

ORDINANCE NO. 14-022

**REPEALING AND REPLACING THE CITY OF LEON VALLEY'S CODE OF ORDINANCES, , CHAPTER 8 "OFFENSES AND NUISANCES" ARTICLE 8.02 "MINORS", DIVISION 2 "CURFEW" TO ADDITIONAL TIMES DURING WHICH THE CURFEW WILL BE IN EFFECT AND INCREASING NIGHTTIME CURFEW HOURS CURRENTLY IN EFFECT; PROVIDING FOR A PENALTY; REPEALER, SEVERABILITY AND SAVINGS CLAUSES, AND AN EFFECTIVE DATE.**

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**WHEREAS**, the City of Leon Valley is authorized to adopt ordinances for the purpose of good government, peace, or order of the municipality pursuant to Chapter 51 of the Local Government Code; and has the authority to adopt a juvenile curfew ordinance pursuant to Section 341.905 of the Local Government Code; and

**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;

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

SECTION I. That the statements above are found to be true and correct and are hereby incorporated.

SECTION II. Chapter 8 "Offenses and Nuisances", Article 8.02 "Minors", Division 2 "Curfew" of the City's Code of Ordinances is hereby amended and the language therein is replaced as follows:

Sec. 8.02.031 "Definitions"

- (a) *Minor* shall mean any person less than seventeen (17) years of age and over nine (9) years of age.

- (b) *Parent* shall mean 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.
- (c) *Guardian* shall mean any person to whom custody of a minor has been given by a court order.
- (d) *Emergency* shall include but not be limited to fire, natural disaster, an automobile accident, or obtaining immediate medical care for another person.
- (e) *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.

#### Section 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. and 6:00 a.m.
- (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 2:30 p.m. on a Monday, Tuesday, Wednesday, Thursday or Friday on school days only.
- (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).

#### Section 8.02.033 Defenses

It is a defense to prosecution under Section 8.02.032 of this division that:

- (a) The minor was accompanied by his or her parent, guardian or another adult approved by the parents;
- (b) The minor was on emergency errand directed by his or her parent or guardian;
- (c) 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;
- (d) 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;
- (e) 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 guardian to be;
- (f) 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;
- (g) 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;
- (h) 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;
- (i) 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.

#### Section 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 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 Leon Valley Police Department, which shall send a letter to the parent(s) or 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 guardian(s) in municipal court for violation of division 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 violation of this division by either the minor or by any parent(s) or guardian(s).
- (b) Any peace officer, upon finding a minor in violation of Division 8.02.032 who 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 guardian(s) in municipal court for violation of subsections 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 Leon Valley 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.

#### Section 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 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) nor more than five hundred dollars (\$500.00).
- (c) In assessing punishment for either any parent(s), guardian(s) or a minor, the municipal court judges are encouraged to consider the community service program.

SECTION III. All provisions of the Code of Ordinances of the City of Leon Valley codified or uncodified, in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Code of Ordinances of the City of Leon Valley codified or uncodified, not in conflict with the provisions of this Ordinance shall remain in full force and effect.

SECTION IV. 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, or section of this Ordinance shall be declared unconstitutional or invalid by any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any other remaining phrase, clause, sentence, paragraph or section of this Ordinance. .

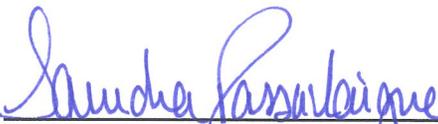
SECTION V. The repeal of any Ordinance or part of Ordinances effectuated by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such Ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions at the time of passage of this Ordinance.

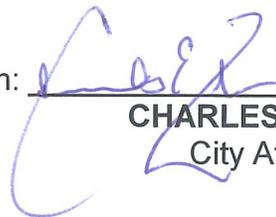
SECTION VI. This Ordinance shall become effective immediately upon its passage and publication as required by law.

**PASSED, ADOPTED AND APPROVED** by the City Council of the City of Leon Valley this the 13<sup>th</sup> day of October, 2014.

**A P P R O V E D**

  
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**CHRIS RILEY**  
Mayor

Attest:   
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**SAUNDRA PASSAILAIGUE, TRMC**  
City Secretary

Approved as to Form:   
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**CHARLES E. ZECH**  
City Attorney

