

Chapter 119

CURFEW

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[HISTORY: Adopted by the Board of Trustees of the Village of St. Johnsville 8-14-1999 by L.L. No. 2-1999. Amendments noted where applicable.]

§ 119-1. Purpose.

The purpose of this chapter is to:

- A. Promote the general welfare and protect the general public through the reduction of juvenile violence and crime within the Village; and
- B. Promote the safety and well-being of the youngest Village citizens, i.e., persons under the age of 17 years, whose inexperience renders them particularly vulnerable to becoming participants in unlawful activities, specifically unlawful drug activities, and to being victimized by older perpetrators of crime; and
- C. Foster and strengthen parental responsibility for children.

§ 119-2. Definitions.

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

CURFEW HOURS —

- A. During the period of September 1 through June 30, shall begin at 9:00 p.m. on Sunday through Thursday and end at 5:00 a.m. the following day.
- B. During the period of July 1 through August 31, shall begin at 10:00 p.m. on Sunday through Thursday and end at 5:00 a.m. the following day.
- C. On Friday and Saturday, shall begin at 11:00 p.m. and end at 5:00 a.m. the following day.

EMERGENCY — Refers to unforeseen circumstances, or the status or condition resulting therefrom, requiring immediate action to safeguard life, limb or property including, but not limited to, fires, natural disasters, automobile accidents, or other similar circumstances.

ESTABLISHMENT — Refers to any privately-owned place of business within the Village of St. Johnsville operated for a profit and to which the public is invited, including, but not limited to, any place of amusement or entertainment.

MINOR — Refers to any person under 17 years of age who has not been emancipated by court order, or any other applicable law, of the State of New York.

OFFICER — Refers to a police or other law enforcement officer charged with the duty of enforcing the laws of the State of New York and/or the ordinances and local laws of the Village of St. Johnsville.

OPERATOR — Shall mean any person, firm, association, partnership (and the members or partners thereof) and/or any corporation (and the officers thereof) conducting or managing an establishment.

PARENT — Refers to:

- A. A person who is a 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); or
- B. A person who is the biological or adoptive parent with whom a minor regularly resides; or
- C. A person judicially appointed as a legal guardian of a minor; or
- D. A person 18 years of age or older standing in “loco parentis” (as indicated by the authorization of an individual listed in Subsection(s) A, B or C of this definition, above, for the person to assume the care or physical custody of a minor, or as indicated by any other circumstances).

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

PUBLIC PLACE — Refers to any place to which the public, or a substantial group thereof, 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 — Refers to the following actions:

- A. To linger or stay at or upon a public place; and/or,
- B. To fail to leave a public place when requested to do so by an officer or by the owner, operator or other person in control of that public place.

TEMPORARY CARE FACILITY — Refers to a nonlocked, nonrestrictive shelter at which a minor may wait, under visual supervision, to be retrieved by a parent. No minor waiting in such facility shall be handcuffed and/or secured, by handcuffs or otherwise, to any stationary object.

§ 119-3. Restrictions on minors.

It shall be unlawful for a minor, during curfew hours, to remain in or upon any public place within the Village of St. Johnsville, 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 Village, unless:

- A. The minor is accompanied by a parent; or
- B. The minor is involved in an emergency; or
- C. The minor is engaged in an employment activity, or is going to or returning home from such activity, without detour or stop; or
- D. The minor is on the sidewalk directly abutting a place where he or she resides with a parent; or
- 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, and which activity is supervised by adults, and/or the minor is going to or returning from such an activity without detour or stop; or
- F. The minor is on an errand at the direction of a parent and has in his or her possession a writing signed by the parent containing the following information: name, signature, address and telephone number of the parent authorizing the errand; full telephone number where the parent may be reached during the errand; full name of the minor; brief description of the errand; destination of the minor; and, the hours the minor is authorized to be engaged in the errand; or
- G. The minor is involved in interstate travel through, or beginning or terminating in, the Village of St. Johnsville; or
- 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/or the right of assembly.

§ 119-4. Responsibility of parent.

It shall be unlawful for the parent of a minor to knowingly permit, allow, or encourage such minor to violate this chapter.

§ 119-5. Responsibility of owner or operator of motor vehicle.

It shall be unlawful for a person who is the owner or operator of any motor vehicle to knowingly permit, allow, or encourage a minor to violate this chapter.

§ 119-6. Responsibility of operator or employee of establishment.

