

ORDINANCE NO. 154 OF 1995 "CURFEW FOR MINORS"

AN ORDINANCE OF THE BOROUGH OF SUGARCREEK, VENANGO COUNTY, PENNSYLVANIA. ESTABLISHING A CURFEW FOR MINORS SUBJECT TO CERTAIN EXCEPTIONS; PROVIDING FOR DEFINITIONS THEREFORE AND THE PURPOSES THEREOF; FIXING RESPONSIBILITY UPON PARENTS AND POLICEL AND DETERMINING THE PENALTIES FOR AND THE PROCEDURES UPON VIOLATION.

The Borough of Sugarcreek, Venango County, Pennsylvania, by and through its duly elected members of the Borough Council, hereby Ordains:

Section 1: Short Title

This Ordinance shall be known and may be cited as the "Curfew for Minors Ordinance."

Section 2: Legislative Findings

The Borough hereby finds and determines that:

- (a) The number of minors in or on public places or establishments within the Borough at night is a grave concern to the citizens of the Borough;
- (b) The number of minors in or on public places or establishments within the Borough at night is contrary to the prevailing community standards within the Borough;
- (c) The number of minors in or on public places or establishments within the Borough at night is contrary to the fundamental principles and values of the family and the parental role of the child rearing and otherwise being responsible for the control of their children;
- (d) Allowing minors in or on public places or establishments within the Borough at night is not conducive to having such minors be adequately rested and mentally alert for proper performance within the educational system;
- (e) The majority of public places or establishments within the Borough are closed to minors between the hours of 12:01 o'clock a.m., prevailing time, and 5:00 o'clock a.m., prevailing time.
- (f) The incidents of juvenile criminal activity and mischief by minors is higher during the night than during the day;
- (g) Minors and the congregation of minors in groups in or on public places or establishments within the Borough at night present a potential and actual threat to themselves and to the general good, health, morals, safety and welfare of the public;
- (h) The regulation of minors in or on public places or establishments within the Borough in order to protect the minors and the general public is a proper exercise of the police powers of the Borough.

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Section 3: Purposes

This is a curfew ordinance prescribing, in accordance with prevailing community standards, regulations for the conduct of minors in or on public places and establishments at night, for the protection of younger children in the Borough from each other and from other persons herein and thereon during nighttime hours, for the enforcement of parental control and responsibility for their children, for the protection of the general public from nocturnal mischief by minors and the reduction of the incident of juvenile criminal activity, all for the good of minors, or the furtherance of family responsibility and the general good, health, morals, safety, and welfare of the public.

Section 4: Authority

This Ordinance, and the objectives leading to its enactment, are authorized by the Borough Code, as amended, and codified at 53 P.S. section 45101 et seq.

Section 5: Definitions

- (1) For the purposes of this Ordinance, the following words and phrases when used in this Ordinance shall have the meanings given to them in this Section unless the context clearly indicates otherwise. Moreover, those words and phrases not specifically defined herein shall have a common meaning as expressed in Merriam Websters Collegiate Dictionary tenth Addition 1993 in the Municipal Building of the Borough of Sugarcreek. Additionally, in this Ordinance, the singular shall include the plural, the plural shall include the singular; and the masculine shall include the feminine and the neuter.
 - (a) BOROUGH: The Borough of Sugarcreek, Venango County, Pennsylvania.
 - (b) CUSTODIAN: Any person over the age of twenty-one (21) years who stands in loco parentis to a minor or any person to whom legal custody of a minor has been given by order of a court having jurisdiction thereof.
 - (c) DELEGATE: The officer in charge of a shift or anyone appointed by the Chief of Police to serve as a delegate.
 - (d) ESTABLISHMENT: Any place of business to which the general public has access and a right to resort for business, entertainment or other lawful purpose. An establishment shall include, but not be limited to, any store, shop, restaurant, tavern, bowling alley, cafe, theater, drug store, pool room or shopping center.
 - (e) GUARDIAN: Any person other than a parent who has legal guardianship of the person of a minor.
 - (f) MINOR: Any unmarried person under the age of eighteen (18) years.

