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ORDINANCE NO. 2023-

AN ORDINANCE OF THE CITY OF TAMPA, FLORIDA, AMENDING CHAPTER 14 (OFFENSES), ARTICLE II, DIVISION 1, CITY OF TAMPA CODE OF ORDINANCES; TO ADOPT BY REFERENCE AND CODIFY AS CITY OF TAMPA CODE SECTION 14-26 THE PROVISIONS OF SECTIONS 877.20-877.25, FLORIDA STATUTES, REGARDING LOCAL JUVENILE CURFEW ORDINANCES; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH, INCLUDING ANY PRIOR VERSIONS OF SECTION 14-26 THAT WERE REPEALED BY ORDINANCE NO. 2015-125, AND CITY OF TAMPA CODE SECTION 14-29 (“YBOR CITY CHILD PROTECTION ORDINANCE”); PROVIDING SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Florida Statute s. 877.20 provides that “It is the intent of the Legislature to protect minors in this state from harm and victimization, to promote the safety and well-being of minors in this state, to reduce the crime and violence committed by minors in this state, and to provide counties and municipalities with the option of adopting a local juvenile curfew ordinance by incorporating by reference the provisions of ss. 877.20-877.24”; and

WHEREAS, s. 877.25, Florida Statutes, expressly provides that the juvenile curfew provisions of ss. 877.20-877.24 do not apply in a municipality unless the governing body of the municipality adopts an ordinance that incorporates by reference those provisions; and

WHEREAS, it is in the interest of the public health, safety and welfare of the City of Tampa to adopt a juvenile curfew ordinance consistent with the state statutes in order to, among other things, reduce juvenile crime and delinquency, protect youth who may be vulnerable to becoming the victims of crime, and promote and enhance parental responsibility and accountability; and

WHEREAS, this Ordinance is intended to repeal and replace in their entirety a prior juvenile curfew ordinance, previously codified as City of Tampa Code Sec. 14-26 and repealed by Ordinance No. 2015-125, and Ordinance No. 2004-275, which created the “Ybor City Child Protection Ordinance”, codified as Sec. 14-29; as those ordinances contained provisions that were ultimately determined by the Florida Supreme Court to be unconstitutional; and

WHEREAS, a duly noticed public hearing as required by law was held by the City Council of the City of Tampa, Florida; and

WHEREAS, all parties in interest and citizens were afforded notice and an opportunity to appear and be heard at said public hearing.

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NOW, THEREFORE,

**BE IT ORDAINED BY THE CITY COUNCIL
OF THE CITY OF TAMPA, FLORIDA:**

Section 1. That the recitals set forth above are hereby incorporated as if fully set forth herein.

Section 2. That Chapter 14, Article II, Division 1, Section 14-26 is hereby amended by adding the underlined language as follows:

Section 14-26- Juvenile Curfew Ordinance.

1. Definitions. As used in s.877.21, Florida Statutes, and in this section, the following terms shall mean:

(a) “Emergency” means an unforeseen combination of circumstances which results in a situation that requires immediate attention to care for or prevent serious bodily injury, loss of life, or significant property loss. The term includes, but is not limited to, a fire, a natural disaster, or an automobile accident.

(b) “Establishment” means a privately owned place of business to which the public is invited, including, but not limited to, a place of amusement or a place of entertainment.

(c) “Minor” means any person under 16 years of age.

(d) “Parent” means a person who has legal custody of a minor as a:

(i) Natural or adoptive parent.

(ii) Legal guardian.

(iii) Person who stands in loco parentis to the minor.

(iv) Person who has legal custody of the minor by order of the court.

(e) “Public place” means a place to which the public has access, including, but not limited to, streets, highways, public parks, and the common areas of schools, hospitals, apartment houses, office buildings, transportation facilities, and shops.

(f) “Remain” means to stay unnecessarily in a particular place.

