

ORDINANCE NO. 021-30

**AN ORDINANCE AMENDING THE CITY MUNICIPAL CODE
TO ESTABLISH A CITY TRUANCY CODE**

WHEREAS, the City of Centralia (“City”), Illinois is a duly created, organized and validly existing municipality of the State of Illinois under the 1970 Illinois Constitution and the laws of the State of Illinois, including particularly the Illinois Municipal Code, and all laws amendatory thereof and supplementary thereto; and

WHEREAS, the legislature granted non-home rule municipalities the broad authority to “pass all ordinances and make all rules and regulations proper or necessary, to carry into effect the powers granted to municipalities” (66 ILCS 5/1-2-1); and

WHEREAS, while “non-home rule municipalities have the authority to enact ordinances, such ordinances may in no event conflict with state law or prohibit what a state statute expressly permits . . . A local ordinance may impose more rigorous or definite regulations in addition to those enacted by the state legislature so long as they do not conflict with the statute” (*Village of Wauconda v. Hutton*, 291 Ill. App 3d 1058, 1060 (1997)); and

WHEREAS, the City of Centralia has a legitimate and compelling interest to insure that children attend school and receive an education; and

WHEREAS, the City of Centralia does not currently have a truancy ordinance or code; and

WHEREAS, the City of Centralia now desires to amend Chapter 12 of the Centralia Municipal Code to add a Truancy Code as Section 12.15 and finds that such amendment is in the best interest of the citizens’ health, safety, and welfare.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CENTRALIA,
ILLINOIS, as follows:**

1. That the preceding recitations in the upper part of this Ordinance are realleged, restated, and adopted as paragraph one (“1”) of this Ordinance.
2. Section 12.15 of the City Municipal Code shall be added to read as provided in **Exhibit A** attached hereto.
3. This Ordinance shall take full force and effect immediately upon passage by the City Council.

PASSED THIS 26th DAY OF JULY, 2021

Bryan Kuder
Mayor

Attest:

Kim Enke
City Clerk

aye Castellari
absent Smith
aye Griffin
aye Jackson
aye Kuder

CHAPTER 12

SECTION 12.15 – TRUANCY CODE

- (a) *Definitions.* As used in this Article unless the context requires otherwise the following words and phrases shall mean:
- (1) “*Court*” means the Fourth Judicial Circuit of Illinois; Marion County, Illinois.
 - (2) “*Custodian*” means:
 - (A) a person who under court order is the custodian of the person of a minor or
 - (B) a public or private agency with which the court has placed a minor or
 - (C) a person acting in the role of a parent by reason of a private agreement, arrangement, custom or habit.
 - (3) “*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.
 - (4) “*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.
 - (5) “*Guardian*” means:
 - (A) a parent; or
 - (B) a person who under court order is the guardian of the person of a minor; or
 - (C) a public or private agency with which the court has placed a minor.
 - (6) “*Minor*” means a person under eighteen (18) years of age.
 - (7) “*Parent*” means a person who is a natural parent, adoptive parent, or step-parent of another person.
 - (8) “*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.
 - (9) “*Responsible Adult*” means a person at least eighteen (18) years of age, authorized by a parent, guardian or custodian to have the care and custody of a minor.
 - (10) “*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.
 - (11) “*Truancy Hours*” means the period of the day when the school the minor would normally attend is in session, on days when the school the minor would normally attend is in session.

- (12) “*Truant Officer*” means any officer, appointee, employee or other agency of any school district or any federal, state or local government, 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.)
- (13) “*Truancy Review Board*” means any agency or entity established by any school district or any federal, state or local governmental entity or any counseling or social agency or any combination thereof recognized by the City and/or the court as an agency which provides service to improve education performance and/or attendance.
- (14) “*Valid Cause*” for absence is an illness that would temporarily impair or interfere with a student’s learning ability, observance of a religious holiday, death in the immediate family, family emergency, or such other circumstances which cause reasonable concern to the parent, guardian, or custodian for the safety or health of the student. Valid cause shall not include babysitting, employment activities (unless specifically sanctioned by the student’s School District), or any other reason that does not temporarily impair or interfere with a student’s learning ability.

