

ORDINANCE NUMBER 03-508

AN ORDINANCE TO MAKE IT UNLAWFUL TO LOITER IN SUMTER COUNTY

WHEREAS, Sumter County is empowered with certain police powers by the Home Rule Act; and

WHEREAS, the citizens of Sumter County are entitled to protection from the threat generated by the loitering of individuals in public places; and

WHEREAS, Sumter County Council desires to remove the threat generated by loitering individuals;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COUNCIL OF THE COUNTY OF SUMTER, SOUTH CAROLINA, AT ITS REGULAR MEETING DULY ASSEMBLED AND BY THE AUTHORITY THEREOF:

1. *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Conviction means an adjudication of guilt pursuant to a violation of state law or the substantially similar provisions of any political subdivision of this state or any other state or federal law, and includes a verdict of guilty, a finding of guilt, and an acceptance of a plea of guilty or a plea of nolo contendere.

Drug paraphernalia means as the term is defined in S.C. Code 1976, § 44-53-391, as amended.

Illegal drug activity means unlawful conduct with regards to the possession, sale, transfer, delivery, manufacture, or trafficking of controlled substances as proscribed in S.C. Code 1976, § 44-53-10 et seq., as amended.

Known unlawful drug user, possessor, or seller means a person who has, within the knowledge of the arresting officer, been convicted in any court of any illegal drug activity.

Public place means an area generally visible to public view and includes but is not limited to streets; sidewalks; bridges; alleys; plazas; parks; driveways; parking lots; transit stations; shelters; automobiles, whether moving or not; buildings, including those which serve food or drink or provide entertainment; and the doorways and entrances to buildings or dwellings and the grounds enclosing them.

2. *Procedures.*

(a) To adequately apprise one of when one's conduct is forbidden by this section and to remove the potential for arbitrary and capricious arrests, a person must first be warned by a law enforcement officer that the person's conduct is in violation of this section, and a reasonable time shall be provided for the person to vacate the area. However, if the warned person vacates the area but immediately or shortly thereafter continues to engage in the activity which initially caused the warning to have been issued in another location, additional warning is not required.

(b) Loitering for the purpose of engaging in illicit drug-related activity. After warning, the person is guilty of loitering for the purpose of engaging in illicit drug-related activity if the person remains in or wanders about a public place and intentionally continues to solicit, induce, entice, or procure another to engage in a violation of any article of the South Carolina Controlled Substances Act, S.C. Code 1976, § 44-52-10 et seq., as amended.

(c) Among the circumstances which the arresting officer may consider in determining whether the person to be warned intends such prohibited conduct are that the person:

- (1) Is seen by the officer to be in possession of drug paraphernalia;
- (2) Repeatedly beckons to, stops or attempts to stop passers by, or engages passers by in conversation;
- (3) Repeatedly stops or attempts to stop motor vehicle operators by hailing, waving of arms or any other bodily gesture;
- (4) Circles an area in a motor vehicle and repeatedly beckons to, contacts, or attempts to stop pedestrians;
- (5) Repeatedly passes to or receives from passers by, whether on foot or in a vehicle, money or objects;
- (6) Is a known unlawful drug user, possessor, or seller;
- (7) Is the subject of any court order, which directs the person to stay out of any specified area as a condition of release from custody, a condition of probation or parole or other supervision or any court order, in a criminal or civil case involving illegal drug activity; or
- (8) Has been evicted as the result of such person's illegal drug activity and ordered to stay out of a specified area affected by drug-related activity.

(d) Loitering as a menace to society. After warning, the person is guilty of loitering as a menace to society if the person remains in or wanders about a public place and threatens by

words or gestures to inflict bodily harm on passers by or offers profane, obscene or repulsive words or gestures to passers by to intimidate others or blocks the way of passers by who wish to proceed along a public or private right of way, including a sidewalk.

(e) The arresting officer may consider any of the circumstances in subsection 2.(c) or 2.(d) of this section, but any consideration of those circumstances must be supported by articulable facts indicating probable cause to believe that the arrested person intended to engage in illegal drug activity or to intimidate others. This section cannot be applied to any other violation of law or proscribed conduct.

3. *Penalty.* Any person violating this section shall, upon conviction, be fined not more than \$500.00 or imprisoned for not more than 30 days.

This Ordinance shall take effect upon third reading of Sumter County Council.

**THE COUNTY COUNCIL FOR SUMTER COUNTY
SOUTH CAROLINA**

BY: Naomi D. Sanders
Naomi D. Sanders

ITS: Chairman

ATTEST:

BY: Mary W. Blanding
Mary W. Blanding

ITS: Clerk to County Council

First Reading: August 12, 2003.

Public Hearing: August 26, 2003.

Second Reading: September 23, 2003.

Third Reading and Adoption: October 14, 2003.