

ORDINANCE NO. 2004- _____

AN ORDINANCE OF THE CITY OF TAMPA, FLORIDA, AMENDING CHAPTER 14, ARTICLE II, MISCELLANEOUS OFFENSES, DIVISION 1, BY ENACTING SEC. 14-29 BY CREATING AN YBOR CITY CHILD PROTECTION ORDINANCE, AND PROVIDING LEGISLATIVE INTENT, FINDINGS AND PURPOSE; PROVIDING DEFINITIONS, CHILDREN'S PROHIBITION FROM RESTRICTED AREA DURING RESTRICTED HOURS AND EXEMPTIONS, OWNER OPERATOR OBLIGATIONS, AND PENALTIES AND PROCEDURES; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, children have become the victims of crime and violence in increasing numbers in the entertainment district of Ybor City ("Restricted Area") and statistics show an overall increase in the number of persons under the age of eighteen who have become the victims of crimes of violence in the Restricted Area all as shown in attached Appendix A, which is incorporated herein by this reference; and

WHEREAS, children are also committing crimes in increasing numbers in the Ybor City area of Tampa; the number of such violent crimes by children has increased over the past several years; the statistics for recent years show an overall increase in the number of persons under the age of eighteen who have been arrested for crimes of violence in Ybor City; and minors are decidedly more at risk in Ybor City, if unsupervised, than any other area in Tampa, and have been involved in crimes, either as perpetrator or victim, in Ybor City in increasing numbers; and

WHEREAS, the Restricted Area of Ybor City has the highest rate of crime of any similarly sized area located in the City of Tampa, especially from 11:00 p.m. to 4:00 a.m. Thursday, Friday and Saturday; and

WHEREAS, children are peculiarly vulnerable to being victims of crime as they are generally smaller than adults and less able to defend themselves; they are therefore perceived to be easier targets by those persons inclined to commit violent crimes; this peculiar vulnerability is generally increased during late night hours because persons who are inclined to commit crimes of violence can do so with a lower risk of apprehension, particularly when there is no parental or adult supervision; also, children are less likely to perceive the imminent risk of becoming the victim of a violent crime; these factors are exacerbated with an increase in the consumption of alcohol by either the perpetrator, the victim or both; and

1 WHEREAS, the Restricted Area is an entertainment and nightclub district
2 located within the City of Tampa and is a Community Redevelopment Area and
3 recipient of tax increment financing and other substantial investments by the
4 taxpayers of Tampa, in an effort to safeguard and upgrade the area; and
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6 WHEREAS, the Restricted Area has the highest concentration of wet
7 zoned establishments permitting the sale and consumption of alcohol in Tampa
8 and state law prohibits the sale, possession or consumption of alcoholic beverages
9 by children; and
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11 WHEREAS, the lawful consumption of alcoholic beverages by adults
12 creates a greater likelihood that the adults will engage in aggressive behavior
13 including violent crimes such as assault and battery, with children therefore
14 decidedly more at risk in the Restricted Area than anywhere else in Tampa; and
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16 WHEREAS, protecting our children from violent and other crimes is
17 imperative for the long and short-term health, safety and welfare of Tampa and its
18 children; and remedying the crime problem in Ybor City is important to the
19 financial survival of the area and the long-term tourism and economic
20 development of Tampa; and
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22 WHEREAS, by enacting an ordinance that provides for children to be
23 restricted from the Ybor City entertainment district during certain late night hours,
24 parents and legal guardians will have an additional tool in enforcing control over
25 their children, and parents/legal guardians will be encouraged to exercise parental
26 control and responsibility over their children's nighttime activities, and will better
27 protect children from victimization and exposure to criminal activity; and
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29 WHEREAS, it has been deemed to be in the best interests of the City of
30 Tampa as well as for the long and short-term health, safety and welfare of Tampa
31 and its children, to adopt a Ybor City Child Protection Ordinance.
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36 NOW, THEREFORE,
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38 BE IT ORDAINED BY THE CITY COUNCIL
39 OF THE CITY OF TAMPA, FLORIDA,
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41 Section 1. That the City of Tampa Code Chapter 14, Article II,
42 Miscellaneous Offenses, Division 1, is hereby amended by enacting Section 14-29
43 to read as follows:
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45 **“Sec. 14-29 Ybor City Child Protection Ordinance**
46

47 **(a) Legislative intent, findings and purpose.**
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49 This ordinance is enacted in recognition of the peculiar vulnerability of children
50 and their inability to make critical decisions in an informed mature manner. The
intent is to protect children from the dangers of violent crimes which occur on and

