

MUNICIPALITY OF PENN HILLS

ORDINANCE NO. 2451 of 2006

AN ORDINANCE OF THE MUNICIPALITY OF PENN HILLS, COUNTY OF ALLEGHENY, COMMONWEALTH OF PENNSYLVANIA, ESTABLISHING A CURFEW FOR MINORS, DEFINING EXCEPTIONS, PARENTAL RESPONSIBILITIES AND POLICE PROCEDURES, AND ESTABLISHING PENALTIES FOR VIOLATIONS THEREOF.

WHEREAS, the Municipality of Penn Hills strives to ensure the safety of all its citizens; and,

WHEREAS, the Municipality of Penn Hills has determined that a curfew for minors should be established.

NOW, THEREFORE, THE MUNICIPALITY OF PENN HILLS HEREBY ORDAINS, IN A MEETING DULY CONVENED, THE FOLLOWING:

Section 1: DEFINITIONS.

For the purpose of this curfew ordinance, the following terms, phrases, and words and their derivation shall have the meanings given herein:

Adult – Any individual being over the age of 21.

Municipality – The Municipality of Penn Hills, Allegheny County, Pennsylvania, with administrative offices at 12245 Frankstown Road, Pittsburgh, Pennsylvania 15235.

Minor – any person under the age of 18, or, in equivalent phrasing often herein employed, any person 17 or fewer 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;
- As a person to whom legal custody has been given by Order of Court.

Public Place – means an area generally visible to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles, whether they are in motion or stationary, and buildings open to the general public including those which serve food or drink or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them.

Remain – To stay behind, to tarry and to stay unnecessarily upon the streets, including congregating in groups (or of interacting minors) totaling four or more persons, in which any minor involved would not be using the streets for ordinary or serious purposes, such as mere passage or going home.

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 a sidewalk thereof, for pedestrian travel. The term street includes a legal right of way, including but not limited to the cartway of traffic lanes, the curb, the sidewalks, whether paved or unpaved, and any grass plots or other grounds found within the legal right of way of a street. The term street also applies, for curfew purposes, to ways the public is privileged to use over private property, so long as the owner permits, including sidewalks and grass plots similarly open at the time to public use, and to parking areas of any type (residential, municipal, or commercial) open to public use or from such street or any type of street. The term street applies irrespective of what is called or formally named, whether alley, avenue, court, road, or otherwise, or whether it is maintained by the Municipality, and irrespective of whether it is open to the use of the public as a matter of right.

Time of Night – Based upon the prevailing standard of time, whether Eastern Standard Time or Eastern Standard Daylight Savings Time, generally observed at that hour by the public in the Municipality, prima facie at the time when observed in the Municipality administrative offices and police station.

Year of Age – Continues from one birthday, such as the 17th, to (but not including the day of) the next, such as the 18th birthday, making it clear that 17 or fewer years of age is herein treated as equivalent to the phrase “under 18 years of age”.

Section 2: CURFEW FOR MINORS ESTABLISHED.

It shall be unlawful for any person 17 or fewer years of age (under age 18) to be or remain in or upon the streets, alleys, parks, athletic fields, business places, or any other public places within the Municipality of Penn Hills between the hours of 10:30 p.m. and 6:00 a.m. the following day, except that on Fridays and Saturdays, the hours shall be from 11:30 p.m. to 6:00 a.m. the following days.

No person, firm or corporation operating places of amusement or entertainment, or any agent, servant or employee of any person, firm or corporation shall permit any person 17 or fewer years of age (under age 18) to enter or to remain in such places of

amusement or entertainment during the hours prohibited under this section, unless such person is accompanied by his or her parent, guardian or other adult person having his or her care, custody or control.

No person, firm or corporation operating a hotel, motel, lodging or rooming house, or any agent, servant or employee of such person, firm or corporation operating a hotel, motel, lodging or rooming house, shall permit any person 17 or fewer years of age (under age 18) to visit, loiter, idle, wander or stroll in any portion of such hotel, motel, lodging or rooming house between the hours prohibited under this section, provided, however, that the provisions of this section do not apply when the minor is accompanied by his or her parent, guardian, or other adult person having the care, custody and control of such minor.

Section 3: EXCEPTIONS.

