

CHAPTER 11

CURFEW HALLOWEEN

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SECTION 1. SHORT TITLE

This Local Law shall be known and may be cited as the "Local Law providing for an annual Halloween Juvenile Curfew".

SECTION 2. DEFINITIONS

For the purpose of this Local Law, the following terms, phrases, words and their derivations shall have the meaning given herein. The word "shall" is always mandatory and not merely directory.

- A. "Village" is the Village of Arcade.
- B. "Minor" is any person under the age of sixteen.
- C. "Parent" is the natural or adoptive parent of a minor.
- D. "Guardian" is any person other than a parent, who has legal guardianship of a minor.
- E. "Public place" shall mean any street, alley, highway or other public thoroughfare, sidewalk, park, playground or place to which the general public has access and a right to resort for business, entertainment or other lawful purpose in the Village. A public place shall include but not be limited to any store, shop, restaurant, tavern, bowling alley, cafe, drug store, pool room, shopping center and any other place devoted to amusement or open to the general public. It shall also include the front or immediate area of the above.
- F. "Person" shall mean any individual, firm or corporation.
- G. "Emergency errand" shall mean a trip taken to perform a specific task to help to bring

aid or comfort or to resolve an unexpected or sudden occurrence which immediately threatens private or public health or safety.

SECTION 3. CURFEW

During the period from 9:00 p.m. on October 31st through 6:00 a.m. on November 1st of each year, it shall be unlawful for any minor to be in any public place or on private property, other than such minor's home or usual place of abode, without the permission of the owner, within the Village of Arcade, either on foot or in a vehicle, except:

- A. When accompanied by a parent or guardian; or
- B. When the minor is on an emergency errand; or
- C. When the minor is on a specific business or activity directed or permitted by his parent or guardian, in writing, identifying the minor, the specific business or activity, the location or locations of such business or activity and the time when such business or activity shall end, and signed by such parent or guardian; or
- D. When the presence of such minor is required in connection with some legitimate employment, trade, profession or occupation; or
- E. When the minor is in a motor vehicle with the consent of his parent or guardian for interstate travel through the Village.

SECTION 4. SPECIAL FUNCTIONS

Any minor attending a function sponsored by a school church, political organization, or other non-profit organization that requires such minor to be out during the curfew called for in Section 3 of this Local Law, shall be exempt from the provisions of said Section 3 while traveling directly to such function from the minor's home or usual place of above, while attending such functions and while traveling directly from such function to the minor's home or usual place of abode, provided the school, church, political organization, or other non-profit organization shall register, in writing, in advance with the Village Clerk of the Village to have the minor involved be out during said curfew. The registrant shall state the time when the function shall begin and when it shall end and the minor who attends the function shall be required to comply with all of the provisions of this Local Law before the function shall begin, when not attending the function and after the function has ended.

SECTION 5. RESPONSIBILITY OF OWNERS OF PUBLIC PLACES

It shall be unlawful for any person operating or having charge of any public place to knowingly permit or suffer the presence of minors between the hours of 9:00 p.m. and 6:00 a.m. during the period specified in Section 3 of this Local Law unless such minors are attending special functions which have been registered with the Village Clerk of the Village in accordance with Section 4 of this Local Law or are otherwise permitted to be in such public place pursuant to the exceptions to the curfew set forth in subdivisions "A" through "E" of Section 3 of this Local Law.

SECTION 6. PROCEDURES

- A. Any police or peace officer, upon finding a minor under the age of sixteen in violation of Section 3 of this Local Law, shall ascertain the name and address of the minor and warn the minor that he is in violation of curfew and shall direct the minor to proceed at once to his or her home or usual place of abode, The police or peace officer shall report such action to the parents or guardian of the minor.

- C. If such minor under the age of sixteen refuses to heed the warning or direction given by any police or peace officer or refuses to give the police or peace officer his correct name and address, or if the minor has been warned on a previous occasion that he was in violation of curfew, such minor shall be taken to the Village of Arcade Police Department and the parent or guardian of the minor shall be notified to come and take charge of the minor.

SECTION 7. AFFIRMATIVE DEFENSE

In the prosecution of any violation of this Local Law, it shall be an affirmative defense that the defendant: was not a minor; had the permission of the owner to be in such public place or on such private property; was accompanied by a parent or guardian; was on an emergency errand; was on a specific business or activity directed by his parent or guardian, in writing, in accordance with Section 3 of this Local Law; was required to be in such public place in connection with some legitimate employment, trade, profession or occupation; was in a motor vehicle with the consent of his parent or guardian for interstate travel through the Village; or was traveling from his home or usual place of abode directly to a function previously registered with the Village Clerk of the Village in accordance 0th Section 4 of this Local Law, was attending such function, or was traveling directly to his home or usual place of abode from such function.

SECTION 8. PENALTIES

Failure to comply with this law shall be a violation as defined in Section 55.10 of the New York State Penal Law and penalties may be imposed thereunder and pursuant to Section 80.05 of the New York State Penal Law. Any penalties or damages recovered or imposed under this law are in addition to any other remedies available at law or equity.

SECTION 9. SEVERABILITY

In the event that any word, phrase or part of this Local Law shall be declared unconstitutional, the same shall be severed and separated from the remainder of this Local Law and shall not effect the remainder of said Local Law which shall remain in full force and effect.

SECTION 10. EFFECTIVE DATE

This Local law shall take effect upon filing with the Secretary of State.

Local Law No. 6-1993
Adopted: September 21,1993
Filed: September 28, 1993