

CURFEW ORDINANCE FOR MINORS UNDER THE AGE OF 16 YEARS

WHEREAS, the persons and property of the citizens of Chowan County have become increasingly subject to assaults, threats, harassments, theft, vandalism and destruction by juveniles under the age of sixteen; and,

WHEREAS, the citizens are fearful for their personal safety and the safety of their property, particularly from midnight to 5:00 a.m.; and,

WHEREAS, the Chowan County Sheriff's Department has noted a significant increase in complaints and reports regarding drug and drug related activities involving juveniles, particularly from midnight to 5:00 a.m.; and,

WHEREAS, juveniles under the age of sixteen are particularly vulnerable to night time crime and drug abuse and they are not equipped by age and experience to make good decisions concerning whether they should take part in crime and drug use; and,

WHEREAS, there is a clear and present danger of widespread destruction of property and personal injury caused by juveniles under the age of sixteen from midnight to 5:00 a.m.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF CHOWAN COUNTY, PURSUANT TO GENERAL STATUTE 160A-174:

Section I. Curfew for Minors; Exceptions

A. DEFINITIONS. As used in this section, the following definitions shall apply.

1. Public Place. Shall mean any street, alley, highway, sidewalk, park, 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 but not be limited to any store, shop, restaurant, tavern, bowling alley, cafe, theater, drug store, pool room, shopping center and any other place devoted to amusement or entertainment of the general public. It shall also include the front or immediate area of the above.

2. Guardian. A person who has the legal care and management of a minor as defined by this ordinance.

3. Minor. A person who has not reached his /her sixteenth birthday and is not married, emancipated or a member of the armed services of the United States.

4. Officer. Any sworn law enforcement official employed by the County of Chowan and having authority to enforce laws of Chowan County.

5. Emergency. Is defined as a confrontation by sudden peril; a pressing necessity; an exigency; an event or occasional combination of circumstances calling for immediate action or remedy. An unforeseen occurrence or condition calling for immediate action to avert imminent danger to life, health or property.

B. CURFEW AND ENFORCEMENT~

A curfew applicable to minors is established and shall be enforced within the County of Chowan as follows:

1. Time Limits. It shall be unlawful for any minor to be in or upon or to remain in or upon any public place as defined in this ordinance for each and every day of the week in the County of Chowan between the hours of midnight to 5:00 a.m.

2. Exceptions. The restrictions provided by Subsection B 1 shall not apply to any minor:

- (a) who is accompanied by a guardian, parent or other person charged with the care and custody of such minor, or a person over 18 years of age authorized by a parent or guardian to accompany the minor;~
- (b) who is traveling between his/her home and place of employment, or between his/her home and church, municipal building (if said municipal building is open for some legitimate business purpose during the hours when this curfew is in effect) or school where a function is being held;
- (c) who is seeking emergency medical care for himself/herself or some member of his/her immediate family;
- (d) who is engaged in travel with written parental permission;
- (e) who is engaged in bona fide interstate movement by motor vehicle through the County, or beginning or ending in the County;
- (f) who is engaged in situations in which a minor is outdoors but attending activities involving the First Amendment free exercise of religion, freedom of speech or the right of assembly;
- (g) who is engaged in travel in instances of reasonable necessity, if the minor possesses a written statement signed by the parent which describes the minor, states the facts establishing such reasonable necessity, specifies the streets, the time and the origin and destination of travel;
- (h) who is engaged in situations in which a minor is on sidewalk of the place where the minor resides, or on the sidewalk of a next door neighbor not congregating outdoors on another person's private property with the express permission of the owner or other person in lawful control of the property;
- (i) who is engaged in travel by a direct route, between a minor's place of residence and a school, religious, recreational, entertainment or any other organized community activity, including activities involving the free exercise of religion, speech or assembly.

3. RESPONSIBILITY OF ADULTS.

It shall be unlawful for any parent, guardian, or other persons charged with the care and custody of any minor to knowingly allow or permit such minor to be in or upon, or remain in or upon a public place within Chowan County within the curfew hours set out by Subsection B 1, except as otherwise provided in Subsection B 2.

4. RESPONSIBILITY OF BUSINESS ESTABLISHMENTS.

It shall be unlawful for any person, firm or corporation operating a place of business (including a place of amusement) to knowingly allow or permit any minor to be in or upon, or to remain in or upon, any place of business (including a place of amusement) operated by them within the curfew hours set out by Subsection B 1, except as otherwise provided in Subsection B 2.

5. ENFORCEMENT.

(a) When a minor is found to be in violation of this ordinance, the officer will determine if the juvenile is a first offender, he/she will be taken to the residence of his/her parent or guardian. A written warning will be given to that adult and an information report taken by the officer, to include the name of the juvenile and adult, and the time, date and location of the offense. This report will be turned into the Sheriff's Department records division.

(b) If, upon checking, the juvenile is found to be a repeat offender, he/she will be taken to the residence of his/her parent or guardian and the adult (parent or guardian) will be subject to a criminal citation, pursuant to Subsection B 6 of this article. A report will be turned into the Sheriff's Department and entered into the Sheriff's Department records division.

6. AIDING AND ABETTING BY ADULT, GUARDIAN OR PARENT

It shall be a violation of this ordinance for an adult, guardian or parent to allow, permit, encourage, aid or abet a minor in the violation of Subsection B 1 of this ordinance, except as otherwise provided in Subsection B 2. Action may also be taken pursuant to North Carolina General Statute 14-316.1 - Contributing to delinquency and neglect by parents and others.

7. REFUSAL OF GUARDIAN OR PARENT TO TAKE CUSTODY OF A MINOR

If any guardian or parent refuses to take custody of his/her minor child found in violation of this ordinance, the officer with custody of said minor shall follow the procedure set out in Chapter 7A Article 41 (North Carolina Juvenile Code).

8. PUNISHMENT

The punishment for violation of this ordinance for persons 16 years old or older and for businesses (Section 1, B-4) shall be a maximum fine of fifty dollars or imprisonment for a maximum of thirty days; or both.

SECTION 2. If any section, subsection sentence, term, exception, or any application thereof to person or circumstance is adjudged to be unconstitutionally invalid, such adjudication shall not affect the validity of any remaining portion of the ordinance or its application to any other person or circumstance.

SECTION 3. This ordinance shall be in full force and effect from and after its adoption.

Adopted this 4th day of April, 1994, by the Board of Commissioners of Chowan County.

Nancy B. Morgan, Clerk