In the following exceptional cases, a minor on the street within the Municipality during the nocturnal hours, for which Section 2 is intended to provide the maximum limits of regulation and a clear general guide for minors, their parents or custodian, and their follow citizen, shall not, however, be considered in violation of the curfew ordinance:

- When such minor is accompanied by a parent, guardian, or person having legal custody of such minor;
- When accompanied by an adult authorized by a parent of such minor to take said parents place in accompanying said minor for a designated period of time and purpose within a specified area;
- When such minor is going directly home from a school, church, or Municipality sponsored activity;
- When such minor is engaged in gainful lawful employment during the curfew hours or is traveling to or from such employment.

Section 4: PARENTAL RESPONSIBILITY.

It shall be unlawful for a person having legal custody of a minor knowingly to permit, or by insufficient control, to allow such minor to be or remain upon any street within the Municipality under circumstances not constituting an exception to, or otherwise beyond the scope of the curfew ordinance. The term “knowingly” includes knowledge, which a person should reasonably be expected to have concerning the whereabouts of a minor in that person’s legal custody. It is intended to continue to keep neglectful or careless parents, or custodians, up to a reasonable community standard of parental responsibility through an objective test. It shall be no defense that a parent, or custodian, was completely indifferent to the activities or conduct or whereabouts of such minor.

Section 5: POLICE PROCEDURES.

A police officer of the Municipality, upon finding or having attention called to any minor on the streets in violation of the curfew ordinance, normally shall take the minor to the Municipality police station, where a parent or custodian shall immediately be notified to come for such minor, whereupon they shall be questioned. This is intended to permit ascertainment, under constitutional safeguards, of relevant facts, and to centralize responsibility in the shift commander there and then on duty, for accurate, effective, fair, impartial, and uniform enforcement in recording, thus making available experienced supervisory personnel, the best of facilities, and access to information and records. In the absence of convincing evidence, such as a driver's license, police officers on the street shall, in the first instance, use their best judgment in determining age.

Police procedures may constantly be refined in the light of experience, and may provide that the police officer may deliver to a parent or custodian, a minor under appropriate circumstances, for example, a minor of tender age near home whose identity and address may be readily ascertained or are known.

In any event, such police officer shall, within 24 hours, file a written report with the Chief of Police, or shall participate, to the extent that the information for which the officer is responsible, in the preparation, by the officer and the shift commander involved in such case, in the filing of such report within 24 hours.

When a parent or custodian, immediately called, has come to take charge of the minor, and the appropriate information has been recorded, the minor shall be released to the custody of such parent or custodian. If the parent or custodian cannot be located or fails to take charge of the minor, then the minor shall be released to the juvenile authorities, except to the extent that, in accordance with the police regulations, approved in advance by juvenile authorities, the minor may temporarily be entrusted to a relative, neighbor, or other person who will, on behalf of the parent or custodian, assume the responsibility of caring for the minor pending the availability or arrival of a parent or custodian.

Section 6: VIOLATIONS AND PENALTIES.

Any person or persons, violating the provisions of this ordinance, minor or parent (or custodian), shall upon conviction thereof be sentenced to pay a fine of twenty-five dollars (\$25.00) for each offense up to three (3) offenses and a fine of not less than fifty dollars (\$50.00) nor more than three hundred dollars (\$300.00) plus costs of prosecution for each offense thereafter, and, in default of payment of

said fine and costs to a term of imprisonment for such a period of time as may be fixed by the Magisterial District Judge, not, however exceeding thirty days for each offense.

Section 7: REPEALER.

All Ordinances, or parts of Ordinances, in conflict with the provisions of this Ordinance, are hereby repealed to the extent of said conflict.

Section 8: SEVERABILITY.

It is hereby declared to be the intention of the Council of the Municipality of Penn Hills that the several provisions of this Ordinance are separable. If any Court of competent jurisdiction shall declare any words, sentences, sections or provisions of this Ordinance to be invalid, such a ruling shall not affect any other words, sentences, sections or provisions of this Ordinance not specifically included in said ruling.

THIS ORDINANCE APPROVED AND ADOPTED BY THE
MAYOR AND COUNCIL OF THE MUNICIPALITY OF PENN
HILLS ON THIS 5TH DAY OF JUNE, 2006.

Anthony L. DeLuca
Mayor

Date

Marla P. Marcinko
Manager

Date