

TUNKHANNOCK BOROUGH ORDINANCE
NO.: 1997-3

AN ORDINANCE OF THE BOROUGH OF TUNKHANNOCK, WYOMING
COUNTY, PENNSYLVANIA, ESTABLISHING A CURFEW WITHIN THE
BOROUGH OF TUNKHANNOCK.

THE COUNCIL OF THE BOROUGH OF TUNKHANNOCK at regular session
assembled this 3rd day of July, 1997, does hereby ordain as follows:

The purpose of this ordinance is to encourage parental responsibility for children within the Borough of Tunkhannock, as well as to promote the safety and quiet enjoyment of the community by helping to eradicate behavior caused by children that creates disturbances within the Borough of Tunkhannock.

I. CURFEW ESTABLISHED

1. It shall be unlawful for any person under the age of eighteen (18) years to be, or remain, in or upon any of the streets, alleys, park, parking lot or other public places, or vehicle which is on any such street, alley, highway, park, parking lot or public place in the Borough and/or upon any private property without the express consent of the owner or person(s) in charge thereof, between the hours of 11:00 p.m. and 6:00 a.m. unless:

a. Such child shall be accompanied by a parent, guardian, custodian or other adult person in parental relation having the legal custody, control or charge of such child; or

b. Such child shall be lawfully employed, in the course of which employment it is necessary to use such public street, alley, highway or other public place for such employment; or

c. Such child is returning from a school, religious, recreational or job activity by a direct route from (and within 30 minutes of the termination of) such activity, provided that the child shall, upon request of any Police Officer, provide to such officer a written statement identifying:

- 1) the school activity or other function which the child has attended;
- 2) the location of the activity;
- 3) the time of termination of the activity;

or

d. Such child is exercising First Amendment rights protected by the Constitution; provided that any child desiring to avail himself, or herself, of the provisions of this exception shall establish the validity of such exercise by first delivering to the Borough Police Department a letter, signed and dated by the child and a parent, guardian, custodian, or other adult person, or persons, having legal custody, control or charge of such child containing the following information:

- 1) the child's name;
- 2) the child's age;
- 3) the child's address;
- 4) the child's telephone number;
- 5) the names of the child's parents, guardians, custodians, or other adult person, or persons, having legal custody, control or charge of such child;
- 6) the address of the child's parents, guardians, custodians, or other adult person, or persons, having legal custody, control or charge of such child;
- 7) the telephone number of the child's parents, guardians, custodians, or other adult person, or persons, having legal custody, control or charge of such child; and
- 8) a statement specifying when, where and in what manner the child will be in, or on, the streets or public place in the exercise of the First Amendment Right specified in the letter.

e. Such child is on a bona fide emergency errand authorized by a parent, guardian, custodian or other adult person in parental relation having the legal custody, control or charge of such child.

2. It shall be unlawful for any parent, guardian, custodian or adult person in parental relation having control of any child under the age of eighteen (18) years to knowingly permit a violation of the foregoing unless:

a. Such child is accompanied by a parent, guardian, custodian or other adult person in parental relation having the legal custody, control or charge of such child; or

b. Such child is lawfully employed and in the course of such employment it is necessary to use such public street, alley, highway or other public place for such employment; or

c. Such child is returning from a school, religious, recreational or job activity; or

d. Such child is exercising First Amendment rights protected by the Constitution; or

e. Such child is on a bona fide emergency errand authorized by their parent, guardian, custodian or other adult person in parental relation having the legal custody, control or charge of such child.

II. PENALTY/ENFORCEMENT

1. A Police Officer, upon finding a child in violation of the Curfew Ordinance shall:

a. ascertain the name, address, age and date of birth of the child;

b. issue to the child, parent, guardian, custodian or other adult person, or persons, having legal custody, control or charge of such child a written notice that the child is in violation of the Curfew Ordinance; and

c. order or take the child promptly home by a direct route.

2. Age Determination/Identification: The Police Department shall use its discretionary judgment in determining age, and may require proof thereof, and until such proof is established, the determination based on such Officer's judgment shall prevail.

3. Any child violating this article, who does not immediately, upon being questioned by a Police Officer, disclose his identity and place of residence, may be taken into protective custody by such Police Officer and held for questioning and investigation.

4. A Police Officer who finds a child in violation of Curfew may take that child into custody and deliver the child to a holding location:

a. to determine if the child has received a previous written notice for Curfew violation; or

b. to verify identity; or

c. for the safety of the child.

5. When a child is taken into custody under this section the Officer shall, as soon as practicable, notify the parent, guardian, custodian or other adult person, or persons, having legal custody, control or charge of such child to pick up the child at the holding location. After the parent, guardian, custodian or other adult person, or persons, having legal custody, control or charge of such child arrives and provides the information required by the Officer to file an incident report, the child shall be released to the custody of the parent, guardian, custodian or other adult person, or persons, having legal custody or charge of such child.

If a parent, guardian, custodian or other adult person, or persons, having legal custody, control or charge of such child or other appropriate adult relative cannot be located or fails to take charge of the child, said child may be released to Children and Youth Services.

Any child, whether a resident or nonresident of the Borough, who shall violate this article for the second or subsequent time commits a summary offense.

6. When any child is found in violation of the Curfew Ordinance, the Police Department shall notify a parent, guardian, custodian or other adult person, or persons, having legal custody, control or charge of the child by certified mail, return receipt requested or by personal service; that the child has violated this Curfew Ordinance and include a warning that any subsequent violation may result in prosecution of the child and the parent, guardian, custodian or other adult person, or persons, having legal custody, control or charge of such child.

7. **Offense of the Parent.** Every parent, guardian, custodian or person in a loco parentis relationship having custody, control, or who is charge of any child who shall fail to comply with the provisions of this ordinance relating to evening curfew on a second or subsequent time may also be charged with a summary offense.

8. Any violation of this Ordinance shall be prosecuted by any police officer by Citation notifying the offender of the violation and shall be prosecuted in District Court No. 44-3-02. Upon conviction thereof the offender shall be find within the discretion of the District Magistrate, not less than \$25.00, nor more than \$300.00 for an offense of this Ordinance.

9. Severability. If any sentence, clause, section or part of this ordinance is, for any reason, found to be unconstitutional, illegal or invalid, such findings shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance for being enforced.

10. Any ordinance, specifically Section 8-1021 through 8-1025, or part of any other Tunkhannock Borough Ordinance, which conflicts with this Curfew Ordinance shall be, and the same is hereby repealed as it affects this ordinance.

Norman R. Ball
NORMAN R. BALL, President
Tunkhannock Borough Council

ATTEST:

Stacey VanDeMark
STACEY VANDEMARK, Secretary

APPROVED THIS 3RD day of July, 1997.

Gary A. Bluhm
GARY A. BLUHM,
Mayor of Tunkhannock Borough

ATTEST:

Stacey VanDeMark
STACEY VANDEMARK,
Borough Secretary