

Chapter 6

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Part 1**Open Alcoholic Beverage Containers****§6-101. Definitions.**

1. The following words or phrases, unless the context clearly indicates otherwise, shall have the meaning ascribed to them in this Part:

Liquor, malt or brewed beverages, container and official seal—the same as those words and phrases are defined in the Pennsylvania Liquor Code, 47 P.S. §1-101 *et seq.*

Open—when used in connection with a container, shall mean any container which has been perforated in the case of a can or similar container or container on which the cap has been loosened or the cork displaced and the official seal torn or mutilated.

(*Ord. 813, 3/19/1978, §1*)

§6-102. Unlawful Consumption.

It shall be unlawful within the Borough of Pitcairn for any person, to drink “liquor” or “malt or brewed beverages” upon any public street, public municipal parking lot, private parking lot open to public use or public park, or in any vehicle being operated or parked thereon, except as provided by Chapter 16, “Parks and Recreation,” §16-103.2, “Acts Prohibited.”

(*Ord. 813, 3/19/1978, §2*)

§6-103. Unlawful Possession.

It shall be unlawful within the Borough of Pitcairn for any person to have in such person’s possession, or in a vehicle under such person’s control, any open container containing “liquor” or “malt or brewed beverages” upon any public street, public municipal parking lot, private parking lot open to public use or public park or playground for the purpose of drinking said contents in any of the places prohibited in §6-102 of this Part, except as provided by Chapter 16, “Parks and Recreation,” §16-103.2, “Acts Prohibited.”

(*Ord. 813, 3/19/1978, §3*)

§6-104. Penalty.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to a fine of not less than \$100 nor more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

(*Ord. 813, 3/19/1978, §5; as amended by Ord. 846, 9/18/1991, §6-104; and by Ord. 978, 5/31/2011*)

Part 2**Pornography****§6-201. Purpose; Policy; Authority; Exclusion.**

The Borough Council finds that the crass commercial exploitation of explicit sexual conduct through the public exhibition of lewd films, and the display and/or sale of lewd publications, and the use of so-called massage parlors and model studios for purposes of lewdness, assignation or prostitution constitutes a debasement and distortion of a sensitive key relationship of human existence, central to family life, community welfare and the development of human personality; is indecent and offensive to the senses and to public morals and interferes with the comfortable enjoyment of life and property, in that such interferes with the interest of the public in the quality of life and total community environment, the tone of commerce in the Borough, property values, and the public safety; and that the continued operation of such activities is detrimental to the best health, safety, convenience, morals and general welfare of the Borough, and of residents, citizens, inhabitants and businesses thereof. The Borough Council hereby declares such activities to be a public nuisance, and herein establishes procedures for the abatement thereof. This Part shall apply to existing establishments which are presently engaged in the type of activity herein declared to be a public nuisance.

(Ord. 762, 12/19/1979, §1)

§6-202. Definitions.

Knowledge or knowledge of such nuisance—having knowledge of the contents and character of the patently offensively sexual conduct or demonstration which appears in the film, publication, or knowledge of the acts of lewdness, assignation or prostitution which occur on the premises.

Lewd—any matter:

A. Which the average person, applying contemporary community standards, would find, when considered as a whole, appeals to the prurient interest.

B. Which depicts or describes patently offensive representations or descriptions of:

(1) Ultimate sexual acts, normal or perverted, actual or simulated.

(2) Masturbation, excretory functions, or exhibition of the genitals or genital area.

Nothing herein contained is intended to include or prescribe any matter which, when considered as a whole, and in the context in which it is used, possesses serious literary, artistic, political or scientific value.

Massage—any method of treating the superficial soft parts of the human body, for remedial, hygienic or other purposes, consisting of rubbing, stroking, kneading or any similar treatment, accomplished by hand or by the use of any instrument.

Massage Parlor—any building or structure or portion thereof, located within the Borough, which is open to members of the general public, with or without the payment of a fee, at which massage services are offered.

Matter—a motion picture film or a publication, or both.

Model studio -

A. Any premises on which there is conducted the business of furnishing figure models who pose in the nude for the purpose of being observed or viewed by any person or of being sketched, painted, drawn, sculptured, photographed or otherwise similarly depicted for persons who pay a fee, or other consideration or compensation, or a gratuity, for the right or opportunity so to depict the figure model, or for admission to, or for permission to remain upon, or as a condition for remaining upon the premises.

B. Any premises where there is conducted the business of furnishing or providing or procuring, for a fee or other consideration or compensation or gratuity figure models who pose in the nude to be observed or viewed by any person or to be sketched, painted, drawn, sculptured, photographed or otherwise similarly depicted.

C. *Exception.* The words “model studio” do not include:

(1) Any studio which is operated by any State college or junior college, public school, or any governmental agency wherein the person, firm, association, partnership or corporation operating it has met the requirements established by the Commonwealth of Pennsylvania for the issuance or conferring of, and is in fact authorized thereunder to issue and confer, a diploma or honorary diploma.

(2) Any premises where there is conducted the business of furnishing, providing or procuring figure models solely for any studio described in paragraph .C(1) above.

