

WEST MAHANoy TOWNSHIP

ORDINANCE NO. 99-1

AN ORDINANCE OF WEST MAHANoy TOWNSHIP, SCHUYLKILL COUNTY, PENNSYLVANIA, ESTABISHING A CURFEW AND REGULATING THE PRESENCE OF CHILDREN UNDER THE AGE OF EIGHTEEN (18) YEARS OF AGE ON ROADS OR STREETS OR IN PUBLIC PLACES BETWEEN CERTAIN HOURS; PROVIDING FOR DEFINITION AND THE PURPOSES THEREOF; FIXING DUTIES AND RESPONSIBILITIES UPON PARENTS; AND PROVIDING FOR PENALTIES FOR VIOLATION.

WHEREAS, the Township of West Mahanoy is experiencing significant development and population growth, including those children under the age of eighteen (18) years; and,

WHEREAS, the number of children under eighteen (18) years of age on or about the public roadways and in public places without supervision or regulation which has resulted in an increasing number of incidents and complaints involving the disruption of the public peace, concerns about the safety of public and private property and concerns about the safety of the residents constituents, including the children under eighteen (18) years of age; and,

WHEREAS, the Board of Supervisors of the Township of West Mahanoy with the intention of preserving the public peace and the general safety and welfare of the community as a whole, desires to establish a curfew setting forth certain regulations with regard to the presence of children under the age of eighteen (18) on roads or streets or in public places throughout the township.

NOW, THEREFORE, BE IT AND IT IS HEREBY ENACTED AND ORDAINED, by the Board of Supervisors of West Mahanoy Township, Schuylkill County, Pennsylvania, as follows:

SECTION 1. DEFINITIONS AND INTERPRETATION. As used in this Ordinance, the following terms shall have the meanings indicated, unless a different meaning clearly appears from

the context:

Parent - Any natural parent of a child under the age of eighteen (18) years, or a guardian or any adult person responsible for the care and custody of said child. When used in this Ordinance, “parent” shall mean one or both parents.

Public Place - Any public street, alley, sidewalk, cartway, road park, playground, public building, or vacant lot in the Township of West Mahanoy.

Remain - To stay behind, to tarry and to stay unnecessarily upon the streets or other public place, including the congregating of groups (or of interacting children under the age of eighteen years) totaling three (3) or more persons which are not using the streets for emergencies or ordinary purposes such as the mere passage to their home or residence.

In this Ordinance, the singular shall include the plural, the plural shall include the singular; and the masculine shall include the feminine and the neuter.

SECTION 2. PURPOSES. This is a Curfew Ordinance prescribing, in accordance with with the prevailing community standards, regulations for the conduct of children under the age of eighteen (18) years of age on the streets, or in public places, at night, within the hours hereinafter set forth, for the protection of younger children in the Township of West Mahanoy from each other and from other persons on the street during said hours, for the enforcement of parental control and responsibility for their children, for the protection of the public from nocturnal mischief by said children, and for the reduction of the incident of juvenile criminal activity, all for the good of said children, for the furtherance of family responsibility and for the public good, safety and welfare. This Ordinance is specifically intended to regulate the conduct of said children under the age of eighteen (18) years to reduce or eliminate the incident of vandalism and damage

to public property, including the parks and open space now owned and being developed by the Township of West Mahanoy and to eliminate the complaints about the disturbance about the public peace, safety and welfare on or about the streets or public places throughout the Township. with an emphasis on the protection of said children under the age of eighteen (18) years old.

SECTION 3. ESTABLISHMENT OF HOURS - CURFEW. It shall be unlawful for any person under the age of eighteen (18) years to be on or present in any public street, alley, sidewalk, roadway, cartway, park, playground, public building or vacant lot or any other public place in the Township of West Mahanoy, between the hours of 10:00 p.m. to 5:00 a.m. of the following day on Sunday, Monday, Tuesday, Wednesday, and Thursday evenings and from 11:00 p.m. to 5:00 a.m. of the following day on Friday and Saturday evenings prevailing time, unless accompanied by a parent or guardian or other adult person having lawful custody and control of his or her person, or unless there exists a reasonable necessity therefore. The presence of a person under the age of eighteen (18) years upon or in a public street or other public place, between the above noted hours, unaccompanied by a parent, guardian or other adult person on hand being in lawful custody and control of his or her person, shall be prima facie evidence that such person is there unlawfully and that no reasonable excuse exists for such presence.

