

CHAPTER 6

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Part 1

Curfew

§101. Definitions and Word Usage.

1. The following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

ESTABLISHMENT - any privately owned property where a business for profit is operated or a place of amusement or entertainment is operated and to which the public is invited.

MINOR - a person under the age of eighteen (18) years not otherwise legally emancipated. A person shall be deemed to be eighteen (18) years of age on the date of his or her eighteenth birthday and not before that time.

OPERATOR - any individual, firm, association, partnership or corporation owning, operating, managing or conducting any establishment, including the members, partners, officers and/or managers thereof.

PARENT - any person having care, custody, or control of a minor:

- (1) As a biological or adoptive parent.
- (2) As a legal guardian.
- (3) As a person who stands in loco parentis.
- (4) As a person to whom legal custody has been given by order of court.

PUBLIC PLACE - Any public street, highway, road, alley, park, playground, vacant lot, public building, sidewalk, or similar place used by or open to the public, within the Borough of Emporium.

2. The singular shall include the plural, the plural shall include the singular, and the masculine shall include the feminine and the neuter.

(Ord. 459, 12/8/2003, §101)

§102. Hours of Curfew. It shall be unlawful for any person under (18) years of age, not otherwise legally emancipated, to be in or upon any public place or establishment within the Borough of Emporium, or in any enclosure or vehicle which is on or in such public place or establishment, during the following times:

- A. Between the hours of 10:00 p.m. (EST) and 6:00 a.m. (EST), Sunday through Thursday inclusive; and
- B. Between the hours of 11:00 p.m. (EST) and 6:00 a.m. (EST), each Friday and Saturday.

All specific times mentioned herein shall be local prevailing time.

(Ord. 459, 12/8/2003, §102)

§103. Exceptions. In the following exceptional cases, a minor who is in or upon any public place or establishment within the Borough of Emporium during the hours for which §102 is intended to provide the maximum limits of regulation, shall not be considered in violation of this Part:

- A. When accompanied by a parent of such minor.

B. When 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. Such minor shall evidence the bona fides of such exercise by first delivering to Emporium Borough police personnel at the Borough Municipal Building a written communication, signed by such minor and countersigned by a parent of such minor, with his or her home address and telephone number, addressed to the Mayor of Emporium Borough, specifying when, where, and in what manner said minor will be in or upon any public place or establishment, during hours when this Part is otherwise applicable, in exercise of a valid First Amendment right specified in such communication.

C. In case of reasonable necessity, but only after such minor's parent has communicated, in writing, to Emporium Borough police personnel the facts establishing such reasonable necessity, relating to specified streets at a designated time for a described legitimate purpose including points of origin and destination. Such communication shall include the names of the parent and minor and their address and telephone number.

D. When returning home or to another residence authorized by a parent in advance, by a direct route from, and within thirty (30) minutes of, the termination of a valid school, religious or other such community-related organized activity.

E. When going to or returning from the minor's place of employment for purposes of work and the minor carries a certified card of employment, renewable each calendar quarter when the current facts so warrant, dated or reissued not more than one hundred five (105) days previously, and briefly identifying the minor, the addresses of his/her home and of his/her place of employment, and his/her hours of employment.

F. When authorized by regulation of the Emporium Borough Mayor, permitting use of public places or establishments for special events, appropriately advertised through the news media and through other agencies such as the schools, for a period of time not extending more than thirty (30) minutes beyond the time for termination of such activity.

(Ord. 459, 12/8/2003, §103)

§104. Parental Responsibility. No parent shall knowingly permit, or allow by lack of proper control, any minor in his/her custody or control to be or remain in or upon any public place or establishment within Emporium Borough under circumstances not constituting an exception to, or otherwise beyond the scope of, this Part. The term "knowingly" includes knowledge which a parent should reasonably be expected to have concerning the whereabouts of a minor in that parent's custody or control. This clause is intended to hold neglectful or careless parents up to a reasonable community standard of parental responsibility through an objective test. It shall be no defense that a parent was completely indifferent to the activities or conduct or whereabouts of such minor.

(Ord. 459, 12/8/2003, §104)

§105. Operator Responsibility. It shall be unlawful for an operator of any establishment to permit a minor to remain in his/her establishment during the hours to which this Part applies.

(Ord. 459, 12/8/2003, §105)

§106. Police Enforcement Procedures.

1. In the absence of convincing evidence to the contrary, such as a birth certificate, an Emporium Borough police officer shall, in the first instance, use his/her best judgment in determining an individual's age.

2. Any Emporium Borough police officer finding any minor on or in a public place or establishment in Emporium Borough in prima facie violation of this Part shall take the minor to the Borough police station, and shall immediately take steps to notify a parent to come to the police station, whereupon the parent and the minor shall be questioned. This questioning is intended to permit ascertainment, under constitutional safeguards, of relevant facts for accurate, effective, fair, impartial and uniform enforcement. Alternatively, an Emporium Borough police officer may deliver a minor directly to a parent under appropriate circumstances. For example, a minor whose identity and address may readily be ascertained may be delivered directly to his/her residence. In either event, the minor shall be released to the custody of such parent. Any actions taken with respect to a minor shall be in accordance with the applicable laws of the Commonwealth of Pennsylvania relating to juveniles.

