

Chapter 6

Conduct

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Part 1**Tampering with Public Property****§6-101. Unlawful to Tamper with Public Property or Property on Street, Alley, Sidewalk, or Public Ground.**

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 authority thereof, within or without the Borough, or any grass, walk, lamp, ornamental work, building, street light, or water stop box on or in any of the streets, alleys, sidewalks, or public grounds in the Borough.

(*Ord. 456, 1/6/1975, §8-1011*)

§6-102. Unlawful to Tamper with Stakes, Posts, or Monuments.

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 of or in any street, alley, or public ground in the Borough, to evidence the location, elevation, line, grade, corner, or angle of any public street, alley, sidewalk, curb, gutter, drain, or other public work, matter, or thing.

(*Ord. 456, 1/6/1975, §8-1012*)

§6-103. Unlawful to Tamper with Warning Lamps, Signs, or Barricades.

No person or persons shall willfully or maliciously destroy, remove, deface, 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, within or without the Borough, as a warning of danger.

(*Ord. 456, 1/6/1975, §8-1013*)

§6-104. Unlawful to Disregard “Keep off Grass” Signs on Borough Property.

No person or persons shall go upon any land of the Borough within the Borough where the Borough shall have caused to be prominently posted upon such land a notice or notices reading “Keep Off Grass.”

(*Ord. 456, 1/6/1975, §8-1014*)

§6-105. Unlawful to Take Earth, Stone, or Other Material from Street, Alley, or Public Ground.

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

(*Ord. 456, 1/6/1975, §8-1015*)

§6-106. Certain Activities not Prohibited.

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 or to incidental results of work done thereon or therein upon permit from or by authority of the Borough.

(*Ord. 456, 1/6/1975, §8-1016*)

§6-107. Penalty for Tampering with, Injuring, or Removing Certain Property.

Any person, firm, or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to a fine of not 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, provided that the fact that a violator has been penalized, after hearing as herein provided, shall not preclude the Borough or other injured party from taking proper legal action to recover damages resulting from such violation. 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. 456, 1/6/1975, §8-1017; as amended by Ord. 474, 8/1/1977; and by Ord. 624, 1/19/2010*)

Part 2**Curfew for Persons Under the Age 16****§6-201. Definitions and Interpretation.**

1. For the purposes of this Part, the following words shall have the meanings hereby respectively ascribed thereto:

Child - any person under the age of 16 years.

Establishment - any privately owned place of business or entertainment to which the public is invited.

Operator - any individual, firm, association, partnership, or corporation operating, managing or conducting any establishment and any employee or agent of the foregoing. Whenever used in any Section prescribing a penalty, the term “operator” as applied to associations or partnerships shall include the members or partners thereof, and as applied to corporations shall include the officers thereof, and in all cases shall apply to employees or agents.

Parent - any natural parent of a child, as herein defined, or a guardian or any adult person responsible for the care and custody of a minor. When used in this Part, the term “parent” shall mean parent or parents.

Public place - any public street, alley, sidewalk, park, playground, public building, or vacant lot.

Remain - to loiter, idle, wander, stroll, or play in or upon.

2. In this Part, the singular shall include the plural, the plural shall include the singular and the masculine shall include the feminine and the neuter.

(*Ord. 456, 1/6/1975, §8-1021*)

§6-202. Curfew Established for Children under 16 Years of Age.

It shall be unlawful for any child under 16 years of age to be or remain in or upon any of the streets, alleys, parks, or public places in the Borough of Mount Pleasant at night after the hour of 10:00 p.m. unless said child is accompanied by a parent or guardian.

(*Ord. 456, 1/6/1975, §8-1022; as amended by Ord. 506, 9/6/1983, §II*)

§6-203. Unlawful for Parent to Allow Child to Violate Curfew Provisions.

It shall be unlawful for any parent to allow a child to remain in or upon any public place or private establishment in violation of this Part.

(*Ord. 456, 1/6/1975, §8-1023*)

§6-204. Unlawful for Operator of Private Establishment to Permit Child to Remain Therein in Violation of Curfew Provisions.

