

OFFICIAL

BOROUGH OF WEST MIFFLIN
ALLEGHENY COUNTY, PENNSYLVANIA

ORDINANCE No. 1155

AN ORDINANCE OF THE BOROUGH OF WEST MIFFLIN, ALLEGHENY COUNTY, PENNSYLVANIA, AMENDING CHAPTER 6, PART 4 OF THE CODE OF ORDINANCES OF THE BOROUGH OF WEST MIFFLIN, ALLEGHENY COUNTY, PENNSYLVANIA, IN RELATION TO THE ESTABLISHMENT, VIOLATIONS, EXCEPTIONS, AND ENFORCEMENT OF A BOROUGH CURFEW FOR MINORS.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Borough of West Mifflin in the meeting assembled as follows:

SECTION 1. That Chapter 6, Part 4, of the Code of Ordinances of the Borough of West Mifflin enacted August 17, 1982, as amended from time to time is amended as follows:

Establishment of Curfew

Chapter 6, Part 4, § 401. Purposes. The purpose of this section is to:

- A. promote the general welfare and protect the general public through the reduction of juvenile violence and crime within the Borough;
- B. promote the safety and well being of the Borough's youngest citizens, persons under the age of eighteen (18), whose inexperience renders them particularly vulnerable to becoming participants in unlawful activities, particularly unlawful drug activities, and to being victimized by older perpetrators of crime; and
- C. foster and strengthen parental responsibility for children.

Chapter 6, Part 4, § 402. Definitions and Interpretation. As used within this section, the following words and phrases shall have the meanings ascribed to them below:

CURFEW HOURS – the hours of 11:00 p.m. each day through 5:00 a.m. on the following day.

EMERGENCY – unforeseen circumstances, or the status or condition resulting therefrom, requiring immediate action to safeguard life, limb or property. The term includes, but is not limited to, fires, natural disasters, automobile accidents, or other similar circumstances.

ESTABLISHMENT – any privately-owned place of business within the Borough operated for a profit, to which the public is invited, including, but not limited to any place of amusement or entertainment. With respect to such Establishment, the term “Operator” shall mean any person, and any firm, association, partnership (and the members or partners thereof) and/or any corporation (and the officers thereof) conducting or managing that Establishment.

MINOR – any person under eighteen (18) years of age who has not been emancipated by court order.

OFFICER – a police or other law enforcement officer charged with the duty of enforcing the laws of the Commonwealth of Pennsylvania and/or ordinances of the Borough.

PARENT –

- A. a person who is a minor’s biological or adoptive parent and who has legal custody of a minor (including either parent, if custody is shared under a court order or agreement);
- B. a person who is the biological or adoptive parent with whom a minor regularly resides;
- C. a person judicially appointed as a legal guardian of the minor; and/or
- D. a person eighteen (18) years of age or older standing in loco parentis (as indicated by the authorization of an individual listed in part(s) (A), (B) or (C) of this definition, above, for the person to assume the care or physical custody of the child, or as indicated by any other circumstances).

PERSON – an individual, not any association, corporation, or any other legal entity.

PUBLIC PLACE – any place to which the public or a substantial group of the public has access, including, but not limited to: streets, highways, roads, sidewalks, alleys, avenues, parks, and/or the common areas of schools, hospitals, apartment houses, office buildings, transportation facilities and shops.

REMAIN - refers to the following actions:

- A. to linger or stay at or upon a place; and/or
- B. to fail to leave a place when requested to do so by an officer or by the owner, operator or other person in control of that place.

and includes the congregating of groups (or of interacting minors) totaling four (4) or more persons in which any minor involved would not be using the streets for emergencies or ordinary purposes such as mere passage of going home.

TEMPORARY CARE FACILITY – a non-locked, non-restrictive shelter at which minors may wait, under visual supervision, to be retrieved by a parent. No minors waiting in such facility shall be handcuffed and/or secured (by handcuffs or otherwise) to any stationary object.

Chapter 6, Part 4, § 403. Curfew; Exceptions. It shall be unlawful for a minor, during curfew hours, to remain in or upon any Public Place within the Borough, to remain in any motor vehicle operating or parked therein or thereon, or to remain in or upon the premises of any Establishment within the Borough, unless:

- A. the minor is accompanied by a parent; or
- B. the minor is involved in an emergency; or
- C. the minor is engaged in an employment activity, or is going to or returning home from such activity, without detour or stop and has in his or her possession a current letter certifying the same and signed by employer or parent; or
- D. the minor is on the sidewalk directly abutting a place where he or she resides with a parent; or
- E. the minor is attending an activity sponsored by a school, religious, or civic organization, by a public organization or agency, or by another similar organization or entity, which activity is supervised by adults, and/or the minor is going to or returning from such an activity without detour or stop; or
- F. the minor is on an errand at the direction of a parent, and the minor has in his or her possession a writing signed by the parent containing the following information: the name, signature, address and telephone number of the parent authorizing the errand, the telephone number where the parent may be reached during the errand, the name of the minor, and a brief description of the errand, the minor's destination(s) and the hours the minor is authorized to be engaged in the errand; or
- G. the minor is involved in interstate travel through, or beginning or terminating in, the Borough; or
- H. the minor is 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.