(3) Any studio operated by a tax exempt, nonprofit corporation devoted to the development of art and its appreciation.

Motion picture film—shall include any:

A. Film or plate negative.

B. Film or plate positive.

C. Film designed to be projected on a screen for exhibition.

D. Films, glass slides or transparencies, either in negative or positive form, designed for exhibition by projection on a screen.

E. Video tape or any other medium used to electronically reproduce images on a screen.

Nude—shall include:

A. Completely without clothing.

B. With the human male or female genitals, pubic area or buttocks with less than a full opaque covering or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the covered male genitals in a discernibly turgid state.

Person—any individual, partnership, firm, association, corporation, or other legal entity.

Place—includes, but is not limited to, any building, structure or space, or any

separate part or portion thereof, whether permanent or not, or the ground itself.

Publication—any book, magazine, article, pamphlet, writing, printing, illustration, picture, sound recording, or a motion picture film which is displayed in an area open to the public, offered for sale or exhibited in a coin-operated machine.

Sale—a passing of title or right of possession from a seller to a buyer for valuable consideration, and shall include, but is not limited to, any lease or rental arrangement or other transaction wherein or whereby any valuable consideration is received for the use of, or transfer of, possession of, lewd matter.

(Ord. 762, 12/19/1979, §2)

§6-203. Lewd Films and Theaters Exhibiting the Same Declared a Public Nuisance; Abatement Thereof.

1. Any and every place in the Borough of Pitcairn where lewd films are publicly exhibited or possessed for the purpose of such exhibition; and any and every place in the Borough of Pitcairn where a lewd film is publicly or repeatedly exhibited, or possessed for the purpose of such exhibition is a public nuisance.

2. Any and every lewd film which is publicly exhibited or possessed for such purpose at a place which is a public nuisance under this Section is a public nuisance per se.

3. From and after service on the theater, or its manager, or acting manager, or person then in charge of such place, of a true and correct copy of this Part and a true and correct copy of the resolution and order of summary abatement provided for in §6-207 of this Part, all moneys paid thereafter as admission price to such exhibitions are also declared to be a public nuisance, as personal property used in conducting and maintaining a declared public nuisance.

(Ord. 762, 12/19/1979, §3)

§6-204. Place of Business in Which Lewd Publications Constitute a Principal Part of the Stock in Trade, Lewd Publications Possessed Therein, and Valuable Consideration Received for Sales Thereof, Declared Public Nuisance; Abatement Thereof.

1. Any and every place in the Borough of Pitcairn in which lewd publications constitute a part of the stock in trade is a public nuisance.

2. Any and every lewd publication possessed at a place which is a public nuisance under subsection .1 is a public nuisance per se.

3. From and after service on the place, or its manager, or acting manager, or person then in charge of such place, of a true and correct copy of this Part and a true and correct copy of the resolution and order of summary abatement provided for in §6-207 of this Part, all valuable consideration received for the sale of such lewd publications is also declared to be a public nuisance as personal property used in conducting and maintaining a declared public nuisance.

(Ord. 762, 12/19/1979, §4)

§6-205. Massage Parlors or Model Studios Used for Purposes of Lewdness, Assignation or Prostitution, or upon Which Such Acts Occur, Declared a

Public Nuisance; Abatement Thereof.

1. Every massage parlor or model studio which as a regular course of business is used for the purposes of lewdness, assignation, or prostitution, and every such massage parlor or model studio in or upon which acts of lewdness, assignation or prostitution are held or occur is a public nuisance which shall be enjoined, abated and prevented.

2. From and after service on the place, or its manager, or acting manager, or person then in charge of such place, of a true and correct copy of this Part and a true and correct copy of the resolution and order of summary abatement provided for in §6-207 of this Part, all moneys or other valuable consideration paid for service rendered to customers are also declared to be a public nuisance, as personal property used in conducting and maintaining a declared public nuisance.

(Ord. 762, 12/19/1979, §5)

§6-206. Knowledge of Nuisance Presumed from Notice of Order of Abatement; Responsibility of Parties Therefor; Abatement of Such Nuisances.

1. Upon and after receiving notice through service of a true and correct copy of this Part and of a true and correct copy of the resolution and order of summary abatement provided for in §207 of this Part, any and every person who shall own, legally or equitably, lease, maintain, manage, conduct or operate a place in the Borough of Pitcairn which is declared to be a public nuisance as set forth and stated in §§6-203, 6-204 and 6-205 of this Part is deemed to be a person who has knowledge of such nuisance for the purpose of this Part, and is, thereafter, responsible for its maintenance, and shall be liable therefor.

2. The place and subject matter declared to be public nuisances under §§6-203, 6-204 and 6-205 of this Part shall be abated as provided for herein.

(Ord. 762, 12/19/1979, §6)

§6-207. Action to be Taken by Borough Council.

