

**Town of McAdenville  
Juvenile Protection Ordinance  
Amended Section 5.4**

**(A) PURPOSE**

The purpose of this ordinance is to:

- (1) protect juveniles from improper influences that prevail after the restricted hour.
- (2) protect juveniles from criminal activity that occurs after the restricted hour.
- (3) protect the public from the illegal acts of juveniles committed after the restricted hour.
- (4) help parents control their children.

**(B) DEFINITIONS**

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

- (1) **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.
- (2) **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, and automobile accident or any situation requiring immediate action to prevent serious bodily injury or death. This term shall also 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.
- (3) **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.
- (4) **GUARDIAN:** A person who is court-appointed to be the caregiver of a juvenile.
- (5) **JUVENILE:** Any person under the age of 18 years.
- (6) **OWNER / OPERATOR:** Any individual, firm, association, partnership or corporation, operating, managing or conducting any establishment, including the employees, members, partners of an association or partnership and the officers of a corporation.
- (7) **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.
- (8) **PUBLIC PLACE:** Any place that is generally open to and used by the public or a substantial group of the public, whether it be publicly or privately owned, including but not limited to, streets, sidewalks, highways, alleys, rights 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.
- (9) **REMAIN:** To linger or stay in a public place, or 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.

(10) **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 McAdenville, North Carolina. Restricted hours shall mean:

- (a) 11:00 P.M. on any Sunday, Monday, Tuesday, Wednesday or Thursday until 6:00 A.M. of the following day; and
- (b) 12:00 A.M. until 6:00 A.M. on any Friday or Saturday.

**(C) OFFENSES**

Except as provided by subsection (d), 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 parent/guardian’s legal custody. This requirement is intended to hold a neglectful or careless parent/guardian 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.
- (3) The owner / operator or 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 owner / 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 owner / operator’s or employee’s position should have known that the patron was a juvenile in violation of this ordinance.
- (4) It shall be a violation of this ordinance for any person 16 years of age or older to aid or Abet a juvenile in the violation of subsection (C) (1).
- (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.

**(D) EXCEPTIONS**

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

- (1) accompanied by his parent or guardian.
- (2) accompanied by an adult of age 18 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 or originating or terminating in the Town.
- (5) traveling in a motor vehicle with a parent or guardian, or traveling in a motor vehicle with an adult 18 years of age or older authorized by the parent or guardian of such juvenile to take parent or guardian's place in accompanying the juvenile for a designated period of time and purpose with a specified area.
- (6) engaged in a lawful employment activity, or using a direct route to or from a place of employment.
- (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 McAdenville or other government entity, a civic organization or another similar entity that accepts responsibility for the juvenile.
- (9) exercising First Amendment rights protected by the United States Constitution such as the free exercise of religion, freedom of speech, and the right of assembly.
- (10) married or emancipated.
- (11) when authorized, by special permit from the Chief of Police or his designee carried on the person of the juvenile thus authorized, as follows. When other provisions of this ordinance may inadequately provide for necessary nighttime activities of a juvenile, then the parent(s) or guardian(s) of the juvenile(s) shall contact the Chief of Police, or his designee, either for a regulation as provided in subsection (d) (12) or for a special permit as the circumstances warrant. Upon the findings of reasonable necessity for the use of a public place to the extent warranted by a written application signed by a juvenile, and the parent or guardian of the juvenile, if feasible, stating (1) the name, age and address of the juvenile; (2) the name, address and telephone number of the parent or guardian of the juvenile 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 unless otherwise applicable; (5) the public place; and (6) the beginning and ending of the period of time involved by date and hour, the Chief of Police or his designee may grant a permit in writing for the juvenile's use of a public place at such hours as in the opinion of the Chief of Police, or his designee, may be necessary and consistent with the purposes of this ordinance.
- (12) when authorized, by regulation issued by the Chief of Police or his designee in other similar cases of reasonable necessity, similarly handled as set forth in subsection (d) (11) but adapted to reasonably necessary nighttime activities of more juveniles than can readily be dealt with on an individual special permit basis. Normally such regulation by the Chief of Police or his designee permitting use of public places should be issued sufficiently in advance to permit appropriate publicity through news media and through agencies such as the schools. The regulation 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 activity, and the reason for finding that the regulation is reasonably necessary and is consistent with the purposes of this ordinance.

**(E) DEFENSE**

It is a defense to prosecution under subsection (c) (3) 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.

**(F) ENFORCEMENT**

- (1) Before taking any enforcement action under this ordinance, a police officer shall ask the apparent offender's age and/or date of birth and reason for being in the public place or establishment during the restricted hours.
- (2) The officer shall not prepare a juvenile contact report, issue a citation, or make an arrest under this ordinance unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no exception or defense in subsection (d) or (e) is present.

**(G) PENALTIES**

- (1) A juvenile who violates any provision of this ordinance is subject to being adjudicated delinquent. The Court may, in its discretion, impose any dispositional alternative(s) that are provided in the North Carolina Juvenile Code for any juvenile who is delinquent.
- (2) Any person other than a juvenile who violates any provision of this ordinance shall be guilty of a misdemeanor and shall be subject to a fine not to exceed \$100.00, and imprisonment in the discretion of the court in accordance with N.C.G.S. 14-4.

**(H) SEVERABILITY**

If any section, subsection, sentence, term, or exception of this ordinance, or any application thereof to any person or circumstances is adjudged 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. The Town Council does not intend a result through the enforcement of this ordinance that is absurd, impossible of execution or unreasonable. The Town Council intends that the ordinance be held inapplicable in such cases, if any, where its application would be unconstitutional under the Constitution of the State of North Carolina or under the Constitution of the United States of America.