

**ORDINANCE NO. 17-07-06-01**

**AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF LAGO VISTA, ADOPTING AN ORDINANCE ESTABLISHING A CURFEW FOR MINORS WITHIN THE CITY OF LAGO VISTA; DEFINING TERMS; CREATING OFFENSES FOR MINORS, PARENTS, GUARDIANS AND BUSINESS ESTABLISHMENTS VIOLATING CURFEW REGULATIONS; PROVIDING DEFENSES; PROVIDING FOR ENFORCEMENT BY THE POLICE DEPARTMENT; PROVIDING FOR WAIVER BY THE MUNICIPAL COURT OF JURISDICTION OVER A MINOR WHEN REQUIRED UNDER THE TEXAS FAMILY CODE; PROVIDING A PENALTY NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500.00); REPEALING ALL ORDINANCES IN CONFLICT HERewith; PROVIDING A SAVING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the City of Lago Vista finds the establishment of reasonable curfew hours for minors to be necessary and reasonable for the protection of such minors and the public health, safety and welfare; and

**WHEREAS**, persons under the age of seventeen (17) are particularly susceptible by their lack of maturity and experience to participate in unlawful drug and gang-related activities and to be victims of older perpetrators of crime; and

**WHEREAS**, the City of Lago Vista 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**, the City has imposed a curfew on juveniles within the city limits before and wishes to continue with such curfew; and

**WHEREAS**, the City has conducted a public hearing on the need to continue the juvenile curfew ordinance; and

**WHEREAS**, the City has reviewed the effect of the juvenile ordinance; and

**WHEREAS**, the City finds that continuation of its juvenile curfew ordinance will promote the public welfare.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAGO VISTA:**

**SECTION 1.** That this Ordinance shall be referred to as the JUVENILE CURFEW ORDINANCE FOR MINORS.

**SECTION 2. Definitions.**

2.1 For the purpose of this Ordinance, when not inconsistent with the context, words, used in the present tense include the future tense, words in plural include the singular, and words in the singular include the plural, and the use of any gender shall be applicable to all genders whenever the sense requires. The words "shall" and "will" are mandatory and the word "may" is permissive. Words not defined in the Section 2 shall be given their common and ordinary meaning.

2.2 For the purposes of this Ordinance, the following words, terms, phrases and their derivations shall have the meaning given in this Section 2.2.

(A) CURFEW HOURS means:

- (1) 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. of the following day; and
  - (2) 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday.
- (B) 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, or automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.
- (C) 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.
- (D) GUARDIAN means:
- (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.
- (E) MINOR means any person under seventeen (17) years of age.
- (F) OPERATOR means any individual, firm, association, partnership, or corporation operating, managing or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.
- (G) PARENT means a person who is:
- (1) a natural parent, adoptive parent, or step-parent of another person; or
  - (2) at least eighteen (18) years of age and authorized by a parent or guardian to have the care and custody of a minor.
- (H) 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.
- (I) REMAIN means:
- (1) To linger or stay; or
  - (2) Failure to leave premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.
- (J) SERIOUS BODILY INJURY means 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.

### **SECTION 3. Offenses.**

- 3.1 A minor commits an offense if he remains in any public place or on the premises of any establishment within the City during curfew hours.
- 3.2 A parent or guardian of a minor commits an offense if such 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.
- 3.3 The owner, operator, or any employee of an establishment commits an offense if such owner, operator or employee knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

**SECTION 4. Defenses.**

4.1 It is a defense to prosecution under Section 5 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 about the minor's presence;
- (G) attending an official school, religious, or other recreational activity supervised by adults and sponsored by the City, a civic organization, or another similar entity that takes responsibility for the minor, or 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 City, 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 of the Texas Family Code.

4.2 It is a defense to prosecution under Section 5 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.

**SECTION 5. Enforcement.**

Before taking any enforcement action under this section, a police 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 Section 4 is present.

**SECTION 6. Penalties.**

- 6.1 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 Five Hundred Dollars (\$500.00).
- 6.2 When required by Section 51.08 of the Texas Family Code, as amended, the municipal court shall waive original jurisdiction over a minor who violates Section 3.1 of this Ordinance and shall refer the minor to juvenile court.

**SECTION 7.** That all Ordinances in conflict herewith, either in whole or in part, are repealed and replaced by this Ordinance only to the extent of such conflict.

**SECTION 8.** That within six (6) months after the initial enforcement of this Ordinance, the City Manager shall review this Ordinance and report and make recommendations to the City Council concerning the effectiveness of and the continuing need of the Ordinance. The City Manager's report shall specifically include the following information:

- (A) the practicality of enforcing the Ordinance and any 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 9.** It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable, and, if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared illegal or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such illegality or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance.

**SECTION 10.** That this Ordinance shall take effect immediately from and after its passage and publication as may be required by State law.

**SECTION 11.** It is hereby found that the meeting at which this Ordinance was passed was open to the public and public notice of the time, place and purpose of said meeting was given as required by Chapter 551, Texas Government Code.

**AND, IT IS SO ORDERED.**

**PASSED AND APPROVED** on the 6<sup>th</sup> day of July, 2017.

CITY OF LAGO VISTA, TEXAS



Dale Mitchell, Mayor

ATTEST:



Sandra Barton, City Secretary