It shall be unlawful for the operator of any private establishment to permit a child to remain in or upon the premises of such private establishment in violation of this Part.

(*Ord. 456, 1/6/1975, §8-1024*)

§6-205. Enforcement and Penalties.

1. Any child found in or upon any public place or private establishment in violation of this Part shall be taken into custody by the Borough police and delivered to his parent immediately. If such parent cannot be located, the police shall retain custody of such child until the parent is located and shall then immediately deliver such child to such parent, provided that the Borough police officers shall use their discretion in determining age and, in doubtful cases, may require proof, and until such proof is furnished, the officer's judgment shall prevail.

2. Any parent who violates §6-203 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. 624*]

3. Any operator who violates §6-204 of this Part, upon conviction thereof, shall be sentenced to a fine of not less than \$250 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. 624*]

(*Ord. 456, 1/6/1975, §8-1025; as amended by Ord. 624, 1/19/2010*)

§6-206. Procedure in Case of Repeated Violations or of Other Factors Preventing Effective Curfew.

Any child who violates this Part more than three times may, at the discretion of the proper Borough officials, be reported to a society or organization whose purpose it is to take charge of incorrigibles and delinquents, and proceedings shall then be taken in the Court of Common Pleas or Juvenile Court for the permanent welfare of such child, and a like procedure may be taken in cases where the arrest of the parent is not effective or where for any other reason the provisions of §6-202 of this Part cannot be made effective by the imposition of fines and penalties.

(*Ord. 456, 1/6/1975, §8-1026*)

Part 3**Consumption of Alcohol in Public Places****§6-301. Word Usage; Definitions.**

1. For the purposes of this Part, the following words, phrases and terms and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular, words used in the singular include the plural and words in the masculine include the feminine.

2. As used in this Part, the following terms shall have the meanings indicated:

Alcoholic beverage - alcohol, spirits, liquor, wine, beer and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed by a human being.

Motor vehicle - every vehicle, including a snowmobile, which is or can be operated or driven upon a public highway and which is propelled by any power other than muscular power.

Public place - a place in the Borough of Mount Pleasant, Westmoreland County, Pennsylvania, to which the public or a substantial group of persons has access and includes, but is not limited to, highways, sidewalks, parking areas, parks, playgrounds, shopping centers, schoolyards and hospital grounds.

Open container - bottle, can or any receptacle paralleling, but not limited to, the Liquor Code definition of "containers." An "open container" is one no longer securely capped, corked or sealed and includes a can or similar container which has been perforated or a container on which the secure capping, sealing or corking normally provided by the manufacturer has been disturbed.

(Ord. 516, 5/6/1985, §2)

§6-302. Purpose.

The purpose of this Part is to protect and promote the safety, health and well-being of the people of the Borough of Mount Pleasant and their property and to regulate the conduct of persons in the Borough of Mount Pleasant by prohibiting the consumption of alcoholic beverages in public places and on property owned or leased by another person without the invitation or consent of such person.

(Ord. 516, 5/6/1985, §2)

§6-303. Consumption and Possession Prohibited.

1. No person shall drink an alcoholic beverage or have in his or her possession any open container of alcoholic beverage while such person is in a public place or on property owned or leased by another person without the invitation or consent of such person.

2. No person shall drink an alcoholic beverage or have in his or her possession any open container of alcoholic beverage while such person is the operator of or occupant or passenger in or on a motor vehicle which is parked, standing or being

operated in a public place or on the property owned or leased by another without the invitation or consent of such person.

(Ord. 516, 5/6/1985, §2)

§6-304. Exemption.

1. Any facility or establishment licensed to serve or dispense alcoholic beverages by the Pennsylvania Liquor Control Board, its successors or assigns, or other authority authorized by the Commonwealth of Pennsylvania is exempt from this Part.

2. Any organization which intends to hold a public gathering, block party, picnic, bazaar or other such event may apply to the Borough Council of the Borough of Mount Pleasant for a permit to sell or dispense alcoholic beverages for consumption on the premises by the members of said organization or the general public. The Borough Council may grant permission for such but must specify the dates for which such permission shall apply. Nothing in this section shall supersede the requirements of the Pennsylvania Liquor Control Board.

