

ORDINANCE NO. 004-97

1 AN ORDINANCE ADOPTING CURFEW HOURS FOR MINORS; DEFINING  
2 TERMS; CREATING OFFENSES FOR MINORS, PARENTS, AND  
3 GUARDIANS OF MINORS, AND BUSINESS ESTABLISHMENTS  
4 PROVIDING FOR ENFORCEMENT BY THE POLICE DEPARTMENT;  
5 PROVIDING FOR WAIVER BY THE MUNICIPAL COURT OF  
6 JURISDICTION OVER A MINOR WHEN REQUIRED UNDER THE TEXAS  
7 FAMILY CODE; PROVIDING FOR REVIEW OF THIS ORDINANCE  
8 TWELVE MONTHS AFTER THE DATE OF INITIAL ENFORCEMENT;  
9 PROVIDING A PENALTY; PROVIDING A SEVERABILITY CLAUSE;  
10 PROVIDING AN EFFECTIVE DATE; PROVIDING AN OPEN MEETING  
11 CLAUSE; WAIVING THE RULE REQUIRING THE READING OF  
12 ORDINANCES ON TWO (2) SEPARATE DAYS; AND DECLARING AN  
13 EMERGENCY.

14  
15 WHEREAS, the City Council has determined that there has been an increase in juvenile  
16 violence, juvenile gang activity, and crime by and against persons under the age of 17 in the City of  
17 DeLeon;

18  
19 WHEREAS, persons under the age of 17 are particularly susceptible by their lack of maturity  
20 and experience to participation in unlawful and gang-related activities or are likely to be victims of  
21 crime committed by adults or other youths;

22  
23 WHEREAS, the City of DeLeon desires to provide for the protection of minors from each  
24 other and from other persons, to promote parental control over and responsibility for children, in  
25 order to protect the general public, and reduce the incidence of juvenile criminal activities; and  
26

27 WHEREAS, a curfew for those under the age of 17 is in the interest of the public health,  
28 safety, and general welfare and will help to attain the foregoing objectives and to diminish the  
29 undesirable impact of such conduct on the citizens of the City of DeLeon.

30  
31 NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF  
32 DELEON, TEXAS, THAT:

33  
34 **Part 1:** The following curfew requirements for minors are hereby adopted:

35  
36 **CURFEW HOURS FOR MINORS**

37  
38 (a) Definitions. In this ordinance, the words and phrases listed below have the meanings provided  
39 herein:

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41 (1) CURFEW HOURS means:  
42  
43

1 (A) 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00  
2 a.m. of the following day; and

3  
4 (B) 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday; and

5  
6 (C) while school is in session, 8:30 a.m. until 2:30 p.m. on Monday, Tuesday,  
7 Wednesday, Thursday, and Friday.

8  
9 (2) EMERGENCY means an unforeseen combination of circumstances or the resulting state  
10 that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an  
11 automobile accident, or any situation requiring immediate action to prevent serious bodily injury or  
12 loss of life.

13  
14 (3) ESTABLISHMENT means any privately owned place of business operated for a profit  
15 to which the public is invited, including but not limited to any place of amusement or entertainment.

16  
17 (4) GUARDIAN means:

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19 (A) a person who, under court order, is the guardian of the person of a minor; or

20  
21 (B) a public or private agency with whom a minor has been placed by court.

22  
23 (5) MINOR means any person under 17 years of age.

24  
25 (6) OPERATOR means any individual, firm, association, partnership, or corporation  
26 operating, managing, or conducting any establishment. The term includes the members or partners  
27 of, an association or partnership and the officers of a corporation.

28  
29 (7) PARENT means a person who is :

30  
31 (A) a natural parent, adoptive parent, or step-parent of another person; or

32  
33 (B) at least 18 years of age and authorized by a parent or guardian to have the care  
34 and custody of a minor.

35  
36 (8) PUBLIC PLACE means any place to which the public or a substantial group of the public  
37 has access and includes, but is not limited to, streets, highways, and the common areas of schools,  
38 hospitals, apartment houses, office buildings, and shops.

39  
40 (9) REMAIN means to:

41  
42 (A) linger or stay; or

43  
44 (B) fail to leave premises when requested to do so by a police officer or the owner,  
45 operator, or other person in control of the premises.

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

4  
5 b. Offenses.

6  
7 (1) A minor commits an offense if he or she remains in any public place or on the premises  
8 of any establishment within the city curfew hours.

9  
10 (2) A parent or guardian of a minor commits an offense if he or she knowingly permits, or by  
11 insufficient control allows, the minor to remain in any public place or on the premises of the  
12 establishment during curfew hours.

13  
14 (3) The owner, operator, or any employee of an establishment commits an offense if he or she  
15 knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

16  
17 c. Defenses.

