

Chapter 88. Curfew

[HISTORY: Adopted by the Board of Trustees of the Village of Wolcott 10-14-2014 by L.L. No. 1-2014. Amendments noted where applicable.

§ 88-1. Title.

This chapter shall be known as the "Curfew Law of the Village of Wolcott."

§ 88-2. Policy, purpose and findings.

A.

Policy. It is hereby declared to be the policy of the Village of Wolcott to minimize nocturnal crime, juvenile delinquency and vandalism and to prevent the damage and destruction of both public and private property.

B.

Purpose. It is the purpose of this chapter to promote the health, safety and general welfare of the residents of the Village and to maintain rule and order by prescribing, in accordance with prevailing community standards, regulations concerning the presence of minors, on streets, roads, and highways, public parks or other public areas of the Village at night to reduce juvenile crime and vandalism, to protect the children and minors of the Village and to further family responsibility.

C.

Findings. The Board of Trustees of the Village hereby finds that:

(1)

There has been a significant breakdown in the supervision normally provided by certain parents and guidance for minors, resulting in minors being involved in a wide range of unacceptable conduct, including vandalism, noisy, rowdy and disturbing behavior; breaking and entering; public drinking; littering; and harassment of Village residents, visitors and tourists.

(2)

Significant numbers of minors have been congregating in the Village after dark, causing disturbances to residents and property owners.

(3)

Offensive activities of minors are not easily controlled by existing laws:

(4)

The sense of the community is that there is a proper time for the cessation of outdoor activities of minors.

(5)

There is a need for a curfew for minors to achieve, under local conditions, the policy and purpose herein stated.

(6)

Curfew regulations will meet special needs, will enable the community to better control the streets and public places, will be a significant factor in minimizing juvenile delinquency and will enable the police to act reasonably and fairly to prevent the violations of laws by minors.

(7)

The curfew hours declared by this chapter take into consideration the danger hours for nocturnal crime and for accumulations of minors with the potential risks incident to immaturity.

(8)

Curfew regulations in other communities have been a significant factor in reducing juvenile delinquency.

(9)

Parental responsibility for the whereabouts and conduct of minors should be the norm; as parental control increases, the likelihood of juvenile delinquency decreases.

§ 88-3. Definitions and word usage.

A.

As used in this chapter, the following terms, phrases, words and their derivations shall have the meanings indicated:

KNOWINGLY

Includes knowledge of information which a parent should reasonably be expected to have concerning the whereabouts of a minor in that parent's legal custody. It is intended to include and require neglectful or careless parents to maintain a reasonable community standard of parental responsibility through an objective test. It shall be no defense that a parent was indifferent to the activities, conduct or whereabouts of such minor.

MINOR

Any person under the age of 18 years of age or, in equivalent phrasing sometimes employed herein, any person 17 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 court order.

PUBLIC PLACE

Any place to which the public has access, whether privately or publicly owned, including but not limited to public streets, roads, thoroughfares, sidewalks, bridges, alleys, plazas, parks, recreation or shopping areas, stores, cafes, restaurants, eating establishments, public transportation facilities, vehicles used for public transportation, parking lots or any other public building, structure or area.

REMAIN or LOITER

To stay behind, to tarry or to stay in or upon a public place.

TIME OF NIGHT

Based upon the prevailing standard of time, whether Eastern standard time or Eastern daylight saving time, generally observed at that hour by the public in the Village.

YEARS OF AGE

Continues from one birthday to, but not including, the day of the next so that 17 or less years of age is equivalent to under 18 years of age.

B.

The word "shall" is mandatory; the word "may" is permissive. When not inconsistent with the context, words used in the present tense include the future; words in the plural number include the singular; and words in the singular number include the plural.

§ 88-4. Curfew established for minors.

It shall be unlawful and a violation of this chapter for a minor to be or loiter or remain in, on or upon a public place within the Village between the following hours (also known as the "curfew hours"):

A.

Beginning at 11:00 p.m. on Friday and Saturday nights and extending until 6:00 a.m. on the following day.

B.

Beginning at 10:00 p.m. on all other nights and extending until 6:00 a.m. on the following day.

§ 88-5. Exceptions and exemptions.

A minor in a public place during the curfew hours shall not be considered in violation of this chapter under the following circumstances:

A.

When the minor is accompanied by a parent of such minor.

B.

