

AN ORDINANCE FOR THE SAFETY AND PROTECTION OF JUVENILES WITHIN THE  
INCORPORATED LIMITS  
OF THE TOWN OF INDIAN TRAIL

WHEREAS, the Town Council of Indian Trail has received much citizen input regarding unsupervised juveniles at risk; and

WHEREAS, juveniles are subject to greater exploitation and risks with less available adult assistance when unsupervised late at night; and

WHEREAS, the primary responsibility for the supervision and protection of a juvenile is his or her Parent or Guardian as defined below;

NOW THEREFORE, the Town Council of the Town of Indian Trail does hereby ordain as follows:

(1) There is hereby created a new chapter of the Code of Ordinances to read as follows:

Chapter 131 Juvenile Protection Ordinance

Section 131.01 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 16 years 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.

Section 131.02 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:

A. *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.

B. *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.

C. *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.

D. *Guardian* means a person who is court appointed to be the guardian of a juvenile.

E. *Juvenile* means any person who has not reached their sixteenth birthday and is not married, emancipated or a member of the armed forces of the United States.

F. *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.

G. *Parent* means a person who is a natural Parent, adoptive Parent, foster Parent, Stepparent or other persons, or person to whom legal custody of a juvenile has been given by court order.

H. *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.

I. *Remain* means to linger or stay in a public place, to fail to leave the premises when requested to do so by a law enforcement 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.

J. *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* means on any Sunday, Monday, Tuesday, Wednesday, Thursday, Friday, and Saturday 11:00 p.m. until 6:00 a.m. of the following day.

Section 131.03      Violation Defined

Except as provided by section 131.04, the following civil offenses constitute a violation of this article:

(1) A juvenile commits a civil 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 a civil 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 a civil 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 civil offense under this article for any person 16 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 civil offense under 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.

**Sec. 131.04. 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 18 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 the hour of 12:30 a.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 18 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) When authorized, by special permit from the Town Manager or his 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 Town Manager or his designee, either for a regulation as provided in subsection (11) 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 or Guardian 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 or Guardian 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 Town Manager 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 Town Manager may reasonably be necessary and consistent with the purposes of this article.

(11) When authorized, by regulation issued by the Town Manager or his designee in other similar cases of reasonable necessity, similarly handled as set forth in subsection (10) 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 Town Manager 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.

Sec. 131.05.            Defense.

It is a defense to prosecution under section 131.03(3) that the owner, operator, or employee of an establishment promptly notified the town law enforcement agency that a juvenile was present on the premises of the establishment during the restricted hours and refused to leave.

Section 131.06            Enforcement

When a Juvenile shall be found in violation of this section any Law Enforcement Officer may detain the Juvenile and determine if he is a first time offender of this section. The Juvenile may be transported to any Law Enforcement Facility in order to facilitate such determination.

- (a) If it is determined that the Juvenile is a first time offender of this section the Law Enforcement Officer will contact his Parent or Guardian to make the Parent or Guardian aware of the violation and request that the Parent or Guardian take custody of the Juvenile. The Law Enforcement Officer may transport the Juvenile to the Parent or Guardian. The Juvenile's Parent or Guardian will receive a written warning for allowing a first offense of this section and the Law Enforcement Officer shall maintain an Incident Report including the name, age and address of the Juvenile; the name and address of the Parent or Guardian; the date, time and location of the offense and any other relevant information. A copy of this Incident Report shall be forwarded to the Town Manager
- (b) If it is determined that the Juvenile is a repeat offender of this section the Juvenile's Parent or Guardian shall be notified and the Juvenile returned to the Parent or Guardian as in (a) above. The Parent or Guardian may be issued a civil summons charging him with a violation of this section. An Incident Report of the offense shall be maintained by the town Law Enforcement Agency.
- (c) If any Juvenile offender of this section is under 12 years of age, a copy of the Incident Report shall be forwarded to the Department of Social Services.

**Section 131.07      Refusal by Parent or Guardian to take custody of Juvenile**

If the Parent or Guardian of any Juvenile found in violation of this section refuses to take custody of such Juvenile or if the Law Enforcement Officer is unable to make contact with such Parent or Guardian, the Law Enforcement Officer having custody of the Juvenile shall contact the Department of Social Services and release the Juvenile to that agency pending further investigation. The Parent or Guardian may be issued a civil summons charging him with a violation of this section.