SECTION 4. EXCEPTIONS - "REASONABLE - EXCUSE". "Reasonable excuse" shall include the following:

- A. A person under the age of eighteen (18) years accompanied by a parent, guardian or other person having legal care or custody of such person;
- B. Medical or other similar emergency errand with the approval of the parent, guardian or other person having legal care or custody of such person;

C. Activities of a junior fireman going to or from fire calls;

D. Lawful employment, making it necessary to be on or in the highways, street, or other public property, as stated above and possessing a current letter certifying the same and signed by the employer, parent, guardian or other person having legal care or custody of such person.

E. A person under the age of eighteen (18) years traveling to or from church functions, school functions, or municipal activity with parental permission, not to extend more than one (1) hour after the conclusion thereof.

SECTION 5. PARENTS NOT TO PERMIT VIOLATION. It shall be unlawful for any parent, guardian or other adult having lawful custody and control, knowingly, or with reason to know, to permit any such person under the age of eighteen (18) years to be present upon or in any public road or street or other public place in West Mahanoy Township, Schuylkill County, Pennsylvania, or otherwise to be in violation of this Ordinance without legal justification therefore.

SECTION 6. OTHER ADULTS NOT TO PERMIT VIOLATION. It shall be unlawful for any person, firm or corporation owning, managing or operating a place of public resort, public service or public accommodation, to permit any person under the age of eighteen (18) years old to remain in such place, owned, managed or operated by said person, firm, or corporation, between the hours of the curfew hereby established or to violate any of the provisions of this Ordinance.

SECTION 7. OTHER ADULTS IN THE COMPANY SAID PERSONS. It shall be unlawful for any adult (other than the parent, guardian or adult having lawful custody and control of said person) knowingly to be in the company of any person under the age of eighteen (18)

years, in any public street or other public place in violation of this Ordinance.

SECTION 8. PROCEDURE UPON VIOLATION. Any person under the age of eighteen (18) years, as above designated, found upon the streets, alleys, roadways, cartways, parks or other public places within the Township of West Mahanoy, in violation of Section 3 of this Ordinance shall be taken into custody by West Mahanoy Township Police or other legally authorized individual, and be delivered to his person, guardian or person having legal custody of said person and a report thereof shall be kept in the West Mahanoy Township Police records. If said parent, guardian or person having legal care or custody of said person under (18) years of age shall again allow him to be on the streets, alleys, roadways, parks or public places in violation of this Ordinance, said parent, guardian or person having legal custody of said person so offending for a second offense, shall be cited for a violation of this Ordinance, and upon summary conviction before a District Justice, be sentenced to pay a fine of not less than Twenty-Five Dollars (\$25.00) and not more than Six Hundred Dollars (\$600.00) and the cost of prosecution and a like fine or sentence shall be imposed on any person aiding or abetting in the violation of the intent and purpose of this Ordinance.

SECTION 9. PROCEDURE IN CASE OF REPEATED VIOLATIONS. Any person under the age of eighteen (18) years who shall violate this Ordinance more than three (3) times may, at the discretion of the Township Police Department, be reported to the Juvenile Probation Officers of Schuylkill County, Pennsylvania and such proceedings shall be initiated in the Court of Common Pleas of Schuylkill County, Pennsylvania, as exercised jurisdiction as the Juvenile Court may deem necessary by the said Juvenile probation officers, Township Police Department or by any citizen who is a resident of Schuylkill County, and the parent, guardian or person having

legal care or custody of said person shall likewise be reported to said juvenile probation officers and a like procedure followed as in the case of such person under the age of eighteen (18) years of age.

SECTION 10. POLICE DISCRETION OF AGE DETERMINATION. The police officers of the Township of West Mahanoy, in taking persons into custody, shall use their discretion in determining the age of said person and in doubtful cases, may require positive proof of age and until such proof is furnished, the officer's judgment shall prevail.

SECTION 11. PENALTIES. Any person who shall violate any provision of this Ordinance shall, upon conviction thereof before a District Justice or other Court of competent jurisdiction, be sentenced to pay a fine in an amount not less than twenty-five dollars (\$25.00) and not more than six hundred dollars (\$600.00) and the costs of prosecution.

SECTION 12. REPEALER. All Ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed.

SECTION 13. SEVERABILITY. If any sentence, clause, section or provision of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared the intent of the Board of Supervisors of West Mahanoy Township that this Ordinance would have been adopted had such unconditional, illegal or invalid sentence, clause, section, or part thereof not been included herein.

This Ordinance shall be effective upon adoption.

ENACTED AND ORDAINED this 20th day of October, 1999.

By the Board of Supervisors,

William O'Donnell  
William O' Donnell  
Chairman

Regina Kurtz  
Regina Kurtz  
Vice Chairman

Evelyn Andrews  
Evelyn Andrews  
Supervisor

ATTEST:

Michael S. Maddox