

ORDINANCE NO. 1196-04-19

AN ORDINANCE OF THE CITY OF HONDO, TEXAS ADOPTING THE PROVISIONS OF CHAPTER 8, ARTICLE 8.02, DIVISION 2, SECTION 8.02.031 OF THE CITY OF HONDO CODE OF ORDINANCES, ESTABLISHING A CURFEW FOR JUVENILES IN ACCORDANCE WITH SECTION 370.002 OF THE TEXAS LOCAL GOVERNMENT CODE.

WHEREAS, the City Council of the City of Hondo ("City Council") adopted Ordinance No. 929-01-10, in April 26, 2010, establishing a juvenile youth curfew and codified at Chapter 8, Article 8.02, Division 2, Section 8.02.031 of the City of Hondo Code Of Ordinances (the "Juvenile Curfew Ordinance"); and

WHERAS, pursuant to Section 370.002 of the Texas Local Government Code, before the third anniversary of the date of adoption of a juvenile curfew ordinance, and every third year thereafter, the governing body of the home-rule municipality is required to "review the ordinance's effects on the community and on the problems the ordinance was intended to remedy, conduct public hearings on the need to continue, abolish, or modify the ordinance,"; and

WHERAS, the City Council of the City of Hondo ("City Council") has previously reviewed and approved Ordinance No. 1088-03-16 on April 11, 2016, continuing the Juvenile Curfew Ordinance; and

WHERAS, the City Council of the City of Hondo is scheduled to meet outside the three year time frame to continue the Juvenile Curfew Ordinance; and

WHEREAS, on April 8, 2019 and April 22, 2019, the City Council held public hearings and considered data and information regarding Juvenile Curfew Ordinance; and

WHEREAS, the City Council finds that minors 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, a juvenile curfew ordinance also encourages parents to take responsibility for their minor children's whereabouts; and

WHEREAS, the City Council wishes to provide for the protection of minors from each other and from other persons, and for the enforcement of parental control; and

WHEREAS, the City Council hopes to deter an increase in juvenile violence, juvenile gang activity, and crime by continuing such a curfew; and

WHEREAS, the City Council finds that the public health, safety, and welfare continues to be served by adopting a juvenile curfew and in the best interests of the citizens of the City of Hondo, including persons under 17 years of age.

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

Section 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

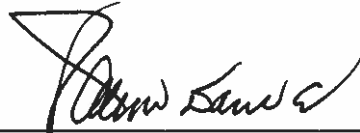
Section 2. Curfew. Chapter 8, Article 8.02, Division 2 of the City of Hondo Code of Ordinances, a copy of which is attached hereto as **Exhibit "A"** is hereby adopted by the City Council in accordance with §370.002 of the Texas Local Government Code.

Section 3. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 4. Conflict. All Ordinances or parts thereof in conflict herewith are repealed to the extent of such conflict only.

Section 5. Effective Date. This Ordinance shall be and become effective from and after its adoption and publication in accordance with the provisions of the Charter of the City of Hondo or applicable ordinance. This Ordinance shall expire on April 22, 2022, unless otherwise renewed or amended.

PASSED AND APPROVED THIS 22nd DAY OF APRIL, 2019.



JAMES W. DANNER, MAYOR

ATTEST:



Miguel Cantu, City Secretary



EXHIBIT "A"
CURFEW

Sec. 8.02.031 Definitions

In this division:

Chief of police. The chief of police of the city or a designated representative.

Curfew hours.

- (1) 10:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. of the following day beginning with the first day of school of the Hondo Independent School District and ending on the next to the last day of school of the Hondo Independent School District;
- (2) 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. of the following day beginning with the last day of school of the Hondo Independent School District and ending on the day before school commences in the Hondo Independent School District; and
- (3) 12:01 a.m. until 6:00 a.m. on any Friday or Saturday.

Emergency. Means, 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. 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.

Holding location. A place designated by the chief of police to which a minor taken into custody for a violation of this division will be delivered to await pickup by a parent or juvenile authorities.

