

Chapter 6

Conduct

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Part 1**Curfew****§6-101. Purpose.**

The purpose of this Part is to:

A. Promote the general welfare and protect the general public through the reduction of juvenile violence and crime within the Borough.

B. Promote the safety and well being of the Borough's younger children, persons 17 years of age or younger, whose inexperience and immaturity renders them particularly vulnerable to becoming participants in unlawful activities, particularly unlawful drug activities, and to being victimized by older perpetrators of crime.

C. Prescribe, in accordance with prevailing community standards, regulations for the conduct of minors on streets at night, for the protection of younger children in the Borough from each other and from other persons on the streets during nighttime hours.

D. Foster and enforce parental control and responsibility for their children.

(Ord. 2015-4, 9/8/2015)

§6-102. Definitions.

Custodian—any person over the age of 18 years, having a duty to provide for the care, protection or support of a child or any person acting in loco parentis of a child.

Establishment—any privately owned place of business, to which the general public has access by a right, perceived right or custom or invitation, carried on for profit, or any other place devoted to business, commerce, amusement or entertainment of or for the general public.

Guardian—any person, other than a parent, having a duty to provide for the care, protection or support of a child.

Minor—a natural person being under the age of 18 and who has not been emancipated as an adult under Pennsylvania law.

Operator—any individual, firm, association, partnership or corporation operating, managing or conducting any establishment and, whenever used in any clause prescribing a penalty, the term “operator,” as applied to associations or partnerships or corporations, shall include the members or partners or officers thereof.

Parent—a natural parent or adoptive parent or court appointed/approved foster parent or state/county agency authorized foster parent or other person having a duty to provide for the care, protection or support of a child.

Public place—to include, but not be limited to, any street, highway, road, alley, sidewalk, public building, park, playground (or contiguous grounds), vacant lot, open space or place to which the general public has access because of a right, perceived right or custom or invitation.

Remain—to occupy, to loiter, to idle, to wander, to stroll or play in or upon. To fail

to leave when requested to do so.

(Ord. 2015-4, 9/8/2015)

§6-103. Unlawful Activity.

1. It shall be unlawful for any minor to remain in any public place or establishment after 11 p.m. and before 5 a.m.

2. The provisions of subsection .1 of this Section shall not apply if any of the exceptions stated in §6-104 of this Part exist.

3. Each violation of the provisions of this Section shall constitute a separate offense as per the penalties listed in §6-108 of this Part.

(Ord. 2015-4, 9/8/2015)

§6-104. Exceptions.

Any child found in apparent violation of this Part, meeting any one of the following listed exceptions, shall be exempt from the provisions of this Part:

A. Any time when the child is in actual accompaniment by a parent, guardian or custodian.

B. During any emergency activity authorized by the parent, guardian or custodian of said child, as long as the special conditions listed in paragraph .E are met.

C. When engaged in employment activities by said child, as long as the special conditions listed in paragraph .E are met.

D. During attendance of special activities/functions, as authorized by a parent, guardian or custodian as long as the special conditions listed in paragraph .E are met.

E. The following special conditions, where applicable, must be met by the child and parent, guardian or custodian or employer or other person(s) as authorized in any federal/state/local statute or ordinance:

(1) When a child is found in apparent violation of any of the provisions of this Part, while carrying written permission of the parent, guardian or custodian, stating the date, time and reason to exempt said child from the provisions of this Part.

(2) When a child found in apparent violation of any provision of this Part while carrying actual written authorization from an employer or other person as authorized by any Federal/State/local statute or ordinance indicating that said child is necessary to the function of that business, during the time frame regulated by this Part.

(3) When a child found in apparent violation of any provision of this Part during any declared national, State or local State of emergency when said child is supporting relief efforts of the State of emergency.

(4) When the child is in accordance of any provision as authorized by any Federal/State/local statute or ordinance.

(5) When advance notice is given to the Borough or the police in writing by any agency or quasi-agency of any governmental body indicating the names

and addresses of any children residing within the jurisdiction of the Borough who may be found in violation of any provision of this Part, during the activity time specified in that advance notice.

