

Chapter 6

Conduct

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Part 1**Disorderly Conduct****§6-101. Disorderly Conduct Prohibited.**

1. Disorderly conduct, as defined in §5503 of the Crimes Code, 18 Pa.C.S.A. §5503, is hereby prohibited within the Borough of Ivyland. A person is guilty of disorderly conduct if, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, he:

- A. Engages in fighting or threatening, or in violent or tumultuous behavior.
- B. Makes unreasonable noise.
- C. Creates a hazardous or physically offensive condition by any act which serves no legitimate purpose of the actor.

2. Provided, as used in this Section, the word “public” means affecting or likely to affect persons in a place to which the public or a substantial group has access. Among the places included are streets, alleys and sidewalks, transport facilities, schools, prisons, apartment houses, places of business or amusement, any neighborhood or any premises which are open to the public.

(Ord. 2011-3, 11/9/2011)

§6-102. Penalty for Violation.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall 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 shall constitute a separate offense.

(Ord. 2011-3, 11/9/2011)

Part 2**Discharge of Firearms and Similar Devices****§6-201. Discharge of Firearms Prohibited.**

Except as provided in §6-204 of this Part, it shall be unlawful for any person to use, fire, or discharge any gun or other firearm within the Borough of Ivyland.

(*Ord. 1993-7, 12/1/1993, §1*)

§6-202. Use of Air Rifles, Bow and Arrows, or Similar Devices 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, paintball gun, crossbow, sling shot, or similar device or any implement that is not a firearm but that propels a pellet of any kind, or other material or object, with a force that can reasonably be expected to cause bodily harm or injury to property, within the Borough of Ivyland, except as provided in §6-204 of this Part.

(*Ord. 1993-7, 12/1/1993, §2; as amended by Ord. 2003-4, 5/14/2003, §2*)

§6-203. Possession of Restricted Devices by Persons under 18 Years of Age Prohibited.

It shall be unlawful for any minor under the age of 18 years to possess any firearm, air rifle, air pistol, spring gun, spring pistol, B-B gun, bow and arrow, paintball gun, crossbow, sling shot, or similar device or any implement that is not a firearm but that propels a pellet of any kind, or other material or object, with a force that can reasonably be expected to cause bodily harm or injury to property, within the Borough of Ivyland, except upon the property of such minor's parent or legal guardian, or under the direct supervision of such minor's parent, legal guardian, or other responsible adult. In the event of a violation of this Section, Ivyland Borough police officers are authorized to remove such firearm or device or implement from the possession of such minor and to retain such firearm, device or implement until it can be delivered to the minor's parent or legal guardian. In such event, the police officer shall make reasonable efforts to notify the minor's parent or guardian that the Police Department has removed the firearm, device, or implement from the minor's possession and that the Police Department will deliver such firearm, device, or implement to the parent or guardian upon verification of proper identification.

(*Ord. 1993-7, 12/1/1993; as added by Ord. 2003-4, 5/14/2003, §3*)

§6-204. Exceptions.

This Part shall not apply to:

- A. Persons engaged in the necessary defense of person or property.
- B. Persons lawfully engaged in a Borough endorsed parade or other public celebration within the Borough of Ivyland where the manner of and circumstances surrounding the discharge of any gun, firearm, or other device restricted by this Part is approved by the Borough.

C. Any law enforcement officers engaged in the performance of their official duties.

(*Ord. 1993-7, 12/1/1993, §3*)

§6-205. Penalties for Violation.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to 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. 1993-7, 12/1/1993, §4; as amended by Ord. 2011-3, 11/9/2011*)

Part 3**Unnecessary or Excessive Noise****§6-301. Unnecessary or Excessive Noise to Be Disorderly Conduct and a Nuisance.**

The creation, within the Borough, of any unnecessary or excessive noise or of any noise of such character, intensity or duration as to be detrimental to the health or life of any individual or in the disturbance of the public peace and welfare or the aiding and abetting in the creation of any such noise to continue is hereby prohibited and shall constitute disorderly conduct and a nuisance.

