

Chapter 168

CURFEW

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[HISTORY: Adopted by the Borough Council of the Borough of West Grove 3-6-1995 by Ord. No. 1995-05. Amendments noted where applicable.]

§ 168-1. Title.

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

§ 168-2. Purposes and findings.

This Ordinance is an updating of the Borough Curfew Ordinance, and in accordance with prevailing community standards prescribes regulations for the presence of minors on streets, in public places and other locations in the Borough during certain hours, all for the welfare and protection of minors, the furtherance of parental responsibility and for public health, safety and welfare. Accordingly, the Borough Council finds as follows:

- A. A curfew can reduce the extant problem of juvenile delinquency by regulating the hours during which minors may remain in public streets, places and certain establishments without adult supervision; and
- B. A curfew meets a local need of the Borough and has over the years been a significant factor in minimizing juvenile delinquency and disorderliness, by imposing additional duties and responsibilities upon the parents of minors; and
- C. The Borough of West Grove is a stable family community in which parental responsibility for the whereabouts of minors is the norm, and legal sanctions to enforce parental responsibility have demonstrated their effectiveness over the years; and
- D. As parental control increases, the likelihood of juvenile delinquency decreases; and
- E. There is a continuing need for the curfew and the regulations attendant thereto as established by the following Ordinance.

§ 168-3. Definitions.

For the purpose of the Curfew Ordinance, the following terms, phrases, words and their derivations shall have the meanings set forth hereinafter. When not inconsistent with the

context, words used in the present tense shall include the future, words in the plural shall include the singular, words in the singular shall include the plural, and the masculine pronoun shall include the feminine pronoun. The word "shall" as used hereinafter is to be construed as mandatory and not directory.

BOROUGH — The Borough of West Grove, Chester County, Pennsylvania.

ESTABLISHMENT — Any privately owned place of business operated for profit or any place of amusement or entertainment to which the public is invited, or any nonprofit entity operating within the Borough.

KNOWINGLY — Having actual knowledge and including such knowledge which a parent should reasonably be expected to have, under all attendant circumstances, concerning the whereabouts of a minor in the parent's legal custody. It shall be no defense for purposes of this Ordinance that a parent is indifferent to the activities or conduct or whereabouts of a minor.

MINOR — Any individual under the age of 18 years.

OPERATOR — Any individual, firm, association, partnership or corporation owning, operating, managing or conducting any establishment and, whenever used in any clause prescribing a penalty, the term "operator" as applied to associations or partnerships shall include all members or partners thereof and, as applied to corporations, shall include the officers thereof.

PARENT — Any person having legal custody of a minor as:

- A. A natural or adoptive parent; and/or
- B. A legal guardian; and/or
- C. A person who stands in loco parentis to a minor; and/or
- D. A person to whom legal custody of a minor has been given by Order of any Court of competent jurisdiction.

PUBLIC PLACE — Any public street (as defined herein) and all Borough parks, playgrounds, public buildings or vacant lots located in the Borough, whether such vacant lots are owned by the Borough or are owned privately.

REMAIN — To stay behind, to tarry and to stay unnecessarily upon the streets or in public places or establishments, including the congregating of groups totaling four or more persons, in which any minor involved would not be using the streets, public places or establishments for ordinary or serious purposes, such as mere passage or going home. To implement this definition with additional precision and precaution, numerous exceptions hereto are expressly contained in and defined in § 168-5 of this chapter.

STREET — A way or place of whatever nature, open to the use of the public for purposes of vehicular travel or, in the case of a sidewalk thereof, for pedestrian travel. The term "street" as used herein includes the legal right-of-way, including, but not limited to, the cartway of traffic lanes, the curb and sidewalks (whether paved or unpaved) and any grass plots or other grounds found within the legal-of-way of a street. For purposes of this Ordinance, "street"

also applies to ways which the public is privileged to use over private property as long as the owner thereof permits such public use (including by a way of example but not limitation, sidewalks and grass plots open to public use) and to parking areas of any types (including, by way of example but not limitations, residential, municipal or commercial parking areas) which are open to and available for public use whether or not accessed by any street. In addition, the term "street" shall apply regardless of what it is named or was formerly named, whether "alley," "avenue," "court," "road" or otherwise, or whether it is maintained by the Borough and whether or not it is open to the public as a matter of right.

TIME — The prevailing standard of time, whether Eastern standard time or Eastern daylight saving time, as observed at that hour (or minute) by the public in the Borough; prima facie evidence of the time for the purposes of this Ordinance shall be the time actually observed in the Borough's administrative offices or in the Borough Police Department.

YEAR OF AGE — The age of an individual as established on the day of any infraction alleged hereunder. For purposes of this Ordinance, the "year of age" shall be the period of time between the previous birthday of an individual and the next consecutive birthday (but not including the day of such birthday) of an individual.

§ 168-4. Curfew for minors.

It shall be unlawful for any person under the age of 18 to remain in or upon any street, public place of establishment within the Borough between:

- A. 11:00 o'clock p.m. prevailing time and 6:00 a.m. prevailing time of the following day, except:
- (1) The curfew hours established hereunder are temporarily suspended or modified by proclamation of the Mayor of the Borough.

§ 168-5. Exceptions.