3. If a parent cannot be located or fails to take charge of the minor, then the minor may temporarily be entrusted to a relative, neighbor or other person who will, on behalf of a parent, assume the responsibility of caring for the minor pending the availability or arrival of a parent.

4. A log, known as the "Curfew Book," shall be maintained at the Borough police station recording the name, address and date of each offense of a minor found to be in violation of this Part.

(Ord. 459, 12/8/2003, §106)

§107. Violations and Penalties.

1. Whenever a minor shall first violate this Part, it shall be treated as a first offense by the parent(s) of such minor, and the minor him/herself. For such first offense, the parent(s) and the minor him/herself shall be issued a written warning, which delineates the penalties applicable to subsequent violations of this Part.

2. For a second or subsequent violation/offense of this Part, the parent(s) may be prosecuted for a violation hereunder, and upon conviction thereof, shall be sentenced to pay a fine not exceeding three hundred dollars (\$300.00) and, in default of payment, to imprisonment for a term not to exceed thirty (30) days. In the event the parent(s) is/are not prosecuted for a violation hereunder due to extenuating circumstances made known to the Emporium Borough police officer investigating the violation, the minor him/herself may be prosecuted for a violation hereunder, and upon conviction thereof, shall be sentenced to pay a fine not to exceed three hundred dollars (\$300).

3. Any operator of an establishment, or agent or employee of an operator, who shall violate the provisions of this Part, upon conviction thereof, shall be sentenced to pay a fine not exceeding three hundred dollars (\$300.00) and, in default of payment, to imprisonment for a term not to exceed thirty (30) days.

4. If circumstances warrant, as determined in the discretion of Emporium Borough police personnel, or if a minor violates this Part three (3) or more times within any twenty-four (24) month period, the Emporium Borough police may also refer such minor and his/her parents(s) to Cameron County Juvenile Probation and/or Cameron County Children and Youth Services for disposition in accordance with the Pennsylvania Juvenile Act, as amended.

(Ord. 459, 12/8/2003, §107)

Part 2
Alcoholic Beverages

§201. Definitions. Unless the context otherwise requires, the following words or phrases shall be construed according to the definitions set forth below:

ALCOHOLIC BEVERAGES - any spirits, wine, beer, ale or other liquid containing more than one-half of one ($\frac{1}{2}$ of 1) percent of alcohol by volume which is fit for beverage purposes.

CONTAINER - any bottle, can or other vessel in which alcoholic beverages are contained.

(Ord. 365, 11/6/1978; as revised by Ord. 412, 10/4/1993)

§202. Consumption. No person shall consume any alcoholic beverage in any quantity upon any street, avenue, alley, sidewalk, stairway, thoroughfare, or other public property within the Borough, whether upon or in a vehicle or on foot, nor shall any person consume any alcoholic beverage within five (5) feet of any public way or thoroughfare while on a private stairway, doorway or other private property open to public view, whether upon or in a vehicle or on foot, without the express or implied permission of the owner, his agent or other party in lawful possession thereof. (Ord. 365, 11/6/1978; as revised by Ord. 412, 10/4/1993)

§203. Possession. No person shall possess any container of alcoholic beverage whether wrapped or unwrapped which has been opened or on which the seal has been broken in any manner on any public street, avenue, alley, thoroughfare or other public property within the Borough, whether upon or in a vehicle or on foot, nor shall any person possess any container of alcoholic beverage within five (5) feet of any public way or thoroughfare while on a private stairway, doorway, or other private property open to public view, whether in or upon a vehicle or on foot, without the express or implied permission of the owner, his agent, or other person in lawful possession thereof. (Ord. 365, 11/6/1978; as revised by Ord. 412, 10/4/1993)

§204. Exceptions. Provided however, that the provisions of §§202 and 203 above shall not apply to interior portions of any private dwelling, habitat or building, nor to the consumption or possession by persons in the areas herein designated of any duly prescribed and dispensed medication having alcoholic content as set forth in §201 hereof; and provided further that the provisions of said §§202 and 203 above shall not apply to premises duly licensed by the Pennsylvania Liquor Control Board and to persons then and there patrons of said licensee. (Ord. 365, 11/6/1978; as revised by Ord. 412, 10/4/1993)

§205. Penalty. Whosoever violates any of the provisions of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred (\$600.00) dollars plus costs, and in default of payment of said fine and costs, to be imprisoned for a period not to exceed thirty (30) days. (Ord. 365, 11/6/1978; as revised by Ord. 412, 10/4/1993)

Part 3

Student Tobacco Use/Possession

§101. Definitions and Interpretation. As used in this Part, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

PROHIBITED ZONE - an area located within the Borough of Emporium, as hereinafter delineated, which encompasses the 1000 foot Drug Free Zone established by the Cameron County School District, based on the real property on which is located the Cameron County High School and Cameron County Woodland Elementary School, all such real property being owned by the Cameron County School District.

