

**ORDINANCE NO. 2012-10-03**

**AN ORDINANCE OF THE CITY OF LAVON, TEXAS, ESTABLISHING A 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 TWO HUNDRED DOLLARS (\$200.00) FOR EACH OFFENSE; PROVIDING SEVERABILITY 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 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 adoption 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, COLLIN COUNTY, 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: 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.
- 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 11:00 p.m. and 6:00 a.m. inclusive.

- E. "EMERGENCY" shall mean 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 a profit to which the public is invited, including but not limited to any place of amusement or entertainment.
- G. "GUARDIAN" shall mean:
1. a person who, under court order, is the guardian of the person of a minor; or
  2. a public or private agency with whom a minor has been placed by a court.
- H. "MINOR" shall mean 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.
- I. "OPERATOR" shall mean any individual, employee, firm, association, partnership, or corporation engaged in, operating, managing or conducting any establishment. The term includes the members or partner of an association or partnership and the officers of a corporation.
- J. "PARENT" shall mean 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.
- K. "PUBLIC PLACE" shall mean 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.
- L. "REMAIN" shall mean to:
1. Linger or stay; or
  2. 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.
- M. "SERIOUS BODILY INJURY" shall mean 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.

### **Section 3. Commission of 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 of Lavon 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 of Lavon during curfew hours.
- C. 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.

### **Section 4. Penalties for Violation.**

- A. A person who violates a provision of this ordinance is guilty of a misdemeanor, and upon conviction in the Municipal Court of the City of Lavon, shall be deemed guilty of a Class "C" misdemeanor and upon conviction be punishable by a fine of not less than twenty-five dollars, (\$25.00) nor more than two hundred dollars (\$200.00) for each offense for each day or part of day during which the violation is committed, continued, or permitted.
- B. Each minor upon the premises of any establishment constitutes a separate violation under Section 3 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 of the City of Lavon shall waive original jurisdiction over a minor who violates Section 3(A) and shall refer the minor to a juvenile court.

### **Section 5 Affirmative Defenses**

It is an affirmative defense to prosecution under Section 3 (A-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 on an emergency errand;
- 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; or
- F. the minor is married or had been married or had disabilities or minority removed in accordance with Texas Family Code Chapter 31.

It is an affirmative defense to prosecution under Section 3(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; or
- 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 6 Parental Responsibility**

- A. Contributing to the Neglect or Delinquency of Minors. 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.
- B. Defenses. It is a defense to prosecution under subsection (a) of this section that the minor is married or had been married or had disabilities of minority removed in accordance with Texas Family Code, Chapter 31.
- C. Penalty for Violation of this Section. 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 is punishable by a fine not to exceed two hundred dollars (\$200.00)

### **Section 7 Review by City Council**

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

**Section 8 Penalty**

Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in a sum not to exceed Two Hundred Dollars (\$200.00) and a separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

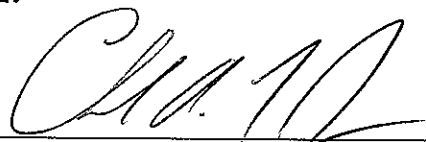
**Section 9 Severability**

It is hereby declared by the City Council of the City of Lavon 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 affect any remaining sections, paragraphs, sentences, clauses or phrases of this ordinance.

**Section 10 Effective Date**

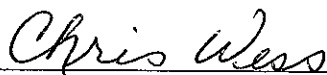
This ordinance shall be in full force and effect from and after its passage and publication and it is so ordained.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF LAVON,  
TEXAS ON THIS 16<sup>TH</sup> DAY OF OCTOBER, 2012.**



Charles A. Teske, Mayor

Attest:



Chris Wess, City Secretary