In the following cases, a minor remaining on a public street, public place or in an establishment during the hours set forth in § 168-4, above, shall not be considered to be in violation of the Curfew Ordinance:

- A. When accompanied by:
- (1) The parent of the minor; or,
 - (2) An adult authorized by the parent of the minor to take the parent's place in accompanying the minor for a designated period of time and purpose within a specified area.
- B. When exercising First Amendment Rights protected by the United States Constitution such as the exercise of religion, freedom of speech and the right of assembly. Any minor desiring to avail himself of the provisions of this exception shall establish the validity of such exercise by first delivering to the Borough Police Department a letter, dated and signed by the minor and a parent of the minor, containing the following information:

- (1) The minor's name;
 - (2) The minor's age;
 - (3) The minor's address;
 - (4) The minor's telephone number;
 - (5) The parent's name;
 - (6) The parent's address;
 - (7) The parent's telephone number;
 - (8) A statement specifying when, where and in what manner the minor will be in or on the streets, public place of establishment (during the hours when this ordinance is otherwise applicable) in the exercise in the First Amendment Rights specified in the letter.
- C. In the case of reasonable necessity, provided that the minor's parents shall have first delivered to the Borough Police Department a written notice stating:
- (1) The facts establishing the reasonable necessity; and,
 - (2) A description of specified streets, public place or establishment at designated times for a described purpose, including points of origin and destination; and
 - (3) The written notice has been countersigned and dated by the Chief of the West Grove Borough Police Department (or other Police Officer authorized by the Chief to sign such notices).
- D. When the minor is on the sidewalk of the minor's place of residence, or on the sidewalk of any premises immediately adjacent to the premises in which the minor resides, provided the owner of the adjacent premises does not object to the minor's presence.
- E. When returning home, by a direct route from (and within 30 minutes after the termination of) a school activity or an activity of a religious or other voluntary association, provided that the minor shall, upon request of any police officer, provide to such police a written statement identifying:
- (1) The school activity or other function which the minor has attended;
 - (2) The location of the activity;
 - (3) The time of termination of the activity.
- F. When the minor is employed and carries a card signed by the minor's employer, dated (or issued) not more than 45 days previous to the date shown on such card. Such card shall:
- (1) Identify the minor by name, address and telephone number;
 - (2) Identify the minor's employer;
 - (3) Identify the hours of employment.

- G. When the minor, with parental consent, is in a motor vehicle and such motor vehicle is involved in bona fide interstate travel through the Borough or such interstate travel beings or ends in the Borough.

§ 168-6. Parental responsibilities.

- A. It shall be a violation of this Ordinance for a parent having legal custody of a minor to knowingly permit or allow such minor to be or remain upon any Borough street, public place or establishment within the Borough between the hours specified in § 168-4 above.
- B. The provisions of this subsection shall not apply to any parent of a minor which is otherwise exempt from the provisions of the Curfew Ordinance in accordance with the exceptions specified in § 168-5, above.

§ 168-7. Operations of establishments prohibited from permitting violations.

- A. It shall be a violation of this Ordinance for the operator (or their agents or employees) of any establishments to knowingly permit any minor to remain upon the premises of the establishment during the hours specified in § 168-4 hereof.
- B. Each violation of the provisions of this subsection shall constitute a separate offense.

§ 168-8. Procedures; violations and penalties.

- A. Any police officer, upon finding or having attention called to the presence of any minor on the streets, in public places or establishments of the Borough in prima facie violation of the provisions of this Ordinance shall immediately obtain from the minor the minor's:
- (1) Name;
 - (2) Address;
 - (3) Age;
 - (4) The name of the parents.
- B. Upon obtaining this information, and in order to safeguard the person of the minor, the police officer shall take the minor to the West Grove Borough Police Department and shall immediately notify the parent or parents of the minor and instruct the parent or parents to come to the West Grove Borough Police Department and take custody of the minor; upon the arrival of the parent or parents at the Borough Police Department, the minor shall be released to the custody of the parent or parents.
- C. If a parent cannot be located or fails to take charge of the minor, then the minor shall be released to the juvenile authorities of Chester County, except that the minor may temporarily be entrusted to a relative, neighbor or other person who, in behalf of the minor's parent, will assume the responsibility of caring for the minor pending the availability or arrival of the minor's parent.

- D. In the case of a first violation of this Ordinance by a minor, the Chief of the West Grove Borough Police Department shall, within 72 hours after the time of the taking of the minor into custody, send to the minor's parents by certified mail return receipt requested a written notice of the violation of the provisions of this Ordinance, accompanied by a written warning that any subsequent violation will result in full enforcement of the provisions of this Ordinance, including enforcement of the Parental Responsibility Provision of § 168-6 and the penalties set forth in § 168-8E.
- E. If after the written warning notice sent pursuant to § 168-8D above of a first violation by a minor, a parent again violates the provisions of this ordinance, such violation shall be treated as a first offense by the parent. For such offense, the parent, upon conviction thereof, shall be sentenced to pay a fine of not more than \$100, plus costs of prosecution. For each subsequent violation, the parent, upon conviction thereof, shall be sentenced to pay a fine of not more than \$300 plus costs of prosecution.
- F. Any minor who violates any provision of this Ordinance more than two times within a one-year period shall be referred to the appropriate county or state entity established pursuant to the provisions of the Act of July 9, 1976, P.L. 586, No. 142, et seq., as amended (42 Pa.C.S.A. 6301 et seq.), i.e., the "Juvenile Act" for disposition.
- G. Any operator of an establishment any agents or employees of that operator who violate the provisions of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than \$500, together with costs of prosecution.