Upon a specific finding that a public nuisance, as defined in §§6-203, 6-204 and 6-205 of this Part, exists in the Borough, the Borough Council, in applying the provisions of this Part to such nuisance, shall provide for the following by resolution:

A. Declare the fact that such nuisance exists.

B. Set forth the description or legal description and street address of the place which constitutes the nuisance.

C. Set forth the evidentiary facts considered by the Borough Council in arriving at its factual determination:

(1) In the case of a motion picture film or films, such shall include a recitation of the particular sexual conduct and acts which the Borough Council finds are patently offensive, and the basis for the finding by the Borough Council that (a) such films are publicly exhibited in the business, or that (b) such film is publicly or repeatedly exhibited, or held for such exhibition at the place declared to be a nuisance.

(2) In the case of a publication or publications, such shall include a recitation of (a) the particular publications or types of publications considered by the Borough Council, and those which the Borough Council finds to be

patently offensive and (b) the basis for the finding by the Borough Council that such publications are displayed, sold or held for sale at any place found by the Borough Council to be a public nuisance, and (c) the basis of the finding by the Borough Council that such publications constitute a part of the stock in trade of such place of business or other place.

(3) In the case of a massage parlor or model studio, such shall include a recitation of (a) the particular acts of lewdness, assignation, or prostitution which have occurred, and (b) the basis for the finding by the Borough Council that such acts occur in the course of business.

D. Order all persons described in §6-206.1 of this Part, to summarily abate such public nuisance within 24 hours of service of such order on any such persons, by terminating the exhibition, sale or possession for sale of such lewd subject matter or by ceasing to use the place where the nuisance is declared to exist or by terminating the use of said premises for the purposes of lewdness, assignation, or prostitution, or causing the same to be terminated, and notifying the Borough Manager and Borough Council of compliance therewith by sworn affidavit as ordered by the action of the Borough Council in such resolution.

E. Order the Borough Solicitor to proceed as directed in §6-209 of this Part and do all things necessary to abate such public nuisance through judicial proceedings and to conclude such proceedings as expeditiously as is permissible under the law, including requesting the Court to advance such proceedings on the calendar of the Court.

F. Inform and give notice to persons designated in §6-206.1 of this Part that:

(1) The Borough Council has determined that a public nuisance presently exists at such place and address, and that, under §6-206.1 of this Part, they are deemed to have knowledge thereof and are responsible therefor.

(2) In the event the order of the Borough is not complied with within 24 hours, the Borough Council has ordered the Borough Solicitor, as provided for under §6-209 of this Part, to commence necessary legal proceedings naming such persons as defendants in a civil action to abate the same judicially under §6-207 of this Part, and that under §6-208.1 and .2 of this Part, the costs of abatement of such civil abatement action filed, including investigative costs, court costs, attorney's fees, and other expenses, are made a special assessment against the parcel of land upon which such nuisance is being maintained and, upon their determination in such court action, will, by separate legal procedure, be made a lien against such property and a personal obligation against any person, persons, firm, association, partnership, corporation or other entity deemed to be in violation of this Part.

(3) All lewd motion picture films or lewd publications being used in conducting and maintaining such public nuisance are contraband and the subject of forfeiture.

(4) From and after service on the place, or its manager, or acting manager, or person then in charge of such place, of a true and correct copy of this Part and a true and correct copy of such resolution, any and all moneys paid as admission price to or for the exhibition or exhibitions of such lewd motion picture films, and valuable consideration received for the sale of such

lewd publications, and all moneys or other valuable consideration received for services rendered in such massage parlors or model studios are a public nuisance, as personal property used in conducting and maintaining such nuisance and, as such, are the subject of forfeiture.

G. Order that a true and correct copy of said resolution and a true and correct copy of this Part be delivered forthwith in any manner normally used to effectuate personal service of process to all persons of record having any legal or equitable interest in the real property, and to the regular or acting manager or persons in charge of the place therein declared a public nuisance.

(Ord. 762, 12/19/1979, §8)

§6-208. Forfeiture to the General Fund of the Borough; Cost of Abatement; Manner of Collection.

1. Upon judgment for the Borough in legal proceedings brought pursuant to this Part, an accounting shall be made by such defendant or defendants of all moneys or valuable consideration received by them which have been declared to be a public nuisance under §§6-203.3, 6-204.3 and 6-205.2 of this Part. Such moneys or their equivalent and any valuable consideration received shall be forfeited to the General Fund of the Borough or to the Borough as property of the Borough if any valuable consideration received be not money.

2. The cost of abatement shall include the following:

A. Investigative costs.

B. Court costs.

C. Reasonable attorneys' fees arising out of the preparation for, and trial of the cause and appeals therefrom, and other costs allowed on appeal.

D. Printing costs of trial and appellate briefs and all other papers filed in such proceeding.

3. Such cost of abatement is hereby made a special assessment against the parcel of land upon which such nuisance is maintained. Upon its determination in a civil action, such shall, by separate legal proceeding, be made a lien against such property and a personal obligation against any person, persons, firm, association, partnership, corporation or other entity and shall be collected at the same time and in the same manner as ordinary Borough taxes are collected, and shall be subject to the same penalties and the same procedure and sale in the case of delinquency as provided for ordinary Borough taxes. All laws, applicable to the levy, collection and enforcement of Borough taxes, shall be applicable to such special assessment.

