

**A REVIEW OF THE CITY OF LEON VALLEY'S CODE OF ORDINANCES, CHAPTER 8 "OFFENSES AND NUISANCES" ARTICLE 8.02 "MINORS", DIVISION 2 "CURFEW" TO RE-ENACT THE JUVENILE CURFEW ORDINANCE IN EFFECT; PROVIDING FOR A PENALTY; REPEALER; SEVERABILITY; AN EFFECTIVE DATE AND PROPER NOTICE AND MEETING.**

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**WHEREAS**, the City Council of the City of Leon Valley, Texas (the "City Council") recognizes that persons under seventeen are particularly susceptible by their lack of maturity and experience to participate in unlawful activities and to be victims of older perpetrators of crime; and

**WHEREAS**, the City Council has an obligation to provide for the protection of minors from each other and from other persons, to promote parental controls over and responsibility for their children, for the protection of the general public and for the reduction of the incidence of juvenile criminal activity; and

**WHEREAS**, it is the belief that a curfew for those under seventeen years of age will be in the interest of public health, safety, and general welfare, and will help to attain the foregoing objectives and to diminish the undesirable impact of such conduct on the citizens of the City of Leon Valley; and

**WHEREAS**, the State Legislature mandates a three-year review of the juvenile curfew, reference in V. T. C. A. Local Government Code 370.002; and

**WHEREAS**, the requirement of a three-year review had not occurred it is now necessary to review the ordinance in order for it to be re-enacted and in effect.

**WHEREAS**, it is now the desire of the City Council to keep in place the City of Leon Valley's Code of Ordinances, Chapter 8 "Offenses and Nuisances" Article 8.02 "Minors", Division 2 "Curfew" in effect.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LEON VALLEY, TEXAS:**

**SECTION 1.** Chapter 8 "Offenses and Nuisances", Article 8.02 "Minors", Division 2 "Curfew" of the City's Code of Ordinances is hereby re-enacted.

**SECTION 2. ENFORCEMENT AND PENALTIES.** Any violation of this Ordinance shall be subject to enforcement through a fine or other penalties as set out in Chapter 1, General Provisions, Section 1.01.009, General penalty for violation of code, continuing violations, Leon Valley Code of Ordinances.

**SECTION 3. REPEALER.** All ordinances or parts of ordinances in force when the provisions of this Ordinance become effective which are inconsistent or in conflict with

the terms and provisions contained in this Ordinance are hereby repealed, but only to the extent of any such conflict.

**SECTION 4. PROVIDING FOR SEVERABILITY.** If any provision, section, sentence, clauses or phrase of this Ordinance or application of same to any persons or set of circumstances is for any reason held to be unconstitutional, void, invalid, or unenforceable, the validity of the remaining portion of this Ordinance or its application to other persons or sets of circumstances shall not be affected hereby, it being the intent of the City Council of the City of Leon Valley in adopting, and the Mayor in approving this Ordinance, that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any portion, provisions or regulation.

**SECTION 5. EFFECTIVE DATE.** This ordinance shall be in full force and effect from its date of approval and publication as required by law.


**SECTION 6. PROPER NOTICE AND MEETING.** It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

**PASSED, ADOPTED AND APPROVED** by the City Council of the City of Leon Valley this the 3rd day of October 2022.

**APPROVED**

  
**CHRIS RILEY**  
MAYOR

Attest :

  
**SAUNDRA PASSAILAIGUE, TRMC**  
City Secretary

Approved as to Form:

  
City Attorney



## Division 2. Curfew<sup>†</sup>

### Sec. 8.02.031 Definitions

**Emergency.** Includes but not be limited to fire, natural disaster, an automobile accident, or obtaining immediate medical care for another person.

**Legal guardian.** Any person to whom custody of a minor has been given by a court order.

**Minor.** Any person less than seventeen (17) years of age and over nine (9) years of age.

**Parent.** A person who is the natural or adoptive parent of a person. As used herein, "parent" shall also include a court appointed guardian or other person eighteen (18) years of age or older, authorized by the parent, by a court order, or by the court appointed guardian to have the care and custody of a person.

