

## Chapter 76

### CURFEW

§ 76-1. Curfew conditions.

§ 76-2. Responsibility of parents and guardians.

§ 76-3. Enforcement; penalties for violations.

§ 76-4. Age determination.

**[HISTORY: Adopted by the Council of the Borough of Berwick 12-18-1978 by Ord. No. 1129; amended in its entirety 12-21-1992 by Ord. No. 92-12. Subsequent amendments noted where applicable.]**

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#### § 76-1. Curfew conditions.

- A. Age limits; laws. The Borough of Berwick Council does hereby declare that it shall be unlawful for boys or girls under the age of 18 years (such persons being defined for the purposes of this chapter as "minors") to be or remain in or upon the streets, walkways, roads, alleys, parks, playgrounds, public establishments, business places, vacant lots or recreational places in the Borough of Berwick between the hours of 11:00 p.m. and 6:00 a.m., except if accompanied by parent or parents, guardian or other adult person having legal custody of such child or for reasons as hereinafter set forth.
- B. Further restrictions determination. Whenever the Mayor of the Borough of Berwick or, in his absence, the Chief of Police of the Borough of Berwick, in the situation of declaring a state of emergency or the Borough Council in all other cases, determines the existence of conditions or situations which shall reasonably indicate threats of harm to person or damage to property of the citizens of the Borough of Berwick and provides notice thereof, a curfew established may be further restricted.
- C. Emergencies. From and after the date of enactment of this chapter, the declaration of a state of emergency or the existence of a condition or conditions, situation or situations which threaten harm to person or damage to property of the citizens of the Borough of Berwick shall be made by the Mayor of the Borough of Berwick or the Chief of Police of the said borough in his absence, in emergency situations and/or by Council, if sufficient time is available to Council, and shall be exercised upon the finding of sufficient justification to warrant the reasonable possibility of threatened harm to the person or damage to the property of the citizens of the Borough of Berwick which creates an emergency condition or situation as set forth hereinabove.
- D. Enforcement. Enforcement of the provisions of this chapter shall be in effect after announcement, provided by notice of the same, to the citizens of the Borough of Berwick. Whenever possible, announcement shall be published at least once in a newspaper of general circulation unless an emergency situation exists, in which event the imposition of a curfew may be imposed by either Council or the Mayor or the Chief of Police without enforcing penalty provisions until adequate notice is given.

- E. Parental or custodial accompaniment during curfew. When regular or emergency curfew is established, a minor, defined as a boy or girl under the age of 18 years, shall not be in or remain in or upon the streets, walkways, roads, alleys, parks, playgrounds, public establishments or business places or recreational places unless such child is accompanied by a parent, guardian, adult member of his or her family having legal custody of such child or any other person having such legal custody of such child.
- F. Exceptions. Except in the event of a borough-, school-, church- or community-sponsored event, upon an emergency errand or legitimate business of a minor's parent or parents and, further, except in the case of a minor's returning to or from his or her place of employment, the provisions of this chapter shall be complied with. For the exceptions noted, the time of curfew may be extended to allow minors reasonable time needed to complete the return to his or her home.

**§ 76-2. Responsibility of parents and guardians.**

It is hereby declared to be unlawful for any parent, guardian or other person having the legal care or custody of any of the minors above designated to allow or permit any such minor child, ward or other person under such age, while in such legal custody, to go to or to be in or upon any streets, alleys, parks or public places in said borough after the time prohibited in § 76-1 of this chapter, except as therein provided in § 76-1F.

**§ 76-3. Enforcement; penalties for violations.**

- A. Any minor as above designated found upon the borough streets, alleys, parks or public places within the borough in violation of § 76-1 of this chapter shall be taken into custody by the Borough Police and delivered to his or her parents, guardian or person having the legal custody of said child, and a summary offense charge thereof shall be issued before a District Justice, who may subject said minor to a fine of up to \$300, together with costs for the first offense. If said minor, within a period of three months, shall violate the provisions of this chapter again, said minor so offending shall be subject to additional summary offense proceedings before a District Justice and may be subject to a fine of up to \$300 and/or 90 days imprisonment, or both, together with costs of prosecution. Each subsequent violation shall be subject to the same penalties. Each and every person aiding or abetting in the violation of the intent and purpose of this chapter shall also be subject to prosecution.
- B. Parental, guardian or adult responsibility. It shall be unlawful for the parent, guardian or other adult person having the legal care and custody of a minor under the age of 18 years knowingly to permit such minor to be in or upon the public streets, walkways, roads, alleys, park, playgrounds, public buildings, vacant lots or other unsupervised places within the Borough of Berwick between 11:00 p.m. and 6:00 a.m. of the following day; provided, however, that the provisions of this subsection do not apply when the minor is accompanied by his or her parent, guardian or other adult person having the legal care and custody of the minor or is returning to or from his or her place of employment or a borough-, school- or church-sponsored event.
- C. Any parent, guardian or adult having legal custody and care of any minor, who is charged with violating this chapter as set forth in Subsection B above, may be subject to payment

of a fine of up to \$300 and costs for the first violation. Each subsequent violation shall be subject to a fine of \$300 and/or 90 days imprisonment, or both, together with costs of prosecution.

**§ 76-4. Age determination.**

The police officers of the borough, in taking minors into custody, shall use their discretion in determining age, and in doubtful cases may require positive proof, and until such proof is furnished, the officer's judgment shall prevail.

