

# Town of Porter CURFEW ORDINANCE adopted November 12, 1998

## 2022 proposed amendments

**Whereas**, there has been an increase in ~~juvenile~~ violence and/or crime, civil violations, and an increased presence of ~~juvenile~~ gang activity in the Town of Porter; and

**Whereas**, persons under the age of eighteen or other guardianship are particularly susceptible because of their lack of maturity and experience to participation in unlawful activities and gang-related activities and to victimization by older perpetrators of crime; and

**Whereas**, the Town of Porter is obligated to provide for the protection of minors from each other and from other persons, the protection of the health, safety, and welfare of the general public and the reduction of ~~juvenile~~ crime, civil violations, violence and gang-related activity in the town; and

**Whereas**, a curfew for those under the age of eighteen or other guardianship will aid in the achievement of these goals and will be in the interest of the public health, safety and welfare;

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN OF PORTER:**

### **Section 1. Title**

This ordinance shall be known and may be cited as the Curfew Ordinance of the Town of Porter, Maine.

### **Section 2. Definitions**

- a. **Curfew Hours** means the hours from **10:01 p.m. until 6:00 a.m.** of the following day.
- b. **Emergency** means unforeseen circumstances or the resulting situation calling for immediate action. This includes, but is not limited to, fire, natural disaster or vehicular accident, as well as any situation requiring action to avert serious injury or loss of life.
- c. **Guardian** means a person or a public or private agency who, either pursuant to court order or acceptance of testimony appointment, is the legal guardian ~~of the minor~~. This definition also includes a person to whom parental powers have been delegated under ~~18-A M.R.S.A. Section 5-104-18-C~~ M.R.S.A.
- d. **Minor** means any person who is seventeen years of age or younger.
- e. **Parent** means a person who is the natural parent, adoptive parent, or step-parent of the minor.
- f. **Public Place** means a place located in the Town of Porter to which the public or a substantial group of the public has access, including, but not limited to, streets, highways, sidewalks, parking lots, vacant lots, cemeteries, parks and the common areas in and about apartment buildings, office buildings, hospitals, schools, shops and places of entertainment, such as movie theatres.
- g. **Remain** means to linger or stay, as well as to refuse to leave when requested to do so by a police officer or the owner or other person in control of a public place. This term also encompasses activities which may be mobile, such as walking, driving and riding about in a public place.

### **Section 3. Offenses**

- a. It shall be unlawful for a minor or other person under guardianship to remain in a public place during curfew hours.
- b. It shall be unlawful for a parent or guardian of a minor or other person under guardianship to knowingly permit, or to allow by exercising insufficient control, the minor or other person under guardianship to remain in a public place during curfew hours.

#### **Section 4. Defenses**

It is a defense to prosecution under Section 3 of this ordinance that the minor [or other person under guardianship](#) was:

- a.) Accompanied by the minor's parent or [by a legal guardian](#);
- b.) Involved in an emergency or on an errand necessitated by an emergency;
- c.) Engaged in an employment activity, or on the way to or from an employment activity, without any detour or stop, except as necessary, to drop off or pick up a co-employee;
- d.) In a motor vehicle involved in interstate travel;
- e.) One on an errand directed by a parent or guardian without any detour or stop;
- f.) Attending a school, religious, or governmental activity which is, or was, supervised by adults [or legal guardians](#), or traveling to or from such a school, religious, or governmental activity without detour or stop;
- g.) Attending a recreational activity sponsored by the Town of Porter, a civic organization, or a similar entity which is, or was, supervised by adults [or legal guardians](#), or traveling to or from such an activity without detour or stop;
- h.) Exercising rights protected by the First Amendment of the United States Constitution;
- i.) Married, or otherwise legally emancipated.

#### **Section 5. Enforcement**

Before taking any action to enforce this ordinance, a police officer shall ask the offender's age [or guardianship status](#). The officer may ask for proof of the apparent offender's age [or guardianship](#) and shall be justified in taking action to ascertain the apparent offender's age [or guardianship](#) in the absence of identification, such as taking the apparent offender into custody while contacting his or her parent or guardian, or accompanying the apparent offender to his or her residence for the purpose of obtaining identification.

If the apparent offender is a minor [or person under guardianship](#), or cannot produce identification proving otherwise immediately, the officer shall ask the reason for the apparent offender's being in a public place. The officer shall not take any action or enforce this section unless the officer reasonably believes that an offense has occurred and, based on any response as well as other circumstances, [and](#) no defense provided in *Section 4* is applicable. If the officer does have such a reasonable belief, the officer may take the minor [or person under guardianship](#) into custody for the purposes of contacting the ~~minor's apparent offender's~~ parent or guardian to come to take control of the ~~minor apparent offender~~. The police officer shall summons the ~~minor apparent offender~~ and ~~the minor's~~ parents [or guardian](#) to the District Court for violation of this ordinance. During this period, the officer may require the ~~minor apparent offender~~ or the [apparent offender's](#) ~~minor's~~ parent or guardian or both to remain in the officer's presence for a period of up to two hours, so long as the officer complies with all requirements of law, including, without limitation, **17-A M.R.S.A. Section 17**.

**Section 6. Penalties**

- a. The penalty for a minor or other person under guardianship who violates this ordinance shall be:
  - 1. For the first offense, ~~five hours of community service and~~ a fine of up to ~~\$50.00~~\$150.00; and
  - 2. For each subsequent offense, ~~ten hours of community service and~~ a fine of up to ~~\$100.00~~\$250.00
- b. The penalty for a parent or guardian who violates this ordinance shall be:
  - 1. For the first offense, a fine of ~~\$50.00~~\$150.00; and
  - 2. For each subsequent offense, a fine of ~~\$100.00~~\$250.00.
- c. Funds from fines to be recovered, on complaint, to the use of the Town of Porter.~~used to pay supervisor of community service.~~

**Section 7. Severability**

If any provision of this ordinance is determined to be invalid by a court of competent jurisdiction, such determination shall not render invalid the remaining provisions.