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[Sec. 23-25. -](http://library.municode.com/HTML/14183/level3/PTIICOOR_CH23MIOF_ARTIIIMI.html#PTIICOOR_CH23MIOF_ARTIIIMI_S23-25CULAOF) **[Curfew](http://library.municode.com/HTML/14183/level3/PTIICOOR_CH23MIOF_ARTIIIMI.html" \l "PTIICOOR_CH23MIOF_ARTIIIMI_S23-25CULAOF)**[-related offenses.](http://library.municode.com/HTML/14183/level3/PTIICOOR_CH23MIOF_ARTIIIMI.html#PTIICOOR_CH23MIOF_ARTIIIMI_S23-25CULAOF)

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[Sec. 23-30. - Governmental immunity.](http://library.municode.com/HTML/14183/level3/PTIICOOR_CH23MIOF_ARTIIIMI.html#PTIICOOR_CH23MIOF_ARTIIIMI_S23-30GOIM)

[Secs. 23-31—23-59. - Reserved.](http://library.municode.com/HTML/14183/level3/PTIICOOR_CH23MIOF_ARTIIIMI.html#PTIICOOR_CH23MIOF_ARTIIIMI_SS23-31--23-59RE)

Sec. 23-23. - Purpose.

It is the express purpose of this article to:

(1)Deter criminal conduct involving juveniles;

(2)Reduce the number of juvenile crime victims;

(3)Reduce injury from accidents involving juveniles;

(4)Reduce the additional time police officers are required to be in the field due to juvenile crime;

(5) Provide additional and more effective means and options for dealing with gang related violence and crime;

(6)Reduce juvenile peer pressure to stay out late;

(7)Reduce juvenile peer pressure to participate in violent or criminal activities;

(8)Assist parents in the control of their children; and

(9)To make the city a better community and a safer place to live and work, to raise a family.

(Ord. No. 583, § 3, 9-1-2009)

Sec. 23-24. - Definitions.

For the purposes of this article the following words or terms shall have the meanings given below:

***Curfew*** *hours* shall mean:

(1)12:00 midnight on any day of the week until 6:00 a.m. of the following day; and

(2)9:00 a.m. until 2:30 p.m. on Monday through Friday; provided however, the hours defined in this paragraph (2) shall not be considered as **curfew** hours for minors not subject to compulsory school attendance pursuant to § 25.085, Texas Education Code, nor shall the hours defined in this paragraph (2) be considered as **curfew** hours on days or during periods in which the school where the applicable minor is enrolled is closed, or classes for which the applicable minor is enrolled have been canceled under the order and direction of officials authorized to issue such orders and directives, or, if the applicable minor is a duly authorized home school student under applicable provisions of the Texas Education Code, on days or during periods in which such minor is not receiving educational instruction.

*Emergency* shall mean and include, but not be limited to, a fire, natural disaster, automobile accident, or any unforeseen situation requiring immediate action to prevent serious illness, bodily injury, or loss of life, or for the preservation of property.

*Establishment* shall mean any privately owned place of business to which the public has access or is invited, including, but not limited to, any place of amusement or entertainment.

*Guardian* shall mean a person who, under court order, is the guardian of the person of a minor or a public or private agency with whom a minor has been placed by a court.

*Minor* shall mean any person who is under 17 years of age.

*Operator* shall mean any individual, firm, association, partnership, entity or corporation operating, managing, or conducting the operation of any establishment. The term shall include the members or partners of an association or partnership and the officers of a corporation.

*Parent* shall mean a person who is a natural parent, adoptive parent or stepparent of a minor, or a person at least 18 years of age who is authorized by the parent or guardian of a minor or by court order to have the care and custody of such minor.

*Police department* shall mean the Kyle Police Department or any successor police department of the City of Kyle, and shall include any law enforcement agency working with the city through any interagency agreement.

*Public place* shall mean any place to which the public or a substantial group of the public has access and shall include, but not be limited to, streets and highways, and the common areas of schools, hospitals, apartment houses, office buildings, transportation facilities, restaurants, theaters, game rooms, shops, shopping centers, or any other place that offers for sale services, merchandise or entertainment.

*Remain* shall mean to linger or stay, or 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.

*Serious bodily injury* means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(Ord. No. 583, § 4, 9-1-2009)

[Sec. 23-25. -](javascript:void(0)) **[Curfew](javascript:void(0))**-related offenses.

(a)It shall be unlawful for any minor to remain, walk, run or stand, or operate or ride about in any motor vehicle or bicycle, in or upon any public place or on the premises of any establishment within the city during **curfew** hours.

(b)It shall be unlawful for the parent or guardian of a minor to knowingly permit, or by insufficient control allow, a minor to remain in or upon any public place or on the premises of any establishment within the City during **curfew** hours.

(c)It shall be unlawful for the owner, operator, or any employee of an establishment to knowingly allow a minor to remain upon the premises of the establishment during **curfew** hours.

(Ord. No. 583, § 5, 9-1-2009)

Sec. 23-26. - Defenses.

