

BOARD OF ALDERMEN

ITEM NO. C(5)

AGENDA ITEM ABSTRACT

MEETING DATE: September 18, 2007

TITLE: A Request to Adopt an Ordinance Repealing Section 5-15 of the Carrboro Town Code

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| DEPARTMENT: Town Attorney | PUBLIC HEARING: NO |
| ATTACHMENTS: Ordinance | FOR INFORMATION CONTACT: Mike Brough 929-3905 |

PURPOSE

The Town Attorney has reviewed Section 5-15 (Curfew Ordinance) of the Carrboro Town Code and has determined that the ordinance has significant problems and should not be enforced by the Town.

INFORMATION

In response to a recent article in *Popular Government*, Chief Hutchison requested that the Town Attorney review Town Code Section 5-15 which regards curfews for minors. The article discussed many details about curfews for minors, and in particular, focused on federal case law that has developed during the past decade. The article also contains a condensed summary of the justifications for, and the elements of, a curfew ordinance that is sufficient to withstand constitutional muster. The article cites the Fourth Circuit decision in *Schleifer v. City of Charlottesville, VA.*, 159 F3d 843 (1998), which is the definitive case governing North Carolina municipal curfews for minors.

The primary justification for a municipality to enact a curfew ordinance is to respond to a well-documented history of juvenile violence that occurs predominantly at night. The curfew must be limited to the specific hours when, according to the available data, juvenile crime occurs. According to Chief Hutchison, Carrboro does not have a significant problem with juvenile violence.

The Town's current curfew ordinance has significant problems and should not be enforced. In fact, Chief Hutchison has said that the Carrboro Police Department currently does not make arrests for violations of the curfew ordinance.

FISCAL IMPACT

None

RECOMMENDATION

Town staff recommends that the Town adopt the attach ordinance repealing Section 5-15 of the Carrboro Town Code.