to prohibit security guard personnel, provided that any such discharge of a firearm is made in the course and scope of his or her official duties;

(D) Shall not prohibit any citizen from discharging a firearm when lawfully defending person or property, in the event of urgent necessity;

(E) Nothing contained herein shall be deemed to prohibit the use of pneumatic nail guns or similar construction tools, when used for their intended purpose;

(F) This section does not apply to members of the U.S. armed forces and members of the military forces of the state while engaged in the performance of official duties;

(G) This section does not apply to the discharge of air guns, BB guns, toy guns, or bows and arrows by citizens on their own property, provided that no projectile fired from these weapons is fired onto or into, or reaches, another person's property;

(H) The person eradicated a predatory animal on his or her own property or with the written permission of the owner of the property;

(I) The person used blank cartridges for a theatrical production, an event sponsored by a military organization, a funeral with military honors, an athletic event, or other ceremonial or commemorative events, provided that the discharge is performed safely and directed away from persons, animals, or structures so as to prevent bodily injury or property damage;

(J) The person discharged an air gun on his or her own property, provided such device is not fired into or onto another person's property without the other owner's consent;

(K) The person was at a shooting range operated by the United States government, state, or political subdivision of the state, or which is privately operated as authorized or permitted by the town;

(L) The person was a gunsmith and discharged the firearm at his or her place of business inside a protective enclosure, which was authorized or permitted by the town, and the discharge was for test purposes;

(M) The person was participating in an amusement arcade or paintball amusement facility authorized or permitted by the town;

(N) The person was using any mechanism designed to propel nails, bolts, screws, rivets, or other fasteners, so long as such mechanism was being used for its intended purpose;

(O) When a person discharging a firearm, bow and arrow, crossbow, or blow gun in a commercial or private shooting gallery;

(P) When a person who discharges a shotgun, air rifle or pistol, BB gun, or bow and arrow, crossbow, or blowgun within the limits of a rural/agricultural district established under the zoning classifications of the town;

(Q) When a person who discharges a shotgun, air rifle or pistol, BB gun, or bow and arrow, crossbow or blowgun within the limits of an area authorized by the Town Board for hunting or fishing and consisting of a tract of land of ten acres or more and more than 150 feet from any residence or building whether located on such tract or another tract of land;

(R) If the firearm or other weapon is a shotgun, air rifle or pistol, BB gun, or bow and arrow discharged:

(1) On a tract of land of ten acres or more and more than 150 feet from a residence or occupied building located on another property; and

(2) In a manner not reasonably expected to cause a projectile to cross the boundary of the tract.

(S) If the firearm or other weapon is a center fire or rim fire rifle or pistol of any caliber discharged:

(1) On a tract of land of 50 acres or more and more than 300 feet from a residence or occupied building located on another property; and

(2) In a manner not reasonably expected to cause a projectile to cross the boundary of the tract.

(Tex. Local Government Code, § 229.002)

(T) (1) Gunsmiths may discharge firearms left in their custody for test purposes only in the confines of secure sound and bullet proof facility, provided that the owner thereof takes all necessary precautions to make the operation of the facility safe and in no way or manner of operation a danger to persons on the street or public places within the town. The definition of firearm as contained in Tex. Penal Code, § 46.01(3) is hereby adopted and made a part hereof.

(2) The use of a “bullet trap” shall be allowed under the following conditions:

(a) An application and construction plan for a bullet trap permit shall be submitted to the town;

(b) A design and safety inspection shall be conducted by the Police Chief or his or her designee;

(c) The impact area of the bullet trap shall be designed, constructed and maintained in such a manner that the escape or ricochet of a discharged bullet is impossible;

(d) A permit has been issued by the town;

(e) The holder of a bullet trap permit shall be subject to any noise nuisance ordinance in effect; and

(f) Any liability incurred due to the unsafe or improper use of a bullet trap or any alteration to said trap that results in injury or property damage shall be the sole responsibility of the permit holder.

(U) Indoor shooting galleries may be established, provided that the owner thereof takes all necessary precautions to make the operation of the gallery safe and in no way or manner of operation a danger to persons on the street or public places within the town; and

(V) It is an exception to this prohibition if the firearm is discharged within an indoor firearm range, operated by a person or entity with all permits or licenses required to operate such a facility, that meets the following requirements.

(1) The structure must be constructed in such a manner that a bullet of the maximum caliber allowed to be fired within the range may not escape from the structure.

