

City of Troy, NY  
Friday, May 8, 2015

## Chapter 195. Loitering; Curfew

[HISTORY: Adopted by the City Council of the City of Troy as indicated in article histories. Amendments noted where applicable.]

### Article I. Loitering

[Adopted 7-6-2000 by Ord. No. 11]

#### § 195-1. Definitions.

As used in this chapter, the following terms have the meanings ascribed:

**INTERFERE WITH**

To restrict a person’s freedom of movement.

**PHYSICAL OBSTRUCTION**

Rendering impassable any public way or any ingress or egress from any public place, or rendering such passage unreasonably difficult or hazardous.

**PUBLIC PLACE**

Any location which affords access to the general public.

**PUBLIC WAY**

Any street, sidewalk, roadway, park or other way traveled by the public.

**DWELLING**

Any residence intended for use as single- or multi-resident housing.

#### § 195-2. Obstruction of persons prohibited.

- A. No person shall, by physical obstruction, interfere with any other person’s use of any public place or public way.
- B. No person shall, by physical obstruction, interfere with any other person’s use of an entrance or exit to or from a public place. Failure to maintain a reasonable distance from the threshold of any such entrance or exit of a public place shall be deemed a violation of this subsection. [Amended 7-11-2002 by Ord. No. 11]
- C. No person shall, by physical obstruction, interfere with any other person’s use of an entrance or exit to or from a dwelling. Failure to maintain a reasonable distance from the threshold of any such entrance or exit of a dwelling, without the permission of the property owner or resident of said dwelling, shall be deemed a violation of this subsection. [Amended 7-11-2002 by Ord. No. 11]

## § 195-3. Restrictions on minors.

[Added 4-1-2004 by Ord. No. 4<sup>[1]</sup>]

- A. It shall be unlawful for any child under the age of 18 years to remain upon any public street, sidewalk, highway, vacant lot or public place that is within 2,000 feet of any school between the hours of 7:00 a.m. and 4:00 p.m. on days when school is in session.
- B. The following shall constitute valid exceptions to this restriction:
  - (1) At any time if the child is accompanied by his or her parent, legal guardian or other responsible person who is 21 years of age or older and approved by the child's parent or legal guardian; and
  - (2) If the child is going or coming directly from a school activity.

[1] *Editor's Note: This ordinance also renumbered former § 195-3, Penalties for offenses, as § 195-4*

## § 195-4. Penalties for offenses.

[Amended 4-1-2004 by Ord. No. 4]

- A. A police officer who has probable cause to believe that a child is in violation of § 195-3 shall take such child to the police station where the child's parent or guardian will be immediately contacted. The child shall be held until the parent or guardian comes to take the child. When the parent or guardian arrives, he or she must be given a copy of this article. If no parent or guardian has arrived within two hours, the child shall be turned over to the custody of juvenile authorities until a parent or guardian can take custody of him or her.
- B. In the case of a first violation by a minor, the police shall mail the minor's parent or guardian written notice of the violation, warning them that further violations will result in the imposition of the penalty provided by law. Upon a second violation, a fine of \$100 and 25 hours of community service will be imposed upon the parent or guardian. Any minor who violates § 195-3 three or more times shall be turned over to the custody of juvenile authorities until a parent or guardian can take custody of him or her.
- C. Obstruction of persons is a violation.

## Article II. Curfew

[Adopted 9-2-2004 by Ord. No. 6]

## § 195-5. Statement of purpose and findings.

- A. The City Council of the City of Troy has determined that large numbers of minors have been congregating in the City after dark, causing general disturbances to the residents, peace and order of the City.
- B.

In an effort to reduce juvenile crime, protect the children of the City of Troy and reinforce parental authority, it is necessary that a curfew be established and maintained to keep minors out of public areas after dark.

## § 195-6. Restrictions.

[Amended 10-2-2014 by Ord. No. 61]

It shall be unlawful for any child under 18 years of age, who is not in the presence of a parent or legal guardian, to remain in, upon or about any public street, highway, park, vacant lot, or any other public place between the hours of 10:00 p.m. and 6:00 a.m. Sunday through Thursday and 11:00 p.m. and 6:00 a.m. on Friday and Saturday, except as otherwise provided by law.

## § 195-7. Penalties for offenses.

[Amended 10-7-2010 by Ord. No. 9]

- A. In the case of a first violation of this article, by a minor 15 years of age or younger, the Police Department shall send a letter, with a copy of the violation notice, to the parents or legal guardian of said the minor. This notice shall be a warning to the parents that an additional violation of this article shall result in the, initiation of a Person In Need of Supervision (PINS) proceeding pursuant to the Laws of the State of New York.
- B. In the case of a second violation of this article by said minor, the police shall refer the matter to the Rensselaer County Department of Social Services for the commencement of a Person In Need of Supervision (PINS) proceeding.
- C. The violation of this article by a child age 16 or 17 shall be punishable by a fine of \$100 and 25 hours of community service.

## § 195-8. Legality and severability.

In the event any word, phrase, sentence, paragraph or part therein is declared illegal and/or unconstitutional by a court of competent jurisdiction, the same shall be redacted, and the remainder of the ordinance shall remain in full force and effect.

## § 195-9. Affirmative defenses.

The following area list of affirmative defenses which the defendant and/or his/her parents, legal guardian and/or attorney may present as a defense to a charge in violation of the curfew ordinance herein:

- A. Emergency situation.
- B. Returning to home from employment.
- C. Engaged in religious observation and/or practice.
- D. Returning home from a scholastic event and/or activity.
- E.

All other constitutional defenses allowed provided for under New York State Penal Law (PL) and Criminal Procedure Law (CPL).

- F. Where the minor is on an errand at the direction of the parent.  
[Added 10-2-2014 by Ord. No. 61]
- G. Where the minor is on the sidewalk that abuts the minor's or the next door neighbor's residence.  
[Added 10-2-2014 by Ord. No. 61]
- H. Where the minor is generally exercising First Amendment rights.  
[Added 10-2-2014 by Ord. No. 61]

## § 195-10. Effect on other ordinances.

Any and all other ordinances that may or may not exist, identifying a "curfew" violation that is not authorized under Article I or Article II of this Chapter **195**, is hereby repealed and is not enforceable.