

ORDINANCE 4475

TO AMEND AND RESTATE CHAPTER 58 "OFFENSES AND MISCELLANEOUS PROVISIONS", ARTICLE VI "MINORS", DIVISION 2 "CURFEW" OF THE CITY'S CODE OF ORDINANCES; AND OTHER MATTERS RELATED THERETO.

WHEREAS, the City of Hartsville is a municipal corporation created under the laws of the State of South Carolina; and

WHEREAS, it is the responsibility of the City to ensure the general safety and welfare of the public, which includes ensuring the safety of minors; and

WHEREAS, Section 63-1-20 of the Code of Laws of South Carolina states that it "shall be the policy of this State to concentrate on the prevention of children's problems as the most important strategy which can be planned and implemented on behalf of children and their families"; and

WHEREAS, Section 63-19-20 of the Code of Laws of South Carolina defines a "child" or "juvenile" as "a person less than eighteen years of age"; and

WHEREAS, upon the advice of the Chief of Police regarding necessary changes to the existing minor curfew ordinance, the City has determined to amend and restate the provision of Chapter 58 "Offenses and Miscellaneous Provisions", Article VI "Minors", Division 2 – "Curfew".

NOW THEREFORE BE IT ORDAINED by the Mayor and Council of the City of Hartsville that the City of Hartsville City Code is hereby amended to read as follows:

Chapter 58 – OFFENSES AND MISCELLANEOUS PROVISIONS ARTICLE VI. MINORS DIVISION 2. CURFEW

Sec. 58-191. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Emergency includes, but is limited to, the following: fire, natural disaster, vehicular accident, or obtaining immediate medical care for another person.

Minor means any person under 18 years of age.

Parent means a person who is the natural or adoptive parent of a minor. The term "parent" also includes a court-appointed guardian or other person who is 18 years of age or older authorized by the parent, by a court order, or by a court-appointed guardian to have the care and custody of a minor.

Public place means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office building, transport facilities, and shops.

Temporary care facility refers to a court-approved foster home, group home, non-secure facility, or program as provided by S.C. Code Ann. § 63-19-810, where minors may wait, under visual supervision, to be retrieved by a parent or other responsible adult. No minors waiting in such facility shall be handcuffed and/or secured (by handcuffs or otherwise) to any stationary object.

Sec. 58-192. Offenses.

- (a) It shall be unlawful for a minor to purposefully remain, walk, run, stand, drive, or ride about in or upon any public place in the city between the hours ~~12:00 midnight~~ 11:00p.m. and 6:00 a.m.
- (b) It shall be unlawful for a parent to knowingly allow or permit the minor to be in violation of the curfew imposed in subsection (a) of this section.

Sec. 58-193. Defenses.

It is a defense to prosecution under section 58-192 that the minor was:

- (1) Accompanied by a parent.
- (2) On an emergency errand.
- (3) Attending or going directly to or coming directly from a school, community, government, or religious activity.
- (4) Engaged in or going directly to or coming directly from a lawful employment activity.
- (5) On the sidewalk directly abutting a place where he or she resides with a parent.
- (6) Upon an errand directed by his parent.
- (7) In a motor vehicle involved in intrastate or interstate transportation or transportation for which passage through the public place is the most direct route.
- (8) Legitimately exercising his first amendment rights protected by the United States Constitution, including, but not limited to, the free exercise of religion, freedom of speech, and the right of assembly.

Sec. 58-194. Enforcement procedure.

- (a) Before taking any enforcement action hereunder, a law enforcement official shall make an immediate investigation for the purpose of ascertaining whether or not the presence of a minor in a public place, between ~~12:00 midnight~~ 11:00p.m. and 6:00 a.m. is in violation of section 58-192. If such investigation reveals that the presence of such minor is in violation of section 58-192, then:
 - (1) If the minor has not previously been issued a warning for any such violation, then the law enforcement official shall issue a verbal warning to the minor, which shall be followed by a written warning sent by certified mail by the police department official to the parent(s) and documented in a written incident report, or
 - (2) If the minor has previously been issued a warning for any such violation, then the police officer shall charge the minor with a violation of this article and shall issue a summons requiring the minor to appear in court.
- (b) Following any violation of section 58-192, as soon as practicable, the police officer shall notify the parent of the minor, and thereafter:
 - (1) Release the minor to his or her parent or other responsible adult;
 - (2) Place the minor in a temporary care facility for a period not to exceed the remainder of the curfew hours, so that his or her parent(s) may retrieve the minor; or
 - (3) If a minor refuses to give the law enforcement official his or her name and address, refuses to give the name and address of his or her parent(s), or if no parent can be located prior to the end of the applicable curfew hours, or if located, no parent appears to accept custody of the minor, the minor may be taken to a temporary care facility or otherwise to be dealt with in the manner and pursuant to such procedures as required by state law.

Sec. 58-195. Penalties.

- (a) Any minor violating this article shall be guilty of a misdemeanor as defined in state law. For the purpose of enforcing this article, the Hartsville Police Department is hereby authorized to maintain records of warnings and violations.
- (b) A parent of a minor violating this article shall be guilty of a misdemeanor as defined in state law.
- (c) In assessing punishment for either a parent or minor, the municipal court is encouraged to consider utilization of the community service program or other penalties under state law, but in no event shall penalties exceed a fine of \$500.00 per occurrence or 30 days in jail.

NOW, THEREFORE BE IT ORDAINED IN MEETING DULY ADVERTISED AND ASSEMBLED on the _____ day of _____ 2024 and to become effective upon final reading.

Casey Hancock, Mayor

ATTEST: _____
Andrea D. Crenshaw, CMC, City Clerk

First Reading: July 9, 2024
Public Hearing:
Final Reading: