

CHAPTER 6

CURFEW

BOROUGH OF WYALUSING
ORDINANCE NO. 6

AN ORDINANCE, CHAPTER, 6, CURFEW, OF THE CODE OF THE BOROUGH OF WYALUSING, COUNTY OF BRADFORD, COMMONWEALTH OF PENNSYLVANIA.

The purpose of this Ordinance is to regulate safety and general welfare as authorized under the Borough Code found at 53 P.S. § 46202, Specific powers.

(6) Health and cleanliness regulations. To make such regulations as may be necessary for the health, safety, morals, general welfare and cleanliness and the beauty, convenience, comfort and safety of the borough.

1. Title
2. Purpose and Legislative Intent
3. Definitions
4. Hours of Establishment
5. Exceptions
6. Parental Responsibility
7. Police Procedures
8. Violations and Offenses

1. Title

This chapter shall be entitled “An Ordinance of the Borough of Wyalusing, Bradford County, Pennsylvania, Establishing a Curfew During Nocturnal Hours for Minor Children Under the Age of Eighteen (18) Years.”

2. Purpose and Legislative Intent

It is hereby declared to be the policy of the Borough of Wyalusing to minimize nocturnal crime, juvenile delinquency and criminal mischief and to prevent the destruction and damage of both public and private property. By this chapter, the Borough of Wyalusing seeks to promote the safety and general welfare of the residents of the Borough of Wyalusing by prescribing, in accordance with prevailing community standards, regulations concerning the presence of minors on streets, roads, highways, establishments, or other public areas of the borough at night, all for the good of minors, for the furtherance of family responsibility and for the public good, safety and welfare.

Borough Council finds that a curfew for minors meets a very local need and will be a significant factor in minimizing juvenile delinquency. This chapter also takes into consideration the danger hours for nocturnal crime and accumulations of minors with potential risks incident to immaturity. Parental responsibility for the whereabouts of children is the norm. Further, as parental control increases, the likelihood of juvenile delinquency decreases. Therefore, the Borough of Wyalusing finds there is a need for a nocturnal curfew for minors, to achieve under local conditions the purposes herein stated.

The Borough has the authority to arrest individuals in violation of this ordinance under 53 P.S. § 46121 of the Borough Code. That statute provides that borough police officers can arrest without a warrant any and all persons guilty of breach of the peace, vagrancy, riotous or disorderly conduct or drunkenness, or who may be engaged in the commission of any unlawful act tending to imperil the personal security or endanger the property of the citizens, or for violating any ordinance of the borough for the violation of which a fine or penalty is imposed, and notwithstanding any statute pertaining to the same or similar offenses.

3. Definitions

A. As used in this chapter, the following terms, phrases, words and their derivations shall have the meanings given herein:

BOROUGH or BOROUGH OF Wyalusing: The Borough of Wyalusing, Bradford County, Pennsylvania.

MINOR: Any person under the age of eighteen (18), or in equivalent phrasing often herein employed, any person seventeen (17) or less years of age.

PARENT: Any person having legal custody of a minor as a natural or adoptive parent, as a legal guardian, as a person who stands in loco parentis or as a person to whom legal custody has been given by court order.

PUBLIC AREAS: Includes, but is not limited to, recreational and other places, whether privately or publicly owned and open to the public, and those places visited by many persons and accessible to the public.

REMAIN and LOITER: To stay behind, to tarry or to stay unnecessarily upon the streets, roads, highways, establishments, public parks or any other public area, including congregating in groups (or of interacting minors) in which any minor involved would not be using the streets, roads, highways, establishments, public parks or other public areas for ordinary or serious purposes such as mere passage or proceeding home. (To implement this definition with additional precision and precaution, numerous exceptions are expressly set forth in Section 5 hereof so that this is not a mere prohibitory-type Curfew Local Law.)

STREET, ROAD and HIGHWAY: A way or place, of whatever nature, open to the use of the public as a matter of right for purposes of vehicular travel or, in the case of a sidewalk thereof, for pedestrian travel. The terms "street," "road," and "highway" include the legal right-of-way, including but not limited to traffic lanes, curbs, sidewalks, whether paved or unpaved, and any grass plots or other ground found within the legal right-of-way of a "street," "road" or "highway." The terms "street," "road" and "highway" apply irrespective of what they are called or formally named, whether an alley, avenue, court, drive, boulevard or otherwise.

TIME OF NIGHT and TIME OF MORNING: Based upon the prevailing standard of time, whether Eastern Standard Time or Eastern Daylight Savings Time, generally observed at that hour by the public in the borough.

YEARS OF AGE: Continues from one (1) birthday, such as the seventeenth (17th), to, but not including, the day of the next, such as the eighteenth (18th) birthday, making it clear that seventeen (17) or less years of age is herein treated as equivalent to the phrase "under eighteen (18) years of age."