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- (g) OPERATOR: Any individual, firm, association, partnership or corporation operating, managing, conducting or having charge of any establishment; and whenever used in any section of this Ordinance prescribing a penalty, the term "operator" as applied to firms, associations or partnerships shall include the members or partners thereof and as applied to corporations shall include the officers thereof.
- (h) PARENT: The natural or adoptive parent of a minor. When used in this Ordinance, the term "parent" shall mean one or both parents.
- (i) PUBLIC PLACE: Any public street, roadway, alley, sidewalk, park, playground, public building, vacant lot or public parking area within the Borough.
- (j) REMAIN: To stay behind, to tarry and to stay unnecessarily in, on or upon any establishment or public place, including the congregating of groups (or of interacting minors) totaling four or more person in which any minor involved would not be using such establishment or public place for emergencies or ordinary purposes such as mere passage of going home.
- (k) VEHICLE: Every device in, upon or by which any person or property is or may be transported.

Section 6: Application

The provisions of this Ordinance shall supplement local laws, ordinances or regulations existing in the Borough of those of the Commonwealth of Pennsylvania. Where a provision of this Ordinance is found to be in conflict with any provision of a local law, ordinance, code or regulations of those of the Commonwealth of Pennsylvania, the provisions which are more restrictive or which establish the higher standard shall prevail.

Section 7: Curfew for Minors; Exceptions

- (1) It shall be unlawful for any minor to be or remain in, on or upon any public place or establishment, whether on foot or otherwise, within the Borough, or in any enclosure or vehicle which is on or in close proximity to any such public place or establishment within the Borough between the hours of 12:01 o'clock a.m. and 5:00 a.m., prevailing time, both times inclusive.
- (2) The provisions of Paragraph (1) of this Section shall not apply to any minor accompanied by a parent, guardian, custodian or other adult person having legal care or custody of such minor.
- (3) The provisions of Paragraph (1) of this Section shall not apply to any minor who is or remains in, on or upon a public or establishment during the prohibited hours due to the requirements of said minor's employment or public or charitable service, provided that

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said minor is carrying an affidavit signed by the minor's said employer or supervisor indicating the probable schedule of the minor's said employment, public or charitable activities. Upon termination of the activity or employment, the minor shall surrender the affidavit to the employer or supervisor; and, if the minor shall fail to surrender said affidavit, the employer or supervisor shall, within ten (10) days of termination of the activity or employment, notify in writing the Chief of Police.

- (4) The provision of Paragraph (1) of this Section shall not apply to any minor possessing a written statement dated that day and signed by the minor's parent, guardian, custodian or other adult person having legal care or custody of such minor, which written statement specifies the time, place, purpose and necessity of the minor being or remaining in, on or upon a public place, establishment or vehicle contrary to the provision of this Ordinance.
- (5) The provisions of Paragraph (1) of this Section shall not apply to any minor who is legitimately on an emergency errand.

Section 8: Duties of Operators of Establishments

It shall be unlawful for any operator of an establishment or any person having control over or charge of an establishment to knowingly permit or suffer any minor, unaccompanied by a parent, guardian, custodian or other adult person having legal care or custody of such minor, to be or remain in, on or upon the premises of such establishment between the hours of 12:01 o'clock a.m. And 5:00 o'clock a.m., prevailing time, both times inclusive.

Section 9: Duties of Parents, Guardians, Custodians and Other Adult Person Having Legal Care or Custody of a Minor

- (1) It shall be unlawful for any parent, guardian, custodian or other adult person having legal care or custody of such minor to suffer or permit or by insufficient control to allow such minor to be or remain in, on or upon any public place or establishment, whether on foot or otherwise, within the Borough, or on any enclosure within the Borough, between the hours of 12:01 o'clock a.m. And 5:00 o'clock a.m., prevailing time, both times inclusive, such as would constitute a violation by the minor of the Provisions of Section 7 of this Ordinance.
- (2) The provisions of Paragraph (1) of this Section shall not apply when said minor is accompanied by a parent, guardian, custodian or other adult person having legal care or custody of such minor or when a parent, guardian, custodian or other adult person having legal care or custody of such minor has made a missing person notification the the Police Department of the Borough, in regard to said minor.
- (3) The provision of Paragraph (1) of this Section shall not apply to a parent, guardian, custodian or other adult person having legal care or custody of such minor, if said minor is exempt from the provisions of Section 7 of this Ordinance by reason of Section 10 of this Ordinance.

