

Chapter 83

CURFEW

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[HISTORY: Adopted by the Board of Trustees of the Village of Vernon at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Amendments noted where applicable.]

§ 83-1. Title.

This chapter shall be entitled: "An Ordinance of the Village of Vernon, Oneida County, New York, Establishing a Curfew During Nocturnal Hours for Minor Children Under the Age of Seventeen (17) Years."

§ 83-2. Purpose and legislative intent.

It is hereby declared to be the policy of the Village of Vernon to minimize nocturnal crime, juvenile delinquency and vandalism and to prevent the destruction and damage of both public and private property. By this chapter, the Village of Vernon seeks to promote the safety and general welfare of the residents of the Village of Vernon by prescribing, in accordance with prevailing community standards, regulations concerning the presence of minors on streets, roads,

highways, public parks or other public areas of the village at night, all for the good of minors, for the furtherance of family responsibility and for the public good, safety and welfare. The Board finds that a curfew for minors meets a very local need and will be a significant factor in minimizing juvenile delinquency. This chapter takes into consideration also the danger hours for nocturnal crime and for accumulations of minors with potential risks incident to immaturity. Parental responsibility for the whereabouts of children is the norm; and, as parental control increases, the likelihood of juvenile delinquency decreases and there is a need for nocturnal curfew for minors, to achieve under local conditions the purposes herein stated.

§ 83-3. Definitions.

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

MINOR — Any person under the age of seventeen (17), or in equivalent phrasing often herein employed, any person sixteen (16) 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 order of court.

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

REMAIN or LOITER — To stay behind, to tarry or to stay unnecessarily upon the streets, roads, highways, public parks or other public area, including the congregating in groups (or of interacting minors) totaling four (4) or more persons in which any minor involved would not be using the streets, roads, highways, 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 § 83-5 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 — Based upon the prevailing standard of time, whether Eastern standard time or Eastern daylight saving time, general observed at that hour by the public in the village.

VILLAGE or VILLAGE OF VERNON — The Village of Vernon, Oneida County, New York.

YEARS OF AGE — Continues from one (1) birthday, such as the 16th, to, but not including, the day of the next, such as the 17th birthday, making it clear that sixteen (16) or less years of age is herein treated as equivalent to the phrase "under seventeen (17) years of age."

B. The word "shall" is mandatory; the word "may" is permissive.

§ 83-4. Establishment; hours.

It shall be unlawful and a violation of this chapter for any person sixteen (16) or less years of age [under seventeen (17)] to be or loiter or remain in or upon the streets, roads, highways, public parks or other public area within the Village of Vernon at night during the period ending at 6:00 a.m. and beginning at 10:00 p.m.

§ 83-5. Exceptions.

In the following exception cases, a minor on or upon a village street, road, highway, public park or other public area during the nocturnal hours for which § 83-4 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 accompanied by a parent of such minor.
- B. When accompanied by an adult authorized by a parent of such minor to take said parent's place in accompanying said minor for a designated period of time and purpose within a specified area.
- C. When 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. Such minor shall evidence the intention of such exercise by exhibiting to Police Department personnel a written statement, signed by such minor and countersigned by a parent of such minor, with their home address and telephone number, specifying when, where and in what manner said minor will be on or upon the streets, roads, highways, public parks or public areas at night (during hours when this chapter is otherwise applicable to said minor) in the exercise of a First Amendment right specified in such statement.
- D. In case of reasonable necessity, but only after such minor's parent has communicated to the Village Police Department personnel the facts establishing such reasonable necessity relating to specified streets, roads, highways, public parks or other public areas at a designated time for a described purpose, including points of origin and destination. A copy of such communication or of the police record thereof, duly certified by the Chief of Police to be correct, with an appropriate notation of the time it was received and of the names and addresses of such parent and minor, shall be admissible evidence.
- E. When the minor is on the sidewalk or the area immediately in front of the place where such minor resides or is on the sidewalk or the area immediately in front of either next door neighbor not communicating an objection to the Police Department or an officer thereof.

- F. When authorized by special permit from the Village Mayor, carried on the person of the minor thus authorized, as follows: When necessary nighttime activities of a minor may be inadequately provided for by other provisions of this chapter, then recourse may be had to the Mayor of the village for a special permit as the circumstances warrant. Upon the Mayor's finding of necessity for the use of the streets, roads, highways, public parks or other public areas to the extent warranted by a written application signed by a minor and by a parent of such minor, if feasible, stating the name, address and telephone number of a parent thereof; the height, weight, sex, color of eyes and hair and other physical characteristics of such minor; the necessity which requires such minor to remain upon the streets, roads, highways, public parks or other public areas during the curfew hours otherwise applicable; and the route to be taken and the beginning and ending of the period of time involved by date and hour, the Mayor may grant a permit, in writing, for the use by such minor of such streets, roads, highways, public parks or other public areas at such hours as in the Mayor's judgment may be necessary. In an emergency this may be handled by telephone or other effective communication, with a corresponding record being made contemporaneously, either to the Mayor or, if unavailable, to the police officer authorized by the Mayor to act on his behalf in an emergency, at the police station.
- G. When authorized by resolution passed by the Village Board of Vernon in other similar cases of reasonable necessity, similarly handled but adapted to necessary nighttime activities of more minors than can readily be dealt with on an individual special permit basis by the Mayor. Normally, such resolution by the Village Board permitting use of the streets, roads, highways, public parks or other public areas should be passed sufficiently in advance to permit appropriate publicity through news media and through other agencies, such as schools, and shall define the activity, the scope of the use of the street, roads, highways, public parks or other public area permitted, the period of time involved, not to extend more than thirty (30) minutes beyond the time for termination of such activity, and the reason for finding that such resolution is reasonably necessary.

- H. When the minor carries a certified card of employment, renewable each calendar month when the facts so warrant, dated or reissued not more than forty-five (45) days previously, signed by the Chief of Police and briefly identifying the minor, the addresses of his home and of his place of employment and his hours of employment.
- I. When the minor is, with parental consent, in a motor vehicle. This contemplates normal travel. This clearly exempts bona fide interstate movement through Vernon. This also exempts interstate travel beginning or ending in Vernon.

§ 83-6. 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, public park or other public areas of the village 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.

§ 83-7. Police procedures.

Any law enforcement officer, upon finding or having attention called to any minor on or upon the streets, roads, highways, public parks or other public areas of the village in prima facie violation of this chapter, shall ascertain the name, address and age of said minor and escort said minor to his or her residence. In the case of a first violation by a minor, the Chief of Police or, in the event of his absence, the officer in charge shall send by certified mail a written notice of said violation with a warning that any subsequent violation may result in full enforcement of this chapter, including enforcement of parental responsibility and of applicable penalties as hereinafter set forth. A

copy of said written notice of violation shall be placed on file in the Police Department.

§ 83-8. Penalties for offenses.

Any person convicted for violating any provision of this chapter shall be guilty of a violation punishable by a fine of not more than two hundred fifty dollars (\$250.) or fifteen (15) days' imprisonment, or both.