(Ord. 516, 5/6/1985, §2)

§6-305. Violations and 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 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. 516, 5/6/1985, §2; as amended by Ord. 624, 1/19/2010)

Part 4**Public Indecency****§6-401. Public Indecency Defined.**

Public indecency shall be defined as a person who knowingly or intentionally, in a public place:

- A. Engages in sexual intercourse.
- B. Engages in deviate sexual intercourse as defined by the Pennsylvania Crimes Code, 18 Pa.C.S.A. §101 *et seq.*
- C. Appears in a state of nudity.
- D. Fondles the genitals of himself, herself or another person commits public indecency, a summary offense.

(*Ord. 577, 6/5/2000, §1*)

§6-402. Nudity Defined.

“Nudity” means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering; the showing of the female breast with less than a fully opaque covering of any part of the nipple; the exposure of any device, costume, or covering which gives the appearance of or simulates the genitals, pubic hair, natal cleft, perineum, anal region, or pubic hair region; or the exposure of any device worn as a cover over the nipples and/or areola, of the female breast, which device simulates and gives the realistic appearance of nipples and/or areola.

(*Ord. 577, 6/5/2000, §1*)

§6-403. Public Place Defined.

“Public Place” includes all outdoor places owned by or open to the general public, and all buildings and enclosed places owned by or open to the general public, including such places of entertainment, taverns, restaurants, clubs, theaters, dance halls, banquet halls, party rooms, or halls limited In specific members, restricted to adults or to patrons invited to attend, whether or not all admission charge is levied.

(*Ord. 577, 6/5/2000, §1*)

§6-404. Exceptions.

The prohibition set forth in §6-401.C shall not apply to:

- A. Any child under 10 years of age.
- B. Any individual exposing a breast in the process of breastfeeding an infant under 2 years of age.

(*Ord. 577, 6/5/2000, §1*)

§6-405. Nuisances.

In addition to the specific penalties provided in this Part, it is hereby declared that any building, portion of a building, or enclosed place regularly used for the prohibited

display of public nudity is a public nuisance, subjecting the owner, proprietor, or other operator thereof to any and all actions authorized by the Commonwealth or Pennsylvania for the abatement of public nuisances, including, but not limited to the procedures set forth in the Code of Ordinances of the Borough of Mount Pleasant, Westmoreland County, Pennsylvania.

(*Ord. 577, 6/5/2000, §1*)

§6-406. Construction and Severability.

It is the intention of the Borough of Mount Pleasant that the provisions of this Part be construed, enforced, and interpreted in such a manner as will cause the least possible infringement of the constitutional rights of free speech, free expression, due process, equal protection, or other fundamental rights consistent with the purpose of this Part. Should a court of competent jurisdiction determine that any part of this Part, or any application or enforcement of it is excessively restrictive of such rights or liberties, then such portion of the ordinance, or specific application of the ordinance, shall be severed from the remainder, which shall continue in full force and effect.

(*Ord. 577, 6/5/2000, §1*)

§6-407. Penalty.

Whoever violates this Part, either by commission of a public indecency, or by the promotion or maintenance of public indecency as property owner, proprietor, or manager of a business, upon conviction thereof, shall be sentenced to a fine of not 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. 577, 6/5/2000, §1; as amended by Ord. 624, 1/19/2010*)

Part 5**Graffiti****§6-501. Purpose.**

Graffiti contributes to the deterioration of property values, unsightliness and general disorder in a community. Recognizing this community problem, the purpose of this Part is to promote safety and general welfare of the residents/citizens of the Borough by helping to create a graffiti-free environments.

(Ord. 624, 1/19/2010)

§6-502. Definitions.

Director - the Director of the Department of Public Works.