**Section 131.08      Penalty**

(b) Any person 16 or over who violates Section 131.03 shall be subject to a civil penalty to be determined in the annual schedule of fees and charges in the most recent budget ordinance. Said civil penalty shall not exceed the sum of five hundred dollars (\$500) per violation per juvenile. In addition, any Parent or Guardian of any Juvenile found liable of a violation of Section 131.03 or 131.06 shall be subject to a civil penalty to be determined in the annual schedule of fees and charges in the most recent budget ordinance. Said civil penalty shall not exceed the sum of five hundred dollars (\$500) per violation per juvenile. . Each incident regarding each individual juvenile shall be considered a separate violation.

**Section 131.089      Severability**

The provisions of this section are considered severable and in the event that any provisions herein or part thereof shall be deemed unconstitutional, invalid or unenforceable, the other provisions hereof shall remain in full force and effect

Section 131.10      Gender

The singular includes the plural, the masculine singular includes the feminine singular and masculine and feminine plural unless otherwise specified.

(2)      Effective Date

This Ordinance shall become effective two weeks after its adoption by vote of the Indian Trail Town Council. During such time notice of the adoption of such ordinance shall be published at least once in a local newspaper.

So ordained this the 12<sup>th</sup> day of June, 2007

Sandy B. Moore  
Honorable Sandy Moore, Mayor

Peggy Piontek  
Attest: Peggy Piontek, Town Clerk

*Approved as to form:*

*Robert E. Casler*  
*Town Attorney*



AN ORDINANCE FOR THE SAFETY AND PROTECTION OF MINORS WITHIN THE  
INCORPORATED LIMITS  
OF THE TOWN OF INDIAN TRAIL

WHEREAS, the Town Council of Indian Trail has received much citizen input regarding unsupervised Minors at risk; and

WHEREAS, Minors are subject to greater exploitation and risks with less available adult assistance when unsupervised late at night; and

WHEREAS, Protection of Minors is the subject of a companion ordinance proposed to be added as Chapter 131 of the Indian Trail Code of Ordinances

WHEREAS, the primary responsibility for the supervision and protection of a Minor is his or her Parent or Guardian as defined below;

NOW THEREFORE, the Town Council of the Town of Indian Trail does hereby ordain as follows:

- (1) There is hereby created a new chapter of the Code of Ordinances to read as follows:

Chapter 132 Minor Protection Ordinance

Section 132.01 Purpose

The purpose of this article is to protect Minors from victimization and exposure to criminal activity by establishing a curfew for Minors between the ages of 16 and 18 years in the town. 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 Minors and adults by creating an environment offering better protection and security for all concerned.

Section 132.02 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:

A. *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.

B. *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 Minor, regardless of whether the Minor's action is taken in order to prevent death or serious bodily injury.

C. *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.

D. *Guardian* means a person who is court appointed to be the Guardian of a Minor.

E. *Minor* means any person who has reached their sixteenth birthday but has not reached their eighteenth birthday and is not married, emancipated or a member of the armed forces of the United States.

F. *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.

G. *Parent* means a person who is a natural Parent, adoptive Parent, foster Parent, Stepparent or other persons, or person to whom legal custody of a Minor has been given by court order.

H. *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.

I. *Remain* means to linger or stay in a public place, to fail to leave the premises when requested to do so by a law enforcement 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.

J. *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* means on any Sunday, Monday, Tuesday, Wednesday, or Thursday, Friday, and Saturday 11:00 p.m. until 6:00 a.m. of the following day.

Section 132.03      Violation Defined

Except as provided by section 132.04, the following offenses constitute a violation of this article:

(1) A Minor 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 Minor commits an offense if he knowingly permits, or by insufficient control, allows the Minor 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 Minor 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 Minor.

(3) The owner, operator, or any employee of an establishment commits an offense if he knowingly allows a Minor 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 Minor 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 Minor 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 Minor for whom the Parent or Guardian is responsible.

Sec. 132.04. Exceptions.

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

(1) Accompanied by his Parent or Guardian.

(2) Accompanied by an adult 18 years of age or older authorized by the Parent or Guardian of such Minor to take the Parent's or Guardian's place in accompanying the Minor 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 Minor'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 city or originating or terminating in the city or operating a motor vehicle on the public street or highways in full compliance with the restrictions of any operator's license issued by the North Carolina Division of Motor Vehicles.

(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 Minor to take the Parent's or Guardian's place in accompanying the Minor 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 Minor.