- A. 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.
- B. It shall be a defense to prosecution under this section that the operator or employee of an establishment promptly notified the Village of St. Johnsville Police Department that a minor was present at the establishment after curfew hours and refused to leave.

§ 119-7. False statements prohibited.

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 chapter.

§ 119-8. Enforcement.

- A. 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 Village of St. Johnsville during curfew hours is in violation of this chapter.
 - (1) If the investigation reveals that the presence of the minor is in prima facie violation of this chapter, then:
 - (a) If the minor has not previously been issued a warning for any such violation, the officer shall issue a verbal warning which shall be followed by a written warning, as depicted in Appendix A hereto,¹ mailed by and from the Police Department, certified mail, return receipt requested, to the minor and his or her parent(s); or
 - (b) If the minor has previously been issued a written warning for any such violation, and is at least 16 years of age, the officer may charge the minor with a violation of this chapter by issuance of an "appearance ticket", as described in Article 150 of the Criminal Procedure Law of the State of New York, and as may hereafter be amended, requiring such minor to subsequently appear in a local Justice Court; or
 - (c) If the minor has previously been issued a written warning for any such violation, and is not at least 16 years of age, the officer may refer the violation to an appropriate Family Court for subsequent adjudication of the minor as a person in need of supervision pursuant to Article 7 of the Family Court Act of the State of New York, and as may hereafter be amended; and
 - (2) As soon as practicable, the officer shall:

1. Editor's Note: The Curfew Law Warning Form is on file in the offices of the Village Clerk and the Police Department.

- (a) Release the minor to his or her parent(s); or
- (b) Place the minor in a temporary care facility for a period not to exceed the remainder of the curfew hours so that his or her parent(s) may retrieve such minor; or
- (c) If a minor refuses to give an officer his or her name and address or 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, such minor may be taken to a nonsecure crisis center or juvenile shelter.

B. Others.

- (1) If an investigation by an officer reveals that a person at least 16 years of age, inclusive of a parent but other than a minor who is being simultaneously charged hereunder, has prima facie violated § 119-4, 119-5, 119-6 or 119-7, and if the person has not previously been issued a warning with respect to any such violation, such officer shall issue a verbal warning to the person, which shall be followed by a written warning as depicted in Appendix A hereto,² mailed by and from the Police Department, certified mail, return receipt requested, to the person; however, if any such written warning has previously been issued to that person then the officer may charge the person with a violation of this law by issuance of an "appearance ticket" directing such person to subsequently appear in a local Justice Court.
- (2) If an investigation by an officer reveals that a person less than 16 years of age, other than a minor who is being simultaneously charged hereunder, has prima facie violated § 119-4, 119-5, 119-6 or 119-7, and if the person has not previously been issued a warning with respect to any such violation, such officer shall issue a verbal warning to the person, which shall be followed by a written warning as depicted in Appendix A hereto, mailed by and from the Police Department, certified mail, return receipt requested, to the person; however, if any such written warning has previously been issued to that person then the officer may refer the violation to an appropriate Family Court for subsequent adjudication of the person as a person in need of supervision pursuant to Article 7 of the Family Court Act of the State of New York, and as may hereafter be amended.

§ 119-9. Penalties for offenses.

Each conviction under this chapter of a person at least 16 years of age shall constitute a violation as described in Article 55 of the Penal Law of the State of New York, and as may hereafter be amended, and shall subject such person to a fine not to exceed \$250 and/or a sentence of imprisonment in a county correctional facility not to exceed 15 days.

2. Editor's Note: The Curfew Law Warning Form is on file in the offices of the Village Clerk and the Police Department.

§ 119-10. Annual review.³

This chapter shall be presented for review at the Annual Meeting of the Board of Trustees.

- A. The Chief of Police of the Village of St. Johnsville shall review this chapter and report and make recommendations to the Board of Trustees concerning the effectiveness of, and the continuing need for, such law.
- B. The report of the Chief of Police shall specifically include the following information:
 - (1) The practicality of enforcing the chapter and any problems with enforcement identified by the Police Department;
 - (2) The impact and cost of the chapter;
 - (3) Other data and information the Police Department believes to be relevant in assessing the effectiveness of the chapter; and
 - (4) Information from citizens regarding whether the chapter has been administered and enforced fairly, including information regarding the age, gender and race of those charged or detained under the chapter.

3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. D).