

**PART 3**

**CURFEW**

**A. Nighttime Curfew.**

**§6-301. Curfew for Children Under Age 18.**

It shall be unlawful for children under age 18 years to be or remain in or upon the streets, alleys, parks or public places in the Borough of Philipsburg at night after the hour of 11 p.m., prevailing time, unless such is accompanied by a parent, guardian or other persons having legal custody of such child or unless such activity falls within a specifically enumerated exception to this Part.

(Ord. 10/2/1978A, §1; as amended by Ord. 906, 7/12/1983, §1)

**§6-302. Responsibility of Parents.**

It is hereby unlawful for any parents, guardian or other person having the legal care or custody of any of the children above designated to allow or permit any such child, ward or other person under such age while in such legal custody to go or be in or upon any street, alley, park or public place in said Borough after the time provided in §6-301 of this Part unless such activity fall within a specifically enumerated exception to this Part.

(Ord. 10/2/1978A, §2; as amended by Ord. 906, 7/12/1983, §2)

**§6-303. Exceptions.**

After the time set forth in §6-301, children under the age of 18 years shall be permitted no more than 15 minutes traveling in the most direct route to return to their place of residence immediately following the conclusion or cessation of:

- A. School or church sponsored activities or events.
- B. Working hours at a regular place of employment.

(Ord. 906, 7/12/1983, §3)

**§6-304. Police and/or Ordinance Officer Action; Warning; Penalties.**

Any child as above designated found upon the Borough streets, parks or public places within the Borough in violation of §6-301 of this Part and any parent, guardian or per-

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son having legal custody of said child who allows or permits said child to go or be in or upon the Borough streets, alleys, parks or public places in violation of §6-302 of this Part shall be given a written warning of the violation. If said violation occurs a second or subsequent time, said offending child and his or her parent or legal guardian shall, upon conviction thereof, be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 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. 10/2/1978, §3; as amended by Ord. 888, 3/2/1981, §1; by Ord. 906, 7/12/1983, §4; and by A.O.)

### **§6-305. Determination of Age.**

The police and/or ordinance officer of the Borough 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.

(Ord. 10/2/1978, §5; as amended by Ord. 906, 7/12/1983, §5; as amended by A.O.)

## **B. Daytime Curfew.**

### **§6-311. Purpose.**

The purpose of this Part is to promote the safety and good order of the community by helping to eradicate rowdiness, excessive noise, vandalism, harassment, graffiti, drug dealing and other behavior caused by juveniles that adds to disorder in the community and to encourage school attendance and parental responsibility.

(Ord. 968, 8/12/1996)

### **§6-312. Daytime Curfew.**

1. It shall be unlawful for any child of compulsory school age (now age 17 years) enrolled in any elementary or secondary school, including cyber school, to be or remain in or upon any public street, alley, highway, park or other public place or in any enclosure or vehicle which is on or in close proximity to any such street, alley, highway, park or public place in the Borough between the hours of 9 a.m. and 2:30 p.m. on any day for which school is in session, unless such child has permission to be absent from school or to be in a public place from an authorized school official. In the case of a child educated through a home school program pursuant to Pennsylvania School Code §1327.1 (Home Education), a parent shall be deemed an authorized official. (A.O.)

2. It shall be unlawful for any parent, guardian or person in parental relation having control or charge of any child of compulsory school age to permit such child to be or remain in or upon any public street, alley, highway, park or other public place or in any enclosure or vehicle which is on or in close proximity to any such street, alley, highway, park or public place in the Borough between the hours of 9 a.m. and 2:30 p.m. on any day for which school is in session, unless such child has permission to be absent from school or to be in a public place from an authorized school official. In the case of a child educated through a home school program pursuant to Pennsylvania School Code §1327.1 (Home Education), a parent shall be deemed an authorized official.
3. It shall be unlawful for any person to act as an accomplice in violating any of the provisions of this Part. A person is an accomplice of a child in violation of any provisions of this Part if with the intent of promoting or facilitating the commission of the offense, they:
  - A. Solicit the child to commit.
  - B. Aid or agree or attempt to aid such other person in planning or committing it.

(Ord. 968, 8/12/1996; as amended by A.O.)

### **§6-313. Daytime Curfew Violation.**

1. Offense of the Child.
  - A. Any child who shall fail to comply with the provisions of this Part relating to daytime curfew on a first offense shall be arrested or apprehended, taken into custody and transported to police headquarters for proper identification. After identification has been properly ascertained, it shall be entered into a data base by the Borough. The arresting or apprehending officer shall properly notify the parents, guardian or person in parental relation to such child and, unless requested by such parent, guardian or person in parental relation to, place said child in a school other than public school, they shall place said child in the public school in which the child is, or should be enrolled, subject to the appropriate disciplinary action.
  - B. Any child who shall fail to comply with the provisions of this Part relating to daytime curfew on a second or succeeding offense shall, upon conviction there, be sentenced to pay a fine of not less than \$50 nor more than \$1,000 plus costs and, in default of payment of said fine and costs, shall be referred by the district justice to the Juvenile Court pursuant to the Juvenile Act, 42 Pa.C.S.A. §6301 et seq. In lieu of a fine, community service may be assigned by a district justice at their discretion. [A.O.]

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2. **Offense of the Parent.** Every parent, guardian or person in parental relation having control or charge of any child of compulsory school age who shall fail to comply with the provisions of this Part relating to daytime curfew shall, upon conviction thereof, be sentenced to pay a fine of not less than \$50 nor more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 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. In lieu of a fine, community service may be assigned by a district justice at his discretion. [A.O.]
3. **Accomplices.** Any person found to be an accomplice shall, upon conviction thereof, be sentenced to pay a fine of not less than \$50 nor more than \$1,000 plus costs. In cases of default of payment where the accomplice is determined to be a juvenile legally disenrolled from school, the accomplice shall be referred by the district justice to the Juvenile Court pursuant to Juvenile Act 42 Pa.C.S.A. §6301 et seq. In lieu of a fine, community service may be assigned by a district justice at his discretion.

(Ord. 968, 8/12/1996)