Graffiti -

A. Any inscription, work, symbol, figure, making or design including, but not limited to, tags, throw-ups and pieces, that is, marked, etched, scrawled, stained, drawn or painted stuck on or adhered to any surface on public or private property without the express permission of the owner or owner's agent of such property including, but not limited to, any wall, underpass, overpass, trestle, tree, sign, pole, playground apparatus, utility box, building, structure, fixture or other improvement whether permanent or temporary, regardless of the content or nature of the material that has been applied, and which is visible from any public property or the public right-of-way, or from any private property other than the property on which the graffiti exists.

B. Graffiti shall not be construed to apply to easily removable chalk markings on the public sidewalks and streets used in connection with traditional children's games.

Graffiti abatement costs and expenses - the costs and expenses of having the defaced property repaired or replaced when the Borough determines that removal of the graffiti would not be cost effective; and, the law enforcement costs and expenses incurred in identifying and apprehending a responsible party; and the related administrative, overhead and incidental costs incurred in performing or causing the performance of the enforcement, abatement or collection procedures described in this Part and related court costs and attorney's fees.

Graffiti implement - any implement capable of marking a surface to create graffiti including, but not limited to, aerosol or pressurized paint containers, markers, gum labels, paintbrushes or etching tools capable of scarring glass, metal, concrete or wood.

Gum labels - any material such as, but not limited to, decals, stickers, posters or labels which contain a substance commonly known as adhesive or glue, which cannot be removed from the surface in an intact condition and with minimal efforts.

Marker - any indelible or permanent marker or similar implement with a point, brush, applicator or other writing surface which at its broadest width is $\frac{3}{8}$ of an inch or greater and contains ink that is not water soluble.

Minor - any person under the age of 18 years.

Paint stick or graffiti stick - any device containing a solid form of paint, chalk, wax, epoxy, or other similar substances capable of being applied to a surface by pressure and upon application, leaving a visible mark and that is not water soluble.

Person - every natural person, firm, corporation, partnership, association or institution.

Pieces - forms of graffiti represented by detailed, multi-colored murals, ranging in size.

Private property - any land and the improvements thereon owned by any person and includes front, side and rear yards, vacant lots, buildings and other structural improvements, walkways and alleyways and parking areas designed or used either wholly or in part for private residential, industrial or commercial purposes, whether inhabited or temporarily or continuously uninhabited or vacant, including any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building or structure.

Public officer - any police officer or any public official authorized to enforce laws of the Borough of Mount Pleasant as set forth in the ordinances of the Borough.

Tags - a form of graffiti represented by stylized signatures of a writer's chosen name.

Throwups - a form of graffiti represented by large names or figures written in a bubble style, often with an outline written in a different color than the interior of the letters.

(Ord. 624, 1/19/2010)

§6-503. Prohibitions.

1. It shall be unlawful for any person to commit any overt act resulting in or attempting to result in an application of graffiti.

2. It shall be unlawful for any person to intentionally, maliciously or wantonly expose or tend to expose another to risk of violence, contempt or hatred on the basis of race, color, creed or religion by the use of what is commonly known as graffiti.

3. It shall be unlawful for any parent, legal guardian or other person having custody and care of any minor child under the age of 18 years to knowingly assist, aid, abet, allow permit or encourage said minor to violate the provisions of this Part, as herein defined, either by words, overt act or by failing to act.

4. All persons directly or indirectly involved in acts of graffiti vandalism may be found to be equally responsible and guilty of the act, in addition to the individual who may personally deface the object or area, such as others in the group who knowingly make available the tools, writing materials, ladders, lookouts, materials or assistance, or who knowingly supplies funds to acquire such materials for such purposes.

5. Every person who owns, conducts, operates or manages a retail, commercial establishment selling aerosol containers of spray paint or broad-tipped indelible markers shall place a sign in clear public view at or near the display of such products stating:

GRAFFITI IS A CRIME. ANY PERSON DEFACING REAL OR PERSONAL PROPERTY NOT HIS OR HER OWN WITH PAINT OR ANY OTHER LIQUID OR DEVICE IS GUILTY OF A CRIME PUNISHABLE BY A FINE OF UP TO \$1,000 OR A PRISON SENTENCE.

