

## ORDINANCE #007-12

AN ORDINANCE REPEALING AND REPLACING ORDINANCE #004-07; ADOPTING CURFEW HOURS FOR MINORS; DEFINING TERMS; CREATING OFFENSES FOR MINORS, PARENTS, AND GUARDIANS OR MINORS, AND BUSINESS ESTABLISHMENTS 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 FOR REVIEW OF THIS ORDINANCE TWELVE MONTHS AFTER THE DATE OF INITIAL ENFORCEMENT; PROVIDING A PENALTY; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; PROVIDING AN OPEN MEETING CLAUSE; WAIVING THE RULE REQUIRING AN OPEN MEETING CLAUSE; WAIVING THE RULE REQUIRING THE READING OF ORDINANCE ON TWO (2) SEPARATE DAYS; AND DECLARING AN EMERGENCY.

WHEREAS, the City Council feels that this Ordinance shall become permanent as an Ordinance for the City of De Leon.

WHEREAS, the City Council has determined that there has been an increase in juvenile violence, juvenile gang activity, and crime by and against persons under the age of 17 in the City of De Leon;

WHEREAS, persons under the age of 17 are particularly susceptible by their lack of maturity and experience to participate in unlawful and gang-related activities or are likely to be victims of crime committed by adults or other youths;

WHEREAS, the City of De Leon desires to provide for the protection of minors from each other and from other persons, to promote parental control over and responsibility for children, in order to protect the general public, and reduce the incidence of juvenile criminal activities; and

WHEREAS, a curfew for those under the age of 17 is in the interest of the 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 De Leon.

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

**SECTION 1:** The following curfew requirements for minors are hereby adopted:

**CURFEW HOURS FOR MINORS**

- a. **DEFINITIONS** - In this ordinance, the words and phrases listed below have the meanings provided herein:
1. **CURFEW HOURS** mean:
    - a. 11:00 p.m. on any **Sunday, Monday, Tuesday, Wednesday, or Thursday** until 6:00 a.m. of the following day; and
    - b. 12:01 a.m. until 6:00 a.m. on any **Saturday and Sunday**; and
    - c. while school is in session 8:30 a.m. until 2:30 p.m. on **Monday, Tuesday, Wednesday, Thursday and Friday**.
  2. **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.
  3. **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.
  4. **GUARDIAN** means:
    - (A) a natural parent, adoptive parent, or step-parent of another person; or
    - (B) at least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor
  5. **MINOR** means any person under 17 years of age.
  6. **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.
  7. **PARENT** means a person who is:
    - (A) A natural parent, adoptive parent, or step-parent of another person; or

(B) at least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

8. **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, street, highways, and the common areas of schools, hospitals, apartment houses, office buildings, and shops.

9. **REMAIN** means to:

(A) linger or stay; or

(B) fail to leave premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.

10. **SERIOUS BODILY INJURY** means bodily injury that creates a substantial risk of death, serious permanent disfigurement, or protracted loss or impairment of the functions of any bodily member or organ.

b. **OFFENSES**

1. A minor commits an offense if he or she remains in any public place or on the premises of any establishment within the city curfew hours.

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

3. The owner, operator, or any employee of an establishment commits an offense if he or she knowingly allows a minor to remain upon the premises of the establishments during the curfew hours.

c. **DEFENSES**

1. It is a defense to prosecution under Section (b) 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 or 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 the 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 of De Leon, 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 of De Leon, 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 to assembly; or
  - i. married or had been married or had disabilities or minority removed in accordance with Chapter 31 of the Texas Family Code.
2. It is defense to prosecution under Subsection (b)(3) that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of that establishment during the curfew hours and refused to leave.

**d. 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 citation or make an arrest under this section unless the officer reasonably believes that a Subsection (c) is present. In assessing punishment for either a minor or a parent, the Municipal Court Judge may consider community services.

**e. PENALTIES**

- 1. A person who violates a provision of this ordinance is guilty of a separate offense for each day or part of day during which the violation is committed, continued, or permitted. Each offense, upon conviction, is punishable by a fine of not more than \$500.
- 2. When required by Section 51.08 of the Texas Family Code, the municipal court shall waive original jurisdiction over a minor who violates Subsection (b)(1) of this section and shall refer the minor to juvenile court.

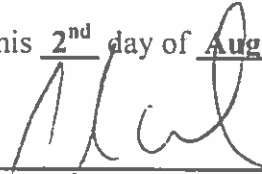
**SECTION 2:** Should any section or part of this Ordinance be held unconstitutional, illegal, or invalid, or the application to any person or circumstances thereof ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this Ordinance are declared to be severable.

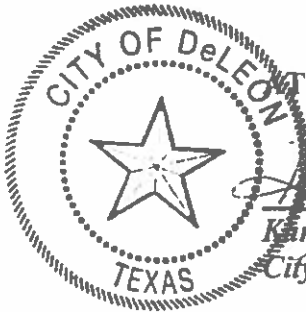
**SECTION 3:** It is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the *Open Meetings Act, Texas Govt. Code, Chapter 551*.

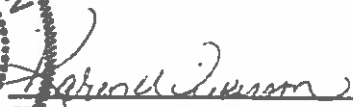
**SECTION 4:** This Ordinance shall take effect immediately upon its adoption by the City Council and publication as required by the Texas Local Government Code.

PASSED AND APPROVED on this 12th day of July, 2012.

PASSED, APPROVED AND ADOPTED on this 2<sup>nd</sup> day of August, 2012.

  
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 Lowell Ercanbrack, Mayor



TEST:  
  
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 Karen Wilkerson,  
 City Administrator/Secretary