

**STATE OF GEORGIA
COUNTY OF CHATTOOGA**

**AN ORDINANCE AMENDING THE TOWN OF TRION'S CODE OF ORDINANCES
CHAPTER 38 REGARDING OFFENSES AND MISCELLANEOUS PROVISIONS**

WHEREAS, the Town of Trion ("Town") has heretofore adopted an ordinance regarding Offenses and Miscellaneous Provisions ("Ordinance"), codified as the Town of Trion's Code of Ordinances ("Code"); and,

WHEREAS, Chapter 38 of the Ordinance provides for certain offenses to be defined and enforcement provisions described; and,

WHEREAS, since the adoption of the Ordinance it has come to the attention of the Town Council that certain offenses against the Public Order and Safety should be outlined, defined and codified in said Ordinance; and,

WHEREAS, the Mayor and Town Council have determined that it is appropriate to amend the Ordinance to include such provisions;

NOW, THEREFORE, the Mayor and Town Council of the Town of Trion hereby ordain that the Offenses and Miscellaneous Provisions Ordinance, Chapter 38, of the Town of Trion's Code of Ordinances, is hereby amended as follows:

The Section of 38-65 shall no longer be reserved but shall state as follows:

Sec. 38-65. - Juvenile curfew.

- (a) *Title of section.* This section shall be known as the Town of Trion Juvenile Curfew Ordinance.
- (b) *Findings and purpose.* It is the responsibility of the Town of Trion Council to protect the health, safety, and welfare of the citizens of Town. The Town Council is concerned about the increase in criminal activity engaged in by minors especially those crimes that occur after hours and/or times in which juveniles should be at home. As reported by the Town Police and citizens a curfew would be helpful in solving many of these problems. Accordingly, the Town of Trion Council finds and declares that the purpose of this section is to reduce the number of crimes committed by and against juveniles after hours, and to safeguard the welfare of our children in the Town of Trion.
- (c) *Definitions.* The following words and phrases, whenever used in this section, shall be construed as defined in this section:

Adult means a person who is at least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor, or an emancipated minor.

Curfew hours means 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. on the following day, and 12:01 a.m. on any Friday or Saturday until 6:00 a.m. on the following day.

Emancipated minor means:

- (1) Any person under the age of 18 who is or has been married or who is not under the care, custody, and control of a parent, parents, guardian, person standing in locus parentis, or the juvenile court of competent jurisdiction; or
- (2) Any person under the age of 18 who has had the disabilities of minority removed by a court of competent jurisdiction.

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, or automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

Establishment means any privately owned place of business operated for a profit to which the public is invited including, but not limited to, any place of amusement or entertainment.

Guardian means a person who, under court order, is the guardian of the person of a minor, or a public or private agency with whom a minor has been placed by the court.

Minor means any person 17 years of age or under.

Operator means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and officers of a corporation.

Parent means a person who is a natural parent, an adopted parent, or stepparent of another person.

Public place means any place to which the public or a substantial group of the public has access that includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

Remain means linger or stay, or fail to leave premises when requested to do so by an officer or the owner, operator, or the person in control of the premises.

School day Any day of the week in which school is in session and students are normally expected to attend. This term does not include any religious holidays for which a student's professed religion prohibits such student from school attendance.

Serious bodily injury means bodily injury that causes death or creates a substantial risk of serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(d) *Curfew for persons 17 years of age or younger.*

(1) It is unlawful for any minor 17 years of age or younger, to loiter, wander, stroll, or play in or upon the public place, streets, highways, roads, alleys, parks, playgrounds or other public grounds, establishments, public buildings, places of amusement, eating places, vacant lots, or any place in the Town of Trion unsupervised by an adult, parent, or guardian having the lawful authority to be at such places, between the hours of 11:00 p.m. on any day and 6:00 a.m. on the following day; provided, however, that on Fridays and Saturdays the effective hours are between 12:01 a.m. and 6:00 a.m. of the following day.

(2) It shall be unlawful for the parent, guardian, or other person having custody or control of any minor 17 years of age or younger to knowingly or, by insufficient control, to allow such minor to be in or upon the public place, streets or any other places listed in subsection (d)(1) of this section in the Town of Trion between the hours of 11:00 p.m. on any day and 6:00 a.m. the following day, or on Fridays and Saturdays between the hours of 12:01 a.m. and 6:00 a.m. the following day, except as provided by subsection (f) of this section.

(3) It shall be unlawful for any owner, operator, or employee of an establishment to knowingly allow a minor to be in or upon the premises of an establishment in the Town of Trion between the hours of 11:00 p.m. on any day and 6:00 a.m. the following day, or on Fridays and Saturdays between the hours of

12:01 a.m. and 6:00 a.m. the following day, except as provided by subsection (f) of this section.