(Ord. 2004-5, 11/10/2004, §1)

§6-302. Enumeration of Unnecessary or Excessive Noises.

1. Prohibited noise, within the meaning of this Part, is hereby defined to include the following:

Horns and warning devices—for any person at any time to use a horn or other warning device otherwise than as a reasonable warning or to make any unnecessary or unreasonable, loud or harsh sound by means of a horn or other warning device.

Radios, televisions, and other devices and musical instruments—the playing of any radio, phonograph, television, stereo, CD or other digital format player, or any other similar electronic device, or any musical instrument in such a manner or with such volume as to annoy or disturb the quiet, comfort or repose of persons in any office or any dwelling, or of any persons in the vicinity thereof.

Shouting, yelling, etc.—yelling, shouting, hooting, whistling or singing on the public streets so as to annoy or disturb the quiet, comfort or repose of any persons in any dwelling, or of any persons in the vicinity thereof.

Animal noises—permitting any animal, bird or fowl in one's possession or under one's control to make any frequent or long continued noise of such character or intensity as to disturb the comfort or repose of any person.

Construction and demolition noise—the erection (including excavating), demolition, alteration or repair of any building in any residential district or section, the excavation of streets or highways in any residential district or section other than between the hours of 7 a.m. and 9 p.m. on weekdays, except in the case of urgent necessity in the interests of public health and safety and then only with a permit from the Borough's Code Enforcement Officer, or other person designated by Borough Council, which permit may be granted for a period not to exceed 30 days while the emergency continues. If the Borough Council should determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways between the hours of 9 p.m. and 7 a.m. and if they shall further determine that loss or inconvenience would result to any party in interest, they may grant permission for such work to be done between the hours of 9 p.m. and 7 a.m., upon application being made at the time the permit for the work is awarded or during the progress

of the work. In the event that this provision conflicts with an applicable alternate restriction such as a noise provision within an improvement or development agreement, or a provision of the Borough's Zoning Ordinance [Chapter 27], or a condition specified on a building permit, the more restrictive provision shall apply.

Schools and churches—the creation of any excessive noise on any street adjacent to any school or church, while the same are in session, which unreasonably interferes with the workings of sessions thereof and the making of any other noise so as to annoy the users and/or occupants of such places or buildings as are herein defined.

Commercial purposes—the use of any drum, loud speaker or other instrument or device for the purpose of attracting attention to the sale or display of merchandise of a commercial character.

Refuse compacting vehicles—operating of or permitting to be operated the compact cycle of a motor vehicle which can compact refuse between the hours of 6 p.m. and 6 a.m., the following day, in residential areas.

Loading or unloading—the loading or unloading of a truck, van, or similar commercial vehicle within a residential district between the hours of 6 p.m. and 6 a.m., the following day, where such loading or unloading activity produces noise that annoys or disturbs the quiet, comfort or repose of any persons in any dwelling, or of any persons in the vicinity thereof.

(Ord. 2004-5, 11/10/2004, §2)

§6-303. Exceptions.

None of the terms or prohibitions hereof shall apply to or be enforced against:

A. Any vehicle or personnel of the Borough while engaged upon necessary public business.

B. Excavations or repairs of bridges, streets or highways by or on behalf of the Borough during the nighttime, when the public welfare and convenience renders it impossible to perform such work during the daytime.

C. Parades with band music on holidays or by civic organizations or by the public schools or divisions of the public schools.

D. School sports events which may or may not be accompanied by cheering and/or music.

E. The reasonable use of amplifiers or loud speakers in the course of public addresses which are noncommercial in character.

F. Fireworks exhibits held under permit by the Borough.

(Ord. 2004-5, 11/10/2004, §3)

§6-304. Violations and Penalties.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to 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. 2004-5*, 11/10/2004, §4; as amended by *Ord. 2011-3*, 11/9/2011)

§6-305. Other Remedies.

