

PROVIDING FOR YOUTH PROTECTION

§131.01 PURPOSE.

The purpose of this chapter is to protect juveniles from victimization and exposure to criminal activity by establishing a curfew for juveniles under the age of sixteen (16) years in the Town of Cooleemee. The Youth Protection Ordinance is intended to reinforce and promote the role of the parent in training and guiding children, and promote the health, safety, and welfare of both juveniles and adults by creating an environment offering better protection and security for all concerned.

§131.02 DEFINITIONS.

For the purposes of this chapter, the following words and phrases shall have the following meanings:

Direct Route. The shortest reasonable path of travel or a commonly used route to reach a final destination without any detour or stop along the way.

Emergency. An unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or death. This term also shall include any action that is reasonably necessary in order to respond to the medical needs of a family member of the juvenile regardless of whether the juvenile's action is taken in order to prevent death or serious bodily injury.

Establishment. Any privately owned place of business operated for profit to which the public

has access or is invited including but not limited to any place of amusement or entertainment.

Guardian. A person who is court-appointed to be the guardian of a juvenile.

Juvenile. Any person under the age of sixteen (16) years.

Owner/Operator. Any individual, firm, association, partnership or corporation, operating, managing or conducting any establishment, including the employees, members or partners of an association or partnership and the officers of a corporation.

Parent. A person who is a natural parent, adoptive parent, foster parent or step-parent of another person, or a person to whom legal custody has been given by court-order.

Public Place. Any place that is generally open to and used by the public or a substantial group of the public, whether it is publicly or privately owned, including but not limited to: streets, sidewalks, highways, alleys, right-of-way, public vehicular areas and parking lots, transportation facilities, theaters, restaurants, shops, bowling alleys, schools and school grounds, places of business and amusement, playgrounds, parks, similar areas that are open to the public, and other common areas open to or accessible to the public.

Remain. To linger, to stay in a public place, or to fail to leave the premises when requested to do so by a police officer, or fail to leave the premises of an establishment when requested to do so by the owner/operator or employee of the premises.

Restricted Hours. The time of night referred to herein is based upon the prevailing standard of time, whether Eastern Standard Time or Eastern Daylight Savings Time generally observed at that hour by the public in the Town of Cooleemee, North Carolina. Restricted Hours shall mean:

- 10:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. of the following day; and
- 11:00 p.m. on any Friday or Saturday until 6:00 a.m. of the following day.

§131.03 OFFENSES.

Except as provided by section 131.04 through 131.06, the following offenses constitute a violation of this chapter:

- (A) A juvenile commits an offense by being present in or remaining in any public place or on the premises of any establishment within the Town of Cooleemee during the restricted hours.
- (B) A parent or guardian of a juvenile commits an offense if he/she knowingly permits or by insufficient control, allows the juvenile to remain in any public place or on the premises of any establishment within the Town during the restricted hours. The term “*knowingly*” includes knowledge that a parent should reasonably be expected to have concerning the whereabouts of a juvenile in that parent’s legal custody. This requirement is intended to hold a neglectful or careless parent up to a reasonable community standard of parental responsibility through an objective test. It shall, therefore, be no defense that a parent was completely indifferent to the activities, conduct or whereabouts of such juvenile.
- (C) The owner, operator, or any employee of an establishment commits an offense if he/she knowingly allows a juvenile to remain upon the

premises of the establishment during the restricted hours. The term “*knowingly*” includes knowledge that an operator or employer should reasonably be expected to have concerning the patrons of an establishment. The standard for “*knowingly*” shall be applied through an objective test as to whether a reasonable person in the operator or employee’s position should have known that the patron was a juvenile in violation of this chapter.

- (D) It shall be a violation of this chapter for any person, sixteen (16) years of age or older, to aid or abet a juvenile in the violation of this chapter.
- (E) It shall be a violation of this chapter for a parent or guardian to refuse to take custody during the restricted hours of a juvenile for whom the parent or guardian is responsible.

§131.04 EXCEPTIONS.