(2) The range must utilize bullet traps that prevent the bullet from escaping from the structure and, in addition, minimize the escape of lead particles into the air, both inside and outside the structure.

(3) The ventilation of the structure must meet all regulations applicable to such use, including, but not limited to, the regulations of the Environmental Protection Agency and the State Commission on Environmental Quality. Any interpretation of this section by the Building Official may be appealed to the Building Board of Adjustment in accordance with the ordinances applicable to such appeal.

(4) The structure must be constructed such that noise from the structure during use will not cause a disturbance to those across the real property boundary of the facility.

(5) The Building Official is charged with enforcement of this section and may not issue a certificate of occupancy for the structure and other properties associated with the use of the structure until it meets the requirements of this section and all other applicable codes of the town.

(Ord. 2015-10-13-03, passed - -)

**§ 131.05 FIREARMS; AIR GUNS; EXPLOSIVES.**

(A) Notwithstanding any other law, including Tex. Local Government Code, § 43.002 and Tex. Agriculture Code, Ch. 251, a municipality may not adopt regulations relating to:

- (1) The transfer, private ownership, keeping, transportation, licensing, or registration of firearms, air guns, ammunition, or firearm or air gun supplies; or
- (2) The discharge of a firearm or air gun at a sport shooting range.

(B) Division (A) above does not affect the authority a municipality has under another law to:

- (1) Require residents or public employees to be armed for personal or national defense, law enforcement, or another lawful purpose;
- (2) Regulate the discharge of firearms or air guns within the limits of the municipality, other than at a sport shooting range;
- (3) Regulate the use of property, the location of a business, or uses at a business under the municipality's fire code, zoning ordinance, or land-use regulations as long as the code, ordinance, or regulations are not used to circumvent the intent of division (A) above or division (B)(5) below;
- (4) Regulate the use of firearms or air guns in the case of an insurrection, riot, or natural disaster if the municipality finds the regulations necessary to protect public health and safety;
- (5) Regulate the storage or transportation of explosives to protect public health and safety, except that 25 pounds or less of black powder for each private residence and 50 pounds or less of black powder for each retail dealer are not subject to regulation;
- (6) Regulate the carrying of a firearm or air gun by a person other than a person licensed to carry a concealed handgun under Tex. Government Code, Ch. 411, Subchapter H, at a:
  - (a) Public park;
  - (b) Public meeting of a municipality, county, or other governmental body;
  - (c) Political rally, parade, or official political meeting; or
  - (d) Nonfirearms-related school, college, or professional athletic event.
- (7) Regulate the hours of operation of a sport shooting range, except that the hours of operation may not be more limited than the least limited hours of operation of any other business in the municipality other than a business permitted or licensed to sell or serve alcoholic beverages for on-premises consumption; or

(8) Regulate the carrying of an air gun by a minor on:

(a) Public property; or

(b) Private property without consent of the property owner.

(C) The exception provided by division (B)(6) above does not apply if the firearm or air gun is in or is carried to or from an area designated for use in a lawful hunting, fishing, or other sporting event and the firearm or air gun is of the type commonly used in the activity.

(D) The exception provided by division (B)(4) above does not authorize the seizure or confiscation of any firearm, air gun, or ammunition from an individual who is lawfully carrying or possessing the firearm, air gun, or ammunition.

(E) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**AIR GUN.** Any gun that discharges a pellet, BB, or paintball by means of compressed air, gas propellant, or a spring.

**SPORT SHOOTING RANGE.** Has the meaning assigned by Tex. Local Government Code, § 250.001.

(F) The Attorney General may bring an action in the name of the state to obtain a temporary or permanent injunction against a municipality adopting a regulation in violation of this section. (Tex. Local Government Code, § 229.001) (Ord. 2015-10-13-03, passed - -)

#### **§ 131.06 CARRYING OF FIREARMS.**

(A) It shall be unlawful for a person to carry a firearm at a:

(1) Public park;

(2) Public meeting of the town or any other governmental body;

(3) Political rally, parade, or official political meeting; or

(4) Non-firearms-related school or athletic event.

(B) It shall be an exception to division (A) above:

(1) If the person is authorized law enforcement, officer of the court, uniformed military personnel, animal control officer, authorized security personnel in performance of their duty; or

(2) If the person is licensed to carry a concealed handgun under Tex. Government Code, Ch. 411, Subchapter H.

(C) It shall be an exception if the firearm is in or is carried to or from an area designated for use in a lawful hunting, fishing or other sporting event and the firearm is of the type commonly used in the activity.

