

TURTLE CREEK BOROUGH

ORDINANCE NO. 1130

AN ORDINANCE PROVIDING FOR A CURFEW IN THE BOROUGH OF TURTLE CREEK FOR MINORS SIXTEEN (16) YEARS OF AGE AND UNDER; REGULATING THE USE OF STREETS DURING NOCTURNAL HOURS AND PROVIDING FOR SUCH OTHER RELATED MATTERS; PROVIDING FOR PERMITS, REGULATIONS, EXCEPTIONS, PARENTAL RESPONSIBILITIES, POLICE PROCEDURES, PENALTIES; CONSTRUCTION AND OPINIONS; RELATIONSHIP TO JUVENILE DELINQUENCY.

WHEREAS, the Borough of Turtle Creek is a borough in Allegheny County, Pennsylvania; and

WHEREAS, the Borough deems it reasonable and necessary to enact a curfew Ordinance for the regulation of minors on streets and in public places during nocturnal hours; and

WHEREAS, this Ordinance is passed pursuant to the provisions of the Borough Code, Act of February 1, 1966, P.L.(1965), 1656, No. 581, §101.

NOW, THEREFORE, BE IT ORDAINED AS FOLLOWS:

Section 1. This Ordinance shall be known and cited as the Curfew Ordinance.

Section 2. It is declared to be the intent of Council that this Ordinance was enacted in accordance with community

standards prevailing in the community relating to the conduct of minors on streets and public places at night. It is found by Borough Council that this Curfew Ordinance is in the furtherance of family responsibility and for the health, safety and welfare of the residents of the Borough of Turtle Creek and those traveling through or visiting within the Borough of Turtle Creek.

Section 3. Borough Council further finds that there is a need for the updating of the present Curfew Ordinance in the Borough of Turtle Creek in order to curb and minimize juvenile delinquency which does exist in the Borough.

Section 4. Borough Council further finds that the Borough of Turtle Creek is largely residential and that there are significant numbers of senior citizens within the Borough. The prevailing sense and attitude in the Borough is that nocturnal activities should be restricted or reduced for the health, safety and welfare of the residents of the community and to reduce the potential for crime and serious risk of injury to immature persons.

Section 5. Borough Council further finds that parental guidance in the Borough of Turtle Creek demands that parents be responsible for their children, be apprised and cognizant of where they are at any given time, and that adherence to the standards expressed in this Ordinance meet with community standards.

Section 6. For purposes of this Ordinance, "curfew" shall be deemed to be the curfew sounded at various times as set forth in this Ordinance.

"Minors" shall be persons under the age of sixteen years.

"Parents" shall be persons having legal custody of a minor as a natural or adopted parent, as legal guardian, as one who stands in loco parentis, or one to whom legal custody has been given by order of any court of competent jurisdiction.

"Remain" means to stay behind, to tarry or to stay unnecessarily upon the streets or public places, and shall be deemed to include congregating in groups of persons and shall include interacting minors. A group shall be deemed to exist where four or more persons exist and are interacting together in any specific area. Remain shall further be intended to include where minors, as defined herein, or groups of minors interacting as defined herein, are using the streets for purposes which would not be ordinary or usual, such as for mere passage. It is not intended that this Curfew Ordinance be defined to be an Ordinance which is prohibitive so as to prohibit the mere presence of minors on streets. Exceptions are defined herein when the presence of minors on the streets is valid. However, it is the intent of this Ordinance to define and prohibit the loitering or remaining behind type of activity of minors, which activity is

not a reasonable use of streets for the purposes for which streets are ordinarily intended.

A “street” is a way or place open to use by the public as a matter of right for purposes of vehicular or for pedestrian travel. This term shall include the entire legal right of way including but not limited to car way, traffic lanes, curbs, sidewalks and grassy areas adjacent to the legal right of way.

“Time of night” shall refer to prevailing standard of time during any part of the year whether it be Eastern Standard Time or Eastern Daylight Saving Time.

“Year of age” means that number of chronological years which a person has at a specific point in time. The year of age shall continue from one birthday until, but not including, the day of the next birthday. Hence, one is sixteen years of age until the date of birth of his seventeenth birthdate.