(6) Each violation of the provisions of this Section shall constitute a separate offense subject to the penalty provisions of this Part.

F. The minor is exercising First Amendment rights protected by the Constitution, such as free exercise of religion, freedom of speech and the right of assembly; provided, the minor first has given notice to the Borough by delivering written communication signed by the minor and countersigned, if practical, by a parent of the minor which specifies when, where and in what manner and for what First Amendment purpose the minor will be on the street that night during the curfew time period.

G. Any time the child is involved in bona fide interstate travel through the Borough.

(Ord. 2015-4, 9/8/2015)

§6-105. Responsibilities of Parent, Guardian or Custodian.

1. It shall be unlawful for any parent, guardian or custodian to allow or permit any minor to remain in any public place or establishment after 11 p.m. and before 5 a.m.

2. The provisions of subsection .1 of this Section shall not apply if any of the exceptions stated in §6-104 exist.

3. Each violation of the provisions of this Section shall constitute a separate offense as per the penalties listed in §6-108 of this Part.

4. It shall be the responsibility of the parent, guardian or custodian to immediately take custody of their child upon notice of a violation by the Borough or police.

(Ord. 2015-4, 9/8/2015)

§6-106. Responsibilities of Operator.

1. It shall be unlawful for any operator to allow or permit any minor to remain in any public place or establishment after 11 p.m. and before 5 a.m.

2. The provisions of subsection .1 of this Section shall not apply if any of the exceptions stated in §6-104 exist.

3. Each violation of the provisions of this Section shall constitute a separate offense as per the penalties listed in §6-108 of this Part.

4. It shall be the responsibility of the operator to immediately take custody of their child upon notice of a violation by the Borough or police.

(Ord. 2015-4, 9/8/2015)

§6-107. Enforcement Procedures.

A police officer enforcing any provision of this Part may employ any one or all of the following provisions of this Section:

A. A police officer shall stop and identify any person(s) suspected of violating

any provision of this Part.

B. A police department representative may either by oral communication or by written communication notify the parent, guardian or custodian of said child found in violation of any provision of this Part.

C. A police officer shall detain and identify any child found in violation of any provision of this Part.

D. If a parent or guardian or custodian cannot be located, then the police officer shall transfer custody of the child as specified in the currently applicable Pennsylvania State statutes and/or appropriate police department regulations relating to shelter care.

E. A record of any violation by any person of any provision of this Part shall be maintained by the Borough and the police.

(Ord. 2015-4, 9/8/2015)

§6-108. Violations and Penalties.

Notwithstanding the provisions of §6-107 of this Part, the following penalty, as appropriate, shall be imposed for any violation of any provision of this Part:

A. *Child Offenders.*

(1) A child offender's first violation shall result in a written warning.

(2) A child offender's second violation shall constitute a summary offense and a fine of \$50 plus court costs shall be imposed.

(3) A child offender's third and any subsequent offense shall be a summary offense and the fine shall then be increased by a minimum of \$50 per offense, plus court costs, not to exceed the maximum fine of \$600 plus court costs.

B. *Parents, Guardians or Custodians.*

(1) A parent, guardian or custodian's first offense shall result in a written warning.

(2) A parent or guardian or custodian's second violation shall be a summary offense and a fine of \$50 plus court costs shall be imposed.

(3) A parent or guardian or custodian's third and any other subsequent violation shall be a summary offense and the fine shall then be increased by a minimum of \$50 per offense, plus court costs, not to exceed the maximum fine of \$600 plus court costs.

C. *Operators.*

(1) An operator's first offense shall result in a written warning.

(2) An operator's second offense shall be a summary offense, and a fine of \$50 plus court costs shall be imposed.

(3) An operator's third violation and any subsequent violation shall be a summary offense and the fine shall then be increased by a minimum of \$50 per offense, plus court costs, not to exceed the maximum fine of \$600 plus court costs.

(Ord. 2015-4, 9/8/2015)

§6-109. Determination of Age.

1. Any police officer enforcing any provision of this Part may require positive proof of age by any person(s) in apparent violation of any provision of this Part.