Section 10: Functions of Churches, Schools, Clubs or Other Organizations

Any minor attending a function or entertainment of any church, school, club or other organization that requires such minor to be away from their homes or usual places of abode between the hours of 12:01 o'clock a.m. And 5:00 o'clock a.m., prevailing time, both times inclusive, shall be exempt from the provisions of Section 7 hereof, while attending or participating in such function or entertainment and for one-half hour before the commencement of such function or entertainment and for one-half hour after said function or entertainment is ended; provided that the church, school, club or other organization shall have registered in advance with the Chief of Police or delegate to have the minors be away from their homes or usual places of abode during all or a portion of the prohibited hours and stating the times that the said function or entertainment shall begin and end.

Section 11: Enforcement and Penalties

- (1) Any police officer upon reasonable cause to believe a minor to be in violation or any provision of Section 7 of this Ordinance shall ascertain the age, name and address of such minor and the name or names of said minor's parent, guardian, custodian or other adult person having legal care or custody of such minor, and shall warn the minor the he or she is in violation of curfew and shall direct the minor to proceed at once to his or her home or usual place of abode. The police officer shall report such action to the Chief of Police or delegate, who, in turn shall cause a written notice to be mailed to the said minor's parent, guardian, custodian or other adult person having legal care or custody of such minor advising of the violation of this Ordinance and the penalty provisions contained in this Ordinance.
- (2) If such minor refuses to comply with the aforesaid direction by the police officer, or refuses to give the police officer his correct age, name and address, or if said minor has been warned on a previous occasion within the preceding twelve (12) months that he or she is in violation of curfew, then the said minor shall be presumed to have run away from his parent, guardian, custodian or other adult person having legal care or custody of such minor, and the said minor shall be taken to police headquarters, and a parent, guardian, custodian or other adult person having legal care or custody of such minor shall be notified as soon as practicable of the violation and required to report to police headquarters for the purpose of accompanying the said minor to his or her home. If, within a reasonable time, the parent, guardian, custodian or other adult person having legal care or custody of such minor cannot be located or fails to come and take charge of the minor, then the minor shall be released into the custody of the appropriate juvenile authorities pursuant to all applicable laws and rules of Court.
- (3) Any minor who violates any provision of Section 7 of this Ordinance and who has been warned on one or more previous occasions within the immediately preceding twelve (12) months period that he or she is in violation of curfew, shall, upon conviction thereof in a summary proceeding before any District Justice having jurisdiction of such offense, be sentenced to pay a fine of not less than Ten (\$10) Dollars, nor more than Six Hundred (\$600) Dollars. Nothing contained herein shall prohibit or prevent this

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institution of appropriate proceedings under and pursuant to the Juvenile Act, Act of July 9, 1976, P.L. 586, No. 142 (42 Pa. C.S., Section 6301, et seq.) and any amendments or supplements thereto.

