

STATE OF SOUTH CAROLINA)
)
COUNTY OF YORK)
)
TOWN OF CLOVER)

ORDINANCE 11-04

AN ORDINANCE TO ESTABLISH A CURFEW ON JUVENILES IN THE TOWN OF CLOVER; IMPOSE PENALTIES FOR VIOLATIONS ON JUVENILES, PARENTS, GUARDIANS, OWNERS OF ESTABLISHMENTS AND OTHERS FOR VIOLATIONS; AND OTHER MATTERS RELATING THERETO.

WHEREAS, many towns and cities have established curfews as a proactive means of protecting juveniles from improper influences and criminal activity that occur during the curfew hours, and

WHEREAS, curfews also help to reinforce parental control, and responsibility for, children, and

WHEREAS, the Town Council finds that establishing a youth curfew would be beneficial to the health, safety and welfare of the Town.

BE IT ORDAINED in Council assembled this 9 day of May, 2011, that the Code of Ordinances of the Town of Clover is hereby amended by creating Chapter 131, Curfew for Juveniles, which chapter shall read as follows:

Chapter 131. YOUTH PROTECTION ORDINANCE

Sec. 131.01 Purpose.

The purpose of this chapter is to protect juveniles from victimization and exposure to criminal activity by establishing a curfew for juveniles under the age of seventeen (17) years in the Town of Clover. The youth protection ordinance is intended to reinforce and promote the role of the parent in raising and guiding children, and promote the health, safety, and welfare of both juveniles and adults by creating an environment offering better protection and security for all concerned.

Sec. 131.02 Findings.

It is found by the Town council that it would be beneficial to the health, order, and welfare of the Town in connection with the discharge of municipal duties, that juveniles should be protected from each other and from older people on the street during late night hours, that the Town desires to reinforce parental control and responsibility for children, that the Town desires to protect the public and reduce juvenile crime and violence by the enactment of this chapter, which is designed to promote the health, safety, and welfare of both juveniles and adults in the Town by creating an environment offering protection and security for all concerned.

Sec. 131.03 Definitions.

As used in this chapter, the following definitions shall apply:

Chronic offender means a juvenile who has violated this chapter three (3) or more times.

Curfew hours means the hours from 11:00 pm each day until 6:00 a.m. the following day.

Establishment means any privately-owned place of business operated for profit to which the public has access or is invited, including, but not limited to, any place of amusement or entertainment.

Guardian means a person who:

- (1) Is the guardian of a juvenile under a court order; or
- (2) Is at least 18 years of age and authorized by the parent or guardian to have care and custody of juvenile; or
- (3) Is a public or private agency with whom a juvenile has been placed by a court.

Juvenile means a person who has not reached his or her seventeenth birthday and is not married, emancipated, or a member of the armed services of the United States.

Operator means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. This term includes the active, local employees, members or partners of an association or partnership and the local officers of a corporation.

Parent means a birth parent, adoptive parent, or the spouse of a birth or adoptive parent of a juvenile.

Repeat offender means a juvenile who has violated the curfew at least two (2) times.

Sec. 131.04 Offenses.

Except as provided by section 131.05, the following violations constitute an unlawful offense under this Chapter:

(1) A juvenile loitering, wandering, strolling, or playing in or upon the public streets, highways, alleys, parks, playgrounds, or other public grounds, public places, vacant lots, or any other place or entering or being within any establishment within the Town when unsupervised by a parent or guardian having the lawful authority to be at such places inside the Town during the curfew hours.

(2) A parent or guardian of a juvenile knowingly permitting, or by insufficient control allowing, a juvenile to engage in the conduct set forth in subsection (1) above.

(3) The owner, operator, or employee of an establishment permitting any juvenile subject to the youth protection ordinance to be in or upon or to remain in or upon the premises or grounds of the establishment without his or her parent or guardian.

It is a defense to prosecution under this subsection that an owner, operator, or employee of an establishment promptly notified the police department that a juvenile was present on the premises of the establishment during the curfew hours and refused to leave.

(4) Any person seventeen (17) years of age or older aiding or abetting a juvenile in the violation of subsection (1).

(5) It shall be a violation of this chapter for a parent or guardian to refuse to take custody, during the curfew hours, of a juvenile for whom the parent or guardian is responsible.

Sec. 131.05 Defenses and exceptions.

The following, when verified, shall constitute a defense or exception to enforcement of the youth protection ordinance:

- (1) A juvenile who is accompanied by his or her parent or guardian;
- (2) A juvenile who is on an errand, at the direction of the juvenile's parent or guardian, without any detour or stopping, until 12:30 a.m.;
- (3) A juvenile engaged in an employment activity or going or returning home from an employment activity without any detour or stopping;
- (4) A juvenile who is out because of a verifiable emergency of the juvenile or the juvenile's family;
- (5) A juvenile on his or her residential property or the property of a next-door neighbor, if the neighbor does not complain to the police department about the juvenile's presence;
- (6) A juvenile who is attending an official school, religious, or other recreational activity supervised by adults and sponsored by the Town, a civic organization, a church, synagogue, or temple, or another entity that takes responsibility for the juvenile or a juvenile who is returning home from such activity without detour or stopping.

Sec. 131.06 Enforcement.

(A) As to juveniles: When a juvenile is found to be in violation of this chapter, the officer(s) shall determine whether the juvenile is a first offender, repeat offender, or chronic offender.

(1) If the juvenile is a first offender, he or she will be given a warning and transported to the police department, where a responsible adult will be contacted to retrieve the juvenile; or, where convenient for the officer and within the Town limits, the juvenile may be transported to the residence of his or her parent or guardian.

(2) A juvenile who is a chronic offender of the youth protection ordinance will be referred to the county department of juvenile justice.

(3) If the juvenile is ten (10) years of age or younger, a copy of the incident report will be forwarded to the county department of social services.

(B) As to parents and guardians: A parent or guardian of a repeat offender, who is found guilty in municipal court of violating Section 131.04(2) of this chapter shall be subject to a fine up to \$500.00 or be imprisoned for up to thirty (30) days, or both. The municipal court may, in its discretion, require a specified number of hours of community service in lieu of fine or imprisonment.

(C) As to establishment owners and operators: An owner or operator of an establishment who is found guilty in municipal court of violating this chapter shall be subject to a fine up to \$500.00 or be imprisoned up to 30 days, or both. The municipal court may, in its discretion, require a specified number of hours of community service in lieu of fine or imprisonment.

Sec. 131.07 Severability.

If any section, subsection, sentence, term, or exception of this chapter or any application thereof to any person or circumstance is adjudged to be unconstitutional or invalid, such adjudication shall not affect the validity of any remaining portion of this chapter or its application to any other person or circumstance.

Effective Date. This ordinance is effective immediately upon its adoption.

Severability. If any part of this Ordinance is held to be invalid or unconstitutional, it shall be construed to have been the legislative intent to pass said Ordinance without such invalid or unconstitutional provision, and the remainder of said Ordinance shall be deemed to be valid as if such portion had not been included. If said Ordinance, or any provisions thereof, is held to be inapplicable to any person, group of persons, property, kind of property, circumstances or set of circumstances, such holding shall not affect the applicability thereof to any persons, property or circumstances.

AND IT IS SO ORDAINED.

(Town Seal)

Attest:

Shannon Wix
Town Clerk

First Reading: 4/11/11

Second Reading: 5/9/11

[Signature]
Mayor

Council:

Christine Hardy

[Signature]

[Signature]

Brandon Boyd

[Signature]