B. The word “shall” is mandatory; the word “may” is permissive.

4. Hours of Establishment

It shall be unlawful and a violation of this chapter for any person seventeen (17) or less years of age [under eighteen (18)] to be or loiter or remain in or upon the streets, roads, highways or other public areas within the borough of Wyalusing at night during the following periods of time.

- A. Week Nights When School Is In Session, which shall consist of that time beginning at 11:00 p.m. on Sunday, Monday, Tuesday, Wednesday, or Thursday night through 6:00 a.m. on the following morning.
- B. Week Nights When School Is Not In Session, which shall consist of that time beginning at twelve (12) midnight on Sunday, Monday, Tuesday, Wednesday or Thursday night through 6:00 a.m. on the following morning of the day when school is not in session.
- C. Weekends, which shall consist of that time beginning at twelve (12) midnight on Friday or Saturday night through 6:00 a.m. on the following morning.

5. Exceptions

In the following exception cases, a minor on or upon a borough street, road, highway, establishment or other public areas during the nocturnal hours for which Section 4 is intended to provide the maximum limits of regulation (and a clear general guide for minors, their parents and their fellow citizens) shall not, however, be considered in violation of this chapter:

- A. When the minor is on the sidewalk abutting the minor’s residence and either next-door neighbor has not communicated an objection to a police officer.
- B. When the minor is traveling in a direct route to or from his or her residence to or from his or her place of employment and carries a signed statement from the employer briefly identifying the minor, the address of the minor’s residence, the name and address of the minor’s place of employment, the name and title of the minor’s employer who signed the statement and the minor’s hours of employment.
- C. When the minor is traveling in a direct route to or from his or her residence to or from an adult-supervised or adult-sponsored religious, school, civic,

recreational or entertainment activity or adult-supervised or adult-sponsored organized dance.

- D. When the minor, while a *bona fide* member of a volunteer fire department or organization, is traveling in a direct route to or from his or her residence to or from the scene of a fire or other fire department authorized emergency incident and carries an authentic membership card denoting the minor's active membership in that volunteer fire department or organization.
- E. When the minor is attending or traveling in a direct route to or from his or her residence to or from an assembly involving the exercise of First Amendment rights protected by the Constitution of the United States of America.
- F. When the minor is accompanied by his or her parent or guardian.
- G. When the minor is accompanied by an adult authorized by the parent or guardian of the minor.
- H. When the minor is upon an emergency errand.

6. Parental Responsibility

It shall be unlawful and a violation of this chapter for a parent, as defined herein, having legal custody of a minor, knowingly to permit or by inefficient control to allow such minor to be or remain or loiter upon any street, road, highway, establishment, public park or other public areas of the borough under circumstances not constituting an exception to, or otherwise beyond the scope of this chapter.

The term "knowingly" includes knowledge, which a parent should reasonably be expected to have concerning the location or whereabouts of a minor in that parent's legal custody. It is intended to continue to keep neglectful or careless parents up to a reasonable community standard of parental responsibility through an objective test. It shall be no defense that a parent was completely indifferent to the activities or conduct or whereabouts of such minor.

7. Police Procedures

- (a) Any police officer who finding or having attention called to any minor on or upon the streets, roads, highways, establishments, public parks, or any other public areas of the Borough in prima facie violation of the provisions of Section 4.,

Hours of Establishment., shall take any of the following actions which he or she believes necessary to best protect the interest of the minor and the community:

- i. Shall obtain information from such minor as to his or her name, address, age, and the name of his or her parent or parents; and
- ii. Instruct the minor to proceed to his or her home forthwith; or
- iii. Transport the minor to his or her home forthwith; or
- iv. Transport the minor to the appropriate police station, where without unnecessary delay, the officer or a superior officer may issue a citation. The officer shall immediately notify the parent, guardian or other custodian of the minor's whereabouts. When a parent, guardian or other custodian arrives at the station, the minor will be released to the custody of said parent, guardian or other custodian, who shall thereupon be issued written notice that the minor has violated the provisions of Section 4. If a parent or guardian or custodian cannot be located within a reasonable time, the minor may be released, unless other action is warranted under and pursuant to the pertinent provisions of the Juvenile Act. (42 Pa. C.S.A. 6301, et seq.)

8. Violations and Penalties

A parent or guardian or other custodian who violates this chapter shall, upon the first violation, be issued a warning notice; upon the second violation, be subject to a fine of not more than twenty-five dollars (\$25); upon the third violation, be subject to a fine of not more than one hundred dollars (\$100); upon the fourth violation and every offense thereafter, be subject to a fine of not more than three hundred dollars (\$300).

THIS ORDINANCE shall take effect immediately upon adoption.