Section 7. There is hereby ordained to be a curfew in the Borough of Turtle Creek for persons sixteen years of age and under. After the curfew time, it shall be unlawful for any person sixteen years of age or under to be or remain upon the streets or public places within the Borough of Turtle Creek at night during the period of time commencing at 10:00 p.m. and ending at 6:00 a.m. A whistle or siren shall be blown fifteen (15) minutes prior to the curfew’s designated time. This warning shall be called the curfew signal.

Section 8. There are hereby created certain exceptions to the curfew rules provided in the immediately foregoing section. Under the circumstances described in the following sections, it shall not be deemed to be a violation of the Curfew Ordinance for a minor to be or to remain upon public streets or places:

- A. When accompanied by a parent of a minor;
- B. When accompanied by an adult authorized by the parent of such minor and deemed to take the place of the parent in accompanying the minor for a designated period of time and for a designated purpose and area;
- C. When exercising first amendment rights protected by the United States Constitution, i.e., freedom of religion, freedom of speech or right of assembly;
- D. Proof of such bona fide endeavor to exercise said constitutional rights shall be evidenced by the minor having previously delivered to the office of the Borough at the Municipal Building of the Borough of Turtle Creek a statement regarding the activities to be conducted, the time they are to be conducted and demonstrating the purpose of the presence of the minor following the curfew regulatory time. Said statement shall be signed by the parent of the minor and shall state the date, time and place when the minor will be upon the public streets exercising these constitutional rights.

- E. In case of reasonable necessity. Reasonable necessity shall be deemed only to exist when the minor's parent has communicated to the Borough Police Station Telephone Operator a recital of the facts establishing such reasonable necessity. The reasonable necessity must include the area, purpose and points of origin and destination;
- F. When the minor is on public streets or public ways immediately adjacent to the minor's residence;
- G. When returning home by a direct route and within one hour of the termination of any school activity, religious activity or other voluntary association. For this exception to apply, there must have been prior written notice to the Borough Police indicating the place, times to be covered, dates, name of the organization and supervisor of the organization. Said notice must be submitted and signed by the parent of the minor. Written notice shall not be necessary for local school sports events;
- H. When authorized by special permit to be issued by the Mayor or his representative. The Mayor or his representative shall be authorized to issue permits when requested by a parent specifying the date, time, place and purpose of the trip. This exception shall be applicable for

school activities, voluntary associations, necessary trips during the prohibited periods of time;

- I. When the minor carries a certified employment card demonstrating that he is employed and that his employment necessitates his being out later than the curfew. The employment card shall set forth the name of the employer, the minor's name, address, description so as to enable the police officer to reasonably identify the minor, the nights that employee is to be employed and the time when the minor shall cease his employment. Employment card shall only be valid for a three month duration and must be renewed if employment continues;
- J. When the minor is, with parental consent, in a motor vehicle. This shall be deemed to constitute normal travel. Exempted is all interstate travel through Turtle Creek Borough by any person;
- K. All written applications and permits provided in this section shall contain a description of the minor so as to enable police officers to reasonably identify the minor, the minor's address, parents' names and phone number;
- L. The foregoing exceptions shall be several. If any of the same shall not be valid, then it is intended that the balance of the exceptions shall have been enacted

irrespective of said invalid exceptions. In addition, if the Court should find that any exceptions are too narrow or too broad, it is the intent of Borough Council that it would have enacted the exceptions in accordance with the Court's opinion as to render the same reasonable and valid.

Section 9. Parental Responsibility. It shall hereinafter be unlawful for any parent having legal custody of a minor child to knowingly permit, or to inefficiently control, or to allow such minor to be or remain upon any Borough street or public place under circumstances not constituting an exception to this Ordinance or to otherwise permit a minor to remain upon a public street or place in violation of this Ordinance. "Knowingly" would include actual knowledge which a parent would have, or which should reasonably be expected to have concerning the whereabouts of a minor in that parent's legal custody. It is the purpose of this Ordinance to prevent neglectful or careless parents from violating community standards and the standards of parental responsibility by providing an objective test. It shall not be a defense to a violation of this Ordinance that a parent was indifferent or did not endeavor to ascertain the whereabouts of his minor children.

