

## **ORDINANCE**

AN ORDINANCE REPEALING IN ITS ENTIRETY ARTICLE IV “CURFEW” OF CHAPTER 54 “MISCELLANEOUS OFFENSES” OF THE CODE OF ORDINANCES, CITY OF BURLESON, TEXAS MAKING IT AN OFFENSE FOR MINORS, PARENTS AND GUARDIANS OF MINORS, AND BUSINESS ESTABLISHMENTS TO VIOLATE CURFEW REGULATIONS; INCORPORATING THE RECITALS INTO THE BODY OF THE ORDINANCE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR INCLUSION IN THE CODE; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND PROVIDING FOR AN EFFECTIVE DATE AND PUBLICATION.

**WHEREAS**, the City of Burleson, Texas, is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

**WHEREAS**, on April 12, 2001, the City Council of the City of Burleson adopted Ordinance B-662 codifying Article IV of Chapter 54 of the City of Burleson Code of Ordinances, providing for a juvenile curfew; and

**WHEREAS**, pursuant to Section 370.002 of the Texas Local Government Code, the City Council reviewed the juvenile curfew ordinance on March 21, 2016, September 16, 2019, October 7, 2022, and September 19, 2022; and

**WHEREAS**, on October 7, 2019, the City Council passed and approved Ordinance CSO#1129-09-2019 which readopted Article IV of Chapter 54 of the City of Burleson Code of Ordinances, providing for a juvenile curfew; and

**WHEREAS**, on September 19, 2022, the City Council passed and approved Ordinance CSO#3082-09-2022 which readopted Article IV of Chapter 54 of the City of Burleson Code of Ordinances, providing for a juvenile curfew; and

**WHEREAS**, on June 9, 2023, the 88<sup>th</sup> Texas Legislature passed House Bill 1819 which amended the Texas Government Code to repeal the authority of political subdivisions to adopt or enforce juvenile curfews other than curfews authorized under Chapter 418, Government Code, for purposes of emergency management; and

**WHEREAS**, the City Council deems it necessary and proper and in the best interests of the public health, safety, and general welfare to repeal Article IV “Curfew” of Chapter 54 “Miscellaneous Offenses” of the City of Burleson Code of Ordinances as codified by Ordinances B-662, CSO#1129-09-2019, and CSO#3082-09-2022.

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

**Section 1.**

Article IV of Chapter 54 of the Code of Ordinances, City of Burleson, Texas, is hereby repealed in its entirety.

**ARTICLE IV. — CURFEW**

**Sec. 54-111. — Definitions.**

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

*Curfew hours* means:

- (1) ~~11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday night until 6:00 a.m. on the following day; and~~
- (2) ~~11:59 p.m. on any Friday or Saturday night until 6:00 a.m. on the following day.~~

*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, natural disaster, automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.~~

*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.~~

*Guardian* means:

- (1) ~~A person who, under court order, is the guardian of a minor; or~~
- (2) ~~A public or private agency with whom a minor has been placed by a court.~~

*Minor* means ~~any person under 17 years of age.~~

*Officer* means ~~a police officer of the city.~~

*Operator* means ~~any individual, firm, association, partnership, or corporation operating, managing, or conducting business at any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.~~

*Parent* means ~~a person who is:~~

- (1) ~~A natural parent, adoptive parent, or step-parent of another person; or~~
- (2) ~~At least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.~~

~~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, parks and the common areas and parking lots of schools, hospitals, apartment houses, office buildings, transportation facilities, commercial shopping centers, and shops.~~

~~Remain means to:~~

- ~~(1) Linger or stay; or~~
- ~~(2) Fail to leave premises when requested to do so by an officer or the owner, operator, or other person in control of the premises.~~

~~Serious bodily injury means 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.~~

#### **~~Sec. 54-112. -- Offenses.~~**

- ~~(a) A minor commits an offense if the minor remains in any public place or on the premises of any establishment within the city during curfew hours.~~
- ~~(b) A parent or guardian of a minor commits an offense if the parent or guardian 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) The owner, operator, or any employee of an establishment commits an offense if the owner, operator, or employee knowingly allows a minor to remain upon the premises of the establishment during curfew hours.~~

#### **~~Sec. 54-113. -- Defenses.~~**

- ~~(a) It is a defense to prosecution under section 54-112 that the minor was:~~
  - ~~(1) Accompanied by the minor's parent or guardian;~~
  - ~~(2) On an errand at the direction of the minor's parent or guardian, without any detour or stop;~~
  - ~~(3) In a motor vehicle involved in interstate travel;~~
  - ~~(4) Engaged in, going to, or returning home from an employment activity, without any detour or stop;~~
  - ~~(5) Involved in an emergency;~~
  - ~~(6) 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;~~
  - ~~(7) Attending, 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, a civic organization, a school district or another similar entity that takes responsibility for the minor;~~
  - ~~(8) 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; or~~

~~(9) ——— Married or had been married or had disabilities of minority removed in accordance with V.T.C.A., Family Code ch. 31.~~

~~(b) It is a defense to prosecution under section 54-112(e) 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.~~

**~~Sec. 54-114. -- Enforcement of article provisions.~~**

~~Before taking any enforcement action under this section, an officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in section 54-113 is present.~~

**~~Sec. 54-115. -- Penalties for violation of article.~~**

~~(a) A person who violates a provision of this article 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 § 51.08, as amended, the municipal court shall waive original jurisdiction over a minor who violates section 54-112(a) and shall refer the minor to juvenile court.~~

**Section 2.**

The findings set forth above in the recitals of this Ordinance are incorporated into the body of this Ordinance as if fully set forth herein.

**Section 3.**

That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**Section 4.**

Any complaint, notice, notice of violation, action, cause of action, hearing request, appeal, or claim which prior to the effective date of this Ordinance that has been initiated or arisen under or pursuant to Ordinances B-662, CSO#1129-09-2019, and CSO#3082-09-2022 or any other ordinance(s) shall continue to be governed by the provision of that ordinance or ordinances, and for that purpose that ordinance or ordinances shall be deemed to remain and shall continue in full force and effect.

**Section 5.**

That the terms and provisions of this ordinance shall be deemed to be severable and that if any section, subsection, sentence, clause, or phrase of this ordinance shall be declared to be invalid or unconstitutional, the same shall not affect the validity of any other section, subsection, sentence,

clause, or phrase of this ordinance and the remainder of such ordinance shall continue in full force and effect the same as if such invalid or unconstitutional provision had never been a part hereof.

**Section 6.**

That it is the intention of the City Council and is hereby ordained that the provisions of this ordinance shall become a part of the Code of Ordinances of the City of Burleson, and that the sections of this ordinance may be renumbered or relettered to accomplish such intention.

**Section 7.**

That it is hereby officially found and determined that the meeting at which this ordinance is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

**Section 8.**

This ordinance shall become effective immediately upon its passage and publication as required by law.

**PASSED AND APPROVED** the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**First Reading:** the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**Final Reading:** the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Chris Fletcher, Mayor  
City of Burleson, Texas

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Amanda Campos, City Secretary

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E. Allen Taylor, Jr., City Attorney