**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, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

(Ordinance adopting 2008 Code; 2008 Code, sec. 8.02.031; Ordinance 14-022 adopted 10/13/14; Ordinance 2018-17 adopted 2/6/18)

### Sec. 8.02.032 Offenses

(a) It shall be unlawful for a minor to purposefully remain, walk, run, stand, drive or ride about in or upon any public place in the city between the hours of ~~11:00 p.m.~~ 12:00 a.m. and 6:00 a.m., unaccompanied by a parent or legal guardian.

~~(b) It shall be unlawful for a minor to purposefully remain, walk, run, stand, drive or ride about in or upon any public place in the city between the hours of 9:00 a.m. and 3:30 p.m. on a Monday, Tuesday, Wednesday, Thursday or Friday on school days only, unaccompanied by a parent or legal guardian.~~

(c) It shall be unlawful for the parent or guardian having legal custody of a minor to knowingly allow or permit the minor to be in violation of the curfew imposed in subsections (a) and (b).

(Ordinance adopting 2008 Code; 2008 Code, sec. 8.02.032; Ordinance 14-022 adopted 10/13/14; Ordinance 2018-17 adopted 2/6/18)

### Sec. 8.02.033 Defenses

It is a defense to prosecution under [section 8.02.032](#) of this division that:

- (1) The minor was accompanied by his or her parent, legal guardian or another adult approved by the parents;
- (2) The minor was on an emergency errand directed by his or her parent or legal guardian;
- (3) The minor was attending a school, government sponsored, or religious activity or was going to or coming from a school, religious, or government sponsored activity without detour or stop;
- (4) The minor was engaged in a lawful employment or volunteer work at a recognized charity institution or was going to or coming from such activity without detour or stop;
- (5) The minor was on the sidewalk of the place where such minor resides or on the sidewalk of a place where the minor had permission from his or her parent or legal guardian to be;
- (6) The minor was in a motor vehicle involved in intrastate or interstate transportation or transportation for which passage through the curfew area was the most direct route;
- (7) The minor was exercising his or her First Amendment rights protected by the United States or Texas Constitution, including, but not limited to the free exercise of religion, freedom of speech, and freedom of assembly;
- (8) The minor is married or had been married or had disabilities of minority removed in accordance with V.T.C.A., Family Code chapter 31;
- (9) With respect to [section 8.02.032\(b\)](#) of this division, that the offense occurred during the scheduled vacation of or on a holiday observed by the school in which the minor was enrolled; or that the minor had graduated from high school or received a high school equivalency certificate; or that the minor had

permission to be absent from school or be in a public place from an authorized school official. In the case of a minor being educated in a home school, a parent shall be deemed a school official.

(Ordinance adopting 2008 Code; 2008 Code, sec. 8.02.033; Ordinance 14-022 adopted 10/13/14; Ordinance 2018-17 adopted 2/6/18)

#### **Sec. 8.02.034 Enforcement**

(a) Any peace officer, upon finding a minor in violation of [section 8.02.032](#) of this division, shall determine the name and address of the minor, and the name and address of his or her parent(s) or legal guardian(s) and may issue a warning notice or a citation.

(1) Upon issuance of a warning notice, the notice shall be forwarded to the city's police department, which shall send a letter to the parent(s) or legal guardian(s) of the minor advising of the fact that the minor was found in violation of this division and soliciting cooperation in the future.

(2) Upon issuance of a citation, the peace officer may transfer the case to proper authorities for handling under the provisions of V.T.C.A., Family Code title 3. In addition, a complaint will be filed against the parent(s) or legal guardian(s) in municipal court for violation of [section 8.02.032](#)(c). The police department shall file all necessary legal papers, supply all necessary documentation, and provide necessary testimony as required for pursuing the violation of this Division by either the minor or by any parent(s) or legal guardian(s).

