

PROPOSED
ORDINANCE NO. 14-26

ORDINANCE NO. _____

AN ORDINANCE
TO BE ENTITLED:

AN ORDINANCE CREATING CHAPTER 8-3, JUVENILE CURFEW,
OF TITLE VIII OF THE CODE OF THE CITY OF PENSACOLA,
FLORIDA; PROVIDING FOR SEVERABILITY; REPEALING
CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF PENSACOLA,
FLORIDA** that the following chapter and sections of the Code of Ordinances be created
as set forth below in Sections 1 through 9.

SECTION 1. Chapter 8-3, Juvenile Curfew, of Title VIII, Offenses, of the Code of
the City of Pensacola, Florida is hereby created.

SECTION 2. Section 8-3-1 of Chapter 8-3 of the Code of the City of Pensacola,
Florida is hereby created to read as follows:

Section 8-3-1 – Short Title.

This article shall be known as the “Juvenile Curfew Ordinance.”

SECTION 3. Section 8-3-2 of Chapter 8-3 of the Code of the City of Pensacola,
Florida is hereby created to read as follows:

Section 8-3-2 – Purpose and intent.

The purpose of this Juvenile Curfew Ordinance is to protect minors from harm and
victimization in the City of Pensacola, to promote the safety and well-being of minors in
the City of Pensacola, to reduce the crime and violence committed by minors in the City
of Pensacola, and to adopt a local juvenile curfew ordinance. This independent local
ordinance is enacted pursuant to F.S. § 877.25 and does not incorporate §§ 877.20–
877.24 by reference.

SECTION 4. Section 8-3-3 of Chapter 8-3 of the Code of the City of Pensacola, Florida is hereby created to read as follows:

Section 8-3-3 – Definitions.

As used in this section, the following definitions apply:

- (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 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 18 years of age.
- (d) *Legal holiday* means any day designated as a legal holiday by state law or City ordinance.
- (e) *Parent* means a person who has legal custody of a minor as a:
 - a. Natural parent, adoptive parent, or step-parent of a minor.
 - b. Legal guardian appointed by a court to act in the role of a parent.
 - c. Person who stands in loco parentis to the minor.
 - d. Person who has legal custody of the minor by order of a court.
- (f) *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.
- (g) *Remain* means to be present at or to linger in a public place or establishment, or a school when prohibited as provided herein, beyond the time reasonably necessary to travel directly to or from, or to engage in an activity permitted under Section 8-3-5.
- (h) *School* means any public, charter, or private primary or secondary school operating within the state during its posted school hours.

SECTION 5. Section 8-3-4 of Chapter 8-3 of the Code of the City of Pensacola, Florida is hereby created to read as follows:

Section 8-3-4 – Minors in public places during certain hours.

- (a) A minor may not be or remain in a public place or establishment between the hours of 11:00 p.m. and 5:00 a.m. of the following day, Sunday through Thursday, except in the case of a legal holiday.
- (b) A minor may not be or remain in a public place or establishment between the hours of 12:01 a.m. and 6:00 a.m. on Saturdays, Sundays, and legal holidays.
- (c) Subject to the exceptions in Section 8-3-5, a minor who has been suspended or expelled from school may not be or remain in a public place, in an establishment, or within 1,000 feet of a school during the hours of 9:00 a.m. to 2:00 p.m. during any school day.

SECTION 6. Section 8-3-5 of Chapter 8-3 of the Code of the City of Pensacola, Florida is hereby created to read as follows:

Section 8-3-5 – Exceptions

Section 8-3-4 does not apply to a minor who is:

- (a) Married in accordance with law or emancipated by a court of competent jurisdiction.
- (b) Accompanied by his or her parent or by another adult person at least twenty-one (21) years of age given permission by the minor's parent or legal guardian to have the care, custody or control of the minor.
- (c) Involved in or attempting to remedy, alleviate or respond to an emergency, or engaged, with his or her parent's permission, in an emergency errand.
- (d) Attending or traveling directly to or from an activity involving the exercise of rights protected under the First Amendment of the United States Constitution or those similar rights protected by the Florida Constitution, that is supervised by an adult(s) at least twenty-one (21) years of age provided further that the minor possesses written permission from his or her parent authorizing the minor to engage in that specific activity.
- (e) Going directly to or returning directly from lawful employment, or who is in a public place or establishment in connection with or as required by a business, trade, profession, or occupation in which the minor is lawfully engaged.

- (f) Returning directly home from a specific school-sponsored function, a religious function, or a function sponsored by a civic organization, that is supervised by an adult(s) at least twenty-one (21) years of age; provided further that the minor possesses written permission from his or her parent authorizing the minor to engage in that specific activity.
- (g) On the property of, or on the sidewalk of, the place where the minor resides, or who is on the property or sidewalk of an adult next-door neighbor with that neighbor's permission.
- (h) Engaged in interstate travel or bona fide intrastate travel with the consent of the minor's parent.
- (i) Attending an organized event held at and sponsored by a theme park or entertainment complex as defined in F.S. 509.013(9).
- (j) These exceptions apply to both the juvenile-offense provisions and parental liability.
- (k) A minor claiming an exception shall identify the specific exception and provide available verification reasonably requested by the officer; brief incidental stops reasonably related to the trip (e.g., fuel or restroom) may be permitted.

SECTION 7. Section 8-3-6 of Chapter 8-3 of the Code of the City of Pensacola, Florida is hereby created to read as follows:

Section 8-3-6 – Legal duty of parent; exceptions.