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19 (1) It is a defense to prosecution under Subsection (b) that the minor was:

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21 (A) accompanied by the minor's parent or guardian;

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23 (B) on an errand at the direction of the minor's parent or guardian, without any detour  
24 or stop;

25  
26 (C) in a motor vehicle involved in interstate or intrastate travel;

27  
28 (D) engaged in an employment activity, or going to or returning home from an  
29 employment activity, without any detour or stop;

30  
31 (E) involved in an emergency;

32  
33 (F) on the sidewalk abutting the minor's residence or abutting the residence of the next  
34 door neighbor if the neighbor did not complain to the police department about the minor's presence;

35  
36 (G) attending an official school, religious, or other recreational activity supervised by  
37 adults and sponsored by the City of DeLeon, a civic organization, or another similar entity that takes  
38 responsibility for the minor, or going to or returning home from, without any detour or stop, an  
39 official school, religious, or other recreational activity supervised by adults and sponsored by the City  
40 of DeLeon, a civic organization, or another similar entity that takes responsibility for the minor;

41  
42 (H) exercising first amendment rights protected by the United States Constitution,  
43 such as the free exercise of religion, freedom of speech, and the right to assembly; or  
44  
45

1 (I) married or had been married or had disabilities of minority removed in accordance  
2 with Chapter 31 of the Texas Family Code.  
3

4 (J) a student in a private or parochial school, including a home school, or any other  
5 student, who is exempt from the compulsory attendance requirement under section 21.033 of the  
6 Texas Education Code.  
7

8 (2) It is a defense to prosecution under Subsection (b) (3) that the owner, operator, or  
9 employee of an establishment promptly notified the police department that a minor was present on  
10 the premises of that establishment during the curfew hours and refused to leave.  
11

12 d. Enforcement.  
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14 Before taking any enforcement action under this section, a police officer shall ask the apparent  
15 offender's age and reason for being in the public place. The officer shall not issue a citation or make  
16 an arrest under this section unless the officer reasonably believes that an offense has occurred and that  
17 based, on any response and other circumstances, no defenses in Subsection (c) is present. In  
18 assessing punishment for either a minor or a parent, the Municipal Court Judge may consider a  
19 community service.  
20

21 e. Penalties.  
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23 (1) A person who violates a provision of this ordinance is guilty of a separate offense for each  
24 day or part of day during which the violation is committed, continued, or permitted. Each offense,  
25 upon conviction, is punishable by a fine of not more than \$500.  
26

27 (2) When required by Section 51.08 of the Texas Family Code, the municipal court shall  
28 waive original jurisdiction over a minor who violates Subsection (b) (1) of this section and shall refer  
29 the minor to juvenile court.  
30

31 **Part 2:** The declarations, determinations, and findings declared, made and found in the  
32 preamble of this ordinance are hereby adopted, restated and made a part of the operative provisions  
33 hereof.  
34

35 **Part 3:** If any provision of this ordinance or the application of any provision to any person  
36 or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the  
37 ordinance which can be given effect without the invalid provision or application, and to this end the  
38 provision of this ordinance are declared to be severable.  
39

40 **Part 4:** This ordinance shall take effect immediately from and after its passage and publication  
41 in accordance with the provisions of the Charter of the City of DeLeon, Texas, and it is accordingly  
42 so ordained.  
43  
44  
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1 **Part 5:** That twenty-four months after the effective date of this Ordinance, this Ordinance  
2 shall expire and be of no further force and effect. That twelve months after the effective date of this  
3 Ordinance, the Chief of Police shall review this ordinance and make a report of his or her  
4 recommendations to the City Council concerning the effectiveness of, and the continuing need for,  
5 a curfew ordinance.  
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7 **Part 6:** It is hereby officially found and determined that the meeting at which this ordinance  
8 is passed was open to the public as required and that public notice of the time, place, and purpose of  
9 said meeting was given as required by the Open Meetings Act.  
10

11 **Part 7:** That the requirements imposed by the Charter of the City of DeLeon that this  
12 ordinance be read on two (2) separate days shall be waived by the affirmative vote of four (4)  
13 members of the City Council to pass this ordinance through more than one reading on a single vote.  
14

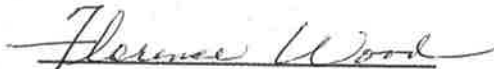
15 **Part 8:** That an emergency is apparent and is hereby declared to exist for the immediate  
16 preservation of the public health, safety, and general welfare, which emergency requires that this  
17 ordinance become effective immediately upon its passage.  
18

19 PASSED AND APPROVED on the 8th day of April, 1997.  
20

21 THE CITY OF DELEON, TEXAS  
22

23   
24 \_\_\_\_\_  
25 Norma Jo Locke, Mayor

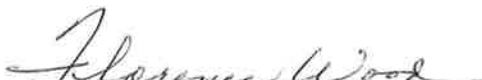
26 ATTEST:  
27

28   
29 \_\_\_\_\_  
30 Florence Wood  
31 City Secretary

32 CERTIFICATION  
33

34 I, Florence Wood, Secretary of the City of De Leon, Texas, do hereby certify that the preamble to  
35 Ordinance No. 004-97 was published in the De Leon Free Press, 304 South Texas, De Leon, Texas,  
36 on the 17<sup>th</sup> day of April, 1997, and shall take effect ten (10) days after such publication, effective date  
37 being April 27, 1997.  
38

39 I further certify that this Ordinance was amended on June 10, 1997, to add in Part 1, Section C(1).  
40

41   
42 \_\_\_\_\_  
43 Florence Wood, City Secretary  
44