

TOWN OF HARRISON CURFEW ORDINANCE

WHEREAS, there has been an increase in juvenile violence and crime, and an increased presence of juvenile gang activity in the Town of Harrison; and

WHEREAS, persons under the age of eighteen 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 Harrison 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, violence, and gang related activity in the Town; and

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

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN OF HARRISON
:

Section 1. Short title. This ordinance shall be known and may be cited as the Town of Harrison Curfew Ordinance.

Section 2. Definitions. For the purpose of the Curfew Ordinance the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular and words in the singular number include the plural. The word “shall” is always a mandatory and not merely directory.

- (a) **Town**, is the Town of Harrison, Cumberland County, Maine.
- (b) **Minor** is any person under the age of 18, or, in equivalent phrasing often herein employed, any person 17 or less years of age.
- (c) **Parent** is any person having legal custody of a minor (i) as a

natural
or adoptive parent, (ii) as a legal guardian, (iii) as a person who stands in loco parentis or (iv) as a person to whom legal custody has been given by order of court.

(d) **Remain** means to stay behind, to tarry and to stay unnecessarily upon the streets, including the congregating of groups totaling four or more persons in which any minor involved would not be using the streets for ordinary or serious purposes such as a mere passage or going home.

(e) **Street** is a way or place, of whatsoever nature, open to the use of the public as a matter of right for purposes of vehicular travel or in the case of a sidewalk thereof for pedestrian travel. The term street includes the legal right of way, including but not limited to the traffic lanes, the curb, the sidewalks whether paved or unpaved, and any grass plots or other grounds found within the legal right of way of a street. The term street applies irrespective of what it be called or formally named, whether alley, avenue, court, road or otherwise.

(f) **Time of night** referred to herein is based upon the prevailing standard of time, whether Eastern Standard Time or Eastern Daylight Saving Time, generally observed at that hour by the public in the Town.

(g) **Year of age** continues from one birthday to the next, but not including the day thereof.

Section 3. Curfew for minors. It shall be unlawful for any person 17 or less years of age (under 18) to be or remain in or upon the streets within the Town of Harrison at night during the period from 9:00 p.m. until 6:00 a.m. of the following day during Eastern Standard Time and 10:00 p m. until 6:00 a.m. the following day during Eastern Daylight Savings Time. .

Section 4. Exceptions. The following exceptions shall not, however, be considered in violation of the Curfew Ordinance.

(a) When accompanied by a parent or guardian of such minor.

(b) When accompanied by an adult authorized by a parent of such minor to take said parent's place in accompanying said minor for a designated period of time and purpose within a specified area.

(c) 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.

(d) When the minor is on the sidewalk of the place where such minor resides, or on the sidewalk of either next door neighbor not communicating an objection to the police officer.

(e) When the minor carries a certified card of employment, renewable every three months when the current facts so warrant, dated or re-issued not more than 45 days previously, and briefly identifying the minor, the address of his home and of his place of employment, and his hours of employment.

(f) When the minor is, with parental consent, in a motor vehicle traveling from one point to another.

(g) Involved in an emergency or on an errand necessitated by an emergency.

(h) On an errand directed by a parent or guardian, without any detour or stop;

(i) Attending a school, religious, or governmental activity which is supervised by adults, or traveling to or from such a school, religious, or governmental activity without detour or stop;

(j) Attending a recreational activity sponsored by the Town of Harrison, a civic organization, or a similar activity, which is supervised by adults, or traveling to or from such an activity without detour or stop;

(k) Each of the foregoing exceptions, and their several limitations such as provisions for notification, are severable.

Section 5. Parental responsibility. It shall be unlawful for a parent having legal custody of a minor knowingly to permit or by inefficient control to allow, such minor to be or remain upon any town street under circumstances not constituting an exception to, or otherwise beyond the scope of the Curfew Ordinance. The term “knowingly” includes knowledge which parent should reasonably be expected to have concerning the whereabouts of a

minor in that parent's legal custody.

Section 6. Enforcement. Before taking any action to enforce this ordinance, a police officer shall ask the apparent offender's age. The officer may ask for proof of the apparent offender's age, and shall be justified in taking action to ascertain the apparent offender's age 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 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 to enforce this section unless the officer reasonably believes that an offense has occurred and, based on any response as well as other circumstances, no defense provided in Section 4 is applicable. If the officer does have such a reasonable belief, the officer may take the minor into custody for the purposes of contacting the minor's parent or guardian to come to take control of the minor. The police officer shall summons the minor and the minor's parent to the District court for violation of this ordinance. During this period, the officer may require the minor or the 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. §17.

Section 7. Penalties. In the case of a first violation by a minor the police officer shall, by certified mail, send to a parent written notice of said violation with a warning that any subsequent violation will result in full enforcement of the Curfew Ordinance, including enforcement of parental responsibility and of applicable penalties.

(a) If, after the warning notice pursuant to this section of a first violation by a minor, a parent violates Section 6 (in connection with a second violation by said minor), this shall be treated as a first offense by the parent. For such first parental offense a parent shall be fined \$50.00 and for each subsequent offense by a parent the fine shall be \$100.00.

(b) Any minor who shall violate any of the provisions of this ordinance shall be:

1. for the first offense, five hours of community service and a fine of up to \$50.00; and

2. for each subsequent offense, ten hours of community service and a fine of up to \$100.00.

(b) All fines assessed and paid under this section shall be for the benefit of the Town of Harrison, Maine.

Section 8. Construction. If any part or parts, section or subsection, sentence, clause or phrase of this ordinance is for any reason declared to be unconstitutional or invalid, such shall not affect the validity or constitutionality of the remaining portions of this ordinance.

Section 9. Effective date. This ordinance shall become effective after passage by the legislative body of the Town of Harrison, at a duly called town meeting.