

CITY OF COLUMBIA, ILLINOIS

ORDINANCE NO. 2732

**AN ORDINANCE TO REGULATE TRUANCY IN THE CITY
OF COLUMBIA, ILLINOIS**

**Adopted by the
City Council
of the
City of Columbia, Illinois
this 20th day of July, 2009**

**Published in pamphlet form by
authority of the City Council
of the City of Columbia,
Illinois, this 21st day
of July, 2009.**

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ORDINANCE NO. 2732


City Clerk

**AN ORDINANCE TO REGULATE TRUANCY IN THE CITY
OF COLUMBIA, ILLINOIS**

WHEREAS, the Illinois Municipal Code (65 ILCS 5/11-5-9) provides that the corporate authorities of any municipality may adopt ordinances to regulate truants within its jurisdiction, and may enforce the same by citation or through administrative hearings; and

WHEREAS, the City has determined that it is in the best interest of the City and its residents to adopt an ordinance regulating truants, and to provide for the enforcement of such ordinance by citation.

NOW, THEREFORE, Be It Ordained by the City Council of the City of Columbia, Illinois, as follows:

Section 1. The recitals contained above in the preamble of this Ordinance are hereby incorporated herein by reference, the same as if set forth in this Section of this Ordinance verbatim, as findings of the City Council of the City of Columbia, Illinois.

Section 2. Title 9 (PUBLIC PEACE, MORALS AND WELFARE) of Chapter 9.20 (Offenses By or Against Minors) is hereby amended to add thereto Section 9.20.30 (Truancy), to read as follows:

“Section 9.20.030 Truancy.

A. Definitions. As used in this Ordinance, unless the context requires otherwise, the following words or phrases shall mean:

“Community service” is a penalty requiring that an offender convicted of a relatively minor crime do unpaid work that is beneficial to the community.

“School day curfew hours” means the period of time during the day when school is in session in the City.

“Custodian” means (1) a person who under court order is the custodian of the person of a minor or (2) a public or private agency with which the court has placed a minor or (3) a person acting in the role of a parent by reason of a private agreement, arrangement, custom, or habit.

“Emergency” means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, fire, natural disaster, automobile accident, medical

emergency, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

“Establishment” means any privately owned place of business to which the public is invited, including, but not limited to, any place of amusement or entertainment.

“Guardian” means (1) a parent or (2) a person who under court order is the guardian of the person of a minor or (3) a public or private agency with which the court has placed a minor.

“Minor” means a person who is under eighteen (18) years of age.

“Parent” means a person who is a natural parent, adoptive parent, or stepparent of another person.

“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, public ways, sidewalks, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

“Responsible adult” means the parent, guardian, or custodian having the care and custody of a minor.

“Serious bodily injury” means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

“Truant” means a child subject to compulsory school attendance and who is absent without valid cause from such attendance for a school day or portion thereof, as defined in the Illinois School Code (105 ILCS 5/26-2a).

“Truancy Code” means this Section 9.20.030 of the City of Columbia, Illinois Municipal Code which may be cited and referred to as the “City of Columbia Truancy Code” or the “Truancy code”.

“Truancy curfew hours” means the period of the day when the school the minor would normally attend is in session.

“Truant officer” means any officer, appointee, employee or other agent of any school district or any federal, state, or local governmental entity or any agency thereof performing the duties of a truant officer under the Illinois Compulsory Attendance Statute (105 ILCS 5/26-1 et seq.).

“Truancy Review Board” means an agency or entity established by any school district or any federal, state, or local governmental entity recognized by the City and/or the court as an agency that provides service to improve educational performance and/or attendance.

