

CURFEW ORDINANCE OF THE TOWN OF JAY

Enacted: January 21, 2003

PART 1

GENERAL PROVISIONS

Section 101. Short Title

This Ordinance shall be known and may be cited as the "Curfew Ordinance of the Town of Jay, Maine."

Section 102. Findings

There has been an increase in violence and property crimes by Minors, and an increase in activity among Minors in the Town of Jay.

Persons under the age of seventeen are particularly susceptible, because of their lack of maturity and experience, to participation in unlawful activities and gang-related activities, and to victimization by older perpetrators of crime.

Section 103. Purpose

The purpose of this Ordinance is to provide for the protection of Minors from each other and from other persons, the protection of health, safety, and welfare of the general public, and the reduction of crime, violence, and gang-related activity by Minors in the Town of Jay. A curfew for those under the age of seventeen will aid in the achievement of those goals, and will be in the interest of the public health, safety, and welfare.

Section 104. Authority

This Ordinance is enacted pursuant to Title 30-A M.R.S.A., Section 3001.

Section 105. Applicability

This Ordinance shall apply to Minors in the Town of Jay, whether or not residents of the Town of Jay, and shall also apply to the Parents and Guardians of Minors in the Town of Jay, whether or not residents of the Town of Jay.

Section 106. Severability

If any provision or section of this Ordinance, or the application thereof to any person or circumstance, is determined to be invalid or void by a court of competent jurisdiction, such determination shall not affect other provisions or applications of this Ordinance that can be given effect in whole or in part without the invalid provision or application, and to this end each provision of this Ordinance is declared to be severable and independent. It is the intent of the Town of Jay that each and every part, clause, paragraph, section and subsection of this Ordinance be given effect to the degree possible.

In any case where a provision of this Ordinance is found to be in conflict with a provision of any other ordinance or code of the Town of Jay, the provision which established or establishes the higher standard for the promotion and protection of health and welfare for the community shall prevail.

Section 107. Effective Date and Amendment

This Ordinance shall become effective on the date of adoption, and may be amended by a majority vote of a Town meeting of the Town of Jay.

PART 2

DEFINITIONS

Section 201. Definitions

Subject to additional definitions contained in the subsequent parts of this Ordinance and unless the context otherwise requires, in this Ordinance the following terms have the following meanings (such definitions to be equally applicable to all parts of speech and to both the singular and plural forms of the terms defined):

Curfew Hours: "Curfew Hours" shall mean the hours from:

10:01 P.M. until 6:00 A.M. for Minors 11 or less years of age

10:31 P.M. until 6:00 A.M. for Minors 12 or 13 years of age, and

11:00 P.M. until 6:00 A.M. for Minors 14 to 17 years of age

On Friday and Saturday evenings the hours specified above shall be extended by one hour

Emergency: "Emergency" shall mean unforeseen circumstances, or the resulting situation, calling for immediate action. This includes, but is not limited to, fire, natural disaster, or vehicular accident, as well as any situation requiring action to avert serious injury or the loss of life.

Guardian: "Guardian" shall mean a person or a public or private agency who, pursuant to court order, is the legal guardian of the Minor. This definition also includes a person to whom parental powers have been delegated under M.R.S.A. Title 18-A, Sections 5-104.

Minor: "Minor" shall mean any person who is seventeen years of age or younger.

Parent: "Parent" shall mean a person who is the natural parent, adoptive parent, or step-parent of the Minor.

Public Place: "Public Place" shall mean a place located in the Town of Jay to which the public, or a substantial group of the public, has access, including, but not limited to, streets, highways, sidewalks, parking lots, vacant lots, parks, and the common areas in and about apartment buildings, office buildings, schools, shops and places of entertainment.

Remain: "Remain" shall mean to linger or stay, as well as to refuse to leave when requested to do so by a police officer, or the owner or other person in control of a Public Place. This term also encompasses activities which may be mobile, such as walking, driving, and riding about in a Public Place.

PART 3

GENERAL PROHIBITIONS

Section 301. Prohibitions

No Minor shall remain in a Public Place during Curfew Hours.

No Parent or Guardian of a Minor shall knowingly permit, or allow by exercising insufficient control, a Minor to Remain in a Public Place during Curfew Hours.

Section 302. Exceptions

It is an exception to the prohibitions under Section 301 of this Ordinance that the Minor was:

Accompanied by the Minor's Parent or Guardian;

Involved in an emergency or on an errand necessitated by an emergency;

Engaged in an employment activity, or on the way to or from an employment activity, without any detour or stop except as necessary to drop off or pick up a co-employee;

In a motor vehicle involved in interstate travel;

On the sidewalk abutting the Minor's home;

On an errand directed by a Parent or Guardian, without any detour or stop;

Attending a school, religious, or governmental activity, which is supervised by adults, or traveling to or from such a school, religious, or governmental activity without detour or stop;

Attending a recreational activity sponsored by the Town of Jay, a civic organization, or a similar entity, which is supervised by adults, or traveling to or from such an activity without detour or stop;

Exercising rights protected by the First Amendment of the United States Constitution; or

Married, or otherwise legally emancipated.

PART 4

ENFORCEMENT

Section 401. Restriction on Enforcement

A police officer shall not take any action to enforce this Ordinance unless the officer reasonably believes that a violation has occurred and, based on any response as well as other circumstances, no exception provided in Section 302 is applicable.

Section 402. Enforcement Procedure

If a police officer or an owner or other person in control of a Public Place reasonably believes that a person is in violation of this Ordinance:

A. The owner or other person may notify the police of the alleged violation;

B. The police officer may ask the apparent offender's age;

The police officer may ask for proof of the apparent offender's age;

The police officer shall be justified in taking action to ascertain the apparent offender's age in the absence of identification, such as taking the apparent offender into custody while contacting his or her Parent or Guardian, or accompanying the apparent offender to his or her residence for the purpose of obtaining identification;

If the apparent offender is a Minor, or cannot produce identification proving otherwise immediately, the officer may ask the reason for the apparent offender's being in a Public Place;

The police officer may take the Minor into custody for the purposes of contacting the Minor's Parent or Guardian to come to take control of the Minor;

During this period, the officer may require the Minor to remain in the officer's presence for a period of up to two hours, so long as the officer complies with all requirements of law, including, without limitation, M.R.S.A. Title 17-A, Sections 1-7;

If the apparent offender is a Minor, the police officer may summons the Minor and the Minor's Parent or Guardian to the District Court for a violation of this Ordinance, in accordance with Rule 4 of the Maine Rules of Civil Procedure.

PART 5

CIVIL PENALTIES

Section 501. Civil Penalties

A. A Minor who violates this Ordinance may be assessed a civil penalty as follows:

For the first offense, up to five hours of community service and a fine of up to \$50.00; and

For each subsequent offense, up to ten hours of community service and a fine of up to \$100.00.

B. A Parent or Guardian who violates this Ordinance may be assessed a civil penalty as follows:

For the first offense, a fine of up to \$50.00; and

For each subsequent offense, a fine of up to \$100.00.

Section 502. Considerations

In setting civil penalties pursuant to a violation of this Ordinance, prior violations by the same person may be taken into account.

Section 503. Payment

Payment of any civil penalty assessed shall be made in cash or by a certified check drawn on a recognized financial institution, made payable to the "Town of Jay" in an amount equal to the full extent of the civil penalty.