



ORDO1-0809-001
ORDINANCE ESTABLISHING A CURFEW FOR JUVENILES

BE IT ORDAINED by the Board of Commissioners of the Town of Pine Level, North Carolina, as follows:

Section 1. Purpose:

The purpose of this article 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. The youth protection ordinance is intended to reinforce and promote the role of the parent in raising 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.

Section 2. Definitions

For the purpose of this ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

1) Function: Any event including but not limited to activities involving the free exercise or religion, speech, assembly and activities sponsored by the town, a church, the county public schools, or other nonprofit or community organization.

2) Guardian: Any person having legal custody of a minor such as:

- (i) A natural or adopted parent;
- (ii) A legal guardian;
- (iii) A person who stands in loco parentis; or
- (iv) A person to whom legal custody has been given by the court.

3) Minor: A person who had not reached his/her sixteenth (16th) birthday and is not married, emancipated or a member of the armed services of the United States.

4) Public place: Any street, alley, highway, sidewalk, parks, playground or place to which the general public has access and a right to resort for business, entertainment or other lawful purpose. A public place shall include any store, shop, restaurant, tavern, cafe, theater, drugstore, poolroom or other place devoted to amusement or entertainment of the general public.

5) Restricted hours: The time of night referred to herein is based upon the prevailing standard time, whether Eastern Standard Time or Eastern Daylight Savings Time, generally observed at that hour by the public in the town. Restricted hours shall mean between the hours of 10:00 p.m. and 6:00 a.m. each day.

Section 3. Offenses

Except as provided by Section 4 of this ordinance, the following offenses constitute a violation of this article:

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 during the restricted hours.

B. A parent or guardian of a juvenile commits an offense if he 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" included knowledge that a parent should reasonably be expected to have concerning the whereabouts of a juvenile in the 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 or conduct or whereabouts of such juvenile.

C. The owner, operator or any employee of an establishment commits an offense if he 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; whether a reasonable person in the operator's or employee's position should have known that the patron was a juvenile in violation of this article.

D. It shall be a violation of this article for any person sixteen (16) years of age or older to aid or abet a juvenile in the violation of subsection (1).

E. It shall be a violation of this article 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.

Section 4. Exceptions:

The restrictions shall not apply to any minor who is traveling between his/her home and his/her place of employment, church, municipal building or school where a function is being held. Nor shall the restrictions apply to emergency errands or errands for parents, and inter- and intra-state travel or while accompanied by the minor's guardian.

Section 5. Defense:

It is a defense to prosecution under Section 3 of this ordinance that the owner, operator, or employee of an establishment promptly notified the police department that a juvenile was present on the premises of the establishment during the restricted hours and refused to leave.

Section 6. Enforcement:

1) When a minor is found to be in violation of this article, the officer will complete the applicable juvenile custody report. After completing the report, the officer will take the juvenile to the residence of his/her guardian. A written warning shall be issued to the guardian of such minor and a copy of the written warning attached to the juvenile custody report.

a. The written warning shall describe the action of the minor that constitutes a violation of this article, advise the guardian that if the guardian allows and permits or has allowed and permitted the minor to commit a second or subsequent violation of this subchapter that the guardian shall be subject to criminal prosecution for allowing a violation of this subchapter to occur. The written warning shall also advise the guardian that in all cases in which the minor is under twelve (12) years of age a report will be made to the county department of social services.

b. A copy of the written warning shall be attached to the juvenile custody report and turned in with the officers daily reports, where it shall be entered into the police department records system.

c. The chief of police or his designee shall review all reports on a daily basis. If a juvenile custody report has been filed pertaining to a violation of this article, the chief of police or his designee will examine the appropriate records and determine if the violation is a first offense or it is a second or subsequent offense.

2) If upon checking the appropriate records, the juvenile is found to be a first offender, the record will be filed and no further action will be taken. If the juvenile is found to have a record of prior violations of this article, the guardian described in section 13-157 shall be subject to a criminal citation. The reporting officer will be notified and the appropriate action will be taken. A copy of any such action shall be added to the appropriate file within the police department records system, serving as a part of the case files for any criminal action.

3) If the juvenile is under twelve (12) years of age, a report will be made and a copy forwarded to the county department of social services.

Section 7. Refusal of Guardian to Take Custody of a Minor

If any guardian refuses to take custody of his/her minor child found to be in violation of this article, the officers with physical custody of such minor shall contact the county department of social services and release the minor to that agency pending further investigation by the police department and the department of social services. The guardian will be subject to a criminal citation.

Section 8. Penalty

The punishment for violation of this article by any guardian of such minor shall be guilty of a misdemeanor as defined by G.S. Section 14-4(a).

Section 9. Effective Date

This ordinance shall become effective upon adoption.

DULY ADOPTED THIS 12TH DAY OF JANUARY 2009.

Jeff Holt
Mayor

ATTEST:
Sharon Thompson
Town Clerk

(SEAL)