

**ORDINANCE NO. 2018-023-PS**

**AN ORDINANCE AMENDING SECTION 58-2 OF THE CODE OF ORDINANCES OF THE CITY OF TRUSSVILLE TO PROVIDE FOR FURTHER VIOLATIONS AND PUNISHMENTS FOR LOITERING AS A VIOLATION OF THE CODE OF ORDINANCES CITY OF TRUSSVILLE.**

**WHEREAS**, presently in the Code of Ordinances of the City of Trussville, Alabama, an incorporated municipality under the laws of the state of Alabama, loitering is considered a criminal act and violation of the City's ordinances; and

**WHEREAS**, the state of Alabama defines "loitering" as a crime in section 13A-11-9 of the Code of Alabama (1975); and

**WHEREAS**, under section 11-45-1 of the Code of Alabama (1975) municipal corporations are authorized to adopt ordinances "...not inconsistent with the laws of the state to carry into effect or discharge the powers and duties conferred...and to provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort, and convenience of the inhabitants of the municipality, and may enforce obedience to such ordinances:" and

**WHEREAS**, based on complaints and letters from certain business owners within the corporate limits and a presences of individuals remaining upon the premises of local businesses after being instructed to leave, a need has arisen to provide for further violations under the loitering statute and provide for punishments of these violations under this Ordinance.

**NOW THEREFORE, BE IT ORDINANED BY THE CITY COUNCIL OF THE CITY OF TRUSSVILLE, ALABAMA**, that section 58-2 of the Code of Ordinances of the City of Trussville, Alabama, be and is hereby amended to state the following:

**I. Loitering in Public Places.**

(A) Definitions. As used herein, the following definitions and interpretational guidelines shall apply:

Custodian includes a "parent" as defined herein or an adult to whom the care or supervision of a minor has been temporarily delegated or assigned by the minor's custodial parent(s) or legal guardian, or as otherwise defined in Chapter 15 of Title 12 of the Code of Alabama (1975).

Dangerous drug. As used in this chapter, any narcotic, drug, or controlled substance as defined in Code of Ala. 1975, title 20, chapter 2, as amended, or listed on any schedule incorporated therein.

Interpretative guidance. Where appropriate to the context, terms contained herein shall be construed with reference to (i) their plain, natural, and ordinary meaning; (ii) related or comparable provisions of the Trussville Municipal Code; and (iii) related or comparable provisions of the Alabama Criminal Code along with any case law interpreting the applicable statues.

Minor means an individual who is under the age of eighteen (18) years of age who has not been emancipated under Alabama law.

Parent means a natural person having legal custody of a minor (a) as a natural or adoptive parent, (b) as a legal guardian, (c) as a person who stands in loco parentis, (d) as a person to whom legal custody has been given by court order, or (e) as otherwise defined in Chapter 15 of Title 12 of the Code of Alabama (1975).

Public place. A place to which the general public has access and includes but is not limited to highways, transportation facilities, schools, places of amusement, parks, stadiums, arenas, playgrounds, shopping centers, parking lots, parking decks, lobbies, common areas, and other portions of apartment houses, hotels, motels, and inns not constituting rooms or apartments designed for actual residence or occupancy; provided, no private dwelling and no place engaged for a private gathering is included within the meaning of public place with respect to any persons specifically invited therein or thereupon.

- (B) Violations. A person commits the offense of loitering if, while in a public place, he or she, regardless of age, engages in the following conduct or enters or remains in a public place for the purpose of engaging in the following conduct:
- (1) Gambling;
  - (2) Engaging or soliciting another person to engage in prostitution or deviate sexual intercourse;
  - (3) Using, possessing, selling, purchasing, or exchanging a dangerous drug;
  - (4) Harassing or menacing patrons of the place, property, facility, or establishment in which the loitering occurs;
  - (5) Disrupting, disturbing, or interfering with the peaceful use and enjoyment thereof;
  - (6) Impeding or interfering with the flow of pedestrian or vehicular traffic to, from, or within the place, property, facility, or establishment;
  - (7) Lewd, obscene, or disorderly speech or behavior;
  - (8) Remains or wanders about in a public place for the purpose of begging;
  - (9) After having been requested to leave the premises by the owner, operator, manager, or an authorized agent thereof, or by any law enforcement officer, the person continues to remain upon those premises;
  - (10) Congregating or remaining in a public place for purposes not authorized by the owner, operator, or manager thereof after having been requested to leave the premises by said owner, operator, or manager, or by an authorized agent thereof, or by any law enforcement officer; or
  - (11) Congregating or remaining in a public place past the posted, displayed, or announced hours of operation; or
  - (12) Congregating or remaining in a public place where the property owner has placed a sign made of durable metal with a black background which shall be, at minimum, eighteen

inches (18”) in length and eighteen inches (18”) in width containing white lettering which states “No Loitering Ordinance # 2018-023-PS, City of Trussville” (see example of sign below) conspicuously placed where ingress and egress is established on said property.

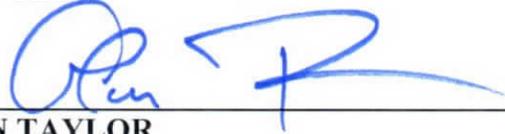


- (13) When a police officer or other law enforcement officer observes a person who is believed to be a minor or has probable cause to believe a violation has been committed, the law enforcement officer may temporarily detain the minor until the minor’s custodians, guardians, or parents can be contacted and notified of the reason for the detention of the minor. If a law enforcement officer detains a minor, then the minor shall only be released to the custodian, guardian, parent, or into the care and custody of the juvenile court of the county in which the alleged violation occurred.
- (14) A custodian(s), guardian(s), or parent(s) of a minor who is found to have allegedly violated this provision may also be found in violation of this provision. A minor or minors’ custodian(s), guardian(s), or parent(s) may be cited for permitting the minor to violate this ordinance. A law enforcement officer may issue to the minor or minors’ custodian(s), guardian(s), or parents a City of Trussville Non-Traffic Citation and Complaint (“NTCC”).”
- (C) Penalties.
- (1) Each violation of any section of this chapter shall be considered a separate and distinct violation, punishable as prescribed herein.
- (2) Any violation of this chapter committed by an adult shall be deemed a violation and may be cited on the NTCC. Upon conviction, a person violating this Ordinance shall be punishable as provided in section 1-5 of the Code of Ordinance.
- (D) Enactment Provisions
- (1) Should any provision of this ordinance be deemed unconstitutional or invalid by a court of competent jurisdiction, the remaining provisions of this ordinance shall remain in full force and effect.

- (2) Nothing contained this ordinance shall be construed or deemed to supersede or require a law enforcement officer to bring a violation under this ordinance as a sole or exclusive remedy.
- (3) This ordinance shall become effective following its passage, adoption, and publication as provided by law.

ADOPTED this the 11 day of September, 2018.

**ADOPTED:**



ALAN TAYLOR  
CITY COUNCIL PRESIDENT

**APPROVED:**



BUDDY CHOAT  
MAYOR

**ATTEST:**



LYNN PORTER  
CLERK