When the minor is 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 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 to such exercise, provided that the minor has in his possession a writing, signed by the minor and, by a parent of the minor, with their home address and telephone number, specifying when, where and in what manner the minor will be in a public place during curfew hours in the exercise of a First Amendment right specified in such writing.

D.

When the minor is, with parental consent, in or on a public place in a case of reasonable necessity.

E.

When the minor is on the sidewalk or property where the minor resides or on either side of or across the street from the place where the minor resides and the adult owner or resident of that property has given permission for the minor to be there.

F.

When the minor is, with parental consent, returning home from and within one hour after the termination of a school or Village-sponsored activity or an activity of a religious, voluntary, cultural or community organization.

G.

When the minor is, with parental consent, in a motor vehicle engaged in normal travel or when the minor is engaged in a bona fide interstate travel beginning or ending in the Village.

H.

When the minor is engaged in or traveling to or from a place of employment.

I.

When the minor is engaged in an errand involving a medical emergency or other emergency involving an immediate and significant threat to life or property.

J.

When the minor is 17 years of age and has parental consent for the use by such minor of generally designated public places for generally designated periods of time.

K.

When the minor is authorized by a special permit from the Village Board carried on the person of the minor thus authorized, as follows: when necessary nighttime activities of a minor are inadequately provided for by the provisions of this chapter, recourse may be had to the Village Board for a special permit as circumstances warrant. Upon the Village Board's finding of necessity for the use of a public place or places, and with written parental consent, the Village Board may grant a special permit, in writing, for use by such minor of a specified public place or places, for specified periods of time as in the Village Board's judgment may be necessary. Such special permit may be revoked by the Village Board for good cause shown following a hearing.

§ 88-6. Parental responsibility.

It shall be unlawful and a violation of this chapter for a parent knowingly to permit or by inefficient control to allow a minor to be or loiter or remain in, on or upon a public place in the Village during curfew hours under circumstances not constituting an exception to or an exemption from or otherwise beyond the scope of this chapter.

§ 88-7. Enforcement procedures.

A.

If a police officer reasonably believes that a person is in a public place in violation of this chapter, the officer shall notify the person of such violation and shall require the person to provide his or her name, address, telephone number and how to contact his or her parents. In determining the age of the person and in the absence of convincing evidence, such as a birth certificate or driver's license, the officer shall use his or her best judgment in determining age.

B.

If the officer determines or has reason to believe that a person is in violation of this chapter, he or she shall, if practicable, take the person to police headquarters, where a parent shall be immediately notified and required to report to police headquarters and procure the person, whereupon the parent shall be questioned to ascertain, within constitutional limits, the relevant facts.

C.

The officer shall file a written report.

D.

The officer shall issue an appearance ticket or tickets as the circumstances require.

E.

The minor shall be released to the custody of a parent.

F.

If a parent cannot be located or fails to take charge of the minor, the minor may be temporarily entrusted to a relative, neighbor or other person who will assume responsibility of caring for the minor pending availability of a parent.

G.

In circumstances where the procedures in Subsections **B**, **E** and **F** of this section are impracticable, the officer shall comply with or cause compliance with the procedures in Subsections **A**, **C**, **D** and **H** of this section.

H.

In the case of a first violation by a minor, the arresting officer shall notify the Village Clerk who shall, by certified mail, return receipt requested, send to a parent written notice of the violation with a warning that any subsequent violation will result in full enforcement of this chapter, including enforcement of parental responsibility and of applicable penalties.

§ 88-8. Penalties for offenses.

A.

Any minor under the age of 16 years of age violating the provisions of this chapter shall be dealt with in accordance with the procedures contained in § 88-7 herein and on each violation shall be treated as a first violator.

B.

Any minor between the ages of 16 and 18 years of age convicted for violating any provision of this chapter shall be guilty of a violation punishable by a fine of not more than \$50 for the first conviction, \$100 for the second conviction and \$250 thereafter or by a term of imprisonment not to exceed 15 days, or be required to perform community service, or any combination thereof.

C.

Any parent convicted of violating any provision of this chapter shall be guilty of a violation punishable by a fine of not more than \$50 for the first conviction, \$100 for the second conviction and \$250 thereafter or by a term of imprisonment not to exceed 15 days, or be required to perform community service, or any combination thereof.

§ 88-9. Notice.

Notice of the existence of this chapter and of the curfew regulations established by it shall be posted, from time to time, in, on or at such public or quasi-public places, as may be determined by the Village Board, in order that the public may be informed of the existence of this chapter and its regulations.