

**CHAPTER 131: PROVIDING FOR YOUTH PROTECTION**

**Emergency**

**§ 131.01 PURPOSE**

An unforeseen combination of circumstances or the resulting state that calls for immediate action.

The purpose of this Ordinance 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 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

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

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 .

**§ 131.02 DEFINITIONS**

**Establishment**

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

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

**Direct route**

**Guardian**

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

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, 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 a publically 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, place 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 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 6:00a.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 this section 131.04 thru 131-06 ,the following offenses constitute a violation of this Ordinance:

(1) 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 during the restricted hours.

(2) 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 a parent's legal custody.

This requirement is intended to hold a neglectful or careless 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 parent was completely indifferent to the activities ,conduct or whereabouts of such juvenile.

(3) 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.

(4) It shall be a violation of this ordinance for any person, sixteen (16) years of age or older, to aid or abet a juvenile for whom the parent or guardian is responsible.

(5) It shall be a violation of this Ordinance 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 Ordinance if the Juvenile is:

- (1) Accompanied by his parent or guardian
- (2) 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
- (3) 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.
- (4) 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.
- (5) 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.

(6) 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.

(7) Reacting or responding to an emergency

(8) 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.

(9) 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 Ordinance, a written application , signed by the juvenile and 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 circumstances the Cheif of Police ,or his designee , may authorize and issue a " Special Individual Permit"

Such application and permit shall have the following information documented.

(1) the name ,age and address of the juveneile

(2) the name ,address ,and telephone number of the parent thereof

(3) the height, weight ,sex, color of eyes and hair and other physical characteristics of the juvenile

(4) the necessity that requires the juvenile to remain upon a public place during the restricted hours otherwise applicable.

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

(6) 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 purpose of this Ordinance.

**§ 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 Ordinance , the sponsor of the event may submit a written application to the Chief of Police ,or his designee, in request for "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 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 ordinance

**§ 131.07 DEFENSE**

It shall be a defense to prosecution under subsection 131.02 (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 Ordinance ,a police officer shall ask the apparent offender's age and reason for being in the public place or establishment during restricted hours.

**§ 131.09 PENALTIES**

A juvenile violates any provision of this Ordinance is subject to be adjudicated delinquent.

The court may in its discretion impose any dispositional alternatives(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 Ordinance shall be guilty of a Class 3 misdemeanor and shall be subject to a fine not to exceed fifty (\$50.00) 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 Ordinance ,or any application thereof to any person or circumstance is adjudicated to be unconstitutional or invalid, such adjudication shall not affect the validity of any remaining portion of this Ordinance or its application to any other person or circumstance