

ORDINANCE NO. O-2022-0007

AN ORDINANCE OF THE CITY OF LA MARQUE, TEXAS ESTABLISHING A CURFEW FOR ANY PERSON UNDER THE AGE OF SEVENTEEN YEARS DURING CERTAIN HOURS; MAKING IT UNLAWFUL FOR ANY PARENT OR PERSON IN LOCO PARENTIS ENTITLED TO CUSTODY OR CONTROL OF A MINOR TO VIOLATE THIS SECTION AND PROVIDING PENALTIES; PROVIDING FOR AN ANNUAL REPORT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of La Marque has a paramount responsibility to protect the juveniles within its City boundaries; and

WHEREAS, there is a potential relationship between an increased number of motor vehicle crashes involving juveniles and certain night time hours within the United States; and

WHEREAS, there is a potential relationship between an increased number of crimes involving juveniles and certain night time hours within the United States; and

WHEREAS, the City of La Marque wishes to promote the safety and the good order of the community by reducing the potential incidents of juvenile victims and juvenile criminal activity. NOW, THEREFORE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LA MARQUE, TEXAS:

That Chapter 44, Section 44-2 of the Code of Ordinances of the City of La Marque is hereby adopted and shall read as follows:

SECTION 44-2 (a) CURFEW FOR MINORS

For the purpose of this Article, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. The word "shall" is always mandatory and not mere directory.

DEFINITIONS: For the purposes of this section, the following words or terms shall have the meaning ascribed thereto:

- (1) **Establishment.** Any privately-owned place of business carried on for a profit or any place of amusement or entertainment to which the public is invited.
- (2) **Operator.** Any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment; and whenever used in any clause prescribing a penalty, the term as applied to associations or

partnerships shall include the members or partners thereof and as applied to corporations shall include the officers thereof.

- (3) **Parent.** Any natural parent of a minor, a legal guardian, or any adult person, eighteen (18) years or older, in whose care the minor has been placed by the natural parent or legal guardian.
- (4) **Public Place.** Any public street, highway, road, alley, park, playground, public building, parkway or vacant lot.
- (5) **Remain.** To stay behind, to tarry and stay unnecessarily upon a public place, including congregating in groups totaling four (4) or more minors in which any minor included would not be using the public place for any ordinary or serious purpose such as passage or going home. To implement this definition with more precision and precaution, numerous exceptions will be provided hereinafter to indicate that this is not a mere prohibitory or presence type curfew ordinance. More exceptions become available to minors with increasing years and advancing maturity as appropriate in the interest of reasonable regulation.
- (6) **Minor.** Any person under the age of seventeen (17) years of age.
- (7) **Official City Time.** The prevailing local standard of time at the date in question, whether Central Standard Time or Daylight Savings Time, as observed by the public. The time maintained by the La Marque Police Department shall be prima facie evidence of the time of day for continued implementation of this article.
- (8) **Years of Age.** This term means the time from one birthday, such as sixteen, to the next, but not including the date of the next birthday. Thus, upon a person's seventeenth birthday, he or she will cease to be a minor regulated by this ordinance.

SECTION 44-2 (b) CURFEW

- (a) It shall be unlawful for any person under seventeen (17) years of age to purposely remain, walk, run, stand, drive or ride about in or upon any public place in the City of La Marque between the hours of 11:00 p.m. and 6:00a.m. on a Sunday, Monday, Tuesday, Wednesday, or Thursday and between the hours of 12:00 a.m. (midnight) and 6:00 a.m. on Friday or Saturday, times being local time in the City of La Marque; and,
- (b) 9:00 a.m. until 3:00 p.m. on any Monday, Tuesday, Wednesday, Thursday, or Friday; provided, however, the hours defined in this paragraph shall not be considered as Curfew Hours for minors not subject to compulsory school attendance pursuant §25.085, Texas Education Code, nor shall the hours defined in this paragraph be considered as Curfew Hours on days or during

periods in which the school where the applicable minor is enrolled have been canceled under the order and direction of officials authorized to issue such orders and directives.

SECTION 44-2 (c) EXCEPTIONS

In the following exceptional cases, a minor in or upon any public place or in and upon any establishment shall not be deemed in violation of this article; this section is intended as a clear general guide for minors, their parents, and enforcement officials.

- (1) When the minor is accompanied by his or her parent, legal guardian, or authorized adult supervisor;
- (2) When exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the rights of assembly. It shall be deemed a bona fide exercise of such rights if the assembly, whether parade or demonstration, is conducted pursuant to bona fide religious, social, or school activities, or has been permitted by the City of La Marque pursuant to the code of ordinances of the City of La Marque.
- (3) When engaged in performing an errand or other legitimate business at the direction of a parent, guardian, or supervisory adult, including travel to and from such location by a direct route;
- (4) When the minor is on the sidewalk at the place where such minor resides, or on the sidewalk of either next door neighbor, when said neighbor does not object to such presence;
- (5) When the minor is engaged in employment, or any employment activities;
- (6) If married or had been married or had disabilities of minority removed in accordance with Chapter 31 of the Texas Family Code;
- (7) All of the above cited exceptions to the curfew ordinance include travel to and from such activity by a direct route, and this article is in no way to be construed as a limitation upon normal travel by a minor engaged in interstate movement;
- (8) Each of the foregoing exceptions are severable and in addition other possible exceptions may be added hereto in the future as warranted by experience as illuminated by the views of student government associations, school personnel, citizens, neighborhood spokesman, parents, officers, and persons in authority concerned positively with minors as well as juvenile delinquency.