In addition to penalties set forth above, the Borough shall, in addition thereto, have available to it all other applicable legal and equitable remedies including injunctive proceedings to restrain excessive noise.

(*Ord. 2004-5*, 11/10/2004, §5)

Part 4**Nighttime Curfew for Minors****§6-401. 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 youngest citizens, persons under the age of 18, whose inexperience renders them particularly vulnerable to becoming participants in unlawful activities, particularly unlawful drug activities, and to being victimized by older perpetrators of crime.

C. Foster and strengthen parental responsibility for children.

(Ord. 2003-2, 3/12/2003)

§6-402. Definitions.

As used within this Section, the following words and phrases shall have the meanings ascribed to them below:

Curfew hours—for minors under the age of 16 years “curfew hours” means the hours of 10:01 p.m. through 5 a.m. on Monday through Friday, and 11 p.m. through 5 a.m. on Saturday and Sunday. For minors between the ages of 16 years and 18 years, “curfew hours” means the hours of 11:01 p.m. through 5 a.m. on all days of the week.

Emergency—unforeseen circumstances, or the status or condition resulting therefrom, requiring immediate action to safeguard life, limb or property. The term includes, but is not limited to, fires, natural disasters, automobile accidents, or other similar circumstances.

Establishment—any privately-owned place of business within the Borough operated for a profit, to which the public is invited, including, but not limited to, any place of amusement or entertainment. With respect to such establishment, the term “operator” shall mean any person, and any firm, association, partnership (and the members or partners thereof) and/or any corporation (and the officers thereof) conducting or managing that establishment.

Minor—any person under 18 years of age who has not been emancipated by court order.

Officer—a police or other law enforcement officer charged with the duty of enforcing the laws of the Commonwealth of Pennsylvania and/or ordinances of the Borough.

Parent—

(1) A person who is a minor's biological or adoptive parent and who has legal custody of a minor (including either parent, if custody is shared under a court order or agreement).

(2) A person who is the biological or adoptive parent with whom a minor

regularly resides.

(3) A person judicially appointed as a legal guardian of the minor.

(4) A person 18 years of age or older standing in *loco parentis* (as indicated by the authorization of an individual listed in subparagraph(s) (1), (2) or (3) of this definition, above, for the person to assume the care or physical custody of the child, or as indicated by any other circumstances).

Person—an individual, not to any association, corporation, or any other legal entity.

Public place—any place to which the public or a substantial group of the public has access, including, but not limited to, streets, highways, roads, sidewalks, alleys, avenues, parks, and/or the common areas of schools, hospitals, apartment houses, office buildings, transportation facilities and shops.

Remain—

(1) Linger or stay at or upon a place.

(2) Fail to leave a place when requested to do so by an officer or by the owner, operator or other person in control of that place.

Temporary care facility—a nonlocked, nonrestrictive shelter at which minors may wait, under visual supervision, to be retrieved by a parent. No minors waiting in such facility shall be handcuffed and/or secured (by handcuffs or otherwise) to any stationary object.

(Ord. 2003-2, 3/12/2003)

§6-403. Unlawful Conduct of Minors.

It shall be unlawful for a minor, during curfew hours, to remain in or upon any public place within the Borough, to remain in any motor vehicle operating or parked therein or thereon, or to remain in or upon the premises of any establishment within the Borough, unless:

- A. The minor is accompanied by a parent.
- B. The minor is involved in an emergency.
- C. The minor is engaged in an employment activity, or is going to or returning home from such activity, without detour or stop.
- D. The minor is on the sidewalk directly abutting a place where he or she resides with a parent.
- E. The minor is attending an activity sponsored by a school, religious, or civic organization, by a public organization or agency, or by another similar organization or entity, which activity is supervised by adults, and/or the minor is going to or returning from such an activity without detour or stop.
- F. The minor is on an errand at the direction of a parent, and the minor has in his or her possession a writing signed by the parent containing the following information: the name, signature, address and telephone number of the parent authorizing the errand, the telephone number where the parent may be reached during the errand, the name of the minor, and a brief description of the errand, the minor's destination(s) and the hours the minor is authorized to be engaged in the errand.