(Ord. 762, 12/19/1979, §8)

§6-209. Action to Be Taken by Borough Solicitor.

Upon a specific finding by resolution of the Borough Council of the fact that a public nuisance exists at a particular location, the Borough Solicitor shall:

A. Not later than 3 days after passage of said resolution, commence legal proceedings by the filing of a civil action seeking the following relief:

(1) A declaratory judgment that the matter named by the Borough Council is lewd, as defined herein.

(2) A declaratory judgment that the matter found to be lewd is or are public nuisances per se under this Part and such resolution.

(3) A declaratory judgment that each place named by the Borough Council is a public nuisance under this Part and such resolution.

(4) An accounting of all moneys paid as admission price to or for the exhibition or exhibitions of such lewd motion picture films, and valuable consideration received for the sale of such lewd publications, and all moneys or other valuable consideration received for services rendered in such massage parlors or model studios from and after the time the persons maintaining said nuisance receive notice of the finding by the Borough Council by resolution that the public nuisance exists, and a judgment that such moneys or valuable consideration are a public nuisance under this Part.

(5) An order that all admission price moneys or valuable consideration received and enumerated in the court-ordered accounting be forfeited as contraband to the General Fund of the Borough of Pitcairn.

(6) An injunction enjoining and restraining all persons responsible for maintaining said nuisance from possessing or publicly exhibiting said lewd motion picture films, or from selling or possessing for sale said lewd publications, or from committing acts of lewdness, assignation, or prostitution, at any time in the future in the Borough, and such other injunctive relief as the court may order.

(7) An order that all positive prints of the named lewd film and all lewd publications or copies or reproductions thereof be forfeited as contraband under this Part.

(8) Judgment for the Borough for all costs therein expended, including investigative costs, court costs, reasonable attorney's fees, and such other expenses as are provided for in this Part.

(9) All other relief as the court may deem proper.

(Ord. 762, 12/19/1979, §9)

Part 3**Disorderly Conduct****§6-301. Disorderly Conduct Prohibited.**

Disorderly conduct, as defined in the Pennsylvania Crimes Code, 18 Pa.C.S.A. §5503, is hereby prohibited within the Borough. A person is guilty of disorderly conduct if he:

- A. Engages in fighting or in threatening, violent or tumultuous behavior.
- B. Makes unreasonable noise.
- C. Creates a hazardous or physically offensive condition by any act which serves no legitimate purpose of the actor.

Provided: as used in this Section, the word “public” means affecting or likely to affect persons in a place to which the public or a substantial group has access. Among the places included are streets, alleys and sidewalks, transport facilities, schools, prisons, apartment houses, places of business or amusement, any neighborhood, or any premises which are open to the public.

(*Ord. 684*, 11/12/1968; as amended by *Ord. 846*, 9/18/1991, §6-401)

§6-302. Penalty for Violation.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to a fine of not less than \$100 nor more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

(*Ord. 684*, 11/12/1968; as amended by *Ord. 846*, 9/18/1991, §6-402; and by *Ord. 978*, 5/31/2011)

Part 4**Discharge of Firearms****§6-401. Discharge of Firearms Prohibited.**

Except in necessary defense of person and property and except as provided in §6-403 of this Part, it shall be unlawful for any person to use, fire, or discharge any gun or other firearm within the Borough.

(*Ord. 635, 6/20/1962; as amended by Ord. 846, 9/18/1991, §6-501*)

§6-402. Use of Air Rifles, Bow and Arrows, or Similar Devices Restricted.

It shall be unlawful for any person to discharge any air rifle, air pistol, spring gun, spring pistol, B-B gun, bow and arrow, or similar device, or any implement that is not a firearm but which impels a pellet of any kind with a force that can reasonably be expected to cause bodily harm, at any place within the Borough, except as provided in §6-403 of this Part, and except on a target range which is properly constructed to trap or stop the projectile as ascertained by the Chief of Police.

(*Ord. 635, 6/20/1962; as amended by Ord. 846, 9/18/1991, §6-502*)

§6-403. Exceptions.

This Part shall not apply to:

A. Members of any organization incorporated under laws of this Commonwealth engaged in target shooting upon the grounds or property belonging to or under the control of such organization.

B. Any law enforcement officers when used in the discharge of their official duties.

C. Persons licensed to hunt in this Commonwealth while actually engaged in hunting where permitted under the laws of the Commonwealth of Pennsylvania.
[*Ord. 978*]

(*Ord. 635, 6/20/1962; as amended by Ord. 846, 9/18/1991, §6-503; and by Ord. 978, 5/31/2011*)

§6-404. Penalties for Violation.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to a fine of not less than \$100 nor more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

(*Ord. 635, 6/20/1962; as amended by Ord. 846, 9/18/1991, §6-504; and by Ord. 978, 5/31/2011*)

Part 5**Throwing Objects in Streets****§6-501. Ball Playing, Snowballing and Throwing Stones and other Missiles on Streets and Sidewalks Prohibited.**

1. Ball playing, including the throwing, kicking or knocking of any ball, snowballing, and the throwing of any stone or other missile of any kind upon or onto any of the public streets, alleys or sidewalks in the Borough is hereby prohibited.

2. Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to a fine of not less than \$100 nor more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense. [*Ord. 978*]

(*Ord. 636*, 6/20/1962; as amended by *Ord. 846*, 9/18/1991, §6-601; and by *Ord. 978*, 5/31/2011)

Part 6**Protection of Public Property****§6-601. Tampering with Certain Property Prohibited.**

No person or persons shall destroy or injure in any way whatsoever, or tamper with or deface any public property of the Borough, or any grass, walk, lamp, ornamental work, building, street light, fire hydrant or water or gas stop box on any of the street, alleys, parks or other public grounds in the Borough.

(*Ord. 637, 6/20/1962, §1*)

§6-602. Tampering with Stakes and Monuments Prohibited.

No person or persons shall in any manner interfere with or meddle with or pull, drive, change, alter or destroy any stake, post, monument, or other evidence of any elevation, grade, line, location, corner or angle in the Borough, made, placed or set, or hereafter made, placed or set, or caused to be done by the authorities of the Borough in any survey or in any street, alley or public ground in the Borough to evidence the elevation, line, grade, location, corner or angle of any public street, alley, sidewalk, curb, gutter, sewer or other public work, matter or thing.

(*Ord. 637, 6/20/1962, §2*)

§6-603. Tampering with Warning Lamps, Signs and Barricades Prohibited.

No person shall willfully or maliciously destroy or remove or deface or obliterate or cover up any lamp, warning sign or barricade erected by the authorities of the Borough or by any person, firm or corporation doing work by permission of the authorities of the Borough on any of the streets, alleys, sidewalks or bridges in the Borough, as a warning of danger.

(*Ord. 637, 6/20/1962, §3*)

§6-604. Taking Material from Streets, Alleys and Public Grounds Prohibited.

No person shall take any earth, stone or other material from any of the streets, alleys, parks or other public grounds in the Borough.

(*Ord. 637, 6/20/1972, §4*)

§6-605. Certain Activities Excepted.

This Part shall not apply to normal activities in connection with the construction, maintenance and repair of streets, alleys, sidewalks and public grounds and the structures and fixtures located thereon, nor to incidental results of work thereon or therein upon permit from or by authority of the Borough.

(*Ord. 637, 6/20/1962, §5*)

§6-606. Penalties.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to a fine of not less than \$100 nor more than

\$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

(*Ord. 637*, 6/20/1962, §6; as amended by *Ord. 846*, 9/18/1991, §6-706; and by *Ord. 978*, 5/31/2011)

Part 7**Nighttime Curfew for Minors****§6-701. Definitions.**

1. For the purpose of this Part, the following terms, phrases, and words and their derivation shall have the meanings given herein:

Adult—any individual being over the age of 18. [Ord. 978]

Borough—the Borough of Pitcairn, Allegheny County, Pennsylvania.

Emergency—unforeseen circumstances, or the status or condition resulting therefrom, requiring immediate action to safeguard life, limb, or property. The term includes, but is not limited to, fires, natural disasters, automobile accidents, or other similar circumstances.

Minor—any person under the age of 18, or, in equivalent phrasing often herein employed, any person 17 or fewer years of age.

Parent—any person having legal custody of a minor:

- (1) As a natural or adoptive parent.
- (2) As a legal guardian.
- (3) As a person who stands in loco parentis.
- (4) As a person to whom legal custody has been given by Order of Court.

Public Place—an area generally visible to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles, whether they are in motion or stationary, and buildings open to the general public including those which serve food or drink or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them.

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

Street—a way or place, of whatever nature, open to the use of the public for purposes of vehicular travel, or, in the case of a sidewalk thereof, for pedestrian travel. The term street includes a legal right of way including, but not limited to, the cartway of 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 also applies, for curfew purposes, to ways the public is privileged to use over private property, so long as the owner permits, including sidewalks and grass plots similarly open at the time to public use, and to parking areas of any type (residential, municipal, or commercial) open to public use or from such street or any type of street. The term street applies irrespective of what is called or formally named, whether alley, avenue, court, road, or otherwise, or whether it is maintained by the Borough, and irrespective of whether it is open to the use of the public as a matter of right.

Time of night—based upon the prevailing standard of time, whether Eastern Standard Time or Eastern Standard Daylight Saving Time, generally observed at

that hour by the public in the Borough, prima facie at the time when observed in the Borough administrative offices and police station.

Year of age—continues from one birthday, such as the 17th, to (but not including the day of) the next, such as the 18th birthday, making it clear that 17 or fewer years of age is herein treated as equivalent to the phrase “under 18 years of age.”

(*Ord. 945, 9/12/2006, §1; as amended by Ord. 978, 5/31/2011*)

§6-702. Curfew for Minors Established.

1. It shall be unlawful for any person 17 or fewer years of age (under age 18) to be or remain in or upon the streets, alleys, parks, athletic fields, business places, or any other public places within the Borough of Pitcairn between the hours of 10 p.m. and 6 a.m. the following day.

