

Chapter 113

CURFEW

§ 113-1. Curfew regulations.

§ 113-2. Violations and penalties;
attempt; parties to acts.

[HISTORY: Adopted by the Village Board of the Village of Iola 2-12-1996 as Title 9, Secs. 9-5-1 and 9-1-2, of the 1996 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Loitering — See Ch. 164.
Minors — See Ch. 171.

Peace and good order — See Ch. 201.

§ 113-1. Curfew regulations. [Amended 9-14-1998 by Res. No. 98-14]

- A. Curfew established. 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 each, cemetery, playground, public building or any other public place in the Village of Iola between the hours of 10:00 p.m. and 7:00 a.m., unless accompanied by his or her parent or guardian, or person having lawful custody and control of his or her person, or unless there exists a reasonable necessity therefor. The fact that said 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 said child is there unlawfully and that no reasonable excuse exists therefor.
- B. Exceptions.
- (1) This section shall not apply to a child:
 - (a) Who is performing an errand as directed by his or her parent, guardian or person having lawful custody.
 - (b) Who is on his or her own premises or in the areas immediately adjacent thereto.
 - (c) Whose employment makes it necessary to be upon the streets, alleys or public places or in any motor vehicle during such hours.
 - (d) Who is returning home from a supervised school, church or civic function.
 - (2) These exceptions shall not, however, permit a child to unnecessarily loiter about the streets, alleys or public places or be in a parked motor vehicle on the public streets.
- C. Parental responsibility. It shall be unlawful for any parent, guardian or other person having the lawful care, custody and control of any person under 18 years of age to allow or permit such person to violate the provisions of Subsection A or B above. The fact that prior to the present offense a parent, guardian or custodian was informed by any law enforcement officer of a separate violation of this section occurring within 30 days of the present offense shall be prima facie evidence that such parent, guardian or custodian allowed or

permitted the present violation. Any parent, guardian or custodian herein who shall have made a missing person notification to the Police Department shall not be considered to have allowed or permitted any person under 18 years of age to violate this section.

- D. Responsibility of places of amusement. It shall be unlawful for any person, firm or organization operating or in charge of any place of amusement, entertainment, refreshment or other place of business to permit any minor under 18 years of age to loiter, loaf or idle in such place during the hours prohibited by this section. Whenever the owner or person in charge or in control of any place of amusement, entertainment, refreshment or other place of business during the hours prohibited by this section shall find persons under 18 years of age loitering, loafing or idling in such place of business, he or she shall immediately order such person to leave and if such person refuses to leave said place of business, the operator shall immediately notify the Police Department and inform them of the violation.
- E. Detaining a minor. Every law enforcement officer is hereby authorized to detain any minor violating the provision of the above until such time as the parent, guardian or person having legal custody of the minor shall be immediately notified and the person so notified shall as soon as reasonably possible thereafter report to the Police Department for the purpose of taking the custody of the minor and shall sign a release for him or her. If no response is received, the police shall take whatever action is deemed necessary in the best interest of the minor.
- F. Warning notice. The first time a minor, parent, guardian or person having legal custody of a minor is detained by a law enforcement officer of the village, as provided in Subsection E, such minor, 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 or her care or custody shall result in a penalty being imposed as hereinafter provided.
- G. Penalty.
- (1) Any parent, guardian or person having legal custody of a child described in Subsections A through E who has been warned in the manner provided in Subsection F and who thereafter violates any of the provisions of this section shall be subject to a penalty as provided in Chapter 1, General Provisions, § 1-17, of this Code of Ordinances. After a second violation within a six-month period, if the defendant, in a prosecution under this section, proves that he or she is unable to comply with this section because of the disobedience of the child, the action shall be dismissed and the child shall be referred to the court assigned to exercise jurisdiction under Chapter 48, Wis. Stats.
 - (2) Any minor person under 18 years of age who shall violate this section shall, upon conviction thereof, forfeit not less than \$10 nor more than \$50, together with cost of prosecution.¹

¹ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 113-2. Violations and penalties; attempt; parties to acts.

- A. **Penalty.** In addition to the general penalty provisions of this Code in Chapter 1, General Provisions, § 1-17, or any other penalty imposed for violation of any section of this chapter, any person who shall cause physical damage to or destroy any public property shall be liable for the cost of replacing or repairing such damaged or destroyed property. The parent or parents of any unemancipated minor child who violates § 201-11 may also be held liable for the cost of replacing or repairing such damaged or destroyed property in accordance with the Wisconsin Statutes. Nothing in this Code of Ordinances shall prevent the Police Department from referring violations of the provisions of this chapter to the District Attorney's office in the interest of justice.
- B. **Attempt.**
- (1) Whoever attempts to commit an act prohibited by this chapter of the Code of Ordinances of the Village of Iola may be required to forfeit amounts not to exceed $\frac{1}{2}$ the maximum penalty for the completed act.
 - (2) An attempt to commit an act prohibited by the ordinances in this Code requires that the actor have an intent to perform acts and attain a result which, if accomplished, would constitute a violation of these ordinances and that he or she does acts towards the commission of the violation which demonstrate unequivocally, under all the circumstances, that he or she formed that intent and would commit the violation except for the intervention of another person or some other extraneous factor.
- C. **Parties to acts prohibited in this chapter.**
- (1) Whoever is concerned in the commission of an act prohibited by this chapter of this Code of Ordinances is a principal and may be charged with and convicted of the commission of said act although he or she did not directly commit it and although the person who directly committed it has not been convicted of some other act prohibited by these ordinances.
 - (2) A person is concerned in the commission of an act prohibited by these ordinances if he:
 - (a) Directly commits the act; or
 - (b) Intentionally aids and abets the commission of it; or
 - (c) Is a party to a conspiracy with another to commit it or advises, hires, counsels, or otherwise procures another to commit it. Such party is also concerned in the commission of any other act which is committed in pursuance of the intended violation and which, under the circumstances, is the natural and probable consequence of the intended violation. This paragraph does not apply to a person who voluntarily changes his/her mind and no longer desires that the act be committed and notifies the other parties concerned of his/her withdrawal within a reasonable time before the commission of the violation so as to allow the others also to withdraw.

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