Minor. Any person under 17 years of age.

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

Parent. A person who is:

- (1) A natural or adoptive parent of another person;
- (2) A court-appointed guardian of another person; or

- (3) At least 21 years of age and authorized by a parent or court-appointed guardian to have the care and custody of another person.

Public place. Any street, alley, highway, sidewalk, playground, park, playa, building, or other place used by or open to the public.

Remain. To:

- (1) Linger or stay unnecessarily; 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.

  **Sec. 8.02.032 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 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. 8.02.033 Defenses**

- (a) It is a defense to prosecution under [section 8.02.032](#) that the minor was:
 - (1) Accompanied by the minor's parent;
 - (2) On an errand at the direction of the minor's parent and was using a direct route;
 - (3) In a motor vehicle involved in interstate travel;
 - (4) Engaged in an employment activity, including but not limited to newspaper delivery, and was using a direct route;
 - (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 officer about the minor's presence;
 - (7) Attending an official school or religious activity or returning home by a direct route from an official school or religious activity;

(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 chapter 31 of the Texas Family Code.

(b) It is a defense to prosecution under [section 8.02.032\(c\)](#) 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. 8.02.034 Enforcement**

(a) A police officer, upon finding a minor in violation of [section 8.02.032\(a\)](#), shall:

(1) Ascertain the name and address of the minor;

(2) Issue to the minor a written citation that the minor is in violation of [section 8.02.032\(a\)](#); and

(3) Release the minor to a parent or guardian.

(b) (1) Notwithstanding subsection (a) of this section, a police officer, upon finding a minor in violation of [section 8.02.032\(a\)](#), may take the minor into custody and deliver the minor to a holding location if:

(A) The minor has received two previous written citations for a violation of [section 8.02.032\(a\)](#); or

(B) Reasonable grounds exist to believe the minor has engaged in delinquent conduct or conduct indicating a need for supervision in accordance with sections 51.03 and 52.01 of the Texas Family Code.

(2) When a minor is taken into custody under this subsection, the police department shall immediately notify a parent to pick up the minor at the holding location. After a parent arrives at a holding location and provides the information required by the chief of police to file an incident report, the minor shall be released into the custody of the parent. If a parent cannot be located or fails to take charge of the minor, the minor shall be released to the juvenile authorities.

(3) If a minor is not taken into custody for a violation of [section 8.02.032\(a\)](#), the police department shall, by certified mail, return receipt requested, notify a parent of the minor that the minor has violated [section 8.02.032\(a\)](#), and include a warning that any subsequent violation may result

in prosecution of the minor and the parent under this division. If the minor was found in violation of [section 8.02.032\(a\)](#) at an establishment, the police department shall by certified mail, return receipt requested, notify the owner, operator, or employee of the establishment of the violation and include a warning that any subsequent violation may result in prosecution of the owner, operator, and employee under this division.

(4) A police officer shall, within 24 hours after finding a minor in violation of [section 8.02.032\(a\)](#), file a written report on the incident or assist to the extent possible in the preparation and filing of the report by a supervisor.

 **Sec. 8.02.035 Penalties**

(a) A parent of a minor who violates [section 8.02.032\(b\)](#) of this division is, upon conviction, punishable by a fine in accordance with the general penalty provision found in [section 1.01.009](#) of this code.

(b) Any minor who violates [section 8.02.032\(a\)](#) of this division three or more times within a 24-month period is subject to appropriate action by a juvenile court in accordance with chapters 51 and 52 of the Texas Family Code.

(c) The owner, operator, or employee of an establishment who violates [section 8.02.032\(c\)](#) of this division is, upon conviction, punishable by a fine in accordance with the general penalty provision found in [section 1.01.009](#) of this code.

(d) A minor may be prosecuted in municipal court for a violation of [section 8.02.032\(a\)](#) by a fine in accordance with the general penalty provision found in [section 1.01.009](#) of this code.