B. School Days Curfew Restrictions

1. It is unlawful for any minor to be present in any public place or on the premises of any establishment within the City during City school day curfew hours.
2. It is unlawful for any Responsible Adult to knowingly permit or by insufficient control to allow the minor to be present in any public place or on the premises of any establishment within the City during City school day curfew hours.
3. It is a defense to a charged violation under this Truancy Code that the child engaged in the prohibited conduct while:
 - a) accompanied by the child’s parent, guardian, or custodian;
 - b) accompanied by an adult specified by the child's parent, guardian, or custodian;
 - c) participating in, going to, or returning from:
 - (1) lawful employment;
 - (2) a school-sanctioned activity;
 - (3) an emergency involving the protection of a person or property from an imminent threat of serious bodily injury or substantial damage;
 - (4) a religious event;
 - (5) an activity involving the exercise of the child’s rights protected under the First Amendment to the United States Constitution, the Constitution of the State of Illinois, or both, such as freedom of speech and the right of assembly, or
 - (6) an activity conducted by a nonprofit or governmental entity that provides recreation, education, training, or other care under the supervision of one (1) or more adults;
 - d) engaged in interstate or international travel from a location outside Illinois to another location outside Illinois in the company of or with the permission of a Responsible Adult.

C. Truancy Restrictions

1. It is unlawful for any minor who is subject to compulsory education or to compulsory continuation education by statute or court order to be absent without valid cause from such attendance for a school day or portion thereof.
2. It is unlawful for any Responsible Adult to knowingly permit or by insufficient control to allow the minor to be absent without valid cause from such attendance for a school day or portion thereof.
3. It is a defense to a violation under the Truancy Code that the child engaged in the prohibited conduct while:
 - a) accompanied by the child's parent, guardian, or custodian;
 - b) accompanied by an adult specified by the child's parent, guardian, or custodian;
 - c) participating in, going to, or returning from:
 - (A) lawful employment;
 - (B) a school-sanctioned activity;
 - (C) an emergency involving the protection of a person or property from an imminent threat of serious bodily injury or substantial damage;
 - (D) a religious event;
 - (E) an activity involving the exercise of the child's rights protected under the First Amendment to the United States Constitution, the Constitution of the State of Illinois, or both, such as freedom of speech and the right of assembly, or
 - (F) an activity conducted by a nonprofit or governmental entity that provides recreation, education, training, or other care under the supervision of one (1) or more adults;
 - d) engaged in interstate or international travel from a location outside Illinois to another location outside Illinois in the company of or with the permission of a Responsible Adult.

D. Enforcement

a. Every member of the City's Police Department while on duty is hereby authorized to temporarily detain any minor alleged to be in violation of the provisions of this Ordinance (regardless of whether a citation is issued) until the parent, guardian, or custodian of the minor shall take him or her into custody. Such officer shall immediately upon taking custody of the minor reasonably attempt to communicate with the parent, guardian, or custodian of the minor unless the officer elects to deliver the minor to the school authorities pursuant to subparagraph (e) of this Section "D" of this Truancy Code. A Responsible Adult must take custody of the minor within one (1) hour of the time of a request for the same from the officer or be subject to a fine of \$25.00 per hour thereafter (not to exceed \$100) for each hour or part thereof that elapses until the Responsible Adult takes custody of the minor after having receive said request.

b. Before taking any enforcement action, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest unless the officer reasonably believes an offense has occurred and that, based on any response and other circumstances, no defense contained in subsections B (3) or C (3) of this Truancy Code applies.

c. A citation issued hereunder shall be in writing and shall:

- (1) State the name of the person being cited and the person's address if known;
- (2) Set forth the specific section of this Truancy Code that was violated, the date, time and location of the violation and a brief description of the violation;
- (3) Be signed by the issuing City police officer, truant officer or other complaining party.

