

**ORDINANCE NO. 2009 - \_\_\_\_\_**  
(As Amended for Second Reading on \_\_\_\_\_, 2009)

**AN ORDINANCE TO ESTABLISH A DAYTIME CURFEW FOR MINORS FROM THE AGE OF SIX (6) THROUGH SIXTEEN (16) BETWEEN THE HOURS OF 8:30 A.M. AND 2:30 P.M. ON ANY SCHOOL DAY BY DEFINING AND ADDRESSING MINORS IN NEED OF SUPERVISION.**

**WHEREAS**, §5-7-30 of the South Carolina Code of Laws, as amended, authorizes the City of Florence to enact regulations and ordinances relating to the health, order, and general welfare of the City and its citizens in connection with its services; and

**WHEREAS**, after careful study and discussions of statistics provided by the police department, this council finds that there is a significant amount crime and dangerous incidents involving school age minors loitering and wandering in or on public streets, sidewalks, other public areas, and vacant lots in the City limits during school hours on school days, when they are supposed to be in school, at home, under the supervision of an alternative school, in a supervised youth program, or otherwise in the control of their parents, guardians, or responsible adult; and

**WHEREAS**, as a result, minors from the ages of 6 through 16 years of age are in need of supervision during the day; and

**WHEREAS**, , holding parents, legal guardians, and persons having custody and control over minors who have been found to be minors in need of supervision accountable should reduce the number of criminal incidents committed by school-age children and reduce the number of dangerous incidents involving school age children ; and

**WHEREAS**, this council finds, after careful study, that it is in the best interest of the City of Florence and its citizens that an ordinance identifying and addressing minors in need of supervision through the establishment of a daytime curfew be established.

**NOW, THEREFORE**, be it ordained, by the Mayor and the members of the City Council of the City of Florence, South Carolina, that Chapter 14 of the Code of Ordinances of the City of Florence entitled "Offenses and Miscellaneous Provisions" be amended to add the following sections to be designated as Section 14-23:

**1. SECTION 14-23. MINOR IN NEED OF SUPERVISION**

A. Any minor age six (6) through sixteen (16) years old who loiters, wanders, strolls, or plays in or upon any "public place", as defined in Subsection C below, unsupervised by an adult having the lawful authority to be at such places, between the hours of 8:30 a.m. and 2:30 p.m. on any "school day", as defined in Subsection C below, shall be considered a minor in need of supervision unless the minor falls into one of the categories specified in paragraph B below.

B. A minor shall not be considered a minor in need of supervision under the following circumstances.

- (1) When the minor has written documentation from school authorities that he or she is excused from school attendance at that particular time.
- (2) When the minor attends a private school at which the attendance requirements differ from those of public schools, and the minor's school is not in session at that particular time.
- (3) When the minor is enrolled in a valid home study program as authorized by the laws of the State of South Carolina.
- (4) When the minor has been emancipated pursuant to the laws of the State of South Carolina.
- (5) When the minor is accompanied by such minor's parent, guardian, or other adult person having the lawful care and custody of the minor.
- (6) When the minor is actually engaged in lawful employment pursuant to an age or schooling certificate or is traveling directly home or to school from such lawful employment.
- (7) When the minor is engaged in an emergency errand directed by such minor's parent or guardian or other adult person having the lawful care and custody of such minor.

(8) When the minor is engaged in travel to or from either home or the school as a direct result of a school directed, sponsored, or endorsed activity, entertainment, recreational opportunity, or dance.

(9) When the minor is attending or traveling directly to or from an activity involving the exercise of First Amendment Rights of Free Speech, Freedom of Assembly, or Free Exercise of Religion.

(10) When the minor is in a motor vehicle with parental consent for normal travel, or engaged in interstate travel through the city.

C. For the purposes of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

(1) "Public place" means any public streets, highways, roads, alleys, parks, playgrounds, malls, buildings open to the public, cemeteries, school yards, bodies of water, any privately or publically owned place of amusement, entertainment, or public accommodation, including parking lots and other areas adjacent thereto, or any vacant lots of land.

(2) "School Day" means any day on which the public schools in Florence School District One are open and operating for students.

D. A police officer is hereby authorized and empowered to take charge of any minor in need of supervision as defined herein. In taking charge of minors in need of supervision, the following shall apply:

(1) Before taking any enforcement action under this section, a law enforcement officer shall ask or attempt to ask the apparent minor in need of supervision questions regarding age and reason for being in a public place during curfew hours. The law enforcement officer shall not take charge of the minor under this section unless the law enforcement officer reasonably believes that the minor is a minor in need of supervision as described in this ordinance.

(2) The law enforcement officer shall follow the policies, procedures, rules, directives and regulations of the City of Florence and/or of the Florence Police Department in the transportation of the minor to the

minor's school, residence, the Community Services Division of the Florence Police Department, to the custody of the parent or guardian, or, when necessary, to the appropriate governmental agency.

(3) It shall be the duty of an officer taking charge of such minor to immediately attempt to notify the parent or guardian of the minor that the minor has been taken into the charge of the officer. The officer may then release the minor to the principal or other designated official at the school at which the minor is enrolled. If the officer is unable to release the minor to the principal or other designated official at the school at which the minor is enrolled because of suspension or expulsion, the officer may take the minor to the Community Services Division of the Florence Police Department until the officer or other person in charge of the minor is able to release the minor directly to the parent or guardian, or until 2:30 p.m., when the minor will be delivered to the minor's home.

E. It shall be unlawful for the parent, legal guardian, or other person having custody or control of any minor as defined herein to knowingly commit an act or knowingly fail to act when such act or omission would cause the minor to be found to be a minor in need of supervision as defined in subsection (A) above.

(1) It shall be an affirmative defense to this section if the parent or legal guardian has invoked the jurisdiction of the juvenile court with regard to the minor prior to the time that the minor is found being a minor in need of supervision.

(2) It shall not be a defense to the offense provided for herein that the minor has not been previously formerly found to be a minor in need of supervision.

(3) Upon first conviction of a violation of subsection (B), a person shall not be fined and will be notified of opportunities and programs in place to assist the parent or guardian in providing supervision for such minor. Upon subsequent convictions of subsection (B), a person shall be subject to a fine of \$100.00 per offense. Each day a minor is found by the law enforcement authorities to be a minor in need of supervision as defined in Subsection A above shall constitute a separate offense for the purposes of the fines specified herein. Persons charged with violating subsection (B) of this

ordinance shall not be subject to custodial arrest, but shall be issued a summons to appear in municipal court.

2. That this Ordinance shall become effective on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

ADOPTED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2009.

Approved as to form:

\_\_\_\_\_  
James W. Peterson, Jr.  
City Attorney

\_\_\_\_\_  
Stephen J. Wukela  
Mayor

Attest:

\_\_\_\_\_  
Dianne M. Rowan  
Municipal Clerk