(b) *Truancy Restrictions.*

- (1) It shall be unlawful for any Minor enrolled in a public, private or parochial school within the corporate limits of the City to absent himself or herself from attendance at school without valid cause. Any person who should so absent himself or herself shall be guilty of the offense of truancy.
- (2) It shall be unlawful for any Minor enrolled in a public, private or parochial school within the corporate limits of the City to absent himself or herself from attendance at school for five or more student attendance days during any one semester, unless such absenteeism is for valid cause and has been approved by his or her School District.
- (3) It is unlawful for any minor who is subject to compulsory education or to compulsory continuation education by statute or court order to be present in any public place or on the premises of any establishment within the City during truancy curfew hours.
- (4) It is unlawful for any parent or person in loco parentis minor to knowingly permit, or by insufficient control to allow, the minor to commit an act of truancy or acts of excessive absenteeism or to be present in any public place or on the premises of any establishment within the City during truancy curfew hours. A parent or person in loco parentis shall be considered to have knowingly permitted an offence when the parent or person in loco parentis guardian knows that said minor absents himself or herself from attendance at school without valid cause and the parent or person in loco parentis fails to act to insure that the minor attends the school in which he or she is enrolled. A parent or person in loco parentis shall be considered to have knowingly permitted a minor to commit an offense herein when the parent or person in loco parentis provides a written or oral excuse for the minor’s non-attendance which is false or does not amount to a valid cause.
- (5) It is a defense to prosecution under this Section that the minor was:
 - (A) accompanied by a parent, guardian, custodian or responsible adult if engaged in an activity which would constitute an excused absence from the school from which the minor would normally attend;

- (B) involved in an emergency;
- (C) going to or returning from a medical appointment without any detour or stop;
- (D) engaged in, going to or returning home from an employment activity pursuant to a cooperative school vocation program without any detour or stop;
- (E) in possession of valid proof that the minor is a student who has permission to leave the school campus;
- (F) a bona fide participant in an alternative education or home schooling program;
- (G) engaged in or subject to an authorized or excused absence from the school which the minor attends, including but not limited to lunch periods.

- (c) *Establishment Restrictions.* It is unlawful for any owner, operator or any employee of an establishment to allow a minor to be present or to remain upon the premises of the establishment in violation of Sections 12.7(b) above during truancy hours. It is unlawful for an Establishment to employ a minor during truancy hours unless said employment is pursuant to a School District approved cooperative school vocation program.

It is a defense to prosecution, under this subparagraph if the owner, operator or employee of the establishment immediately upon discovery of a minor reasonably believed to be in violation of Sections 12.7(b) notified a law enforcement agency that a minor was present on the premises of the establishment during truancy hours and refused to leave the establishment after being advised to do so by the owner, operator or employee.

- (d) *Enforcement Restrictions.* Every member of the Police Department while on duty is hereby authorized as follows:

- (1) For the first offense of any minor violating the provisions of this Code, to issue to the minor a citation, in writing, in the same form as described in paragraph (C) below. For a second offense, the law enforcement officer is authorized to temporarily detain any minor violating the provisions of this Code (regardless of whether a citation is immediately issued) until the parent, custodian or guardian of the minor shall take him or her into custody, but such officer shall immediately upon taking custody of the minor reasonably attempt to communicate with the parent, custodian or guardian of the minor unless subparagraph (E) herein is applicable. A parent, custodian or guardian must take custody of the minor within one (1) hour of the time of notice or be subject to a charge of Twenty-Five Dollars (\$25.00) per hour as hereinafter provided.
- (2) Whenever a Police Officer or Truant Officer witnesses or has knowledge based on reasonable grounds of a violation of this Code by any person, such person may be issued a citation. A citation or complaint may be made to a Police Officer or Truant Officer by any person.
- (3) A citation issued hereunder this shall be in writing and shall:
 - (A) state the name of the person being cited and the person's address if known;
 - (B) set forth the specific section of this Code that was violated, the date of the violation and a brief description of the violation;

(C) be signed by the issuing Police Officer, Truant Officer or complaining party.

