

## ORDINANCE NO. 2023-35

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WYLIE, TEXAS, AMENDING WYLIE’S CODE OF ORDINANCES, ORDINANCE NO. 2021-17, AS AMENDED, CHAPTER 74 (OFFENSES AND MISCELLANEOUS PROVISIONS), ARTICLE III (CURFEW FOR MINORS); REPEALING ORDINANCE NOS. 2017-09, 2020-22, AND 2023-09; REPEALING THE CITY’S JUVENILE CURFEW ORDINANCE IN RESPONSE TO HOUSE BILL 1819, EFFECTIVE SEPTEMBER 1, 2023; PROVIDING A SAVINGS/REPEALING CLAUSE, SEVERABILITY CLAUSE AND AN EFFECTIVE DATE; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.**

WHEREAS, the City Council of the City of Wylie, Texas (“City Council”) previously adopted a juvenile curfew ordinance as authorized by state law to help protect the public health, safety and welfare of City of Wylie, Texas (“City” or “Wylie”); and

WHEREAS, during the 2023 legislative session, the Texas Legislature adopted House Bill 1819 to prohibit a political subdivision such as Wylie from adopting or enforcing an order, ordinance or other measure that imposes a curfew to regulate the movements or actions of persons younger than 18 years of age, except for curfews implemented under Chapter 418 of the Texas Government Code for purposes of emergency management; and

WHEREAS, House Bill 1819 is effective on September 1, 2023; and

WHEREAS, the City Council therefore finds that it is necessary to amend Chapter 74 (Offenses and Miscellaneous Provisions), Article III (Curfew for Minors) of the Code of Ordinances of City of Wylie, Texas (“Code of Ordinance”) and to repeal Ordinance Nos. 2017-09, 2020-22, and 2023-09 to comply with the new state law; and

WHEREAS, Wylie has complied with all legal notices as required by law; and

WHEREAS, the City Council finds that adopting this Ordinance is in the best interest of the citizens of Wylie.

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

**SECTION 1:** Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

**SECTION 2:** Amending Chapter 74 (Offenses and Miscellaneous Provisions), Article III (Curfew for Minors) of the Code of Ordinances. Chapter 74 (Offenses and Miscellaneous Provisions), Article III (Curfew for Minors) of the Code of Ordinances is hereby amended as follows<sup>1</sup>:

### **“ARTICLE III RESERVED JUVENILE CURFEW”**

#### **Sec. 74-41. 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:~~

---

<sup>1</sup> Additions are underlined and italicized; deletions are evidenced by strikethrough.

- (1) ~~11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday until 6:00 a.m. of the following day; and~~  
(2) ~~12:01 a.m. until 6:00 a.m. on any Friday or Saturday.~~

~~*Emergency* means 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* 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 the person 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.~~

~~*Operator* means any individual, firm, association, partnership or corporation operating, managing or conducting any establishment. The term "operator" includes the members or partners of an association or partnership and the officers and directors 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 and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.~~

~~*Remain* means to:~~

- (1) ~~Linger, stay, walk, run, stand, drive or ride; 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* 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. 74-42. Offenses.~~**

- (a) ~~A minor commits an offense if he 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 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) ~~The owner, operator or any employee of an establishment commits an offense if he knowingly allows a minor to remain upon the premises of the establishment during curfew hours.~~

#### **~~Sec. 74-43. Defenses.~~**

- (a) ~~It is a defense to prosecution under section 74-42 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 an employment activity, or 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 an official school, religious, or other recreational activity supervised by adults and sponsored by the city, the Wylie Independent School District, 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, a civic organization 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 or the right of assembly; or~~

~~(9) — Married or had been married or had disabilities of minority removed in accordance with Chapter 31 of the Texas Family Code, as amended.~~

~~(b) — It is a defense to prosecution under subsection 74-42(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.~~

#### **~~Sec. 74-44. Enforcement.~~**

~~Before taking any enforcement action under this section, a peace 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 74-43 is present.~~

#### **~~Sec. 74-45. Penalties.~~**

~~(a) — Any person violating this article shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined a sum not exceeding \$500.00. Each and every day that such violation continues shall be considered a separate offense. The city retains all legal rights and remedies available to it pursuant to local, state and federal law.~~

~~(b) — When required by Texas Family Code § 51.08, as amended, the court shall waive original jurisdiction over a person who violates section 74-42 and shall refer the person to the appropriate court.~~

#### **~~Sec. 74-46. Review of article.~~**

~~(a) — Before the third anniversary of the date of the adoption of Ordinance No. 2017-09, and every third year thereafter, the city council shall:~~

~~(1) — Review the effects of the ordinance on the community and on problems the ordinance was intended to remedy;~~

~~(2) — Conduct at least two public hearings on the need to continue the article; and~~

~~(3) — Abolish, continue, or modify the ordinance.~~

~~(b) — The failure of the city council to act in accordance with this section shall cause Ordinance No. 2017-09 to expire without further action by the city council.~~

#### **~~Secs. 74-41 47 - 74-60. Reserved."~~**

SECTION 3: Repealing Ordinance Nos. 2017-09, 2020-22, and 2023-09. Ordinance Nos. 2017-09, 2020-22, and 2023-09 are hereby repealed in their entirety. The effective date of the repeal discussed

in this Section shall not occur until the effective date of this Ordinance, at which time Ordinance Nos. 2017-09, 2020-22, and 2023-09 shall be repealed. Such repeal shall not abate any pending prosecution or lawsuit or prevent any prosecution or lawsuit from being commenced for any violation of Ordinance Nos. 2017-09, 2020-22, and 2023-09 occurring before the effective date of this Ordinance.

**SECTION 4: Severability.** Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional and/or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, regardless of whether any one or more sections, subsections, sentences, clauses or phrases is declared unconstitutional and/or invalid.

**SECTION 5: Repealing/Savings.** All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict, but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

**SECTION 6: Open Meeting.** The meeting at which this Ordinance was introduced and passed was open to the public and that public notice of the time, place and purpose of said meeting was given all as required by law.

**SECTION 7: Effective Date.** This Ordinance shall become effective on September 1, 2023.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF WYLIE, TEXAS,** on this 22nd day of August, 2023.

---

Matthew Porter, Mayor

**ATTESTED AND  
CORRECTLY RECORDED:**

---

Stephanie Storm, City Secretary