2. Any police officer enforcing any provision of this Part, where positive proof of age has not been furnished by any alleged violator, shall use his/her discretion in determining age and, until positive proof has been furnished, the officer's judgment/discretion shall prevail.

(Ord. 2015-4, 9/8/2015)

§6-110. Failure to Enforce Not a Waiver.

The failure of the Borough to enforce any provision of this Part shall not constitute a waiver by the Borough of its rights of future enforcement hereunder.

(Ord. 2015-4, 9/8/2015)

Part 2**Open Containers of Alcoholic Beverages****§6-201. Public Consumption of Alcohol Prohibited.**

No person shall consume any alcoholic beverage while in or upon public streets, alleys, sidewalks, parking lots, public ways, parks or on grounds owned by or under the control of the Borough of New Morgan within the Borough.

(*Ord. 94-4, 11/6/1994, §1*)

§6-202. Open Containers of Alcoholic Beverages Prohibited.

No person shall be in possession of any glass, can or open container containing an alcoholic beverage at any of the locations prohibited in §6-201 hereof.

(*Ord. 94-4, 11/6/1994, §2*)

§6-203. Open Containers of Alcoholic Beverages Prohibited in Motor Vehicles.

No person shall be in possession of any glass, can or open container containing an alcoholic beverage, while within or on a motor vehicle including motorcycles, while such vehicle is parked or standing on a public street or public parking lot within the Borough of New Morgan or while such vehicle is in motion.

(*Ord. 94-4, 11/6/1994, §3*)

§6-204. Open Containers of Alcoholic Beverages May Not Be Removed from Licensed Premises.

No person, firm or corporation licensed to sell alcoholic beverages or his employees or agents shall permit any person to remove from such premises any alcoholic beverage in any open container.

(*Ord. 94-4, 11/6/1994, §4*)

§6-205. Notice to Be Posted.

All premises licensed for the sale of alcoholic beverages shall post a notice at each exit stating as follows: "No beer, liquor or wine may be carried in any open container out of the building."

(*Ord. 94-4, 11/6/1994, §5*)

§6-206. Definition of Alcoholic Beverage.

For purposes of this Part alcoholic beverage is defined as any spirit, wine, beer, ale or other liquid containing more than ½ percent of alcohol by volume which is fit for beverage purposes or intended for human consumption.

(*Ord. 94-4, 11/6/1994, §6*)

§6-207. Penalty.

Any person, firm or corporation who shall violate any provision of this Part, upon

conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs together with reasonable attorney fees and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

(*Ord. 94-4*, 11/6/1994, §7; as amended by *Ord. 2015-4*, 9/8/2015)

Part 3**Discharge of Firearms****§6-301. Discharge of Firearms Prohibited.**

Except in necessary defense of person and property and except as provided in §6-303 of this Part, it shall be unlawful for any person to use, fire or discharge any gun or other firearm within the Borough.

(Ord. 2015-4, 9/8/2015)

§6-302. Use of Air Rifle, Bow and Arrow, or Similar Device Restricted.

It shall be unlawful for any person to discharge any air rifle, air pistol, spring gun, spring pistol, B-B gun, bow and arrow or similar device, or any implement that is not a firearm but which impels a pellet of any kind with a force that can reasonably be expected to cause bodily harm, at any place within the Borough, except as provided in §6-303 of this Part, and except on a target range which is properly constructed to trap or stop the projectile as ascertained by the Borough Planner.

(Ord. 2015-4, 9/8/2015)

§6-303. Exceptions.

This Part shall not apply to:

A. Persons licensed to hunt in this Commonwealth while actually engaged in hunting where permitted under the laws of the Commonwealth of Pennsylvania.

B. Members of any organization incorporated under laws of this Commonwealth engaged in target shooting upon the grounds or property belonging to or under the control of such organization.

C. Any law enforcement officer when used in the discharge of his official duties.

(Ord. 2015-4, 9/8/2015)

§6-304. Penalties.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs together with reasonable attorney fees and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

(Ord. 2015-4, 9/8/2015)