2. No person, firm or corporation operating places of amusement or entertainment, or any agent, servant or employee of any person, firm or corporation shall permit any person 17 or fewer years of age (under age 18) to enter or to remain in such places of amusement or entertainment during the hours prohibited under this Section, unless such person is accompanied by his or her parent, guardian or other adult person having his or her care, custody or control.

3. No person, firm or corporation operating a hotel, motel, lodging or rooming house, or any agent, servant or employee of such person firm or corporation operating a hotel, motel, lodging or rooming house, shall permit any person 17 or fewer years of age (under age 18) to visit, loiter, idle, wander or stroll in any portion of such hotel, motel, lodging or rooming house between the hours prohibited under this Section; provided, however, that the provisions of this Section do not apply when the minor is accompanied by his or her parent, guardian, or other adult person having the care, custody and control of such minor.

(*Ord. 945, 9/12/2006, §2*)

§6-703. Exceptions.

In the following exceptional cases, a minor on the street within the Borough during the nocturnal hours, for which §7-102 is intended to provide the maximum limits of regulation and a clear general guide for minors, their parents or custodian, and their follow citizen, shall not, however, be considered in violation of this Part:

A. When such minor is accompanied by a parent, guardian, or person having legal custody of such minor.

B. When accompanied by an adult authorized by a parent of such minor to take said parents place in accompanying said minor for a designated period of time and purpose within a specified area.

C. When such minor is going directly to or home from a school, church, or municipality sponsored activity.

D. Where such minor is involved in an emergency.

E. When such minor is engaged in gainful lawful employment during the curfew hours or is traveling in a direct route to or from such employment.

F. When the minor is in a motor vehicle with permission of the parent, guardian or person having legal custody of the minor and who is involved in

interstate travel through, or beginning or terminating in the Borough.

G. The minor was on an errand at the direction of the minor's parent, with written permission and was using a direct route to the place of the errand and to the return of the minor's home.

H. The minor was located on the side walk immediately adjacent to the minor's home or of the home of a neighbor, and the minor's parent gave permission for the minor to be at the neighbor's home.

I. The minor has been emancipated by Court Order.

J. The minor was exercising rights under the First Amendment such as free exercise of religion, speech or assembly.

(*Ord. 945, 9/12/2006, §3*)

§6-704. Parental Responsibility.

It shall be unlawful for a person having legal custody of a minor knowingly to permit, or by insufficient control, to allow such minor to be or remain upon any street within the Borough under circumstances not constituting an exception to, or otherwise beyond the scope of this Part. The term "knowingly" includes knowledge, which a person should reasonably be expected to have concerning the whereabouts of a minor in that person's legal custody. It is intended to continue to keep neglectful or careless parents, or custodians, up to a reasonable community standard of parental responsibility through an objective test. It shall be no defense that a parent, or custodian, was completely indifferent to the activities or conduct or whereabouts of such minor.

(*Ord. 945, 9/12/2006, §4*)

§6-705. Police Procedures.

1. A police officer of the Borough, upon finding or having attention called to any minor on the streets in violation of this Part, normally shall take the minor to the Borough police station, where a parent or custodian shall immediately be notified to come for such minor, whereupon they shall be questioned. This is intended to permit ascertainment, under constitutional safeguards, of relevant facts, and to centralize responsibility in the officer there and then on duty, for accurate, effective, fair, impartial, and uniform enforcement in recording, thus making available experienced supervisory personnel, the best of facilities, and access to information and records. In the absence of convincing evidence, such as a driver's license, police officers on the street shall, in the first instance, use their best judgment in determining age.

2. Police procedures may constantly be refined in the light of experience, and may provide that the police officer may deliver to a parent or custodian, a minor under appropriate circumstances, for example, a minor of tender age near home whose identity and address may be readily ascertained or are known. In any event, such police officer shall, within 24 hours, file a written report with the officer in charge, or shall participate, to the extent that the information for which the officer is responsible, in the preparation, by the officer involved in such case, in the filing of such report within 24 hours.

3. When a parent or custodian, immediately called, has come to take charge of the minor, and the appropriate information has been recorded, the minor shall be released

to the custody of such parent or custodian. If the parent or custodian cannot be located or fails to take charge of the minor, then the minor shall be released to the juvenile authorities, except to the extent that, in accordance with the police regulations, approved in advance by juvenile authorities, the minor may temporarily be entrusted to a relative, neighbor, or other person who will, on behalf of the parent or custodian, assume the responsibility of caring for the minor pending the availability or arrival of a parent or custodian.

(Ord. 945, 9/12/2006, §5)

§6-706. Violations and Penalties.

Any person or persons, violating the provisions of this Part, minor or parent (or custodian), upon conviction thereof, shall be sentenced to a fine of not less than \$25 nor more than \$1,000 plus costs for each offense up to three offenses and a fine of not less than \$100 nor more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

(Ord. 945, 9/12/2006, §6; as amended by Ord. 978, 5/31/2011)

Part 8**Loitering****A. Drugs and Prostitution Loitering.****§6-801. Loitering Prohibited for Purpose of Buying or Selling Drugs.**

1. *Definitions.* As used in this Section, the following terms shall have the meaning indicated, unless a different meaning clearly appears from the context.

