

CITY OF LAVON, TEXAS
ORDINANCE NO. 2023-02-06

Juvenile Curfew

AN ORDINANCE OF THE CITY OF LAVON, TEXAS, PURSUANT TO SECTION 341.904 OF THE TEXAS LOCAL GOVERNMENT CODE, RE-ESTABLISHING A JUVENILE CURFEW FOR MINORS AND PARENTAL RESPONSIBILITY; SETTING THE HOURS OF CURFEW FOR MINORS; PROVIDING FOR AFFIRMATIVE DEFENSES TO PROSECUTION; PROVIDING A PENALTY NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Lavon (the “City Council”) has deliberated the issues regarding the activity and safety of minors in the City of Lavon during curfew hours defined herein; and

WHEREAS, the City Council has considered the effect that a curfew might have on the community and on problems such as criminal activity and mischief caused by minors during the curfew hours that this ordinance is intended to remedy; and

WHEREAS, the City Council finds that renewal of this Juvenile Curfew Ordinance is in the best interest of the City and that this ordinance will promote and provide for the health, safety and welfare of the City.

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

SECTION 1. All matters stated in the preamble are found to be true and correct and are incorporated herein by reference as if copied in their entirety.

SECTION 2. The Code of Ordinances of the City of Lavon is hereby amended to renew and establish the Juvenile Curfew as previously codified in Chapter 8 Offenses and Additional Provisions, Division 2. Curfew attached hereto as Exhibit “A”.

SECTION 3. **Severability Clause.**

It is hereby declared by the City Council that if any of the sections, paragraphs, sentences, clauses, phrases, words, or provisions of this ordinance should be declared unconstitutional or otherwise invalid for any reason, such event shall not affect any remaining sections, paragraphs, sentences, clauses, phrases, words, or provisions of this ordinance.

SECTION 4. **Cumulative Clause.**

This ordinance shall be cumulative of all provisions of ordinances of the City except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in

which event the conflicting provisions of such ordinances are hereby repealed.

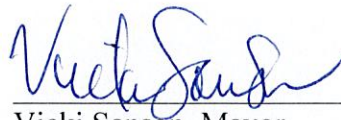
SECTION 5. **Public Meeting.**

It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required by law.

SECTION 6. **Effective Date.**

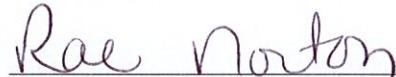
This ordinance shall be in full force and effect immediately upon its passage and approval by the City Council.

DULY PASSED AND APPROVED by the City Council of the City of Lavon, Texas, this 21st day of February 2023.



Vicki Sanson, Mayor

ATTEST:



Rae Norton
City Secretary

Rae Norton
City Secretary



ORDINANCE NO. 2023-02-06

EXHIBIT A

Division 2. Curfew

Sec. 8.02.031 Definitions

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

Adult means any person seventeen years of age or older.

Business operator means any employee, individual, firm, associate, partnership or corporation engaged in or responsible for operating, conducting business or managing any business or establishment.

Curfew or curfew hours means those hours between 11:00 p.m. and 6:00 a.m. inclusive.

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

Minor means any person less than seventeen (17) years of age who has not had the disabilities of minority removed in accordance with chapter 31 of the Texas Family Code or who is not legally married at the time.

Operator means any individual, employee, firm, association, partnership, or corporation engaged in, 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) A person being at least 18 years of age and having written authorization from a parent or guardian to provide for 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 to linger, stay or fail to leave premises when requested to do so by a peace 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, serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

(Ordinance 2016-08-01, sec. 2, adopted 8/2/16)

Sec. 8.02.032 Offenses

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

(b) Violation by parent or guardian. 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 city during curfew hours.

(c) Contributing to the neglect or delinquency of minor. A parent, guardian or other person having the care, custody or control of a minor commits an offense if, by any act or omission, or by lack of supervision and control over such minor, such person encourages, contributes toward, causes or tends to cause the minor to become neglected or delinquent.

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

(Ordinance 2016-08-01, sec. 3, adopted 8/2/16)

Sec. 8.02.033 Penalty

(a) A person who violates section 8.02.032(a) of this article is guilty of a misdemeanor, and upon conviction in the municipal court of the city shall be deemed guilty of a class C misdemeanor punishable by a fine of not more than two hundred fifty dollars (\$250.00) for each offense. Each day or part of day during which the violation is committed, continued, or permitted shall be considered a separate offense.

(b) Each minor upon the premises of any establishment constitutes a separate violation under section 8.02.032 of this article and shall result in a separate fine.

(c) Any child taken into custody for a violation of this article 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 of the city shall waive original jurisdiction over a minor who violates section 8.02.032(a) and shall refer the minor to a juvenile court.

(e) Any person who violates section 8.02.032(b) to (d) of this article is guilty of a misdemeanor, and upon conviction in the municipal court of the city shall be deemed guilty of a class C misdemeanor punishable by a fine of not more than five hundred dollars (\$500.00) for each offense. Each day or part of day during which the violation is committed, continued, or permitted shall be considered a separate offense.

(Ordinance 2016-08-01, sec. 4, adopted 8/2/16)

Sec. 8.02.034 Affirmative defenses

(a) It is an affirmative defense to prosecution under section 8.02.032(a), (b), and (c) of this article that:

- (1) The minor was accompanied by his/her parent or legal guardian;
- (2) The minor was accompanied by an adult approved by the minor's parent;
- (3) 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;
- (4) The minor was on an emergency errand;
- (5) 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; or

(6) The minor is married or had been married or had disabilities or minority removed in accordance with Texas Family Code chapter 31.

(b) It is an affirmative defense to prosecution under section 8.02.032(d) of this article that:

(1) The business operator notified the police department that the minor was present during curfew hours and refused to leave;

(2) The business operator was unaware of the presence of the minor and assisted the police in identifying the minor; or

(3) The minor is an employee of the establishment, is actually engaged in duties related to that employment and is receiving payment for the activity.

(Ordinance 2016-08-01, sec. 5, adopted 8/2/16)

Sec. 8.02.035 Review of regulations

Before the third anniversary of the date of adoption of this article and every third year thereafter, the city council shall review the effects of this article on the community and determine whether to abolish, continue or modify this article. Two public hearings shall be conducted to consider public comments.

(Ordinance 2016-08-01, sec. 6, adopted 8/2/16)