

ORDINANCE 2008-07

AN ORDINANCE OF THE BOROUGH OF CLARKS SUMMIT, LACKAWANNA COUNTY, PENNSYLVANIA, ESTABLISHING A CURFEW DURING NOCTURNAL HOURS FOR MINOR CHILDREN UNDER THE AGE OF 16 YEARS

Purpose and Legislative Intent:

- A.** It is hereby declared to be the policy of the Borough of Clarks Summit to minimize nocturnal crime, juvenile delinquency and criminal mischief and to prevent the destruction and damage of both public and property. By this ordinance, the Borough of Clarks Summit seeks to promote the safety and general welfare of the residents of the Borough by prescribing, in accordance with the prevailing community standards, regulation concerning public areas of the Borough at night, all for the good of minors, for the furtherance of family responsibility and for the public good, safety and welfare.
- B.** Borough Council finds that a curfew for minors meets a very local need and will be a significant factor in minimizing juvenile delinquency. This ordinance also takes into consideration the danger hour for nocturnal crime and accumulations of minors with potential risks incident to immaturity. Parental responsibility for the whereabouts of children is the norm. Further, as parental control increases, the likelihood of juvenile delinquency decreases. Therefore, the Borough of Clarks Summit finds there is a need for a nocturnal curfew for minors, to achieve under local condition t he purpose herein stated.
- C.** The problem of juvenile delinquency can be reduced by regulating the hours during which minors may remain in public places and in certain establishments without adult responsibilities upon the parents or other adult persons who have care and custody of minors.
- A.** The Borough has the authority to arrest individuals in violation of this ordinance of the Borough Code. That statute provides that Borough police officers can arrest without a warrant any and all persons guilty of breach of the peace, vagrancy, riotous or disorderly conduct or drunkenness, or who may be engaged in the commission of any unlawful act tending to imperil the personal security or endanger the property of the citizens, or for

violating any ordinance of the Borough for the violation of which a fine or penalty is imposed, and notwithstanding any statute pertaining to the same or similar offenses.

Definitions and word usage:

As used in this ordinance, the following terms, phrases, words and their derivations shall have the meanings given herein:

Borough or Borough of Clarks Summit – The Borough of Clarks Summit, Lackawanna County, Pennsylvania.

Minor – Any person under the age of 16 years.

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 by court order.

Private Property – Any privately owned property on which a person enters without the consent of the owner, tenant, occupier or custodian.

Public Place – Any public street, highway, road, park, playground, public building, vacant lot or parking areas open to the general public.

Remain and Loiter – To stay behind, to tarry or to stay unnecessarily upon the streets, roads, highways, establishments, public parks or any public area, including congregating in groups (or of interacting minors) in which any minor involved would not be using the streets, roads, highways, establishments, public parks or other public areas for ordinary or serious purposes such as mere passage or proceeding home.

Curfew for Minors – It shall be unlawful for any minor to remain, idle or play in or upon any public place or any establishment or to wander or stroll upon public streets or rights-of-way or without consent to be on private property between the hours of 11:00 p.m. and 6:00 a.m. of the following day, except that on Fridays and Saturdays the hours shall be 12:00 midnight to 6:00 a.m. if the following day.

The provisions of this section shall not apply to the following minors:

1. Any minor who is accompanied by his parent, guardian or custodian.
2. Any minor who is on an errand or other legitimate business directed by his parent, guardian or custodian. Said minor must have a note dated and signed by a parent,

guardian or custodian indicating the time and destination in order for this exception to be applicable.

3. Any minor who is engaged in lawful employment during the aforesaid hours. Such minor must have a statement from his or her employer indicating the place of employment and the hours said minor works for this exception to be applicable.

Parental Liability:

Subject to the exceptions set forth in this ordinance, it shall be unlawful for any parent, custodian or guardian of a person under 16 years of age to allow or permit such minor person to be in or remain upon any public place for this exception to be applicable.

Enforcement:

Any police officer who finds or having attention called to any minor on or upon the streets, roads, highways, establishments, public parks, or any other public areas of the Borough in prima facie violation of the provisions of the ordinances. Hours of establishment shall take any of the following actions which he or she believes necessary to best protect the interest of the minor and the community:

- A. Shall obtain information from such minor as to his or her name, address, age and the name of his or her parent or parents; and
- B. Instruct the minor to proceed to his or her home forthwith; or
- C. Transport the minor to his or her home forthwith; or
- D. Transport the minor to the Clarks Summit police station, where without unnecessary delay, the officer or a superior office may issue a citation. The officer shall immediately notify the parent, guardian or other custodian of the minor's whereabouts. When a parent, guardian or other custodian arrives at the station, the minor will be released to the custody of said parent, guardian or other custodian, who shall thereupon be issue written notice that the minor has violated the ordinance. If a parent or guardian or custodian cannot be located within a reasonable time, the minor may be released, unless other action is warranted under and pursuant to the pertinent provisions of the Juvenile Act (42 Pa. C.S.A. SS6301 et seq.)

Violation and penalties:

A parent or guardian or operator who violates this ordinance shall, upon the first violation, be issued a warning notice. Upon the second violation, be subject to a fine of not more than \$25.00, upon the third violation be subject to a fine of not more than \$100.00; upon the fourth violation and every offense thereafter, be subject to the fine of not more than \$300.00

ORDAINED at a duly assembled public meeting held this 5th day of November, 2008.

Germaine Carey, President
Clarks Summit Borough Council

ATTEST:

Virginia Kehoe,
Borough Secretary/Manager

Harold P. Kelly
Clarks Summit Borough

Passed by Clarks Summit Borough Council on **this 5th day of November, 2008**, receiving the affirmative votes of _____ negative votes of _____.