A juvenile who is in a public place or establishment during the restricted hours shall not be in violation of this chapter if the juvenile is:

- (A) Accompanied by his parent or guardian.
- (B) Accompanied by an adult eighteen (18) years of age or older authorized by the parent or guardian of such juvenile to take the parent or guardian’s place in accompanying the juvenile for a designated period of time and purpose within a specified area.
- (C) On an errand, using a direct route, at the direction of the juvenile’s parent or guardian until the hour of 12:30 a.m.
- (D) In a motor vehicle with parental consent engaged in interstate travel through the Town of Cooleemee or originating or terminating in the Town of Cooleemee.
- (E) Traveling in a motor vehicle with a parent or guardian, or traveling in a motor vehicle with an adult eighteen (18) years of age or older authorized by the parent or guardian of such juvenile

to take the parent or guardian's place in accompanying the juvenile for a designated period of time and purpose within a specified area.

- (F) Engaged in a lawful employment activity, or using a direct route to or from their place of employment, either at the beginning or end of their work hours.
- (G) Reacting or responding to an emergency.
- (H) Attending or traveling to or from, by direct route, an official school, religious, or recreational activity that is supervised by adults and sponsored by a public or private school, the Town of Cooleemee or other governmental entity, a civic organization, or another similar entity that accepts responsibility for the juvenile.
- (I) Married or emancipated.

§131.05 SPECIAL INDIVIDUAL PERMIT.

When necessary nighttime activities or circumstances of an individual juvenile may be inadequately provided for by other provisions of this chapter, a written application, signed by the juvenile and by the parent or parents of the juvenile, may be submitted to the Chief of Police, or his designee, in request for a "Special Individual Permit." Upon the findings of reasonable necessity for the use of a public place to the extent warranted by such written application and circumstance the Chief of Police, or his designee, may authorize and issue a "Special Individual Permit." Such application and permit shall have the following information document.

- (A) the name, age and address of the juvenile.
- (B) the name, address, and telephone number of the parent thereof.
- (C) the height, weight, sex, color of eyes and hair and other physical characteristics of the juvenile
- (D) the necessity that requires the juvenile to remain upon a public place during the restricted hours otherwise applicable

(E) the public place where the juvenile will be during the restricted hours.

(F) the beginning and ending of the period of time involved by date and hour.

NOTE: The Chief of Police or his designee may grant a permit or modify such application for the juvenile's use of a public place at such hours, as in the opinion of the Chief of Police, may reasonably be necessary and consistent with the purposes of this chapter.

§131.06 SPECIAL EVENT PERMIT.

When necessary nighttime activities or circumstances of a group of juveniles or a group sponsored event may be inadequately provided for by other provisions of this chapter, the sponsor of the event may submit a written application to the Chief of Police, or his designee, in request for a "Special Event Permit." Normally such application should be submitted to the Chief of Police or his designee, providing for sufficient time for review, issue of such permit, and to provide for appropriate publicity through news media and through other agencies such as the schools. Such application shall define the activity, the scope of the use of the public places permitted, the period of time involved not to extend more than one (1) hour beyond the time for termination of the sponsored activity. No such permit shall be approved unless it is found to be reasonably necessary and is consistent with the purpose of this chapter.

§131.07 DEFENSE.

It shall be a defense to prosecution under subsection §130.03(3) that the owner, operator, or employees of an establishment promptly notify the police department that a juvenile was present on the premises of the establishment during the restricted hours and refused to leave.

§131.08 ENFORCEMENT.

Before taking any enforcement action under this chapter, a police officer shall ask the apparent of-

fender's age and reason for being in the public place or establishment during restricted hours.

The officer shall not prepare a juvenile arrest report, issue a citation, or make an arrest under this chapter unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no exception or defense as described herein is present.

§131.09 PENALTIES.

A juvenile who violates any provision of this chapter is subject to be adjudicated delinquent. The Court may, in its discretion, impose any dispositional alternative(s) that are provided in the North Carolina Juveniles Code for any juvenile who is delinquent.

Any person, other than a juvenile, who violates any provision of this chapter shall be guilty of a Class 3 misdemeanor and shall be subject to a fine not to exceed fifty (\$50) dollars and imprisonment in the discretion of the court in accordance with N.C. G.S. 14-4.

§131.10 SEVERABILITY.

If any section, subsection, sentence, term, or exception of this chapter, or any application thereof to any person or circumstance is adjudged to be unconstitutional or invalid, such adjudication shall not affect the validity of any remaining portion of this chapter or its application to any other person or circumstance.