

COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 120180

Amending Chapter 50, Code of Ordinances, by enacting a new Section 50-242, concerning parental responsibility for leaving children unattended in public places when school is in session.

WHEREAS, in the State of Missouri school-aged children, with certain exceptions, are required to be in school and under the watchful supervision of adults in the schools; and

WHEREAS, the City Council has determined that a high rate of truancy or unexcused absences from school exists in the City; and

WHEREAS, when children are absent from school without excuse they are at greater risk of being harmed or causing harm to others and having poor academic performance than when they are attending and being supervised at school; and

WHEREAS, it is important to the community that children are not left unsupervised in public places and risk exposure to juvenile crime and victimization; and

WHEREAS, the City Council has determined that the establishment of an ordinance defining parental responsibility for leaving children subject to the Missouri State Compulsory Attendance laws unattended in public places when school is in session will help combat truancy, juvenile delinquency, and lead to improved student learning and achievement as well as be in the interest of the public health, safety, and welfare; NOW THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Chapter 50, Code of Ordinances of the City of Kansas City, Missouri, is hereby amended by adding a new Section 50-242, Parental responsibility; leaving children unattended in public places, when school is in session to read as follows:

Sec. 50-242. Parental responsibility; leaving children unattended in public places.

(a) A parent, guardian or other person having charge, control, or custody of a minor between the ages of seven years of age and the compulsory attendance age for the district shall cause the minor to attend regularly some public, private, parochial, parish, home school or a combination of such schools not less than the entire school term of the school which the child attends.

(b) Any parent, guardian or other person having charge, control, or custody of a minor subject to the Missouri compulsory school attendance laws that allows the minor to be unattended in or upon any "public place", as defined in subsection (d) below, without supervision by an adult having the lawful authority to be at such places, on any school

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day when school is in session, is in violation of this section unless the minor falls into one of the categories specified in subsection (c) below.

(c) Any parent, guardian or other person having charge, control, or custody of a minor subject to the Missouri compulsory school attendance laws shall not be considered to be in violation of this section 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's school is not in session at that particular time or on that particular day.
- (3) When the minor is enrolled in a valid home school program as authorized by section 167.031 of the Missouri Revised Statutes and the laws of the State of Missouri.
- (4) When the minor has been emancipated pursuant to the laws of the State of Missouri.
- (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 or is traveling directly home or to school from such lawful employment.
- (7) When the minor is engaged in an errand made necessary by an emergency.
- (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.
- (11) When the minor is on the sidewalk directly in front of the place where he or she resides.
- (12) When the minor is on a lunch break from a school that permits an open campus lunch and is qualified to participate in the open campus lunch program.
- (13) When a minor is expelled from school or receives out of school suspension by the local board of education.

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(d) 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 school in which the minor was enrolled or otherwise required to attend was in session. A school is not in session during its summer break or during any holiday or other scheduled general student vacation day or part of a day observed by the school.
- (3) "Emergency" means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term shall include but not be limited to a fire, natural disaster, vehicular accident, or a serious medical condition of sudden onset.
- (4) "Minor" means any person seven (7) through sixteen (16) years old.
- (5) "Home School" means a school, whether incorporated or unincorporated, that:
 - a. has as its primary purpose the provision of private or religious-based instruction;
 - b. enrolls pupils between the ages of seven years and the compulsory attendance age for the district, of which no more than four are unrelated by affinity or consanguinity in the third degree; and
 - c. does not charge or receive consideration in the form of tuition, fees, or other remuneration in a genuine and fair exchange for provision of instruction.
- (6) "School" as used in this ordinance includes and incorporates the definition of "home school".

(e) When a law enforcement officer has reasonable suspicion to believe a minor is unattended in a public place while school is in session under this section the law enforcement officer shall:

- (1) Before taking any enforcement action under this section, a law enforcement officer shall ask or attempt to ask the apparent minor questions regarding age and reason for being in a public place during a school day while school is in session.

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(2) In the event a law enforcement officer determines that a minor is unattended in a public place in violation of this section, then the minor will be offered transportation to the minor's school of enrollment in accordance with school district policy, to the custody of the parent or guardian or placed in a designated secure location, as determined by the Kansas City Missouri Police Department, until such time as a parent or legal guardian is notified and arrives to take custody of the minor.

(3) The law enforcement officer shall follow the policies, procedures, rules, directives and regulations of the Kansas City Missouri Police Department in the transportation of the minor.

(f) It shall be unlawful for the parent, legal guardian, or other person having custody or control of any minor to knowingly permit or, by insufficient control, allow such minor to be unattended in or upon any "public place", as defined in subsection (d), without supervision by an adult having the lawful authority to be at such places, on any school day when school is in session in violation of this section.

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

(g) Upon conviction of a violation of subsection (e), a person shall be subject to a fine not to exceed one hundred dollars (\$100.00) provided, however, that no such sanction shall be imposed upon any person who enrolls and actively participates in an organized parenting, curfew, or counseling program sponsored by a governmental, church, civic, or community organization to address the minor's school attendance. The penalty of a fine may also be suspended, with or without the payment of costs, at the discretion of the court, if the minor is immediately placed and kept in regular attendance at a public, private, parochial, parish or home school and if the fact of regular attendance is proved subsequently to the satisfaction of the court. A certificate stating that the minor is regularly attending a public, private, parochial or parish school and properly attested by the superintendent, principal or person in charge of the school is prima facie evidence of regular attendance by the minor. Each day a person is found by the law enforcement authorities to be in violation of this ordinance shall constitute a separate offense for the purposes of the fines specified herein. Persons charged with violating subsection (f) of this section shall not be subject to custodial arrest, but shall be issued a summons to appear in municipal court.

Approved as to form and legality:

Beth Murano
Assistant City Attorney