Ordinance No. _____

AN ORDINANCE AMENDING CHAPTER 15, ARTICLE VII OF THE CITY CODE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHARLOTTE, NORTH CAROLINA, THAT:

Section 1: Chapter 15, Article VII of the City Code is amended to read as shown in the attached Exhibit A, which is incorporated and made a part of this ordinance herein.

Section 2: This ordinance shall become effective upon adoption.

Approved as to form:

_____
City Attorney

ARTICLE VII. - YOUTH PROTECTION[4]

Footnotes:

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State Law reference— *Authority to adopt ordinances imposing a curfew on persons of any age less than 18, G.S. 160A-198.*

Sec. 15-151. - Purpose.

The purpose of this article is to protect juveniles from victimization and exposure to criminal activity by establishing a curfew for juveniles under 18 years of age in the city. This article 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.

(Code 1985, § 15-145)

Sec. 15-152. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Direct route means 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 means 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 includes 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 means 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 means a person who is court appointed to be the guardian of a juvenile.

Juvenile means any person under the age of 18 years.

Owner/operator means 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 means a person who is a natural parent, adoptive parent, foster parent, stepparent or another person, or a person to whom legal custody has been given by court order.

Public place means 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.

Remain means to linger or stay in a public place, to fail to leave the premises when requested to do so by a police officer, 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 in this article is based upon the prevailing standard of time, whether Eastern Standard Time or Eastern Daylight Saving Time, generally observed at that hour by the public in the city. *Restricted hours, during the pilot period of November 1, 2026 through August 31, 2027,* means:

On any day of the week, 10:00 p.m. until 6:00 a.m. of the following day for unemancipated minors age 17 and under.

(Code 1985, § 15-146; Ord. No. 4791, § 1, 11-28-2011)

Cross reference— Definitions generally, § 1-2.

Sec. 15-153. - Offenses.

Except as provided by section 15-154, the following offenses constitute a violation of this article:

A juvenile commits an offense by being present in or remaining in any public place or on the premises of any establishment within the city during the restricted hours.

(2)

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 city 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 or conduct or whereabouts of such juvenile.

(3)

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.

(4)

It shall be a violation of this article for any person 18 years of age or older to aid or abet a juvenile in the violation of subsection (1) of this section.

(5)

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.

(Code 1985, § 15-147)

Sec. 15-154. - Exceptions.

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

(1)

Accompanied by his parent or guardian.

(2)

Accompanied by an adult 21 years of age or older authorized by the parent or guardian of such juvenile to take the parent's 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 10:30 p.m.

(4)

In a motor vehicle with parental consent engaged in interstate travel through the city or originating or terminating in the city.

(5)

Traveling in a motor vehicle with a parent or guardian, or traveling in a motor vehicle with an adult 21 years of age or older authorized by the parent or guardian of such juvenile to take the parent's 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 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 city or other governmental 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 designee carried on the person of the juvenile thus authorized, as follows: When necessary nighttime activities of a juvenile may be inadequately provided for by other sections of this article, recourse may be had to the chief of police, or his designee, either for a regulation as provided in subsection (12) of this section 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 by a parent of the juvenile, if feasible, stating (i) the name, age and address of the juvenile; (ii) the name, address, and telephone number of a parent thereof; (iii) the height, weight, sex, color of eyes and hair and other physical characteristics of the juvenile; (iv) the necessity that requires the juvenile to remain upon a public place during the restricted hours otherwise applicable; (v) the public place; and (vi) 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 may reasonably be necessary and consistent with the purposes of this article.

(12)

When authorized, by regulation issued by the chief of police or designee in other similar cases of reasonable necessity, similarly handled as set forth in subsection (11) of this section 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 other agencies, such as the schools, and 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 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 article.

(Code 1985, § 15-148; Ord. No. 4791, § 1, 11-28-2011)

Sec. 15-155. - Defense.

It is a defense to prosecution under section 15-153(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.

(Code 1985, § 15-149)

Sec. 15-156. - Enforcement.

(a)

Before taking any enforcement action under this article, a police officer shall ask the apparent offender's age and reason for being in the public place or establishment during restricted hours.

(b)

The officer shall not prepare a juvenile arrest report, issue a citation, or make an arrest under this article unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no exception or defense in section 15-154 or 15-155 is present.

(Code 1985, § 15-150)

Sec. 15-157. - Penalties.

(a)

A juvenile who violates any section of this article is subject to being adjudicated delinquent. The court may, in its discretion, impose any dispositional alternatives that are provided in the state juvenile code for any juvenile who is delinquent.

(b)

A violation under this article by any person other than a juvenile may be punishable as a Class 3 misdemeanor and be subject to a maximum fine not to exceed $500.00 pursuant to G.S. 160A-175 and G.S. 14-4.

(Code 1985, § 15-151; Ord. No. 278, § 5, 4-4-2022)