SCHOOL SESSION - the period of time, including travel to and from school, between the hours of 6:55 a.m. to 4:10 p.m., during which time the Cameron County Schools are in session and students are required to attend.

SCHOOL-SPONSORED EVENTS - any Cameron County School District-sponsored event, including, but not limited to, athletic contests, open house, parent-teacher conferences, concerts and performances, plays, dances, practices, club activities, field or class trips, society or other organization meetings or functions, pep rallies, public meetings or gatherings, assemblies, banquets, and the like.

STUDENT - a person between the ages of 6 and 21 years who is enrolled in the Cameron County School District.

TOBACCO - a lighted or unlighted cigarette, cigar, pipe, or other lighted smoking product, and smokeless tobacco in any form.

(Ord. 446, 1/1/2001, §101)

§102. Purposes. This is a student tobacco use/possession ordinance addressing prevailing community standards and the Cameron County School Board's action taken at a public meeting on September 14, 2000, recognizing that student tobacco use/possession jeopardizes the safety and welfare of all students; hereinafter prescribing regulations in recognition of the obvious hazards of student tobacco use/possession and that such use/possession of tobacco products by students coming to and going from school while in session and at times during which school-sponsored events are occurring has contributed to loitering and obstructing public travel ways, caused littering on private and public property, and created safety issues for students and traffic traveling to and from school property. Accordingly, this Part prohibits students from using/possessing tobacco, a recognized drug, within the prohibited zone hereinafter delineated, and all being for the student and general public good, safety and welfare, in accordance with 53 P.S. §46006(3). (Ord. 446, 1/1/2001, §102)

§103. Prohibited Zone. The prohibited zone shall include the following public streets, traffic ways, sidewalks and pathways, and private property adjacent thereto for which the private property owner has not given permission for the student to enter or be upon; and encompasses the 1000 foot Cameron County School District Drug Free Zone and additional areas adjacent thereto, and as hereinafter delineated by street names based on the Official Emporium Borough Map, in an effort to specifically and clearly put students on notice of the prohibited area: all of Woodland

Avenue; and from the northern corner of Woodland Avenue running west along West Allegany Avenue to the Borough line; and from the northern corner of Woodland Avenue running east along West Allegany Avenue to the intersection of Vine Street; and from the point where West Allegany Avenue intersects with Vine Street, all along Vine Street running south to the intersection of West Fourth Street; and from the point where Woodland Avenue intersects with West Sixth Street, running east along West Sixth to the intersection of Poplar Street; and from the point where West Sixth Street intersects with Poplar Street running south along Poplar Street to the intersection of West Fifth Street; and from the point where Woodland Avenue intersects with West Fifth Street running east along West Fifth Street to the intersection of Poplar Street; and from the point where Woodland Avenue intersects with West Fourth Street running east along West Fourth Street to the intersection of Vine Street; and including all of Howard Circle; and from the point where the southern portion of Woodland Ave intersects with West Fourth Street running west along State Route 120 to the Borough line; and that portion of Garden Street running east from Woodland Avenue to Poplar Street; and that portion of Greenwood Street running east from Vine Street to Woodland Avenue. (Ord. 446, 1/1/2001, §103)

§104. Student Use/Possession of Tobacco. It shall be unlawful for any Cameron County School District student to use, possess, chew, or smoke tobacco in the prohibited zone, between the hours of 6:55 a.m. to 4:10 p.m. when the Cameron County Schools are in session; and one hour immediately prior to, during, and one hour immediately after the occurrence of any school-sponsored event. (Ord. 446, 1/1/2001, §104)

§105. Procedure Upon Violation. Any student found within the prohibited zone in violation of §104 shall be issued a citation; or if not practicable, shall be subject to the filing of said citation with the District Justice; or the filing of a criminal complaint with the District Justice pursuant to Pennsylvania Rules of Criminal Procedure 51(c) and 65, or any amendments thereto. (Ord. 446, 1/1/2001, §105)

§106. Penalties. Any student who shall violate any provision of this Part shall, upon conviction before the District Justice, or otherwise on appeal, be guilty of a summary offense, and shall be sentenced to pay a fine of not more than fifty (\$50) dollars and applicable court costs. Nonetheless, the conviction shall not be reportable as a criminal offense of record, nor placed on the criminal record of the convicted student. (Ord. 446, 1/1/2001, §106)

§107. Procedure for Repeated Violations. Any student under the age of eighteen (18) who shall be convicted of a violation of this Part more than three (3) times, may, at the discretion of the proper Borough of Emporium or other enforcement officials, be reported to an organization whose purpose it is to take charge of incorrigible juveniles, and proceedings may then be commenced in the proper court for the permanent welfare of such student. (Ord. 446, 1/1/2001, §107)

§108. Discretion in Student Determination. The police officers of the Borough of Emporium, or other officials enforcing this Part, shall use their discretion in determining whether an offender is enrolled in the Cameron County School District; and in doubtful cases, may request proof of same. (Ord. 446, 1/1/2001, §108)