

**CITY OF JAMAICA BEACH
ORDINANCE 2023-05**

AN ORDINANCE OF THE CITY OF JAMAICA BEACH, TEXAS, AMENDING ORDINANCE 2023-1 SECTION D BY ADDING; THE CHIEF OF POLICE IS ENCOURAGED TO DEVELOP ALTERNATIVE ENFORCEMENT STRATEGIES, WHICH MAY INCLUDE, BUT ARE NOT LIMITED TO OFFICERS CALLING PARENTS, RETURNING MINORS TO THEIR RESIDENCE AND PARENTS, COUNSELING WITH MINORS AND PARENTS, ISSUING CITATIONS, AND OR ISSUING A WARNING TO MINORS AND PARENTS. PROVIDING A CURFEW BETWEEN THE HOURS OF 9:00 A.M. AND 2:30 P.M., MONDAY THROUGH FRIDAY, FOR MINORS REQUIRED BY LAW TO BE IN ATTENDANCE AT A PUBLIC, PRIVATE, OR HOME SCHOOL AND 11:00 P.M. THROUGH 6:00 A.M., MONDAY THROUGH SUNDAY FOR THE SAFETY AND GENERAL WELFARE OF THE MINORS AND THE CITIZENS OF THE CITY OF JAMAICA BEACH; PROVIDING FOR A PENALTY; PROVIDING FOR THE REPEAL OF ALL OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE, AS AMENDED, PROVIDING AN EXPIRATION DATE.

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

WHEREAS, a curfew will be in the best interest of the public health, safety, and general welfare, and will help to attain the foregoing objectives and to diminish the undesirable impact of such conduct on the citizens of the City of Jamaica Beach.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JAMAICA BEACH, TEXAS AS FOLLOWS:

A. Definitions:

1. Curfew Hours for Minors - Daytime are 9:00 A.M. to 2:30 P.M., Monday-Friday for minors required by law to be in attendance at a public, private or home school. Evening hours are 11:00 P.M. to 6:00 A.M., Monday-Sunday.
2. Minor - shall mean any person less than 17 years of age.
3. Parent - shall mean a person who is the natural or adoptive parent or court appointed guardian, or any person 18 years of age or older who is authorized by the parent, or guardian to have care and custody of a minor.
4. Guardian - shall mean a person whom under court order is the guardian of the minor or a public or private agency with whom a minor has been placed by a court.

5. Emergency - 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, or automobile accident or any situation requiring immediate action to prevent serious bodily injury or loss of life.
6. 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, park, and the common area of schools, apartment houses, official buildings, shops, and beaches.
7. Remain - to linger or stay or fail to leave premise when requested to do so by a police officer or the owner, operator, or person, in control of the premise.
8. Serious Bodily Injury - means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement or projected loss or impairment of the function of any bodily member or organ.

B. Offense:

1. A minor commits an offense if he remains in any public place or on the premise of any establishment within the city during curfew hours.
2. 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 premise of any establishment within the city during curfew hours.
3. The owner, operator, or any employee, of an establishment commits an offense if he knowingly allows a minor to remain upon the premise of the establishment during curfew hours.

C. Defenses: It is a defense to prosecution under subsection (B) that:

1. The minor was accompanied by the minor's parent or guardian.
2. The minor was on an errand at the direction of the minor's parent or guardian without any detour or stops.
3. The minor was involved in an emergency.
4. The minor was attending school, religious or government-sponsored activity or was traveling to or from school, religious or government-sponsored activity.
5. The minor was engaged in a lawful employment activity or was going directly to or coming directly from lawful employment.
6. The minor was in a motor vehicle involved in intrastate or interstate transportation.
7. The minor was engaging in, participating in, or traveling to and from, any event, function, or activity for which the application of subsection (B) would contravene the minors' rights protected by the Texas Constitution or by the United States Constitution.
8. The minor was married or had been married or had disabilities of minority removed pursuant to chapter 31 of the Texas Family Code.
9. With respect only to the daytime hours on Monday-Friday it is a defense if:
 - a. The offense occurred during school summer vacation or break periods of the school in which the minor is enrolled.
 - b. The offense occurred on a holiday observed in the closure of classes in the school or other official school closings in which the minor is enrolled.

- c. The minor has graduated from high school or has received a high school equivalency certificate.
- 10. It is a defense to prosecution under subsection (B) (3) 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.
- D. Enforcement: Before taking any action under this section, a Police Officer shall ask the apparent offender's age and reason for being in a public place. The Police Officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense had occurred and that based on any response and other circumstances, no defense in subsection (C) is present. The Chief of Police is encouraged to develop alternative enforcement strategies, which may include, but are not limited to officers calling parents, returning minors to their residence and parents, counseling with minors and parents, issuing citations, and or issuing a warning to minors and parents.
- E. Penalties: A person who violates a provision of this ordinance 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.
 - 1. Any minor violating the provisions of the ordinance shall be guilty of a Class C misdemeanor.
 - 2. The parent or guardian of a minor violating this ordinance shall be guilty of a Class C misdemeanor, which shall be punishable by a fine of not less than fifty dollars (\$50.00) or more than five hundred dollars (\$500.00).
- F. Expiration: This Ordinance expires on January 1, 2026, unless terminated sooner or extended by the City Council of Jamaica Beach.

If any word, phrase, clause, sentence, paragraph, section or other part of this Ordinance, or the application thereof to any person or circumstances, shall ever be held to be invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance and the application of such word, phrase, clause, sentence, paragraph, section or other part of this Ordinance to any other persons or circumstances shall not be affected hereby.

All Ordinances and agreements in conflict herewith are hereby repealed to the extent of the conflict only.

This Ordinance shall be and become effective, from and after the date of its adoption.

APPROVED AND ADOPTED this the 27th day of February 2023



CITY OF JAMAICA BEACH, TEXAS

[Handwritten signature of Clay Morris]
 Clay Morris, Mayor

ATTEST:

[Handwritten signature of Debbie C. Nesbitt]
 Debbie C. Nesbitt
 City Secretary

M/2		Yea	Nay	N/V	Absent
	C. Morris	☐	☐	☒	☐
	R. Rupertus	☐	☐	☐	☒
<i>m</i>	D. Welch	☒	☐	☐	☐
	L. Jones	☒	☐	☐	☐
<i>2</i>	S. Green	☒	☐	☐	☐
	G. Madray	☒	☐	☐	☐

Passed ~~Failed~~:

[Handwritten signature of Debbie C. Nesbitt]
 Debbie C. Nesbitt
 City Secretary - Date *2/27/23*