(a)It shall be a defense to prosecution under [section 23-25](http://library.municode.com/HTML/14183/level3/PTIICOOR_CH23MIOF_ARTIIIMI.html#PTIICOOR_CH23MIOF_ARTIIIMI_S23-25CULAOF) that a minor was:

(1)Accompanied by the minor's parent or guardian;

(2)On an errand at the direction of the minor's parent or guardian;

(3)In a motor vehicle involved in intrastate or interstate travel, and traveling through the city by a direct route between the point of departure and destination;

(4)Engaged in a lawful employment activity, or going directly to the employment activity or returning directly to the minor's residence from the employment activity;

(5)Involved in an emergency;

(6)On an errand made necessary by an illness, injury, or emergency;

(7)On the sidewalk abutting the minor's permanent residence or abutting the residence of a next door neighbor of the minor's permanent residence if the neighbor did not complain to the police department about the minor's presence thereon;

(8)Attending a school, religious, or government-sponsored or other civic activity supervised by adults and sponsored by an educational, religious, or governmental institution, civic organization, or other similar entity, or traveling directly to or returning from any such school, religious, governmental, or civic activity;

(9)Engaged, participating in, or traveling to or from any event, function, or activity for which the application of [section 23-25](http://library.municode.com/HTML/14183/level3/PTIICOOR_CH23MIOF_ARTIIIMI.html#PTIICOOR_CH23MIOF_ARTIIIMI_S23-25CULAOF) would contravene the minor's rights protected by the United States Constitution including, but not limited to, First Amendment rights such as the free exercise of religion, freedom of speech, or the right of assembly; or

(10)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 23-25](http://library.municode.com/HTML/14183/level3/PTIICOOR_CH23MIOF_ARTIIIMI.html#PTIICOOR_CH23MIOF_ARTIIIMI_S23-25CULAOF) that the minor has been directed by his or her parent or guardian to engage in a specific activity, or to carry out expressed instructions, during the time that the minor is actually engaged in fulfilling those directions or responsibilities.

(c)It is a defense to prosecution under [section 23-25](http://library.municode.com/HTML/14183/level3/PTIICOOR_CH23MIOF_ARTIIIMI.html#PTIICOOR_CH23MIOF_ARTIIIMI_S23-25CULAOF) 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 the minor refused to leave.

(Ord. No. 583, § 6, 9-1-2009)

Sec. 23-27. - Enforcement.

(a)Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place or establishment. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that based on any response given, and other circumstances, no defense permitted or allowed under [section 23-26](http://library.municode.com/HTML/14183/level3/PTIICOOR_CH23MIOF_ARTIIIMI.html#PTIICOOR_CH23MIOF_ARTIIIMI_S23-26DE) is present.

(b)In lieu of issuing a citation or making an arrest, the police officer may, based on the circumstances, issue a warning notice to the minor, who shall be ordered to go home by the most direct means and route. A copy of the warning notice shall be filed with the police department, and a letter shall then be promptly sent to the parent or guardian of the minor advising of the contact with the minor during **curfew** hours and requesting cooperation in the future.

(Ord. No. 583, § 7, 9-1-2009)

Sec. 23-28. - Penalties.

(a) Any person who shall violate any provision of this ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed $500.00. Each day of violation shall constitute a separate offense. Following the issuance of a citation for any violation of those **curfew** hours set forth in paragraph (2) of the definition of **curfew** hours in [section 23-24](http://library.municode.com/HTML/14183/level3/PTIICOOR_CH23MIOF_ARTIIIMI.html#PTIICOOR_CH23MIOF_ARTIIIMI_S23-24DE), the minor shall be returned to school. Any citation issued for violation of any provision of this article shall direct the parent(s) or legal guardian(s) of the minor to appear together with the minor in connection with the charge of a violation. Unless otherwise expressly stated within this article, evidence of a culpable mental state shall not be required to establish a violation of this article.

(b)When required by Section 51.08 of the Texas Family Code, as amended, the municipal court shall waive original jurisdiction over a minor who violates subsection [23-25](http://library.municode.com/HTML/14183/level3/PTIICOOR_CH23MIOF_ARTIIIMI.html#PTIICOOR_CH23MIOF_ARTIIIMI_S23-25CULAOF)(a) of this ordinance and shall refer the minor to juvenile court.

(Ord. No. 583, § 8, 9-1-2009)

Sec. 23-29. - Liability.

The Kyle Police Department, police officers of the Kyle Police Department, or any employee charged with the enforcement of this article, acting in good faith and without malice for the city in the discharge of his or her duties, shall not thereby be rendered liable personally and is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or by reason of any act or omission in the discharge of his or her duties. Any suit brought against the police officer or such employee, because of any act or omission in the discharge of duties under any provision of this article, shall be defended by the city attorney or an attorney appointed by the city's insurance carrier until final termination of the proceedings.

(Ord. No. 583, § 9, 9-1-2009)

Sec. 23-30. - Governmental immunity.

Nothing in this article shall be deemed to waive, modify or amend any legal defense available at law or in equity to either the city, the police department or its employees, or to create any legal rights or claims on behalf of any third party. Neither the city, the police department, nor any of its employees, waives, modifies or alters to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Texas.

(Ord. No. 583, § 10, 9-1-2009)

Secs. 23-31—23-59. - Reserved.

FOOTNOTE(S):

(25) **Editor's note—** Ord. No. 583, §§ 2—10, adopted Sept. 1, 2009, repealed former Art. III, §§ 23-23—23-28, in its entirety and enacted new provisions as herein set out. Former Art. III pertained to similar subject matter and derived from Ord. No. 289, §§ 1—6, adopted July, 2, 1996. [(Back)](http://library.municode.com/HTML/14183/level3/PTIICOOR_CH23MIOF_ARTIIIMI.html#ref.fn_25)

(25) **State Law reference—** Authority to adopt **curfews** for minors, V.T.C.A., Local Government Code §§ 341.905, 351.903. [(Back)](http://library.municode.com/HTML/14183/level3/PTIICOOR_CH23MIOF_ARTIIIMI.html#ref.fn_25)