

## **Chapter 91**

### **CURFEW**

**[HISTORY: Adopted by the Town Council of the Town of Pennington Gap 12-16-2002. Amendments noted where applicable.]**

#### **GENERAL REFERENCES**

Noise — See Ch. 124.

#### **§ 91-1. Purpose; intent.**

The Town Council enacts this chapter prescribing, in accordance with prevailing community standards, regulations for the conduct of minors in public places at night, for the support and furtherance of the institution of the family, and for the general public good, safety, and welfare. The Town Council does not intend hereby to prohibit or interfere with any lawful activity. The Town Council intends hereby to ensure that minors in public places at night after curfew are provided with responsible adult supervision.

#### **§ 91-2. Definitions.**

For the purpose of this chapter the following terms and phrases shall have the meaning given here:

**ADULT** —% Any person at least 18 years of age.

**LAWFUL ACTIVITY** —% Activity which is not otherwise illegal, where a minor acts under the provisions of an adult, with the knowledge and permission of his parents or guardian.

**MINOR** —% Any person under the age of 18 years.

**PARENT** —% Any person having legal custody of a minor either as a natural or adoptive parent, or as a legal guardian, or as a person who stands in loco parentis, or as a person to whom legal custody has been given by order of court.

**PERMIT** —% As used in parental responsibility § 91-6, shall refer to that knowledge which a parent should reasonably be expected to have concerning the whereabouts of a minor in his/her custody. This phrase is intended to provide an objective standard for parental responsibility, so as to require neglectful or careless parents to adhere to a reasonable community standard.

**REMAIN** —% To stay behind, to tarry, and to stay unnecessarily in a place, to hang out/around.

#### **§ 91-3. Prohibited conduct; enforcement.**

A. Prohibited conduct.

- (1) It shall be unlawful for any minor under the age of 18 years to be present on any street, road, alley, avenue, park or other public place in the Town, or in any vehicle operating or parked thereon, between the hours of 12:00 midnight and 5:00 a.m. Sunday through Saturday, seven days per week, unless accompanied by the parent or guardian having the care, custody, or control of such minor.
- (2) It shall be unlawful for any minor under the age of 16 years to be present on any street, road, alley, avenue, park or other public place in the Town, or in any vehicle operating or parked thereon, between the hours of 10:00 p.m. and 5:00 a.m. Sunday through Saturday, seven days per week, unless accompanied by the parent or guardian having the care, custody, or control of such minor.
- (3) It shall be unlawful for any parent, guardian or other adult person having the care, custody or control of any minor under the age of 18 to permit, allow or encourage such minor to be present on any street, road, alley, avenue, park, or other public place between the hours of 12:00 midnight to 5:00 a.m. Sunday through Saturday, seven days per week, in violation of the provisions of Subsection A of this section.

B. Whenever any police or other officer charged with the duty of enforcing the laws of the state or ordinances of the Town shall discover or has his attention called to the fact that any minor under 18 years of age is present on any street, road, alley, avenue, park or other public place in the Town, or in any vehicle operating or parked thereon, between the hours of 12:00 midnight to 5:00 a.m. Sunday through Saturday, seven days per week, or any minor under 16 years of age is present on any street, road, alley, avenue, park or other public place in the Town, or in any vehicle operating or parked thereon, between the hours of 10:00 p.m. to 5:00 a.m. Sunday through Saturday, seven days per week, such officer shall make an immediate investigation for the purpose of ascertaining whether or not the presence of such minor is in violation of this chapter. If it is determined that the juvenile is in violation of this provision, then the officer may charge the minor with a violation of the chapter and release the minor on a summons, or the officer may cause the minor to be taken to his home or place of residence, or be released to his parents, guardian or other adult person having the care, custody, or control of such minor. If the officer deems that it will be for the best interest of the minor, the minor may be taken to the intake division of the Juvenile and Domestic Relations District Court and thereafter be released or detained as provided in Article 4, Chapter 11, Title 16.1 (§ 16.1-226 et seq.) of the Code of Virginia.

**§ 91-4. Exceptions.**

In the following cases, a minor in or upon a public place under the circumstances prohibited by § 91-3A shall not be in violation of this chapter:

- A. In the cases of reasonable necessity, investigation shall be made prior to any legal action by consulting the parents/guardians as soon as practicable.

- B. When the minor is engaging in the duties of bona fide employment or while traveling directly, without undue delay or detour, from home to the place of employment or from place of employment to the home.
- C. Attendance at religious services, school-sanctioned activities, or participation in any assembly or expressive activity protected by the First Amendment of the United States Constitution.
- D. Inter-/Intrastate travel in motor vehicles. This is intended, from excess caution, to exempt from regulation bona fide interstate travel through, beginning or ending in the Town of Pennington Gap.

**§ 91-5. First violations by minors.**

Any minor detained for a first violation of this chapter shall be processed as follows:

- A. Where the minor is cooperative and provides a home address within the Town, the officer may transport the minor to his/her home and release said minor to a responsible adult. A verbal warning shall be given to the parent along with a copy of the Juvenile Curfew Ordinance.
- B. An explanation of the reason for the detention shall be given to the parent. The officer will make an incident report containing a brief description of the circumstances, which shall be kept on file in the Records Division by the Pennington Gap Police Department.

**§ 91-6. Parental responsibility.**

It shall be unlawful for any parent to permit a minor to act in violation of the provisions of this chapter. It shall not be a defense that a parent was completely indifferent to the activities or conduct or whereabouts of such minor. Upon the initial detention of any minor, notice of such violations, along with a copy of the Juvenile Curfew Ordinance, shall be given to the parents, whether in person or by certified mail. Upon a second or subsequent detention of any minor, the parent or parents shall be charged with a violation of this chapter, and subject to such conditions and limitations as the court may order with respect to such child and parents. Where the court finds, after a hearing, that a parent has willfully contributed to, encouraged, or caused a violation of this chapter, that parent or parents shall be guilty of a Class 1 misdemeanor.

**§ 91-7. Violations and penalties.**

- A. Any person violating any provision of § 91-3A(3) of this chapter shall be guilty of a Class 1 misdemeanor.
- B. Any minor violating any provision of § 91-3A(1) or (2) of this chapter shall be guilty of:
  - (1) First offense: Class 4 misdemeanor.
  - (2) Second offense: Class 3 misdemeanor.

(3) Third offense: Class 1 misdemeanor.

C. Such minor and his parent, guardian, legal custodian or person standing in loco parentis shall be subject to the provisions of Code of Virginia, § 16.1-278.4 (Ord. No. 33-2000, 1-9-2001).