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2 2. Minors Prohibited in Public Places and Establishments During Certain Hours; Penalty;
3 Procedure- Adopted from Florida Statutes s. 877.22
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6 (1)(a) A minor may not be or remain in a public place or establishment between
7 the hours of 11:00 p.m. and 5:00 a.m. of the following day, Sunday through
8 Thursday, except in the case of a legal holiday.
9

10 (b) A minor may not be or remain in a public place or establishment between the
11 hours of 12:01 a.m. and 6:00 a.m. on Saturdays, Sundays, and legal holidays.
12

13 (2) A minor who has been suspended or expelled from school may not be or
14 remain in a public place, in an establishment, or within 1,000 feet of a school
15 during the hours of 9:00 a.m. to 2:00 p.m. during any school day.
16

17 (3) A minor who violates this section shall receive a written warning for her or his
18 first violation. A minor who violates this section after having received a prior
19 written warning is guilty of a civil infraction and shall pay a fine of \$50 for
20 each violation.
21

22 (4) If a minor violates a curfew and is taken into custody, the minor shall be
23 transported immediately to a police station or to a facility operated by a
24 religious, charitable, or civic organization that conducts a curfew program in
25 cooperation with a local law enforcement agency. After recording pertinent
26 information about the minor, the law enforcement agency shall attempt to
27 contact the parent of the minor and, if successful, shall request that the
28 parent take custody of the minor and shall release the minor to the parent.
29 If the law enforcement agency is not able to contact the minor's parent
30 within 2 hours after the minor is taken into custody, or if the parent refuses
31 to take custody of the minor, the law enforcement agency may transport the
32 minor to her or his residence or proceed as authorized under Part IV of
33 Chapter 39, Florida Statutes.
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39 3. Legal Duty of Parent; Penalty - Adopted from Florida Statutes s.877.23
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41 (1) The parent of a minor has a legal duty and responsibility to ensure that the
42 minor does not violate s. 877.22(1).
43

44 (2) The parent of a minor has a legal duty and responsibility to personally
45 supervise, or arrange for a responsible adult to supervise, the minor so that
46 the minor does not violate s. 877.22(2).
47

48 (3) The parent of a minor who knowingly permits the minor to violate s.
49 877.22(1) or (2) shall receive a written warning for a first violation. A parent
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1 who knowingly permits the minor to violate s. 877.22(1) or (2) after having
2 received a prior written warning is guilty of a civil infraction and shall pay a
3 fine of \$50 for each violation.

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6 4. Exceptions- Adopted from Florida Statutes s.877.24

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8 This Section and s.877.22, Florida Statutes, does not apply to a minor who is:

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10 (1) Accompanied by his or her parent or by another adult authorized by the
11 minor's parent to have custody of the minor.

12
13 (2) Involved in an emergency or engaged, with his or her parent's permission, in
14 an emergency errand.

15
16 (3) Attending or traveling directly to or from an activity that involves the exercise
17 of rights protected under the First Amendment of the United States
18 Constitution.

19
20 (4) Going directly to or returning directly from lawful employment, or who is in a
21 public place or establishment in connection with or as required by a business,
22 trade, profession, or occupation in which the minor is lawfully engaged.

23
24 (5) Returning directly home from a school-sponsored function, a religious
25 function, or a function sponsored by a civic organization.

26
27 (6) On the property of, or on the sidewalk of, the place where the minor resides,
28 or who is on the property or sidewalk of an adult next-door neighbor with
29 that neighbor's permission.

30
31 (7) Engaged in interstate travel or bona fide intrastate travel with the consent of
32 the minor's parent.

33
34 (8) Attending an organized event held at and sponsored by a theme park or
35 entertainment complex as defined in Florida Statutes s. 509.013(9).

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38 **Section 3.** This Ordinance expressly repeals in its entirety City of Tampa Code
39 Section 14-29 - "Ybor City Child Protection Ordinance" (adopted by Ordinance No.
40 2004-275), which is no longer of any force or effect. This Ordinance also expressly
41 replaces any prior version of City of Tampa Code Section 14-26, as repealed by
42 Ordinance No. 2015-125.

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45 **Section 4.** That should any part of this ordinance be declared invalid by a court
46 of competent jurisdiction, the remaining parts hereof shall not, in any way, be
47 affected by such determination as to the invalid part.

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Section 5. That all ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of any conflict. This ordinance shall not be retroactive.

Section 6. That this ordinance shall take effect on _____, 2023.

PASSED AND ORDAINED BY THE CITY COUNCIL OF THE CITY OF TAMPA, FLORIDA, ON _____.

CHAIR/CHAIR PRO-TEM
TAMPA CITY COUNCIL

ATTEST:

CITY CLERK/DEPUTY CITY CLERK

Approved by me on _____

JANE CASTOR, MAYOR

Prepared by and approved
as to form and legal sufficiency by:

 e/s

ANDREA ZELMAN
CITY ATTORNEY