

**ORDINANCE NO. 0038  
AMENDMENT NO. 1**

**AN ORDINANCE AMENDING ORDINANCE NO. 0038 OF THE TOWN OF HORIZON CITY (AMENDMENT NO. 1), ESTABLISHING A CURFEW FOR MINORS UNDER THE AGE OF SEVENTEEN YEARS OF AGE WITHIN THE TOWN LIMITS, BY REVISING DEFINITIONS AND AFFIRMATIVE DEFENSES IN THE ORDINANCE; AND PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT; REPEALER; SEVERABILITY; PROPER NOTICE AND HEARING; THE PENALTY BEING AS PROVIDED IN ARTICLE I, SECTION 5 OF THE ORDINANCE, CREATING MISDEMEANORS PUNISHABLE BY FINES NOT TO EXCEED \$200.00 AND \$300.00.**

**WHEREAS**, pursuant to Texas Local Government Code Section 51.001, the City has general authority to adopt an ordinance or police regulation that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

**WHEREAS**, the City Council finds that it is necessary and proper for the good government, peace and order of the Town of Horizon City to adopt this amendment to the Ordinance to amend and clarify certain definitions in the Ordinance and to make revisions to the affirmative defenses provided in the Ordinance.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF HORIZON CITY, TEXAS that:**

**I. TEXT OF THE AMENDMENT**

Pursuant to Sections 51.001 and 51.012 of the Texas Local Government Code, the City Council of the Town of Horizon City hereby enacts and adopts this amendment (Amendment No. 1) to Ordinance No. 0038:

***SECTION 1: DEFINITIONS [by amending only subsections (g) and (h)]***

(g) "Public Place" means any street, alley, highway, sidewalk, driveway, yard, playground, park, plaza, building, or other places used by or open to the public. The term "street" includes the legal right of way, including but not limited to the traffic lanes, curbs, sidewalks, whether

paved or unpaved, parkways, and any grass plots or other grounds found within the legal right of way of a street.

(h) "Remain" means to:

- (1) linger, stop or stay for any length of time or to travel or move upon a street; 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.

**SECTION 3: CURFEW – AFFIRMATIVE DEFENSES** *[amending only subsection (a)(3)]*

(a) It is a defense to prosecution of this ordinance that the minor was:

- (3) in a motor vehicle engaged in interstate travel, beginning, ending or passing through the Town of Horizon City.

**II. FINDINGS OF FACT**

That this ordinance was duly enacted with all requisites and formalities incident thereto the enactment of ordinance, and such is evidenced by the signatures below; and further that the foregoing recitals are incorporated into this ordinance by reference as findings of fact as if expressly set forth herein.

**III. REPEALER**

All ordinances, resolutions, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the effect of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

**IV. SEVERABILITY**


Should any of the clauses, sentences, paragraphs, sections or parts of this ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

**V. PROPER NOTICE AND MEETING**

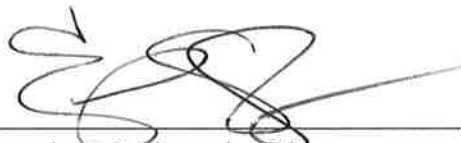
It is officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551. Notice was also provided as required by Chapter 52, Texas Local Government Code.

PASSED AND APPROVED this the 9<sup>th</sup> day of December, 2014, by a vote of 7 (ayes) to 0 (nays) to 0 (abstentions) of the Town Council of Horizon City, Texas.

**Town of Horizon City**

By:   
Walter L. Miller, Mayor

**ATTEST:**

By:   
Elvia Schuller, City Clerk

**APPROVED AS TO FORM:**

  
Elaine S. Hengen, Assistant City Attorney

First Reading: 11/11/2014  
Second Reading: 12/9/2014