(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) When authorized, by special permit from the Town Manager or his designee carried on the person of the Minor thus authorized, as follows: When necessary nighttime activities of a Minor may be inadequately provided for by other sections of this article, recourse may be had to the Town Manager or his designee, either for a regulation as provided in subsection (11) 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 Minor, and by a Parent or Guardian of the Minor, if feasible, stating (i) the name, age and address of the Minor; (ii) the name, address, and telephone number of a Parent or Guardian thereof; (iii) the height, weight, sex, color of eyes and hair and other physical characteristics of the Minor; (iv) the necessity that requires the Minor 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 Town Manager or his designee may grant a permit in writing for the Minor's use of a public place at such hours as in the opinion of the Town Manager may reasonably be necessary and consistent with the purposes of this article.

(11) When authorized, by regulation issued by the Town Manager or his designee in other similar cases of reasonable necessity, similarly handled as set forth in subsection (10) of this section but adapted to reasonably necessary nighttime activities of more Minors than can readily be dealt with on an individual special permit basis. Normally such regulation by the Town Manager 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.

Sec. 132.05.            Defense.

It is a defense to prosecution under section 132.03(3) that the owner, operator, or employee of an establishment promptly notified the town law enforcement agency that a Minor was present on the premises of the establishment during the restricted hours and refused to leave.

Section 132.06        Enforcement

When a Minor shall be found in violation of this section any Law Enforcement Officer may detain the Minor and determine if he is a first time offender of this section. The Minor may be transported to any Law Enforcement Facility in order to facilitate such determination.

- (a) If it is determined that the Minor is a first time offender of this section the Law Enforcement Officer will contact his Parent or Guardian to make the Parent or Guardian aware of the violation and request that the Parent or Guardian take custody of the Minor. The Law Enforcement Officer may transport the Minor to the Parent or Guardian. The Minor's Parent or Guardian will receive a written warning for allowing a first offense of this section and the Law Enforcement Officer shall maintain an Incident Report including the name, age and address of the Minor; the name and address of the Parent or Guardian; the date, time and location of the offense and any other relevant information. A copy of this Incident Report shall be forwarded to the Town Manager.
- (b) If it is determined that the Minor is a repeat offender of this section the Minor's Parent or Guardian shall be notified and the Minor returned to the Parent or Guardian as in (a) above. The Parent or Guardian may be issued a civil summons charging him with a violation of this section. An Incident Report of the offense shall be maintained by the town Law Enforcement Agency.

Section 132.07      Refusal by Parent or Guardian to take custody of Minor

If the Parent or Guardian of any Minor found in violation of this section refuses to take custody of such Minor, the Parent or Guardian may be issued a criminal citation or summons charging him with a violation of this section.

Section 132.08      Penalty

Any person 16 or over who violates Section 131.03 shall be subject to a civil penalty to be determined in the annual schedule of fees and charges in the most recent budget ordinance. Said civil penalty shall not exceed the sum of five hundred dollars (\$500) per violation per Minor. In addition, any Parent or Guardian of any Minor found liable of a violation of Section 131.03 or 131.06 shall be subject to a civil penalty to be determined in the Annual Schedule of Fees and Charges adopted by the Town Council in conjunction with the most recent budget ordinance. Said civil penalty shall not exceed the sum of five hundred dollars (\$500) per violation per Minor. Each incident regarding each individual Minor shall be considered a separate violation.

Section 132.089      Severability

The provisions of this section are considered severable and in the event that any provisions herein or part thereof shall be deemed unconstitutional, invalid or unenforceable, the other provisions hereof shall remain in full force and effect

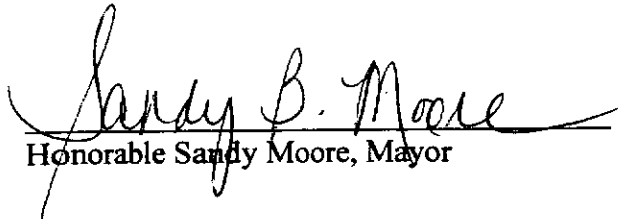
Section 132.10      Gender

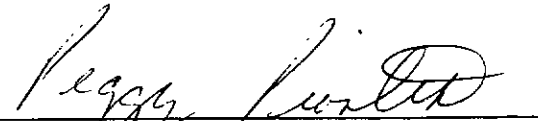
The singular includes the plural, the masculine singular includes the feminine singular and masculine and feminine plural unless otherwise specified.

(2)      Effective Date

This Ordinance shall become effective two weeks after its adoption by vote of the Indian Trail Town Council. During such time notice of the adoption of such ordinance shall be published at least once in a local newspaper.

So ordained this the 12<sup>th</sup> day of June 2007

  
Honorable Sandy Moore, Mayor

  
Attest: Peggy Piontek, Town Clerk

*Approved as to form,*  
*Robert E. Canoler*  
*Town Attorney*

