

ORDINANCE NO. 545 (Amended)

**BOROUGH OF PARKESBURG
CHESTER COUNTY, PENNSYLVANIA**

**AN ORDINANCE OF THE BOROUGH OF PARKESBURG, CHESTER COUNTY,
PENNSYLVANIA GOVERNING AND REGULATING THE USE OF THE BOROUGH
STREETS, ESTABLISHMENTS, PUBLIC PLACES, ETC., BY MINORS (CURFEW
RESTRICTIONS) AND ADDRESSING RELATED MATTERS SUCH AS PARENTAL
RESPONSIBILITIES, APPROPRIATE PROCEDURES, AND PENALTIES FOR
VIOLATIONS.**

The Borough Council of the Borough of Parkesburg, Chester County, Pennsylvania, hereby ORDAINS that the following Regulations shall be **effective immediately**:

SECTION 1: TITLE.

This Ordinance shall be known and may be cited as the "Curfew Ordinance" adopted under the authority of the Borough Code, 8 Pa. C.S.A. § 101 et seq, and the particular authority as set forth therein at 8 Pa. C.S. A. § 1202 in general (and subsection (5)) and as reserved under § 1203.

SECTION 2: PURPOSE AND FINDINGS.

This Ordinance is an updating of the Borough Curfew Ordinance, and in accordance with the prevailing community standards, prescribed regulations for the presence of minors on streets, in public places and other locations in the Borough during certain hours, all for the welfare and protection of minors, the furtherance of parental responsibility and for public health, safety and welfare. Accordingly, the Borough Council finds as follows:

A. A curfew can reduce the extant problem of juvenile delinquency by regulating the hours during which minors may remain in public streets, places, and certain establishments without adult supervision;

B. A curfew meets a local need of the Borough and has over the years been a significant factor in minimizing juvenile delinquency and disorderliness by imposing additional duties and responsibilities upon the parents of minors;

C. The Borough of Parkesburg is a stable family community in which parental responsibility for the whereabouts of minors is the norm, and legal sanctions to enforce parental responsibility have demonstrated their effectiveness over the years;

D. As parental control increases, the likelihood of juvenile delinquency decreases;
and

E. There is a continuing need for the curfew and the regulations attendant thereto as established by the by the following Ordinance.

SECTION 3: DEFINITIONS AND WORD USAGE.

A, For the purpose of this section, the following terms, phrases, words, and their derivations shall have the meanings set forth hereafter:

BOROUGH: The Borough of Parkesburg, Chester County, Pennsylvania, with offices located at 315 W. First Avenue, Building #1, Parkesburg, Pennsylvania.

ESTABLISHMENT: Any privately owned place of business operated, and place of amusement or entertainment to which the public is invited or any nonprofit entity operating with the Borough.

KNOWINGLY: Having actual knowledge and including such knowledge which a parent should reasonably be expected to have, under all attendant circumstances, concerning the whereabouts of a minor in that parent's legal custody. It shall be no defense for the purposes of this Ordinance that a parent is indifferent to the activities or conduct or whereabouts of a minor.

MINOR: Any individual under the age of 18 years.

OPERATOR: Any individual, firm, association, partnership, or corporation owning, operating, managing, or conducting any establishment, and, whenever used in any clause prescribing a penalty, the term "operator" as applied to associations of partnerships shall include all members of partners thereof and, as applied to corporations, shall include the officers, thereof.

PARENT: Any person having legal custody of a minor as:

- 1) A natural or adoptive parent; and/or
- 2) A legal guardian; and/or
- 3) A person who stands in loco parentis to a minor; and/or
- 4) A person to whom legal custody of a minor has been given by order of any court of competent jurisdiction.

PUBLIC PLACE: Any public street (as defined herein) and all Borough parks, playgrounds, public buildings, or vacant lots located in the Borough, whether such vacant lots are owned by the Borough or are owned privately.

REMAIN: To stay behind, to tarry and to stay unnecessarily upon the streets or in public places or establishments, including the congregating of groups totaling four or more persons, in which any minor involved would not be using the streets, public places or establishments for ordinary or serious purposes, such as mere passage or going home. To implement this definition with additional precision and precaution, numerous exceptions hereto are expressly contained in and defined in Section 5 of this Ordinance.

STREET: A way or place of whatever nature, open to the use of the public for purposes of vehicular travel or, in the case of sidewalk thereof, for pedestrian travel. The term “street” as used herein includes the legal right-of-way, including, but not limited to, the cartway of traffic lanes, the curb and sidewalks (whether paved or unpaved) and any grass plots or other grounds found within the legal right-of-way of a street. For purposes of this Ordinance, “street” also applies to ways the public is privileged to use over private property as long as the owner thereof permits such public use (including, by way of example but not limited to, sidewalks and grass plots open to public use) and to parking areas of any types (including, by way of example but not limited to, residential, municipal, or commercial parking areas) which are open to and available for public use whether or not accessed by any street. In addition, the term “street” shall apply irrespective of what is named or was formerly named, whether “alley”, “avenue”, “court”, “road” or otherwise, or whether it is maintained by the Borough and irrespective of whether it is open to the public as a matter of right.