- (a) Legal duty of parent
 - (1) The parent of a minor has a legal duty and responsibility to ensure that the minor does not violate this Juvenile Curfew Ordinance.
 - (2) The parent of a minor has a legal duty and responsibility to personally supervise, or arrange for a responsible adult to supervise, the minor so that the minor does not violate this Juvenile Curfew Ordinance.
 - (3) It shall be a violation of this Juvenile Curfew Ordinance for the parent, legal guardian or other adult person at least twenty-one (21) years of age having the care, custody or control of a minor to permit or by insufficient control to permit such minor to linger, stay, congregate, move about, wander, or stroll on or upon the public streets, highways, roads, alleys, parks, public buildings, places of amusement and entertainment, vacant lots or any public places in the City of Pensacola during curfew hours, unless the minor is

accompanied by his or her parent, legal guardian or other adult person at least twenty-one (21) years of age having his or her care, custody or control.

(b) Exceptions

- (1) Any parent, legal guardian or other adult person at least twenty-one (21) years of age having the care, custody or control of a minor who shall have made a missing person notification or informs the police department that the minor left or remained away from his or her residence during curfew hours over the objection of the parent, legal guardian or other adult person at least twenty-one (21) years of age having the care, custody or control of the minor shall not be considered to have permitted any person to be in violation of this section.
- (2) It shall also constitute a defense hereto that such parent, legal guardian or other adult person at least twenty-one (21) years of age having the care, custody or control of such minor, did not have knowledge of the presence of such minor in, or about or upon any place in the City away from the current residence or usual place of abode of said minor during curfew hours, if said parent, legal guardian or other person having care, custody or control of such minor, in the exercise of reasonable care and diligence, should not have known of the unlawful acts of such minor.

SECTION 8. Section 8-3-7 of Chapter 8-3 of the Code of the City of Pensacola, Florida is hereby created to read as follows:

Section 8-3-7 –Procedures.

- (a) Unless flight by the minor or other circumstances makes it impracticable, a law enforcement officer, upon finding a person suspected to be in violation of this Juvenile Curfew Ordinance, shall first ask the apparent minor's age and reason for being in public during curfew hours. The law enforcement officer shall immediately attempt to verify statements or other information provided by the minor through contact with the parent, legal guardian or others. Detention shall not exceed the time reasonably necessary to complete this verification, absent documented, articulable circumstances.
- (b) Any minor violating this curfew ordinance shall be taken into custody and transported immediately or as soon as safely practicable to a police station, a facility or area supervised by the police, or to a facility operated by a religious, charitable, or civic organization that conducts a curfew program in cooperation with a local law enforcement agency.

- (c) If the minor is not immediately taken to his or her home, the law enforcement agency or holding facility shall record all pertinent information about the minor and promptly make reasonable efforts to contact the parent or legal guardian of the minor and, if successful, shall request that the parent or legal guardian come immediately to the facility where the minor is being held, and upon reasonable proof of identity and custody authority release the minor to the parent or legal guardian.
- (d) If after two (2) hours of reaching the police station, a facility or area supervised by the police, or a holding facility, the law enforcement agency or holding facility is unsuccessful in contacting the minor's parent or legal guardian, or if the parent or legal guardian refuses to come and take custody of the minor, the law enforcement agency or holding facility may transport the minor to his or her residence or proceed as authorized under part IV of chapter 39.

SECTION 9. Section 8-3-8 of Chapter 8-3 of the Code of the City of Pensacola, Florida is hereby created to read as follows:

Section 8-3-8 – Penalty or remedy for violations.

(a) **Minors.**

- (1) **First violation.** After assessing exceptions under Section 8-3-5, a minor who is found to be in violation of this Juvenile Curfew Ordinance shall receive a written warning for her or his first violation.
- (2) **Violation after prior warning.** A minor who is found to be in violation after having received a prior written warning is guilty of a civil infraction and shall pay a fine of \$100.00 for each violation.
- (3) **Third and subsequent violations.** For third and subsequent violations, the minor is guilty of a civil infraction and shall pay a fine of \$250.00 for each violation.
- (4) **Nothing herein shall preclude a law enforcement officer from making an arrest of a minor if specific facts establish an arrest is necessary under applicable law.**

(b) **Parents, guardians, other adults.**

- (1) **First violation.** After assessing exceptions under Sections 8-3-5 and 8-3-6(b), any parent, legal guardian or other adult person at least twenty-one (21) years of age having the legal care, custody or control of a minor, who is found to be in violation of the provisions of this Juvenile Curfew Ordinance

shall receive a written warning on a form to be established by the City of Pensacola Police Department.

- (2) **Violation after prior warning.** Any parent, legal guardian or other adult person at least twenty-one (21) years of age having the legal care, custody or control of a minor, who is found to be in violation of the provisions of this Juvenile Curfew Ordinance after having received a prior written warning is guilty of a civil infraction and shall pay a fine of \$250.00 for each violation.
- (3) **Third and subsequent violations.** For third and subsequent violations, any parent, legal guardian or other adult person at least twenty-one (21) years of age having the legal care, custody or control of a minor, who is found to be in violation of the provisions of this Juvenile Curfew Ordinance is guilty of a civil infraction and shall pay a fine of \$500.00 for each violation.

SECTION 10. SEVERABILITY.

If any word, phrase, clause, paragraph, section or provision of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provision or applications of the ordinance which can be given effect without the invalid or unconstitutional provisions or application, and to this end the provisions of this ordinance are declared severable.

SECTION 11. CONFLICTS.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

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SECTION 12. EFFECTIVE DATE.

This ordinance shall take effect on the fifth business day after adoption, unless otherwise provided, pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

Adopted: _____

Approved: _____
President of City Council

Attest:

City Clerk