1 in the sidewalks, streets, public places and other places accessible to the public
2 during late night hours in the Restricted Area of Ybor City, and to cause a
3 reduction in the amount of general criminal activity committed by children, and to
4 do so in a manner that is narrowly tailored to result in no more intrusion into the
5 rights and liberties of children, their parents and legal guardians, than is
6 necessary.
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8 **(b) Title.**
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10 This chapter shall be known as the Ybor City Child Protection Ordinance.
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12 **(c) Definitions.**
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14 For the purposes of this chapter, the following words and their derivations shall
15 have the meanings given below:
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- 17 (1) *Child* means any person under the age of eighteen.
- 18 (2) *Establishment* means any place of business to which the
19 public is invited.
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- 21 (3) *Legal Guardian/Guardian* means a person to whom lawful
22 custody of a child has been given by a court order.
23
- 24 (4) *Owner/Operator* means any individual, firm, association,
25 partnership, or corporation operating, managing or
26 conducting business within any establishment, or any
27 employee thereof.
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- 29 (5) *Parent* means the natural, adoptive or step parent of a child.
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- 31 (6) *Police* means and includes the Chief of Police for Tampa,
32 Florida, and any sworn law-enforcement officer under
33 his/her direction.
34
- 35 (7) *Private Place* means any property or place, whether
36 privately or publicly owned, to which the general public
37 does not have access and a right to resort for business,
38 recreation, entertainment or otherwise.
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- 40 (8) *Public Place* means any property owned or controlled by
41 the City, the School Board, the State or other government
42 entity to which the general public has access and a right to
43 resort for business, recreation, entertainment, or other
44 lawful purpose.
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- 46 (9) *Restricted Area* means that area within Ybor City in the
47 City of Tampa bounded on the north by Palm Avenue, on
48 the west by Nuccio Parkway, on the east by 22nd Street, and
49 on the south by 5th Avenue.
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- (10) *Restricted Hours* means 11:00 p.m. on Thursday, Friday and Saturday until 4:00 a.m. on the following day.
- (11) *Semi-public Place* means any privately-owned or privately-operated real property (including any structure thereon) to which the general public has access and a right to resort for business, recreation, entertainment, or other lawful purpose and includes any common area of any apartment or housing complex and any vacant lot and any vacant or abandoned building, and includes, but is not limited to, any store, shop, restaurant, tavern, theater, parking lot, alley, road, shopping center, bowling alley and pool room.

(d) Violations and exemptions.

- (1) It shall be a violation of this section for any child to enter or remain in or upon any public or semi-public place in the Restricted Area during Restricted Hours; provided however, that this prohibition shall not apply if the child is:
 - i) Accompanied by a parent or legal guardian;
 - ii) Engaged in lawful employment or traveling directly to such place of employment from home, or to home from such place of employment;
 - iii) Engaged in bona fide interstate movement through the City or interstate travel beginning or ending in the City;
 - iv) Engaged in an errand in a case of reasonable necessity, such as a medical emergency;
 - v) Attending or traveling directly to or from a special function sponsored by a church, school, governmental or quasi-governmental organization, i.e. any agency or entity created by the Florida Legislature or City Council, which special function and the release or transportation of the children attending are adequately supervised by adults; or
 - vi) A resident of the Restricted Area who provides appropriate proof of that status.
- (2) It shall be a violation of this section for any Owner/Operator of an Establishment in the Restricted Area, who remains open for business during the Restricted Hours, to fail to do the following:
 - i) Post a conspicuous sign at least 18 by 24 inches, in or at the entry to the Establishment, printed in English, in type or print equivalent to 100 points or 1 inch in substantially the following language:

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- (6) A violation of this section by the Owner/Operator of an Establishment shall be subject to the penalties provided in Section 1-6 of the City Code.
- (7) A parent or legal guardian obstructing the enforcement of this section shall be subject to the penalties provided in Section 1-6 of the City Code.”

Section 2. That should a court of competent jurisdiction declare any part of this Ordinance invalid the remaining parts hereof shall not, in any way, be affected by such determination as to the invalid part.

Section 3. That all Ordinances or part of Ordinances in conflict herewith are hereby repealed to the extent of any conflict.

Section 4. That this Ordinance shall take effect fourteen (14) days following this ordinance becoming a law.

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

ATTEST: _____
CHAIRMAN\CHAIRMAN PRO-TEM,
CITY COUNCIL

CITY CLERK\DEPUTY CITY CLERK

APPROVED BY ME ON _____

PAM IORIO, MAYOR

PREPARED BY AND APPROVED
AS TO LEGAL SUFFICIENCY:

DAVID L. SMITH
CITY ATTORNEY

F:\LEGAL\SHARE\David Smith\Ybor City Child Protection Ord - 11-2-04