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

- (4) A minor cited for a citation under this Code must attend a court hearing or Truancy Review Board hearing on the citation and must be accompanied at the hearing by his or her parent, custodian, guardian or other adult person having the legal care and custody of the minor. If any such person 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 person directing that said person to appear at the continued hearing with the minor. Failure of the person to thereafter appear shall subject said person to sanctions for contempt of court as determined by the court.
- (5) Every member of the Police Department while on duty is hereby authorized to temporarily detain any minor violating the provisions of Section 12-15(b) of this 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.*

- (1) Any minor found guilty of truancy or excessive absenteeism shall be fined as follows:
- (A) For the first offense during any one (1) school year, the minor shall be fined Fifty (\$50.00) Dollars or in the alternative participate in 4 hours of diversion or 5 hours of community service.
- (B) For the second offense during any one (1) school year, the minor shall be fined One Hundred (\$100.00) Dollars or in the alternative participate in 8 hours of diversion or 10 hours of community service.
- (C) For each subsequent offense during any one (1) school year, the minor shall be fined Two Hundred and Fifty (\$250.00) Dollars or in the alternative participate in 20 hours of diversion or 30 hours of community service.
- (2) In lieu of or in addition to a fine, a minor may be ordered to attend counseling, participate in Diversion Program or to perform court approved community service during times other than the minor's hours of school attendance and/or the minor's parent, custodian, guardian or other adult having legal care or custody of the minor may be ordered to attend a parenting class or series of parenting classes or other counseling approved by the court or recommended by the Truancy Review Board or to attend any program directly related to improving school attendance and/or performance. Any ordered Diversion or community service shall be completed within twelve (12) months of judgment.
- (3) Any parent, guardian or person in loco parentis under Section 12.15(b)(4) for the first time in any one school year shall be fined not less than One Hundred Fifty (\$150.00) Dollars nor more than Seven Hundred Fifty (\$750.00) Dollars. Any parent, guardian or person in loco parentis under Section 12.15(b)(4) for the second time in any one school year shall be fined not less than Two Hundred Fifty (\$250.00) Dollars nor more than Seven Hundred Fifty (\$750.00) Dollars. Any parent, guardian or person in loco parentis under Section

12.15(b)(4) for the third time in any one school year shall be fined not less than One Hundred Fifty (\$150.00) Dollars nor more than Seven Hundred Fifty (\$750.00) Dollars. Any parent, guardian or person in loco parentis under Section 12.15(b)(4) for more than three times in any one school year shall be fined not less than Five Hundred (\$500.00) Dollars nor more than Seven Hundred Fifty (\$750.00) Dollars for each subsequent conviction.

- (4) In addition to any penalty imposed pursuant to (1) or (3) above, the minor's parents, custodian, guardian or other adult having legal care or custody of the minor may be ordered to pay all amounts imposed as civil liability under Section 12-15(f) hereinafter.
 - (5) Any Establishment guilty of violating Section 12-15(c) shall, upon conviction thereof, be fined as provided in Section 1-10 of this Code.
- (f) *Civil Liability.* If a minor is detained for a period of time in excess of one (1) hour which requires the supervision of the minor by personnel of the Police Department, the parent, custodian, guardian or other adult having legal care or custody of the minor shall be jointly and severally liable for the costs therefore. The parent, custodian, guardian or other adult having legal care or custody of the minor who has committed any offense of this Code shall be assessed and billed for the costs; the costs shall be recoverable in any action enforcing any provision of this Code or in a separate civil action. In addition, the failure to pay the costs shall constitute a violation of this Code and subject the violator to the penalties described within Section 12-15 above. In the event any action is filed, the liable party shall be responsible for all court costs and any reasonable attorney's fees incurred by the City in collecting.