G. The minor is involved in interstate travel through, or beginning or terminating in, the Borough.

H. The minor is exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right of assembly.

(Ord. 2003-2, 3/12/2003)

§6-404. Parental Responsibility.

It shall be unlawful for a minor's parent to knowingly permit, allow or encourage such minor to violate §6-403.

(Ord. 2003-2, 3/12/2003)

§6-405. Responsibility of Owner or Operators of Motor Vehicles.

It shall be unlawful for a person who is the owner or operator of any motor vehicle to knowingly permit, allow or encourage a violation of §6-403.

(Ord. 2003-2, 3/12/2003)

§6-406. Responsibility of Operators of Establishments.

It shall be unlawful for the operator of any establishment, or for any person who is an employee thereof, to knowingly permit, allow or encourage a minor to remain upon the premises of the establishment during curfew hours. It shall be a defense to prosecution under this subsection that the operator or employee of an establishment promptly notified the police department that a minor was present at the establishment after curfew hours and refused to leave.

(Ord. 2003-2, 3/12/2003)

§6-407. Unlawful to Provide False Identification.

It shall be unlawful for any person (including any minor) to give a false name, address, or telephone number to any officer investigating a possible violation of this Section.

(Ord. 2003-2, 3/12/2003)

§6-408. Enforcement.

1. *Minors.* Before taking any enforcement action hereunder, an officer shall make an immediate investigation for the purpose of ascertaining whether or not the presence of a minor in a public place, motor vehicle and/or establishment within the Borough during curfew hours is in violation of §6-403.

A. If such investigation reveals that the presence of such minor is in violation of §6-403, then:

(1) If the minor has not previously been issued a warning for any such violation, then the officer shall issue a verbal warning to the minor, which shall be followed by a written warning mailed by the Police Department to the minor and his or her parent(s).

(2) If the minor has previously been issued a warning for any such

violation, then the officer shall charge the minor with a summary offense for violation of this Part and shall issue a summons requiring the minor to appear before a magisterial district judge. [*Ord. 2011-3*]

B. As soon as practicable, the officer shall:

(1) Release the minor to his or her parent(s); or,

(2) Place the minor in a temporary care facility for a period not to exceed the remainder of the curfew hours, so that his or parent(s) may retrieve the minor; or,

(3) If a minor refuses to give an officer his or name and address, refuses to give the name and address of his or her parent(s), or if no parent can be located prior to the end of the applicable curfew hours, or if located, no parent appears to accept custody of the minor, the minor may be taken to a nonsecure crisis center or juvenile shelter and/or may be taken to a judge or intake officer of the juvenile court to be dealt with in the manner and pursuant to such procedures as required by law.

2. *Others.* If an investigation by an officer reveals that a person has violated §§6-404, 6-405 and 6-406, and if the person has not previously been issued a warning with respect to any such violation, an officer shall issue an oral warning to the person, which shall be followed by a written warning mailed by the Police Department to the person; however, if any such warning has been previously issued to that person then the officer shall charge the person with a summary offense for violation of this Part and shall issue a summons directing the person to appear before a magisterial district judge. [*Ord. 2011-3*]

(*Ord. 2003-2, 3/12/2003; as amended by Ord. 2005-10, 10/12/2005, §1; and by Ord. 2011-3, 11/9/2011*)

§6-409. Penalties.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to 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. 2003-2, 3/12/2003; as amended by Ord. 2005-10, 10/12/2005, §1; and by Ord. 2011-3, 11/9/2011*)

§6-410. Review.

All other provisions of *Ord. 2003-2* are hereby ratified and affirmed in all aspects except as otherwise specifically amended hereby.

(*Ord. 2003-2, 3/12/2003; as added by Ord. 2005-10, 10/12/2005, §2*)