

VILLAGE OF BIRNAMWOOD

ORDINANCE # 21-03-22

CURFEW – TRUANCY – LOITERING ORDINANCE

CURFEW

Section 1 – Purpose

It is the purpose of this ordinance to discourage individuals under the age of 18 from night time activities during the hours as defined within this ordinance.

Section 2 - Definitions

In this section:

- a. "Curfew hours" means:
 1. 11:00 p.m. until 6:00 a.m., the following day, each day of the week.
- b. "Guardian" means:
 1. A person who, under court order, is the guardian of the person or minor.
 2. A public or private agency with whom a minor has been placed by a court.
- c. "Minor" means:
 1. Any person under 18 years of age.
- d. "Parent" means a person who is:
 1. A natural parent, adoptive parent or step-parent to another person.
 2. At least 18 years of age and authorized by a parent or guardian to have care and custody of a minor.
- e. "Public place" means:
 1. Any place to which the public has access and includes, but is not limited to: streets, highways and the common areas of school, hospitals, apartment houses, office buildings, and shops.
- f. "Remain" means:
 1. Linger or stay
 2. Failure to leave the premises when requested to do so by a law enforcement officer or the owner, operator or other person in control of the premises.

Section 3 – Curfew

It shall be unlawful for any person under 18 years of age to be on foot, bicycle or in any type of vehicle on any public street, avenue, highway, road, alley, park, school grounds, swimming beach, cemetery, playground, public building or any other public place in the Village between the hours of 11:00 p.m. and 6:00 a.m. each day unless accompanied by their parent or guardian, or person having lawful custody and control of the child, or unless there exists a reasonable necessity therefor. The fact such child, unaccompanied by parent, guardian or other person having legal custody, is found upon any such public place during the aforementioned hours shall be prima facie evidence that the child is there unlawfully and that no reasonable excuse exists therefor.

Section 4 – Exceptions

This section shall not apply to a child who is performing an errand as directed by his parent, guardian or person having lawful custody; who is on his own premises or in the areas immediately adjacent thereto; whose employment makes it necessary to be upon the streets, alleys or public places or in any motor vehicle during such hours; or who is returning home within one-half hour from the completion of a supervised school, church, civic function, sporting event or place of public entertainment.

Section 5 – Warning

The first time a child, parent, guardian or person having legal custody of a minor that is detained by a law enforcement officer of the City, such child, parent, guardian or person having such legal custody, shall be advised, personally, if known, or by registered mail, as to the provisions of this section, and further advised that any violation of this section occurring thereafter by this minor or any other minor under his care or custody shall result in a penalty being imposed as provided in section 5.

Section 5 – Penalties

Any child described in section 3 who has been warned in the manner provided in section 5 and who thereafter violates any of the provisions of this curfew is guilty of a separate offense for each day or part of a day during which the violation is committed, continued, or permitted. Each offense, upon conviction, is subject to the following penalties:

- (1) A child of 16 years of age or younger will receive a forfeiture of \$50 for the violation.
- (2) A child of 17 years of age will receive a forfeiture of \$100 for the violation.

TRUANCY

Section 1 – Purpose

Any child under the age of 18 years who is subject to school attendance and who is absent from school without an acceptable excuse under Wis. Stats. §§ 118.15 and 118.16(4) (compulsory school attendance) for part or all of any day on which school is held during a semester shall be deemed truant and in violation of section.

Section 2 – Definitions

In this section:

- a. “Acceptable excuse” means:
 1. Permission of the parent/guardian/legal custodian of a pupil, within limits of policies on truancy established by the school in which the pupil is enrolled. Except in emergencies or unforeseeable circumstances, such permission is expected to be communicated in writing from the parent/guardian/legal custodian to the school, prior to the absence. In emergencies or unforeseeable circumstances, such communication is expected to be as soon as practicable following the absence.

Section 5 – Penalties

Any child who violates any of the provisions within, Truancy section 1, is guilty of a separate offense for each day or part of a day during which the violation is committed, continued, or permitted. Each offense, upon conviction, is subject to the following penalties:

Any child violating this section shall be subject to one or more of the penalties provided in the following subsections (a) and (b):

- a. An order for the child to attend school;
- b. A forfeiture of \$100.00 for the violation, subject to Wis. Stats. § 938.37, (refers to cost imposed by the courts for violation).

LOITERING

Section 1 – Purpose

To define loitering by any person in or around school property.

Section 2 -

Loitering in or on school property is prohibited.

No person not in official attendance or on official school business shall enter into, congregate, loiter, wander or stand in or on any public or private school property within the Village between the hours of 6:00 a.m. and 6:00 p.m. on official school days. Any person who remains on school grounds after being asked to leave by the school principal, the principal’s designee or a faculty member shall be presumed to be in violation of this subsection.

Section 3 – Definitions

In this section:

- a. “School grounds” means:
 - 1. Any building in the Village and those surrounding any school building, including parking lots, which are either owned by the school district or normally used for school related activities.
- b. “Legitimate reasons” means:
 - 1. Such reasons as attendance at school related activities open to the public, school business, authorized meetings with school administrators, school faculty, students or school staff personnel and any other valid reasons which justify the presence of someone on school grounds.

Section 4 – Exceptions

The prohibition against loitering in this subsection shall not apply to students, school faculty and school staff personnel, or to those persons who are authorized to be on school grounds for legitimate reasons.

Section 6 – Effective Date

This ordinance is effective on publication or posting.

The Village clerk shall properly post or publish this ordinance as required under s. [60.80](#), Wis. stats.

Adopted this 22nd day of March, 2021.

(Signature of Village President) _____

Attest: (Signature of Village clerk) _____