

## Chapter 86

### CURFEW

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[HISTORY: Adopted by the Borough Council of the Borough of DuBoistown 11-6-2003 by Ord. No. 2003-3. Amendments noted where applicable.]

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#### § 86-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

**CURFEW HOURS** — From 11:00 p.m. each night to 5:00 a.m. each morning.

**EMERGENCY** — An unforeseen combination of circumstances of the resulting state that calls for immediate action. The term includes, but is not limited to, fire, flood, natural disaster, automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

**ESTABLISHMENT** — Any privately owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

**GUARDIAN** — A person who, under court order, is the guardian of the person of a minor, or a public or private agency with whom a court has placed a minor.

**INTRASTATE TRANSPORTATION** — Transportation between locations of Pennsylvania to which any travel through the Borough of DuBoistown is merely incidental.

**INTERSTATE TRAVEL** — Transportation between states to which travel through the Borough of DuBoistown is merely incidental.

**MINOR** — Any person less than 18 years of age.

**OPERATOR** — Any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

**PARENT** — A person who is a natural parent, adoptive parent, or stepparent at least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

**PUBLIC PLACE** — Any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

**REMAIN** — To linger or stay or fail to leave premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.

**RESPONSIBLE ADULT** — An adult who is at least 18 years of age and designated in writing by a parent or a court-appointed guardian as having custody of a juvenile.

**SERIOUS BODILY INJURY** — Bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or loss or impairment of the function of any bodily member or organ.

**§ 86-2. Offenses.**

- A. A minor commits an offense if he/she remains in any public place or on the premises of any establishment within the Borough during curfew hours.
- B. A parent or guardian of a minor commits an offense if he/she knowingly permits or, by insufficient control, allows the minor to remain in any public place or on the premises of any establishment within DuBoistown Borough during curfew hours.
- C. The owner, operator, or any employee of an establishment commits an offense if he/she knowingly allows a minor to remain upon the premises of the establishment during curfew hours. It shall not be a violation when any owner, operator or employee of an establishment promptly notified the Police Department that a juvenile was on the premises of the establishment during curfew hours and refused to leave upon being asked to leave.
- D. A minor commits an offense if he/she walks, runs, stands, drives or rides about, in or upon any streets, sidewalks, or alleys of DuBoistown Borough, during curfew hours.

**§ 86-3. Defenses to prosecution.**

It is a defense to prosecution that the minor was:

- A. Accompanied by the minor's parent or guardian;
- B. On an errand at the direction of the minor's parent or guardian, without any detour, delay or stop;
- C. In a motor vehicle involved in intrastate or interstate travel;
- D. Engaged in an employment activity, or going to or returning home from an employment activity, without detour, delay or stop;
- E. Involved in an emergency;
- F. On the sidewalk abutting the minor's residence;
- G. Either attending an official school, religious, or other activity, when such activity is supervised by adults and consented to by the DuBoistown Borough Council or the DuBoistown Borough Police Chief, or traveling to or from such activity, without detour, delay or stop;
- H. Married or emancipated in accordance with state law.

**§ 86-4. Enforcement.**

Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in § 86-3 is present.

**§ 86-5. Transporting of juvenile offenders.**

The officer shall have the authority to transport the juvenile to his or her home or to have the parent or guardian pick up the offender at the DuBoistown Borough Police Department. The parent or guardian may request that the officer take the juvenile to the home of an adult family member, responsible adult, crisis residential center or shelter care.

**§ 86-6. Violations and penalties.**

A person who violates a provision of this chapter is guilty of a summary offense for each day or part of a day during which the violation is committed, continued or permitted. Each offense, upon conviction, is punishable by a fine of not less than \$25 and not more than \$300, plus costs of prosecution.



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