

Chapter 80

CURFEW

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| § 80-1. Purpose. | § 80-6. Prohibition against providing false information. |
| § 80-2. Definitions. | § 80-7. Enforcement. |
| § 80-3. Prohibited acts; exceptions. | § 80-8. Violations and penalties. |
| § 80-4. Parental responsibility. | § 80-9. Review of effectiveness and continuing need. |
| § 80-5. Responsibility of establishment operators; defense to prosecution. | |

[HISTORY: Adopted by the Borough Council of the Borough of Mount Pocono 12-18-2006 by Ord. No. 7-2006; amended in its entirety 3-19-2007 by Ord. No. 1-2007. Subsequent amendments noted where applicable.]

§ 80-1. Purpose.

The purpose of this chapter 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 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.

§ 80-2. Definitions.

As used within this chapter, the following words and phrases shall have the meanings ascribed to them below:

CURFEW HOURS — The hours of 11:00 p.m. through 5:00 a.m. seven days a week.

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 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 the ordinances of the Borough of Mount Pocono.

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 18 years of age or older standing in loco parentis (as indicated by the authorization of an individual listed in Subsection 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 — 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.

§ 80-3. Prohibited acts; 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; 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 of Mount Pocono; 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.

§ 80-4. Parental responsibility.

It shall be unlawful for a minor's parent to knowingly permit, allow or encourage such minor to violate this chapter.

§ 80-5. Responsibility of establishment operators; defense to prosecution.

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 section 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.

§ 80-6. Prohibition against providing false information.

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 chapter.

§ 80-7. Enforcement.

- 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 § 80-3 of this chapter.
 - (1) If such investigation reveals that the presence of such minor is in violation of § 80-3 of this chapter, 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 chapter and shall issue a summons requiring the minor to appear in court.
- (2) As soon as practicable, the officer shall release the minor to his or her parent(s) and/or a responsible adult.
- B. Others. If an investigation by an officer reveals that a person has violated §§ 80-4, 80-5 and/or 80-6 of this chapter, 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 previously been 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.

§ 80-8. Violations and penalties.

Each violation of this chapter shall constitute a summary criminal offense punishable by a fine of up to \$500.

§ 80-9. Review of effectiveness and continuing need.

Within one year after the effective date of this chapter, the Borough Council shall review this chapter concerning the effectiveness of and the continuing need for the chapter. The Borough Council's report shall specifically include the following information:

- A. The practicality of enforcing this chapter and any problems with enforcement identified by the Police Department;
- B. The impact and cost of this chapter;
- 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 this chapter has been administered and enforced fairly, including information regarding the age, gender and race of those charged or detained under this chapter.