Chapter 6, Part 4, § 404. Curfew; violations.

- A. It shall be unlawful for a minor's parent to knowingly permit, allow or encourage such minor to violate above section 403 without legal justification therefor.
- B. It shall be unlawful for a person who is the owner or operator of any motor vehicle to knowingly permit, allow or encourage a violation of above section 403.
- C. It shall be unlawful for the Operator of any Establishment, or for any person who is an employee thereof, to knowingly permit, allow or encourage a minor to remain upon the premises of the Establishment during curfew hours. It shall be a defense to prosecution under this subsection that the Operator or employee of an Establishment promptly notified the police department that a minor was present at the Establishment after curfew hours and refused to leave.
- D. It shall be unlawful for any person (including any minor) to give a false name, address, or telephone number to any officer investigating a possible violation of this section.

Chapter 6, Part 4, § 405. Enforcement; Procedure Upon Violation.

- A. Minors. Before taking any enforcement action hereunder, an officer shall make an immediate investigation for the purpose of ascertaining whether or not the presence of a minor in a public place, motor vehicle and/or Establishment within the Borough during Curfew hours is in violation of above section 403.
 - 1. If such investigation reveals that the presence of such minor is in violation of above section 403, then:
 - a. If the minor has not previously been issued a warning for any such violation, then the officer shall issue a verbal warning to the minor, which shall be followed by a written warning mailed by the police department to the minor and his or her parent(s), or
 - b. If the minor has previously been issued a warning for any such violation, then the officer shall charge the minor with a violation of this ordinance and shall issue a summons requiring the minor to appear in court. And
 - 2. As soon as practicable, the officer shall:
 - a. release the minor to his or her parent(s); or

- b. place the minor in a temporary care facility for a period not to exceed the remainder of the curfew hours, so that his or parent(s) may retrieve the minor; or
- c. if a minor refuses to give an officer his or name and address, refuses to give the name and address of his or her parent(s), or if no parent can be located prior to the end of the applicable curfew hours, or if located, no parent appears to accept custody of the minor, the minor may be taken to a non-secure crisis center or juvenile shelter and/or may be taken to a judge or intake officer of the juvenile court to be dealt with in the manner and pursuant to such procedures as required by law.

B. Others. If an investigation by an officer reveals that a person has violated above section 404, and if the person has not previously been issued a warning with respect to any such violation, an officer shall issue a verbal warning to the person, which shall be followed by a written warning mailed by the police department to the person; however, if any such warning has been previously issued to that person then the officer shall charge the person with a violation and shall issue a summons directing the person to appear in court.

Chapter 6, Part 4, § 406. Police Discretion in Age Determination. The police officers of the Borough of West Mifflin in taking minors into custody shall use their discretion in determining age and in doubtful cases may require positive proof of age. Until such proof is furnished, the officer's judgment shall prevail.

Chapter 6, Part 4, § 407. Penalties. Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred dollars (\$600.00) and costs and, in default of payment of said fine and costs, to imprisonment for a term not to exceed thirty (30) days.

SECTION 2. Within one year after the effective date of this ordinance, the Borough Manager shall review this ordinance and report and make recommendations to the Borough Council concerning the effectiveness of and the continuing need for the ordinance. The Borough Manager's report shall specifically include the following information:

- a. the practicality of enforcing the ordinance and any problems with enforcement identified by the Police Department;
- b. the impact and cost of the ordinance;
- c. other data and information which the Police Department believes to be relevant in assessing the effectiveness of the curfew ordinance; and

d. information from citizens regarding whether the ordinance has been administered and enforced fairly, including information regarding the age, gender and race of those charged or detained under the ordinance.

SECTION 3. The effective date of this Ordinance shall be the thirty-first (31st) day from the date of enactment.

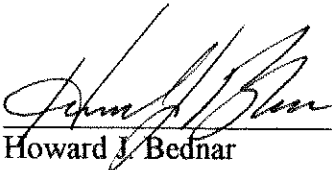
SECTION 4. That any Ordinance or part of an Ordinance conflicting with the provisions of this Ordinance be and the same are hereby repealed to the extent of such conflict.

SECTION 5. Severability. If any provision of this Ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

ORDAINED AND ENACTED into law this 19th day of February, 2008.

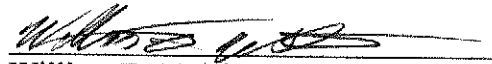
ATTEST:

BOROUGH OF WEST MIFFLIN



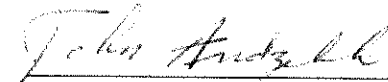
Howard J. Bednar
Borough Manager/Secretary

BY:



William F. Welsh
President of Council

Examined and approved this 19TH day of FEBRUARY, 2008.



John Andzelik
Mayor