SECTION 44-2 (d) PARENTAL RESPONSIBILITY

It shall be unlawful for a parent knowingly to permit a minor in his or her care to be or remain in any public place or to be or remain in any establishment other than for exempt activities during the curfew hours established by this article. The term "knowingly" includes knowledge which a parent should reasonably be expected to have concerning the whereabouts of a minor in such parent's custody. It shall be prima facie evidence of violation of this section if a responsible parent has no knowledge of a minor's whereabouts during the hours of curfew established by this article.

SECTION 44-2 (e) POLICE PROCEDURE

- (a) A La Marque police officer, upon finding or having his or her attention called to any minor in or on a public place or in or on the premises of a business establishment in prima facie violation of this article, may, if there exists reasonable grounds to believe that the minor has engaged in delinquent conduct or conduct indicating a need for supervision in accordance with Section 51.03 and 52.01 of the Texas Family Code, take the minor into custody. A parent shall be immediately notified to pick up the minor upon his or her arrival to the La Marque Police Department. A police officer taking a minor into custody shall also have discretion to deliver such minor to a parent under circumstances deemed appropriate by the officer.
- (b) Upon picking up a minor in custody, said parent shall be questioned about the circumstances of such activity of the minor. This is intended to permit ascertainment, under constitutional safeguards, of relevant facts, and to centralize responsibility for accurate, effective, fair, and impartial and uniform enforcement and recording, thus making available experienced supervisory personnel, the best of facilities, and, if required, referral to social agencies equipped to handle family problems that may be disclosed by investigation. In the absence of convincing identification, a police officer on the street may use his or her best judgment in determining age. Police procedures shall be constantly refined in the light of experience, and changes herein may be made on the basis of such experience.
- (c) In any event, a police officer shall within twenty-four (24) hours file a written report on the minor incident or shall participate to the extent possible in the preparation and filing of such report by his supervisor.
- (d) When a parent has come to take charge of a minor and the appropriate information has been received, the minor shall be released to the custody of such parent. If the parent cannot be located or fails to take charge of the minor, then the minor shall be released to any adult blood relative. However, the police department shall have the discretion to refuse to turn the child over

to persons other than the natural parents or legal guardians, if circumstances warrant such refusal in their opinion.

(e) A La Marque police officer taking into custody a person younger than seventeen (17) years of age for violation of the curfew herein set, shall, without necessary delay:

1. Release the person to the person's parent, guardian or custodian; or
2. Take the person to a place designated as a juvenile curfew processing office by the La Marque Chief of Police; or
3. Take the person before a justice or municipal court to answer the charge.

SECTION 44-2 (f) PENALTIES

Prevailing community standards as reflected by this article require the availability of criminal penalties in order for this article to be a viable instrument for the maintenance of such standards. Consequently, violation of this article by any person shall be deemed to be a misdemeanor punishable by a fine not exceeding five hundred dollars (\$500.00). Minors who shall violate the provisions of this article three (3) times shall be subject to appropriate action by juvenile authorities.

SECTION 44-2 (g) SEVERABILITY

Severability is intended throughout and within this article. If any provision, including any section, paragraph, sentence, clause, phrase or word or the application thereof to any person or circumstances is held invalid, the application to other persons or under other circumstances shall not be affected thereby and the validity of the provision in any and all other respects shall not be affected thereby. It is intended that this provision be held inapplicable in any case if such exists, where its application would be unconstitutional construction hereof is intended and shall be given. There is no intent herein to violate either the Texas Constitution or the Constitution of the United States.

SECTION 44-2 (h) REVIEW OF JUVENILE ORDINANCE

Before the third anniversary of the date of an adoption of a juvenile curfew ordinance and every third year after, the governing body shall:

- (1) review the ordinance's effects on the community and on problems the ordinance was intended to remedy; and
- (2) conduct public hearings on the need to continue the ordinance; and
- (3) abolish, continue, or modify the ordinance.

Failure to act in accordance with Section 44-2 shall cause the ordinance to expire upon the third anniversary date of adoption."

SECTION 44-2 (i) REPORTING

"The La Marque Police Department shall provide to the City Council at its February meeting each calendar year a report outlining the following information as it relates to this Ordinance:

- 1) Number of interactions with minors,
- 2) Number of accidents involving minors, and
- 3) Number of crimes involving minors

Upon acceptance of the report by the La Marque City Council, the report shall; be published on the city website on the La Marque Police Department page."

PASSED AND APPROVED by City Council of the City of La Marque on the first reading this 11th day of July 2022.

PASSED, APPROVED AND ADOPTED by City Council of the City of La Marque on the second reading this ____ day of _____ 2022.

EFFECTIVE DATE: This Ordinance will become immediately after passage.

CITY OF LA MARQUE, TEXAS

Keith Bell, Mayor
City of La Marque, Texas

ATTEST:

Kierra K. Nance, TRMC
City Clerk

APPROVED AS TO FORM:

Gus Knebel, City Attorney