In each instance where a citation is issued to a minor for violation of this Truancy Code, a minor's parent, guardian, or custodian shall be provided a copy of the citation notifying the parent, guardian, or custodian of the charge made against the minor.

d. A minor cited for a violation under this Truancy Code must attend a court hearing on the citation and must be accompanied at the hearing by his a Responsible Adult. If the Responsible Adult fails to attend any court hearing with the minor, and unless the interest of justice

would otherwise be served, the court may continue the hearing and shall issue a Notice or a Rule to Show Cause to the Responsible Adult, directing the Responsible Adult to appear at the continued hearing with the minor. Failure of the Responsible Adult to thereafter appear shall subject the Responsible Adult to such sanctions for contempt of court as the court shall determine.

e. Every member of the City's Police Department while on duty is hereby authorized to temporarily detain any minor suspected of violating the provisions of the Truancy Code, regardless of whether a citation is issued, and to deliver and surrender the minor to the lawful authorities of the school that the minor would normally attend.

E. Penalty

a. Any child subject to compulsory school attendance and who is absent without valid cause from such attendance for a school day or portion thereof shall be a "Truant" and shall be guilty of the offense of truancy and, if of the age of 13 years or older, such violator shall be subject to the following penalties:

1) Upon the first conviction, the payment of a fine in an amount not to exceed \$75.00 in addition to court cost;

2) Upon the second conviction within a one-year period, the payment of a fine of in excess of \$75.00 but not to exceed \$100.00 in addition to court cost;

3) In lieu of or in addition to any penalty imposed pursuant to 1) or 2) above, the violator may be ordered to perform community service as directed by the court;

4) The fine for any conviction for a violation of this Truancy Code shall not exceed \$100.00 as is required by the Illinois Municipal Code Truancy Law (65 ILCS 5/11-5-9), and

b. If the truant who is guilty of truancy is under the age of 13 years, the parent or custodian of the violator is subject to the foregoing fine or community service, or both."

Section 3. All ordinances or resolutions or parts of ordinance or resolutions in conflict with the above stated "Truancy Code" of the City of Columbia, Illinois are hereby changed and amended to read in compliance with the provisions of said code; and, to the extent the same may not be changed and amended to read in compliance with said code, are hereby repealed to the extent of such conflict.

Section 4. This Ordinance shall be in full force and effect following its passage and publication in pamphlet form, as provided by law.

Alderman Ebersohl moved the adoption of the above and foregoing Ordinance; the motion was seconded by Alderman Niemietz, and the roll call vote was as follows:

YEAS: Aldermen Ebersohl, Agne, Niemietz and Roessler.

NAYS: Aldermen Row, Hejna, and Oberkfell.

ABSENT: Alderman Stumpf.

ABSTENTIONS: None.

PASSED by the City Council and APPROVED by the Mayor this 20th day of July, 2009.



KEVIN B. HUTCHINSON, Mayor

ATTEST:



J. RONALD COLYER, City Clerk

(SEAL)

STATE OF ILLINOIS)
) SS
COUNTY OF MONROE)

CERTIFICATE OF PUBLICATION

I, J. Ronald Colyer, certify that I am the duly elected and acting Municipal Clerk of the City of Columbia, Illinois.

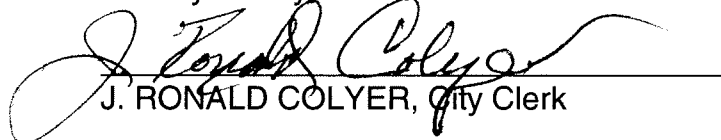
I further certify that on the 20th day of July, 2009, the Corporate Authorities of the City of Columbia, Illinois passed and approved Ordinance No. 2732, entitled:

"AN ORDINANCE TO REGULATE TRUANCY IN THE CITY OF COLUMBIA, ILLINOIS "

which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 2732, including the ordinance and a cover sheet thereof, was prepared and a copy of such ordinance will be posted in the Columbia City Hall, commencing on the 21st day of July, 2009 and continuing for at least ten (10) days thereafter. Copies of such ordinance were also available for public inspection upon request at the office of the City Clerk.

DATED at Columbia, Illinois this 20th day of July, 2009.


J. RONALD COLYER, City Clerk

(SEAL)