

Chapter 68

CURFEW

[HISTORY: Adopted by the Town Board of the Town of Conklin as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Parks — See Ch. 97.

Streets and sidewalks — See Ch. 112.

ARTICLE I

Halloween Curfew for Minors

[Adopted 10-11-2005 by L.L. No. 2-2005]

§ 68-1. Purpose and intent.

- A. It is the purpose of this article to promote the health, safety and general welfare of the residents of the Town of Conklin and to maintain rule and order by prescribing, in accordance with the prevailing community standards, regulations concerning the presence of minors on streets, roads, highways, public parks, and other public areas of the Town at night during the Halloween period to reduce juvenile crime and vandalism and to protect the children and minors of the Town of Conklin and further family responsibility.
- B. Parental responsibility for the location and activity of children is the accepted norm in this community. Legal sanctions to enforce such responsibility has had a demonstrable effect in many communities over the years. As parental control increases, there is a likelihood that juvenile delinquency will decrease. The Town Board of the Town of Conklin finds that a limited curfew for minors will meet a local need and will reinforce the primary authority and responsibility of parents and guardians over minors.
- C. It is not the intent of this article to supplant parental supervision and control. The Board recognizes the right of parents to direct their children's upbringing and family autonomy against unreasonable interference. The Board also recognizes that under certain circumstances, the harm to the physical or mental health of a child or to the safety, health and welfare of the public may, as a whole, outweigh the qualified right of parental autonomy.
- D. It is also not the intent of this article to deprive minors of their ability to exercise valid rights secured under the Constitution of the United States or under the State of New York that are enjoyed by all citizens of the community. The function of this article is to protect juveniles and to balance the right of all citizens of the Town of Conklin, so that the public as a whole may enjoy the rights and privileges guaranteed by the Constitutions and the laws of this country and of this state.

§ 68-2. Definitions.

As used in this article, the following terms, phrases, words and their derivations shall have the meanings provided herein:

MINOR — Any person under the age of 18 years, or, in equivalent phrasing, any person 17 years of age or less.

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 or as a person to whom legal custody has been given by court order.

PUBLIC AREAS — Any place to which the public has access, including but not limited to a public street, road, thoroughfare, sidewalk, bridge, place, park, school, recreation or shopping area, public transportation facility, vehicles used for a public transportation, parking lot or any other public building, structure or area.

STREET, ROAD AND HIGHWAY — A way or place, of whatever nature, open to the use of the public as a matter of right for purposes of vehicular or pedestrian travel. These terms include, but are not limited to, the legal right-of-way, traffic lanes, curbs, sidewalks and any grass plots or other ground found within the legal right-of-way of a street, road or highway. These terms apply irrespective of what they are called or formally named, whether an alley, avenue, court, drive, boulevard or otherwise.

TIME OF NIGHT — The prevailing standard of time that is generally observed by the public as constituting night.

REMAIN or LOITER — To stay behind, to tarry or to stay on or upon the public place.

§ 68-3. Establishment of curfew.

It shall be unlawful and a violation of this article for any person under the age of 18 years to be or loiter or remain in or upon the streets, roads, highways, public parks or other public areas within the Town of Conklin on October 30, October 31, and November 1 between the hours of 8:00 p.m. and 6:00 a.m.

§ 68-4. Exceptions.

A minor on or upon a Town street, road, highway, public park or other public area between 8:00 p.m. and 6:00 a.m. shall not be considered in violation of this chapter under the following circumstances:

- A. When the minor is accompanied by a parent or legal guardian of such minor.
- B. When the minor is also accompanied by an adult over the age of 21 authorized by a parent or legal guardian of such minor to take said parent's place in accompanying the minor for a designated period of time and purposes within a specific area.
- C. When the minor is exercising First Amendment rights, protected under the Constitution of the United States, such as the free exercise of religion, speech and exhibiting to enforcement personnel a written statement, signed by the minor and by a parent or legal guardian of such minor, specifying when, where and in what manner the minor will be on public areas at night during hours when this chapter is otherwise applicable, and specifying

the home address and telephone number of said minor.

- D. In the case of reasonable necessity for the minor to be or remain on public areas, provided that such minor can evidence and establish by exhibiting to enforcement personnel a written statement signed by the minor and by a parent of such minor, the reasonable necessity relating to specific public areas at a designated time for a described purpose including points of origin and destination, specifying, when, where and in what manner the minor will be on public areas at night during hours when this chapter is otherwise applicable, and specifying the home address and telephone number of said minor.
- E. When the minor is on the sidewalk or public property immediately abutting the minor's residence.
- F. When the minor is engaged in or traveling directly to or from a place of employment.
- G. When the minor is engaged in an errand involving a certified medical emergency.
- H. When the minor is, with parent consent, in a motor vehicle and is engaged in normal travel to and from a set destination. It is the intention of this provision to clearly exempt bona fide interstate movements along major routes through the Town of Conklin and interstate travel beginning or ending in the Town of Conklin.
- I. When the minor is returning home from and within 1/2 hour after the termination of a Town, school, civic, not-for-profit, or religious sponsored activity, provided that such minor can evidence the written permission of a parent, signed by the minor and a parent of said minor, and including the home address and telephone number of the minor and the place and probable time of termination of the activity.

§ 68-5. Enforcement.

- A. This article shall be administered and enforced, severally, separately and jointly by the Broome County Sheriff's Department and the New York State Police. Violation of any provision of this article shall be cause for an appearance ticket to be issued.
- B. This article is complaint driven and as such requires that a violation thereunder be complained of to either the Broome County Sheriff's Department or the New York State Police before enforcement hereunder may occur. The complaint must describe the violation and the complaint must include for the enforcement authorities the address of the aggrieved property or person.

§ 68-6. Penalties for offenses.

- A. Any minor under the age of 16 years of age who violates any provision of this article shall be subject to a fine of not more than \$50 for the first conviction, \$100 for the second conviction, \$250 thereafter, or be required to perform community service, or any combination thereof.
- B. Any minor between the ages of 16 and 18 years of age who violates any provision of this article shall be subject to a fine of not more than \$50 for the first conviction, \$100 for the second conviction, \$250 thereafter or by a term of imprisonment not to exceed 15 days, or be required to perform community service, or any combination thereof.

- C. The enforcement authorities may, in their discretion, issue a warning notice for a first violation.