(b) Any peace officer, upon finding a minor in violation of [section 8.02.032](#) that has previously been issued a warning or citation as provided for in subsection (a) above, shall transfer the case to proper authorities for handling under the provisions of V.T.C.A., Family Code title 3. In addition, a complaint will be filed against the minor and any parent(s) or legal guardian(s) in municipal court for violation of [sections 8.02.032](#)(b) and (c) hereof. The police department shall file all necessary legal papers, supply all necessary documentation, and provide necessary testimony as required for pursuing violation of this division by either the minor or by any parent(s) or guardian(s).

(c) In addition to the issuance of a warning notice or citation, the city's police department may schedule a person to person conference with the parent(s) or guardian(s) of the minor and the minor concerning this curfew and the city's expectation and requirement for parental control.

(Ordinance adopting 2008 Code; 2008 Code, sec. 8.02.034; Ordinance 14-022 adopted 10/13/14; Ordinance 2018-17 adopted 2/6/18)

#### **Sec. 8.02.035 Penalties**

(a) Any minor violating the provisions of this division shall be guilty of a class C misdemeanor as defined in the Texas Penal Code and shall be dealt with in accordance with the provisions of V.T.C.A., Family Code title 3 and other applicable law.

(b) Parent(s) or legal guardian(s) of a minor violating this division shall be guilty of a misdemeanor, which shall be punishable by a fine of not less than fifty dollars (\$50.00) and no more than five hundred dollars (\$500.00).

(c) In assessing punishment for either any parent(s), legal guardian(s) or a minor, the municipal court judges are encouraged to consider the community service program.

(Ordinance adopting 2008 Code; 2008 Code, sec. 8.02.035; Ordinance 14-022 adopted 10/13/14; Ordinance adopting 2017 Code; Ordinance 2018-17 adopted 2/6/18)

## **MAYOR AND COUNCIL COMMUNICATION**

**DATE:** October 3, 2022

**TO:** Mayor and Council

**FROM:** David Gonzalez, Police Chief

**THROUGH:** Crystal Caldera, City Manager

**SUBJECT:** Discussion and Possible Action on the Juvenile Curfew Ordinance Review and Ordinance Renewal (1st Reading was held 05-03-2022)

**SPONSOR(S):** N/A

### **PURPOSE**

The City of Leon Valley passed, adopted, and approved the current Juvenile Curfew Ordinance No. 2018-17, on February 6, 2018. The State Legislature mandates a three-year review of the juvenile curfew, reference in V. T. C. A. Local Government Code 370.002.

### **FISCAL IMPACT**

N/A

### **SEE LEON VALLEY**

***Social Equity*** – The purpose of this ordinance is to regulate and prohibit minors from remaining in public places during certain hours, to protect minors from adult perpetrators of crime, to reduce nocturnal juvenile crime and juvenile delinquency, to promote family responsibility and parental control over their children, and to protect and promote the peace, health, safety, welfare, and tranquility of the community.

***Economic Development*** – N/A

***Environmental Stewardship*** – N/A

### **STRATEGIC GOALS**

N/A

### **RECOMMENDATION**

Option 1 – Do nothing



Option 2 – Hold a public hearing and re-enact the Ordinance

Option 3 – Hold a public hearing and do not re-enact the Ordinance

APPROVED: \_\_\_\_\_ DISAPPROVED: \_\_\_\_\_

CITY COUNCIL ACTION:

A motion was made by Councilor Jed Hefner to adopt the ordinance as amended. The motion was seconded by Councilor Rey Orozco.

Voting Yea: Council Place 1 Martinez, Council Place 2 Stevens, Council Place 3 Hefner, Mayor Pro Tem, Council Place 4 Orozco, Council Place 5 Bradshaw

ATTEST:



**SAUNDRA PASSAILAIGUE, TRMC**  
City Secretary