(Ord. 2015-10-13-03, passed - -) Penalty, see § 131.99

### **§ 131.07 EFFECTIVE DATE.**

This chapter shall take effect immediately from and after its passage, subject to whatever publication that may be required by law.

(Ord. 2015-10-13-03, passed - -)

### **§ 131.99 PENALTY.**

(A) *Violations and enforcement discharging firearms.* The town shall have the power to administer and enforce the provisions of this chapter as may be required by governing law. Any person violating any provision of this chapter is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of this chapter is hereby declared to be a nuisance. There shall be no requirement of a culpable mental state for a violation of this chapter. Any person violating any provision of this chapter shall, upon conviction, be fined a sum not exceeding \$2,000, except as may be otherwise expressly provided by state law. Each time that a provision of this chapter is violated shall constitute a separate offense. An offense under this chapter is a Class C misdemeanor. Nothing in this chapter shall be construed as a waiver of the town's right to bring a civil action to enforce the provisions of this chapter and to seek remedies as allowed by law.

(B) *Violations and enforcement carrying firearms.* A person violating any provision of this chapter shall, upon conviction, be fined a sum not to exceed \$500. There shall be no requirement of a culpable mental state for a violation of this chapter. Each day that a provision of this chapter is violated shall constitute a separate offense. An offense under this chapter is a misdemeanor.

(Ord. 2015-10-13-03, passed - -)





## CHAPTER 132: CURFEW

### Section

- 132.01 Definitions
- 132.02 Offense
- 132.03 Defense to prosecution
- 132.04 Enforcement
- 132.05 Re-adoption
  
- 132.99 Penalty

### § 132.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

#### ***CURFEW HOURS.***

- (1) 11:00 pm. on any Sunday, Monday, Tuesday, Wednesday, or Thursday night until 6:00 am., on the following day; and
- (2) 11:59 pm. on any Friday or Saturday night until 6:00 am., on the following day.

***EMERGENCY.*** An unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, natural disaster, automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

***ESTABLISHMENT.*** 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.***

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

**MINOR.** Any person under 17 years of age.

**OFFICER.** Marshal or a police officer of the Town of Rose Hill Acres.

**OPERATOR.** Any individual, firm, association, partnership, or corporation operating, managing, or conducting business at any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

**PARENT.** A person who is:

- (1) A natural parent, adoptive parent, or stepparent of another person; or
- (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.** Any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, parks, and the common areas and parking lots of schools, hospitals, apartment houses, office buildings, transportation facilities, commercial shopping centers, and shops.

**REMAIN.**

- (1) To linger or stay; or
- (2) Fail to leave premises when requested to do so by an officer or the owner, operator, or other person in control of the premises.

**SERIOUS BODILY INJURY.** 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.  
(Ord. 2015-11-10-01, passed 11-11-2015)

## **§ 132.02 OFFENSE.**

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

(B) A parent or guardian of a minor commits an offense if the parent or guardian knowingly permits, or by insufficient control allows, the minor to remain in any public place or on the premises of any establishment within the town during curfew hours.

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

(Ord. 2015-11-10-01, passed 11-11-2015)

### **§ 132.03 DEFENSE TO PROSECUTION.**

(A) It is a defense to prosecution that the minor was:

(1) Accompanied by the minor's parent or guardian or another adult approved by the 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, 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, 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 town, a civic organization, a school district, 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 Tex. Family Code, Ch. 31, as amended.

(B) It is a defense to prosecution 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.

(Ord. 2015-11-10-01, passed 11-11-2015)

### **§ 132.04 ENFORCEMENT.**

Before taking any enforcement action under this chapter, 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 chapter unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in § 132.03 is present.  
(Ord. 2015-11-10-01, passed 11-11-2015)

#### **§ 132.05 RE-ADOPTION.**

In accordance with Tex. Local Government Code, § 370.002, before the third anniversary of the adoption of this chapter and every third year thereafter, if it is continued, to be required by state law, the Town Board of Aldermen shall review the regulations contained herein and conduct a public hearing on the need to continue, abolish, or modify this chapter.  
(Ord. 2015-11-10-01, passed 11-11-2015)

#### **§ 132.99 PENALTY.**

(A) 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 \$500 and each and every day such violation shall continue shall constitute a separate offense.

(B) When required by Tex. Family Code, § 51.08, as amended, the Municipal Court shall waive original jurisdiction over a minor who violates § 132.03(A) and shall refer the minor to Juvenile Court.  
(Ord. 2015-11-10-01, passed 11-11-2015)