

**ORDINANCE 4376**

**AN ORDINANCE OF THE CITY OF HARTSVILLE, SOUTH CAROLINA AMENDING AND RESTATING 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, South Carolina (the “City”) is a municipal corporation created under the laws of the State of South Carolina;

**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;

**WHEREAS**, Section 63-1-20 of the Code of Laws of South Carolina 1976, as amended, 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”;

**WHEREAS**, Section 63-19-20 of the Code of Laws of South Carolina 1976, was recently amended to define a “child” or “juvenile” as “a person less than eighteen years of age” instead of seventeen years of age, as previously defined.

**WHEREAS**, in light of this amendment and upon the advice of the police chief regarding other necessary changes to the existing minor curfew ordinance, the City has determined to amend and restate the provisions of Chapter 58 – “Offenses and Miscellaneous Provisions,” Article VI – “Minors,” Division 2 – “Curfew.”

**NOW, THEREFORE BE IT ORDAINED**, by the City Council of the City of Hartsville, the governing body of the City, as follows:

**Section 1. *Amendment and Restatement of Chapter 58, Article VII, Division 2.*** Chapter 58 “Offenses and Miscellaneous Provisions,” Article VI “Minors,” Division 2 “Curfew” as previously enacted by various prior actions of the City Council of the City of Hartsville, the governing body of the City (the “City Council”), is hereby amended and restated in its entirety to now 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 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 of the place where the Minor resides or on the sidewalk of a place where the Minor has permission from his Parent to be or on the sidewalk of a next-door neighbor who has not communicated an objection to this activity by the Minor to any law enforcement official.

- (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 and 6:00 a.m. is in violation of Sec. 58-192. If such investigation reveals that the presence of such Minor is in violation of Sec. 58-192, then:

- (i) 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 mailed by the police department to the Minor and his or her Parent(s), or
- (ii) 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 ordinance 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:

- (i) release the Minor to his or her Parent or other responsible adult;
- (ii) 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
- (iii) 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 ordinance, 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 per occurrence or 30-days in jail.

**Section 3.** If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, is held or determined to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

**Section 4.** That nothing in this Ordinance hereby enacted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause of causes of action acquired or existing, under any act or ordinance hereby repealed; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

**Section 5.** All ordinances or parts of ordinances inconsistent or in conflict with the provisions of this ordinance are hereby repealed to the extent of the conflict or inconsistency. This ordinance shall take effect immediately upon its enactment by the City Council.

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**DONE AND ENACTED BY CITY COUNCIL ASSEMBLED**, this \_\_\_\_ day of \_\_\_\_\_,  
2019.

**CITY OF HARTSVILLE,  
SOUTH CAROLINA**

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Carl M. (Mel) Pennington IV, Mayor

(SEAL)

ATTEST:

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Sherron L. Skipper, City Clerk

First Reading:     October 8, 2019  
Public Hearing:    November 12, 2019  
Second Reading:  November 12, 2019