

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 42 OF THE CODE OF ORDINANCES, ENTITLED "MISCELLANEOUS OFFENSES" BY AMENDING SECTION 42-12, TO AMEND THE JUVENILE CURFEW BY ADJUSTING THE ESTABLISHED HOURS WHEN AN UNACCOMPANIED MINOR MAY REMAIN IN A PUBLIC PLACE TO BETWEEN THE HOURS OF 9:00 P.M. AND 5:00 A.M. FROM SUNDAY THROUGH THURSDAY, AND BETWEEN THE HOURS OF 10:00 P.M. AND 6:00 A.M. ON FRIDAY, SATURDAY AND LEGAL HOLIDAYS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, an amendment to section 42-12 of the Code of Ordinances will promote the health, safety and welfare of the citizens and visitors of the City of Key West.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF KEY WEST, FLORIDA:

Section 1: That Section 42-12 of the Code of Ordinances is hereby amended as follows\*:

**Sec. 42-12. - Juvenile curfew; regulations.**

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\*(Coding: Added language is underlined; deleted language is ~~struck through~~ at first reading. Added language is double underlined and ~~double struck through~~ at second reading.)

(a) Definitions.

*Emergency* means an unforeseen combination of circumstances 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.

*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.

*Minor* means any person under 17 years of age.

*Parent* means a person who has legal custody of a minor as a:

- (1) Natural or adoptive parent;
- (2) Legal guardian;
- (3) Person who stands in loco parentis to the

minor; or

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

*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.

*Remain* means to stay unnecessarily in a particular place.

(b) Prohibitions; penalty.

(1) a. A minor may not be or remain in a public place or establishment between the hours of 9:00 p.m. ~~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 10:00 p.m. ~~12:01 a.m.~~ and 6:00 a.m. on Fridays, Saturdays, ~~Sundays~~, and legal holidays.

(2) 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.

(3) A minor who violates this section shall receive a written warning for his or her first violation. A minor who violates this section after having received a prior written warning is guilty of a civil infraction and shall be punishable by a fine of \$50.00 for each violation.

(4) If a minor violates a curfew and is taken into custody, the minor shall be transported immediately to a police station or to a facility operated by a religious, charitable, or civic organization that conducts a curfew program in cooperation with the Key West Police Department. After recording pertinent information about the minor, the police department shall attempt to contact the parent of the minor, and, if successful, shall request that the parent take custody of the minor and shall release the minor to the parent. If the police department is not able to contact the minor's parent within two hours after the minor is taken into custody, or if the parent refuses to take custody of the minor, the law enforcement agency may transport the minor to his or her residence or proceed, if applicable, as authorized under child neglect and abandonment laws.

(c) Legal duty of parent; penalty.

(1) The parent of a minor has a legal duty and responsibility to ensure that the minor does not violate subsection (b).

(2) The parent of a minor has a legal duty and responsibility to supervise personally, or to arrange for a responsible adult to supervise, the minor so that the minor does not violate subsection (b).

(3) The parent of a minor who knowingly permits the minor to violate subsection (b) shall receive a written warning for a first violation. A parent who knowingly permits the minor to violate subsection (b) after having received a prior written warning is guilty of a civil infraction and shall be punishable by a fine of \$50.00 for each violation.

(d) Exceptions. This section does not apply to a minor who is:

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

(2) Involved in an emergency or engaged, with his or her parent's permission, in an emergency errand;

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

(4) 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;

(5) Returning directly home from a school-sponsored function, a religious function, or a function sponsored by a civic organization;

(6) 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; or

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

Section 2: If any section, provision, clause, phrase, or application of this Ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, the remaining provisions of this Ordinance shall be deemed severable therefrom and shall be construed as reasonable and necessary to achieve the lawful purposes of this Ordinance.

Section 3: All Ordinances or parts of Ordinances of said City in conflict with the provisions of this Ordinance are hereby superseded to the extent of such conflict.

Section 4: This Ordinance shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

Read and passed on first reading at a regular meeting held this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

Read and passed on final reading at a regular meeting held this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

Authenticated by the presiding officer and Clerk of the Commission on \_\_\_\_\_ day of \_\_\_\_\_, 2022.

Filed with the Clerk \_\_\_\_\_, 2022.

Mayor Teri Johnston	_____
Vice Mayor Sam Kaufman	_____
Commissioner Gregory Davila	_____
Commissioner Mary Lou Hoover	_____
Commissioner Clayton Lopez	_____
Commissioner Billy Wardlow	_____
Commissioner Jimmy Weekley	_____

\_\_\_\_\_  
TERI JOHNSTON, MAYOR

ATTEST:

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CHERYL SMITH, CITY CLERK