

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF JOHNSON CITY, TEXAS AMENDING CHAPTER 8 “OFFENSES AND NUISANCES”, ARTICLE 8.02 “MINORS”, DIVISION 2 “CURFEW” OF THE CITY CODE OF ORDINANCES; REGULATING CURFEW HOURS; PROVIDING FOR A FINE NOT TO EXCEED \$500 PER VIOLATION; PROVIDING FOR ENACTMENT, REPEALER, AND SEVERABILITY CLAUSES; PROVIDING FOR EFFECTIVE DATE AND OTHER MATTERS RELATED THERETO.

WHEREAS, the City of Johnson City is a Type A General Law City in the State of Texas; and

WHEREAS, pursuant to Texas Local Government Code Section 51.012, the City has general authority to adopt an ordinance not inconsistent with state law, that is necessary for the government, interest, welfare, or good order of the municipality; and

WHEREAS, the City Council finds that it is in the best interest of the health, safety and welfare of the City to regulate curfew hours within the City’s boundaries.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JOHNSON CITY, TEXAS:

PART 1. Chapter 8 “Offenses and Nuisances”, Article 8.02 “Minors”, Division 2 “Curfew” is hereby amended as set forth in the attached Exhibit A.

PART 2. That the recitals contained in the preamble hereto are hereby found to be true and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

PART 3. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance be severable, and, if any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared invalid by judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this ordinance and the remainder of this ordinance shall be enforced as written.

PART 4. The repeal or amendment of any ordinance or part of ordinances effectuated by the enactment of this ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying, or altering any penalty accruing or to accrue or as affecting any rights of the City under any section or provisions of any ordinances in effect at the time of passage of this ordinance.

PART 5. The provisions of this ordinance shall be cumulative of all ordinances not repealed by this ordinance and ordinances governing or regulating the same subject matter as that covered herein.

PART 6. That it is officially found, determined and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and

subject matter of the public business to be considered at such meeting, including this ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

PART 7. This ordinance shall take effect immediately from and after passage and publication as may be required by governing law.

INTRODUCED, READ and PASSED, by the affirmative vote of the City Council of the City of Johnson City this the 15th day of October, 2024.

Stephanie Fisher, Mayor

ATTEST:

Whitney Walston, City Secretary

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;
 - (I) Married or had been married or had disabilities of minority removed in accordance with V.T.C.A. Family Code section 31.001 et seq.;
 - (J) With respect to the hours between 9:00 a.m. and 2:30 p.m. only, that the offense occurred during the scheduled vacation of or on a holiday observed by the school or that the minor has received a high school equivalency certificate, or that the minor had permission to be absent from school or be in the public place from an authorized school official. In the case of a child being educated in a home school, a parent shall be deemed a school official; or
 - (K) While necessarily traveling in a direct route to or from a place the minor is permitted to be under this section.
- (2) It is a defense to prosecution under subsection (c) of this section 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.

(Ordinance 07-001, sec. 2, adopted 1/9/07; Ordinance adopting Code)

§ 8.02.033. Enforcement.

Before taking any enforcement action under this division, a police officer shall ask the apparent offender's age and reason for being in the public place. The police officer shall not issue a citation or make an arrest under this division unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense under section 8.02.032 is present.

(Ordinance 07-001, sec. 3, adopted 1/9/07)

§ 8.02.034. Penalty.

- (a) A person who violates a provision of this division 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 \$500.00.
- (b) When required by V.T.C.A., Family Code, section 51.08, the municipal court shall waive original jurisdiction over a minor who violates section 8.02.032(a) and shall refer the minor to juvenile court.

(Ordinance 07-001, sec. 4, adopted 1/9/07)

DIVISION 2

Curfew

§ 8.02.031. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Curfew hours.

- (1) On a Sunday, Monday, Tuesday, Wednesday, or Thursday, between the hours of 11:00 p.m. and 6:00 a.m.
- (2) On a Friday or Saturday, between the hours of 12:00 ~~p.m.~~ a.m. (Midnight) and 6:00 a.m.; and
- (3) On a Monday, Tuesday, Wednesday, Thursday or Friday, between the hours of 9:00 a.m. and 2:30 p.m.

Emergency. An unforeseen combination of circumstances or the resulting state that calls for immediate action. The term “emergency” 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.

Establishment. Any privately owned place to which the public is invited, including but not limited to any place of amusement or entertainment.

Guardian.

- (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.

Minor. Any person under 17 years of age and over 9 years of age.

Operator. 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 officers of a corporation.

Parent. A person who is:

- (1) A natural or adoptive parent, step-parent, [or] a person in loco parentis; or
- (2) An adult at least 21 years of age to whom a parent or guardian has entrusted the care and custody of a minor.

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, but does not include a lot containing and used with a residential dwelling if the minor is there with the consent of his parent or guardian and the owner or tenant who occupies the residential premises.

Remain. To:

- (1) Linger or stay; or

- (2) 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.

Serious bodily injury. 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.

(Ordinance 07-001, sec. 1, adopted 1/9/07)

§ 8.02.032. Offenses; defenses.

- (a) Offense by minor. A minor commits an offense if he purposefully appears in any public place or on the premises of any establishment within the city during curfew hours.
- (b) Offense by parent or guardian. A parent or guardian of a minor commits an offense if he 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.
- (c) Offense by owner, operator or employee of establishment. 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 establishment during curfew hours.
- (d) Defenses.
- (1) It is a defense to prosecution under subsection (a), (b) or (c) of this section that the minor was:
- (A) Accompanied by the minor's parent or guardian or another adult approved by the parents;
 - (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 intrastate transportation for which passage through the curfew area is the most direct route;
 - (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 volunteer or recreational activity supervised by adults and sponsored by the city, a civic organization, a school, a church, a recognized charitable institution 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 volunteer or recreational activity supervised by adults and sponsored by the city, a civic organization, a recognized charitable institution or another similar entity that takes responsibility