- (4) Upon a minor's third violation of any provision of Section 7 of this Ordinance, the said minor's parent, guardian, custodian or other adult person having legal care or custody of such minor shall be cited for the violation, and shall, upon conviction thereof in a summary proceeding before any District Justice having jurisdiction of such offense, be sentenced to pay a fine of not less than twenty-five (\$25) Dollars, nor more than Six Hundred (\$600) Dollars, and in default of payment, to imprisonment for a term not to exceed thirty (30) days. Nothing contained herein shall prohibit or prevent the institution of appropriate proceedings under the pursuant to the Crimes Code of Pennsylvania, Act of December 6, 1972, P.L. 1482, No. 334 (18 Pa. C.S.A. Section 101, et seq.) and any amendments or supplements thereto.
- (5) Any minor who violates any provision of Section 7 of this Ordinance more than three (3) times within the immediately preceding twelve (12) month period may, at the discretion of the Chief of Police or delegate, be reported to a society or organization the purpose of which is to take charge of incorrigibles and delinquents, and proceedings shall then be taken in the proper Court for the permanent welfare of such minor and a like procedure may be taken in cases where the arrest of the parent is not effective, or where for any other reason the provisions of this Ordinance cannot be made effective by the imposition of fines and penalties.
- (6) Any parent, guardian, custodian or other adult person having legal care or custody of such minor who shall violate any provision of Section 9 of this Ordinance and who has been notified pursuant to Section 13 on one or more previous occasions within the immediately preceding twelve (12) month period of violation of this Ordinance by the said minor, shall, upon conviction of such offense, be sentenced to pay a fine of not less than Twenty-five (\$25) Dollars, nor more than Six hundred (\$600) Dollars, and in default of payment, to imprisonment for a term not to exceed thirty (30) days. Nothing contained herein shall prohibit or prevent the institution of appropriate proceedings under and pursuant to the Crimes Code of Pennsylvania, Act of December 6, 1972, P.L. 1482, No. 334 (18 Pa. C.S.A. Section 101, et seq.) and any amendments or supplements thereto.
- (7) Any operator of an establishment or other person having control over or charge of any such establishment who shall violate any provision of this Ordinance shall, upon conviction thereof in a summary proceeding before any District Justice having jurisdiction of such offense, be sentenced to pay a fine of not less than Twenty-five (\$25) Dollars, nor more than Six Hundred (\$600) Dollars, and in default of payment, to imprisonment for a term not to exceed thirty (30) days. Nothing contained herein shall prohibit or prevent the institution of appropriate proceedings under and pursuant to the Crimes Code of Pennsylvania, Act of December 6, 1972, P.L. 1482, No. 334 (18 Pa. C.S.A. Section 101, et seq.) and any amendments or supplements thereto.

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- (8) Any other individuals, firms, associations, partnerships or corporations, including the members or partners of such firms, associations and partnerships and the officers of such corporations, who shall violate, or aid, assist or abet the violation of, any provision of this Ordinance shall, upon conviction thereof in a summary proceeding before any District Justice having jurisdiction of such offense, be sentenced to pay a fine of not less than Twenty-five (\$25) Dollars, nor more than Six Hundred (\$600) Dollars, and in default of payment, to imprisonment for a term not to exceed thirty (30) days. Nothing contained herein shall prohibit or prevent the institution of appropriate proceedings under and pursuant to the Crimes Code of Pennsylvania, Act of December 6, 1972, P.L. 1482, No. 334 (18 Pa. C.S.A. Section 101, et seq.) and any amendments or supplements thereto.
- (9) Each violation of any provision of this Ordinance shall constitute a separate offense.

Section 12: Police Discretion in Age Determination

The police officers of the Borough in taking minors into custody shall use their discretion in determining the age of the minor and in doubtful cases may require positive proof of age. Until such proof is furnished, the police officer's judgment shall prevail.

Section 13: Severability

The provisions of this Ordinance are severable and, if any sentence, clause, section, part of provision of this Ordinance are severable and, if any sentence, clause, section, part of provision of this Ordinance is for any reason held to be illegal, invalid or unconstitutional, such illegality, invalidity or unconstitutionality shall not effect or impair any of the remaining sentence, clauses, sections part of provision of this Ordinance. It is hereby declared to be the intent of the Council of the Borough that this Ordinance would have been adopted even if such illegal, invalid or unconstitutional sentence, clause, section, part or provision had not been included herein.

Section 14: Repealer

All ordinance or parts of ordinances which are inconsistent herewith are hereby repealed.

Section 15: Effective Date

This Ordinance shall become official and effective five (5) days from final passage.

ORDAINED AND ENACTED AS THE CURFEW FOR MINORS ORDINANCE ON THIS 1ST DAY OF NOVEMBER, 1995, BY THE BOROUGH COUNCIL OF THE BOROUGH OF SUGARCREEK, VENANGO COUNTY, PENNSYLVANIA.