

ORDINANCE NO. 23-_____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HELOTES, TEXAS CONTINUING A CURFEW FOR MINORS UNDER SEVENTEEN (17) YEARS OF AGE AND OVER TEN (10) YEARS OF AGE; PROHIBITING MINORS FROM BEING IN ANY PUBLIC PLACE BETWEEN THE HOURS OF MIDNIGHT AND 6:00 A.M.; PROHIBITING MINORS FROM BEING IN ANY PUBLIC PLACE BETWEEN THE HOURS OF 9:00 A.M. AND 2:30 P.M. ON SCHOOL DAYS WITH EXCEPTIONS AS CITED IN SECTION 58-33 *DEFENSES*; PROVIDING FOR A TRIENNIAL REVIEW OF THE ORDINANCE, IN COMPLIANCE WITH MUNICIPAL CODE OF ORDINANCES CHAPTER 58 *OFFENSES AND MISCELLANEOUS PROVISIONS*, ARTICLE III *MINORS*, DIVISION I *CURFEW*, SECTION 58-36 *TRIENNIAL REVIEW*; PROVIDING FOR ENFORCEMENT; ADOPTING A SAVINGS CLAUSE, A REPEALER CLAUSE, AND A PENALTY CLAUSE; AND ADOPTING AN EFFECTIVE DATE.

WHEREAS, the City of Helotes has found that the City has a continuing need for a juvenile curfew and for the reduction of the incidence of juvenile criminal activity; and

WHEREAS, persons under the age of seventeen (17) are particularly susceptible, by their lack of maturity and experience, to participate in unlawful and gang-related activities and to be victims of older perpetrators of crime; and

WHEREAS, the City of Helotes has and continues to provide for the protection of minors from themselves and from other persons; for the enforcement of parental control of and responsibility for their children; for the protection of the general public; and

WHEREAS, it is believed that the continuation of the current curfew ordinance for minors over the age of ten (10) years and under seventeen (17) years of age is in the interest of the public health, safety, and general welfare and will help to attain the aforementioned objectives and diminish the undesirable impact of such conduct on the citizens of the City of Helotes; and

WHEREAS, Ordinance No. 20-06 continuing the curfew for minors was passed and approved on April 23, 2020; and

WHEREAS, the Texas Local Government Code Section 370.002 requires triennial review of the curfew ordinance and public hearings held thereon; and

WHEREAS, after receiving a report on the curfew for minors from the Chief of Police and holding public hearings on the curfew for minors on March 23, 2023, and April 13, 2023, in compliance with TLGC Section 370.002, the City Council has determined it is in the best interest of the community to keep the curfew ordinance in place until April 13, 2026, in the manner provided by State Law.

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

Section One: Approval. City of Helotes Code of Ordinances, Chapter 58 *Offenses and Miscellaneous Provisions*, Article III. *Minors*, Division I. *Curfew* is hereby continued and shall remain as follows:

**“ARTICLE III. MINORS
DIVISION I. CURFEW**

Sec. 58-31. Definitions.

Emergency shall include, but not be limited to, fire, natural disaster, an automobile accident, or obtaining immediate medical care for another person.

Guardian shall mean any person to whom custody of a minor has been given by a court order.

Minor shall mean any person under seventeen (17) years of age and over ten (10) years of age.

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.

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.

Sec 58-32. 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 of Helotes between the hours of 12:00 a.m. (Midnight) and 6:00 a.m. on a Sunday, Monday, Tuesday, Wednesday, Thursday, Friday, or Saturday.
- (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 of Helotes during school days between the hours of 9:00 a.m. and 2:30 p.m. on a Monday, Tuesday, Wednesday, Thursday, or Friday.
- (c) It shall be unlawful for the parent 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) hereof.

Sec. 58-33. Defenses.

It is a defense to prosecution under Section 58-32 of this Division that:

- (a) The minor was accompanied by his or her parent;
- (b) The minor was accompanied by another adult approved by the parents;
- (c) The minor was on an emergency errand;
- (d) The minor was attending a school, government-sponsored, or religious activity or is going to or coming from a school, religious, or government-sponsored activity without detour or stop;
- (e) The minor was engaged in lawful employment or volunteer work at a recognized charity institution or other organization or is going to or coming directly from such activity without detour or stop;
- (f) The minor was on the sidewalk of the place where such minor resides or on the sidewalk of a place where the minor has permission from his/her parent or guardian to be or on the sidewalk of a next-door neighbor not communicating an objection to the police officer;
- (g) The minor was completing an errand directed by his or her parent;
- (h) The minor was in a motor vehicle involved in intrastate or interstate transportation or transportation for which passage through the curfew area is the most direct route;
- (i) The minor was married or had been married or had the disabilities of minority removed in accordance with V.T.C.A. Family Code Chapter 31; and
- (j) With respect to Subsection 58-32 (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 is enrolled; or that the minor has graduated from high school or received a high school equivalency certificate; or that the minor has 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.

Sec. 58-34. Enforcement Procedure.

- (a) Any police officer, upon finding a minor in violation of Section 58-32 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). The minor's parent(s) or guardian(s) shall be notified and required to pick up the minor, and a warning notice shall be issued to the minor and the parent(s) or guardian(s) of the minor advising them of the fact that the minor was found in violation of this Division and soliciting cooperation in the future.

- (b) Any police officer, upon finding a minor in violation of Section 58-32 of this Division, who has previously been found in violation and issued a warning, as provided for in Subsection (a) herein, shall transfer the case to proper authorities charged with handling such cases 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 the Municipal Court for violation of Section 58-32. The Police Department shall file all necessary legal papers, supply all necessary documentation, and provide necessary testimony, as required, for pursuing violations of this Division by either the minor or by any parent or guardian.

Sec. 58-35. Penalty.

- (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.
- (b) A parent or guardian of a minor violating the provisions of 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 a parent, guardian, or minor, the Municipal Court Judges are encouraged to consider the community service program.

Sec. 58-36. Triennial Review.

- (a) Within three (3) years of the adoption, modification, or renewal of this Division, the Chief of Police shall review the Division, prepare a written report, and make recommendations to the City Council concerning its effectiveness and continuing need. The report shall review the Division or order's effects on the community and on problems the Division or order was intended to remedy.
- (b) After presentation of the Chief’s report to the City Council, as required by Subsection (a) of this Section, the City shall:
 - (1) Make a determination on the need to continue the Division or order; and
 - (2) Abolish, continue, or modify the Division.”

Section Two. Repealer. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section Three. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or illegal, such decision shall not affect the validity of the remaining sections of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared void.

Section Four. Effective Date. As provided by TLGC Sections 370.002 and 52.011, this Ordinance shall be effective immediately following its publication in the local newspaper.

FIRST READING by the City Council of the City of Helotes, Texas on the 23rd day of March, 2023.

APPROVED ON THE SECOND AND FINAL READING by the City Council of the City of Helotes, Texas on the 13th day of April, 2023.

PASSED AND APPROVED this 13th day of April, 2023.

CITY OF HELOTES, TEXAS:

Rich Whitehead, Mayor

ATTEST:

Celina Perez, City Secretary

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