Section 10. Police Procedures. Any police officer of the Borough, upon finding or having his or her attention called to



any minor on the streets in circumstances which would indicate a prima facia violation of this Ordinance, shall take the minor to the Borough Police Station. The police shall thereupon notify the parents of the minor to call for said minor. The police are instructed and directed by this Ordinance to interrogate the parents of the minor. The purpose of this interrogation shall be to determine all relevant facts, and to determine whether or not the presence of the minor is valid or not. In the absence of convincing evidence such as birth certificate, driver's license, etc., the Borough hereby relies upon the judgment of the police officer on duty as having the best and final judgment for determining the age of the minor.

- A. Following the apprehension and call to the minor's parents, the police officer shall make a written report to the Chief of Police and Mayor. A report regarding the minor's activities shall be retained by the Mayor, who shall be responsible for retaining all of said records.
  
- B. When a parent has been called to take charge of a minor and the appropriate information ascertained and recorded, the minor shall be released into the custody of the parent. If a parent cannot be located or fails to take charge of the minor, then the minor shall be released to juvenile authorities. However, the police shall have discretion to release juveniles so taken to

neighbors, relatives or other persons who police may reasonably believe will be responsible and have the ability to be responsibility for the minor pending the availability or arrival of a parent.

- C. In the case of a first violation by a minor, the Chief of Police shall with the consent of the Mayor send a certified letter to the parents and the minor advising them that subsequent violations will result in full enforcement of the Ordinance.

Section 11. Penalties. The following penalties are hereby subscribed for violations of this Ordinance.

- A. Parents - If, after the first warning provided in the immediately preceding section, a minor commits a second violation of this Ordinance, it shall be treated as a first offense by the parent. For such parental offense, the parent may upon conviction be fined up to One Hundred (\$100) Dollars, and for each subsequent offense by a parent, the fine shall be increased by an additional Twenty-Five (\$25) Dollars. The District Magistrate, upon finding a parent guilty, shall sentence the parent to pay such fine and costs of prosecution; upon failure or refusal to so pay, to imprison the parent in the Allegheny County Jail for a period not exceeding ten (10) days.

B. Minors - Any minor who shall violate any of the provisions of this Ordinance more than three times shall be reported by the Mayor and shall be taken to juvenile authorities for the purpose of having said minor deemed to be incorrigible and delinquent. The Mayor and police authorities are hereby authorized to institute proceedings to have the minor declared to be incorrigible and delinquent.

C. It is also deemed to be a summary violation for a minor to violate this Ordinance and it shall be punishable as follows:

For the first violation by a minor, the provisions hereinabove prevailing shall apply. For each and every subsequent violation, it may be deemed to be a summary offense, and the police and Mayor are hereby authorized to prosecute the same before the district magistrate having jurisdiction. For each such offense by the minor, the district magistrate shall hereby be authorized to impose a fine up to the amount of One Hundred (\$100), and for the second and further offenses, an additional Twenty-five (\$25) Dollars for each subsequent offense. The District Magistrate, upon a finding of guilty, shall sentence the minor to pay such fine and costs of prosecution; upon failure or refusal, shall have authority to direct that the child be taken to the Juvenile Court of Allegheny County.

D. Borough Officials may institute action under subsections B. and/or C., without limitations.

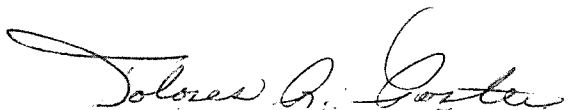
Section 12. The provisions of this Ordinance shall be severable. If any provision, including any part, phrase, sentence, paragraph, provision or term, shall be held to be invalid, the application of the balance of the Ordinance, phrase, term or paragraph provision shall nevertheless be deemed to have been intended to have been enacted without said invalid portion. It is the intent of Borough Council that the Ordinance shall be interpreted to be a cohesive whole by making sense or by making sense of the balance of the Ordinance reading it as a whole.

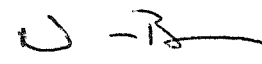
Section 13. All ordinances or parts of ordinances inconsistent herewith are repealed.

ENACTED and ORDAINED into law this 3rd day of April,

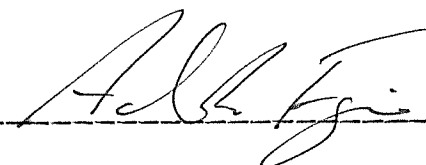
ATTEST:

BOROUGH OF TURTLE CREEK

  
\_\_\_\_\_  
Secretary

by   
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President

Approved this 3rd day of April, 2006,

  
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