- (e) It shall be unlawful for any minor under the age of eighteen (18) years to loiter, wander, stroll, or play in or upon any public place unsupervised by a parent, guardian, or other adult twenty-one (21) years of age or older having the lawful care and custody of the minor and having the lawful authority to be at such places between the hours of 8:30 a.m. and 2:30 p.m. on any school day; provided, however, that the provisions of this section shall not apply in the following instances:
- (1) When the minor is upon an emergency errand directed by his/her parent, guardian, or other adult person twenty-one (21) years of age or older having the lawful care and custody of the minor;
 - (2) When the minor is traveling directly from home to lawful employment or returning directly home from lawful employment that makes it necessary to be in above referenced places during the proscribed period of time;
 - (3) When the minor is enrolled in a valid home study program as authorized by O.C.G.A. § 20-2-690, and has written consent from a parent or legal guardian to be outside the home;
 - (4) When the minor is graduated from high school;
 - (5) When the minor has written proof from school authorities that he/she is excused from school attendance at that particular time; or
 - (6) When the minor is participating in an approved school or study activity which requires the minor to be off school property.
- (f) If a minor is suspended or expelled from school, that minor's parent or legal guardian, for the duration of the suspension or expulsion, shall:
- (1) Personally supervise the minor or arrange for a responsible adult twenty-one (21) years of age or older to supervise the minor at the times that the minor would have been required to be in attendance at school had he/she not been expelled or suspended; and

(2) Prohibit the minor from being in any public place at the times the minor would have been required to be in attendance at school had he/she not been suspended or expelled unless:

a. The minor is accompanied by his/her parent or legal guardian or a responsible adult, twenty-one (21) years of age or older, selected by the parent or legal guardian to supervise the minor; or

b. The minor is actually and lawfully employed or traveling directly to or from the job site.

(g) *Offenses.*

(1) A minor commits an offense if he or she remains in any public place or on the premises of any establishment in the Town of Trion during curfew hours.

(2) A parent or a guardian of a minor commits an offense if he or she knowingly permits, or by insufficient control allows, the minor to remain in any public place or on the premises of any establishment in the Town of Trion during curfew hours.

(3) An owner, operator, or employee of an establishment commits an offense if he or she knowingly allows a minor to remain in or upon the premises of any establishment in the Town of Trion during curfew hours. It is a defense to prosecution under this section that the owner, operator, or employee of an establishment promptly notified the Trion Police Department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

(h) *Exceptions.* The provisions of this section shall not apply in the following instances:

(1) When a minor is accompanied by his or her parent, guardian, or other adult having the lawful care and custody of the minor;

(2) When the minor is upon an emergency errand directed by his or her parent or guardian or other adult person having the lawful care and custody of such minor, or if such minor is seeking medical treatment;

(3) When the minor is returning directly home from a school activity, entertainment, recreational activity, or dance;

- (4) When the minor is returning directly home from lawful employment that makes it necessary to be in the above referenced places during the prescribed period of time;
 - (5) When the minor is attending or traveling directly to or from an activity involving the exercise of first amendment rights of free speech, freedom of assembly, or free exercise of religion;
 - (6) When the minor is in a motor vehicle of parental consent for normal travel. All cases of interstate travel through the Town of Trion are excepted from the curfew;
 - (7) When the minor is an emancipated minor as defined in O.C.G.A. § 20-2-16.03(3).
- (i) *Violations and penalties.* Penalties for violation of this section are as follows:
- (1) Upon conviction of violations of this ordinance for the first time, an adult, parent, guardian or owner, operator or employee of an establishment shall be given a warning citation. Upon further citation, an adult, parent, guardian or owner, operator or employee of an establishment shall be subject to a fine not to exceed \$500.00, and/or imprisonment of not more than twenty (20) days. Upon the third and subsequent violations, such person shall be fined up to one thousand dollars (\$1,000.00) per violation. Except as otherwise provided each violation of this section shall constitute a separate offense.
 - (2) Adjudication of violations of this section by minors shall be made in accordance with O.C.G.A. § 15-1-1 et seq.).
 - (3) Any minor under the age of seventeen (17) who violates subsection (c) above is subject to the jurisdiction of the juvenile court. Any minor who has attained the age seventeen (17) and violates subsection (c) above is subject to the jurisdiction of the municipal court.
 - (3) It shall be an affirmative defense if the parent or legal guardian has initiated the jurisdiction of the juvenile court against the minor under age seventeen (17), prior to the time that the minor was found in violation of this ordinance.

(4) A police officer shall transport any minor found in violation of subsection (c) above to the police department. A minor transported to the police department will be released to the custody of his/her parent or legal guardian.

(j) *Enforcement.* Before taking any enforcement action under this section, a Town of Trion police officer shall ask the apparent offender's age and the reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstance that no exception listed in subsection (f) of this section is present.

(k) *Severability.* If any portion of this section or the application thereof shall be held invalid or unconstitutional, the other provisions of this section shall not be affected, and to this end the provisions of this section are declared to be severable.

9. Sections 38-66—38-80. Shall be “Reserved.”

APPROVED AND ADOPTED this _____ day of _____, 2016.

Larry Stansell, Mayor

Attest:

Missy Duncan, Town Clerk