Public place—an area generally visible to public view and includes, but is not limited to, streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, transit stations, shelters, tunnels, automobiles (whether moving or not), and buildings, including those which serve food or drink, or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them.

Known unlawful drug user, possessor or seller—a person who has, within the knowledge of the arresting officer, been convicted in any court within this Commonwealth of any violation involving the use, possession, or sale of a controlled substance; or who is a “drug dependent person” or who is a person who possesses “drug paraphernalia” as defined in the Controlled Substance, Drug, Device and Cosmetic Act, 35 P.S. § 780-102(3).

2. *Loitering for the Purpose of Buying or Selling Drugs.* A person is guilty of loitering for the purpose of buying or selling drugs if he or she remains in a public place and intentionally solicits, induces, entices or procures another for the manifest purpose of buying or selling drugs proscribed by the Controlled Substance, Drug, Device and Cosmetic Act, 35 P.S. §§780-113(a)(1), (16), (19), (30)-(33), (35)-(37).

A. Among the circumstances which may be considered in determining whether the person intends such prohibited conduct are that he or she:

(1) Is seen by the police to be in possession of “drug paraphernalia” as defined by the Controlled Substance, Drug, Device and Cosmetic Act, 35 P.S. §780-102(b).

(2) Is a known drug trafficker.

(3) Repeatedly beckons to, stops or attempts to stop passersby, or engages passersby in conversation.

(4) Repeatedly waves to passing vehicles and engages idling motorists in what appears to be short conversations.

(5) Has previously been observed or convicted for selling drugs.

(6) Is the subject of a court order which directs the person to stay out of any specified area as a condition of release from custody, a condition of probation or parole or other supervision or any court order, in a criminal or civil case involving illegal drug activity.

(7) Has been evicted as the result of his or her illegal drug activity and ordered to stay out of a specified area affected by drug-related activity.

(8) Discreetly or furtively exchanges small packages or objects for

currency.

(9) Manifestly endeavors to conceal himself or herself or any object which could reasonably be involved in an unlawful drug-related activity.

B. No person is guilty of loitering for the purpose of buying or selling drugs if he or she merely remains in a public place without also intentionally soliciting, inducing, enticing, or procuring another for the manifest purpose of buying or selling drugs proscribed by the Controlled Substance, Drug, Devi and Cosmetic Act, 35 P.S. §§780-113 (a)(1), (16), (19) (30)-(33), (35)-(37).

(Ord. 952, 9/25/2007, §I)

§6-802. Loitering Prohibited for Purpose of Prostitution in Public Places.

1. *Definitions.* As used in this Section, the following terms shall have meaning indicated, unless a different meaning clearly appears from th context:

Prostitution—to engage for money or its equivalent in sexual activity.

Public place—an area visible to public view and includes streets, sidewalks, alleys, plazas, parks, driveways, parking lots, automobiles (whether moving or not), and buildings open to the general public including those which serve food or drink, or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them.

Known prostitute or procurer—a person who, within 1 year previous to the date of arrest for violation of this Part 8A, has within the knowledge of the arresting officer been convicted of violating an ordinance of the Borough or statute of the Commonwealth of Pennsylvania, or a political subdivision thereof, defining and punishing acts relating to prostitution. [Ord. 978]

2. *Loitering for the Purpose of Prostitution.* A person is guilty of loitering for the purpose of prostitution if he or she remains in a public place intentionally solicits, induces, entices, or procures another for the manifest purpose of committing prostitution.

A. Among the circumstances which may be considered in determining whether the actor intends such prohibited conduct are that he or she:

(1) Is a known prostitute or procurer.

(2) Repeatedly beckons to, stops or attempts to stop, or engages passersby in conversation.

(3) Repeatedly stops or attempts to stop motor vehicle operators by hailing, waving of arms or any other bodily gesture.

B. No arrest shall be made for a violation of this Part 8A unless the arresting officer first affords such person an opportunity to explain such conduct, and no one shall be convicted of violating this Part 8A if it appears at trial that the explanation given was true and disclosed a lawful purpose.

(Ord. 952, 9/25/2007, §II; as amended by Ord. 978, 5/31/2011)

§6-803. Penalty.

Any person, firm or corporation who shall violate any provision of this Part 8A, upon conviction thereof, shall be sentenced to a fine of not less than \$100 nor more than

\$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment in the Allegheny County Jail not to exceed 30 days. Each day that a violation of this Part 8A continues or each Section of this Part 8A which shall be found to have been violated shall constitute a separate offense.

(*Ord. 952, 9/25/2007, §II; as amended by Ord. 978, 5/31/2011*)

B. Juvenile and Adult Loitering.**§6-811. Definitions.**

For the purpose of this Part 8B, the terms used herein are defined as follows:

Juvenile—any person under the age of 18 years.

Loitering—remaining idle in essentially one location without being able to establish having a legitimate business or purpose in so remaining idle or by conduct exhibiting the absence of a lawful purpose in so remaining idle.

Parent—any parent of a juvenile, a guardian or any adult person 18 years of age or over responsible for the care and custody of a juvenile.