TIME: The prevailing standard of time, whether Eastern Standard Time or Eastern Daylight Saving Time, as observed at that hour (or minute) by the public in the Borough; prima facie evidence of the “time” for purposes of this Ordinance shall be the “time” actually observed in the Borough’s administrative offices or in the Borough of Parkesburg Police Department.

YEAR OF AGE: The age of an individual as established on the day of any infraction alleged hereunder. For purposes of this Ordinance, the “year of age” shall be the period of time between the previous birthday of any individual and the next consecutive birthday (but not including the date of such birthday) of an individual.

B. When not inconsistent with the context, words used in the present tense shall include the future, words in the plural number shall include the singular, words in the singular number shall include the plural and the masculine pronoun shall include the feminine pronoun. The word “shall” as used hereinafter is to be construed as mandatory and not directory.

SECTION 4: CURFEW FOR MINORS ESTABLISHED.

It shall be unlawful for any person under the age of 18 to remain in or upon any street, public place, or establishment in the Borough between 9:15 p.m. prevailing time and 6:00 a.m. prevailing time of the following day, except:

1) On Friday nights and Saturday mornings and all nights between June 15 and September 15, inclusive, curfew hours shall be between 10:15 p.m. prevailing time and 5:00 a.m. prevailing time the following day; and/or

2) The curfew hours established hereunder are temporarily suspended or modified by proclamation of the Mayor of the Borough.

SECTION 5: EXCEPTIONS.

The rules governing curfew violations are not applicable to any minor accompanied by a parent or to a minor upon an errand or other legitimate business directed by such minor’s parent

or to any minor who is engaged in gainful lawful employment during the curfew hours, provided that said minor carries identification and evidence, in writing to this effect.

SECTION 6 PARENTAL RESPONSIBILITIES.

A. It shall be a violation of this Ordinance for a parent having legal custody of a minor to knowingly permit or allow such minor to be or remain upon any Borough street, public place, or establishment within the Borough between the hours specified in Section 4 above.

B. The provisions of this subsection shall not apply to any parent of a minor who is otherwise exempt from the provisions of this Ordinance in accordance with the exceptions specified in Section 5 above.

SECTION 7 RESPONSIBILITIES OF ESTABLISHMENT OPERATORS.

A. It shall be a violation of this Ordinance for the operator (or their agents or employees) of any establishment to knowingly permit any minor to remain upon the premises of the establishment during the hours specified in Section 4 hereof unless there is proof available at the time of such violation establishing that an exception under Section 5 applies.

B. Each violation of the provisions of this subsection shall constitute a separate offense.

SECTION 8 ENFORCEMENT; VIOLATIONS AND PENALTIES FOR PARENT OF MINOR, ESTABLISHMENT OPERATORS AND FOR MINOR/JUVENILE:

A. All police officers of the Borough of Parkesburg finding any minor person in or upon the public places of the Borough of Parkesburg, as aforesaid, may take the name of such minor and the name and address of parent of the minor, and may bring the child to the police department to make a report of the incident. Attempts will be made to contact the parent who will be asked to come to the police department as soon as possible for the purpose of releasing the minor - unless such a release is prohibited by other outstanding legal matters taking precedence.

B. The police shall have authority to charge the parent of the minor with violation of the provisions of this Ordinance as well as any establishment operators in violation of this Ordinance and to issue citations to the child and/or parent or operator for violation of this Ordinance as a summary offense with prosecution to be brought before a Magisterial District Judge, with a fine of not more than \$600.00 plus costs of prosecution pursuant to established procedures for a summary offense.

C. Nothing herein is intended to relieve the responsibility of the minor person from the enforcement of this section. Any juvenile may be charged with the violation of this Ordinance which may result in reporting the violation to the juvenile authorities of Chester County.

SECTION 9 SEVERABILITY

The provisions of this Ordinance are severable. If any sentence, clause, or section of this Ordinance is for any reason found to be unconstitutional, illegal, or invalid, such decision shall not affect the validity of any of the remaining provisions of this Ordinance. It is hereby declared as a legislative intent that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid provision been included herein.

SECTION 10 EFFECTIVE DATE

This Ordinance shall be effective upon passage in accordance with the requirements of the Borough Code.

SECTION 11 REPEALER

Ordinance No. 411 and any Ordinances, or parts of Ordinances in conflict herewith be and the same are hereby repealed. This Ordinance replaces Ordinance No. 545 as Ordinance No. 545 (Amended).

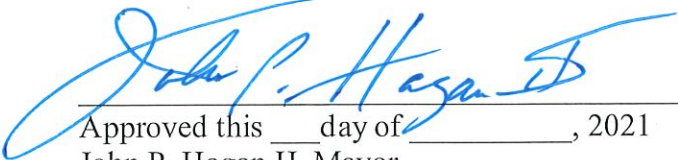
ENACTED AND ORDAINED this day of , 2021.



Sharon L. Wolf, President Borough Council

ATTEST:

Rebecca Durnall, Secretary



Approved this day of , 2021
John P. Hagan II, Mayor