Public place—any place to which the public has access, and includes any street, highway, road, alley or sidewalk. It also includes the area in front of or adjacent to any store, shop, restaurant, tavern, school, municipal building or any other place of business and public grounds, areas and parks, as well as parking lots or other vacant private property not owned by or under the control of the person charged with violating this Part 8B, or, in the case of a juvenile, not owned by or under the control of his or her parent.

(Ord. 970, 7/13/2010, §I)

§6-812. Types of Loitering.

No person shall loiter in a public place in such a manner as to:

- A. Obstruct the free passage of pedestrians or vehicles.
- B. Obstruct, molest or interfere with any person lawfully upon any street, park or other public place.
- C. Create or cause to be created a danger of a breach of the peace.
- D. Create or cause to be created any disturbance or annoyance to the comfort and repose of any person.
- E. Obstruct, molest or interfere with any business that has placed in plain view a sign stating in sum and substance that loitering is prohibited in and around the business.
- F. Obstruct, molest or interfere with any person lawfully in any public place as defined in §6-811. This paragraph shall include the making of unsolicited remarks of an offensive, disgusting or insulting nature or which are calculated to annoy or disturb the person to whom or in whose hearing they are made.

(Ord. 970, 7/13/2010, §II)

§6-813. Discretion of Police.

Whenever any police officer shall, in the exercise of reasonable judgment, decide that the presence of any person in any public place is causing or is likely to cause any of the conditions enumerated in §6-812, he or she may, if he or she deems it necessary for the preservation of the public peace and safety, order that person to leave that place. Any person who shall refuse to leave after being ordered to do so by a police officer shall be guilty of a violation of this Part 8B.

(Ord. 970, 7/13/2010, §III)

§6-814. Loitering by Juveniles; Parental Responsibility.

No parent of a juvenile shall knowingly permit that juvenile to loiter in violation of this Part 8B.

(*Ord. 970, 7/13/2010, §IV*)

§6-815. Notice to Parents of Violations by Juveniles.

Any police officer who finds a juvenile violating any provisions of this Part 8B shall obtain information from such juvenile as to his or her name and address and age and the name of his or her parent. The juvenile shall thereupon be instructed to proceed to his or her home forthwith. If such juvenile shall fail or refuse to proceed to his or her home forthwith after being instructed to do so, he or she shall be taken to his or her home by a police officer. The information obtained from the juvenile shall be forwarded to the Chief of Police, who shall cause a written notice to be mailed to the parent of the juvenile, advising of the violation of this Part 8B.

(*Ord. 970, 7/13/2010, §V*)

§6-816. Presumption of Consent.

If at any time within 30 days following the date of giving written notice, as provided in §6-815, the juvenile to whom such notice relates again violates this Part 8B. it shall be presumed, in the absence of evidence to the contrary, that the juvenile did so with the knowledge and permission of his or her parent.

(*Ord. 970, 7/13/2010, §VI*)

§6-817. Determination of Age.

Police officers taking juveniles into custody shall use their discretion in determining age and in doubtful cases may require positive proof, and until such proof is furnished, the officer's judgment shall prevail.

(*Ord. 970, 7/13/2010, §VII*)

§6-818. Violations and Penalties.

1. Any person over the age of 18 years violating any of the provisions of this Part 8B, upon conviction thereof, shall be sentenced to a fine of not less than \$100 nor more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part 8B continues or each Section of this Part 8B which shall be found to have been violated shall constitute a separate offense.

2. Any juvenile violating any of the provisions of this Part 8B more than twice, upon conviction thereof, shall be sentenced to a fine of not less than \$100 nor more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part 8B continues or each Section of this Part 8B which shall be found to have been violated shall constitute a separate offense.

(*Ord. 970, 7/13/2010, §VIII; as amended by Ord. 978, 5/31/2011*)

Part 9**Unlawful to Leave Door Ajar****§6-901. Unlawful to Leave Door Ajar.**

It shall be unlawful for any owner, proprietor, manager, employee or agent of any bar, tavern, pub, social hall, restaurant or other such similar business that sells alcoholic beverages to the public or social members of the establishment to allow any door of entry or exit to stand completely or partially open or ajar during the hours of 7 a.m. through 2 a.m. For purposes of this Section, door shall be defined as a movable, usually solid, barrier for opening and closing an entranceway or exitway of the business establishment, which, if closed, is capable of diffusing and diminishing loud and raucous conversations; loud and profane utterances; disturbing noises from a television set, record player, juke box, or other electrical device; and/or loud and boisterous singing and shouting from customers, patrons or invitees all of which may disturb and intrude upon the tranquility and peace of the neighborhood including other local businesses, residents and pedestrian traffic.

(*Ord. 969, 5/25/2010, §I; as amended by Ord. 978, 5/31/2011*)

§6-902. Violation and Penalty.

Any person, firm or corporation who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not less than \$100 nor more than \$1000 plus costs and, in default of payment of said fine and costs, be subject to a term of imprisonment not to exceed 30 days.

(*Ord. 969, 5/25/2010, §II*)