6. It shall be unlawful for any person under the age of 18 to have in their possession any graffiti implement while on any public highway, street, alleyway, sidewalk, park, playground, swimming pool or other public place or property or on private property unless the owner of that property consented to the presence of the paint or marker, whether such person is or not in any automobile, vehicle or other means or method of conveyance.

7. It shall be unlawful for any person to have, in his or her possession, a graffiti implement while in any public park, playground, swimming pool, recreational facility (other than highway, street, alleyway or sidewalk) except authorized employees of the Borough of Mount Pleasant or an individual or authorized employee of an individual or company under contract with the Borough of Mount Pleasant.

8. It is unlawful for any person to have in his or her possession any graffiti implement on private property closed to the public without permission from the owner or his lawful agent.

(*Ord. 624, 1/19/2010*)

§6-504. Exemptions.

This prohibition shall not apply to a child using paint or a marker while under the immediate supervision of their parent or legal guardian, a student under direct supervision of their teacher or an employee using paint or a marker at the direction and under the supervision of their employer.

(*Ord. 624, 1/19/2010*)

§6-505. Removal of Graffiti.

1. Wherever a public officer becomes aware of the existence of graffiti on any property, structures or improvements within the Borough that is visible to the public, the Director, upon such discovery, shall give or cause to be given, notice to remove or effectively obscure such graffiti within 5 days from receipt of any notice given by the Borough, and will then inform the Director that such notice has been given. This notice shall include a description of the Borough of Mount Pleasant Graffiti Program. This description shall include methods approved for graffiti removal that do not require the use of chemicals. The notice shall be given to the owner, agent or manager of said property, structure or improvement who shall:

- A. Cause the graffiti to be removed or effectively obscured.
- B. Provide written consent and waiver of liability to authorize the Director to remove or effectively obscure any graffiti at no cost to the property owner.
- C. Have the graffiti removed by the Borough without the owner's consent, consistent with provisions of this Part.

2. The notice may be served by:

- A. Handing the notice to the owner of the property in person.
- B. Posting the notice on or near the front door of the property that is defaced

with graffiti.

C. If the property defaced with the graffiti does not consist of a building, the notice shall be on a placard attached to a stake driven into the ground on the property.

3. Where property defaced by graffiti is owned by a public entity other than the Borough, the Director shall cause removal of the graffiti only after securing the consent of an authorized representative of the public entity that has jurisdiction over the structure.

4. Whenever the Borough becomes aware or is notified and determines that graffiti is located on publicly or privately owned property viewable from a public or quasi-public place, the Borough shall be authorized to use public funds for the removal of the graffiti, or for the painting or repairing of the graffiti, but shall not authorize or undertake to provide for the painting or repair of any more extensive an area than that where the graffiti is located, unless the Director of Public Works determines in writing that a more extensive area is required to be repainted or repaired in order to avoid an aesthetic disfigurement to the neighborhood or community, or unless the property owner or responsible party agrees to pay for the costs of repainting or repairing the more extensive area.

5. Prior to entering upon private property or property owned by a public entity other than the Borough for the purpose of graffiti removal the Borough shall attempt to secure the consent of the property owner or responsible party and a release of the Borough from liability for property damage or personal injury. If the property owner or responsible party fails to remove the offending graffiti within the time specified by this Part and the notice, or if the Borough has requested consent to remove or paint over the offending graffiti and the property owner or responsible party has refused consent for entry on terms acceptable to the Borough and consistent with the terms of this Section, the Borough shall commence to remove or repair the graffiti without the consent of the owner.

(Ord. 624, 1/19/2010)

§6-506. Graffiti Abatement Hearing.

At a hearing requested by the property owner, the owner shall be entitled to present evidence and argue that his or her property does not contain graffiti. The determination of the Director after the hearing shall be final and not appealable. After the hearing, if the Director determines that the property contains graffiti, the Director may order that the graffiti be abated.

(Ord. 624, 1/19/2010)

§6-507. Anti-graffiti Trust Fund.

There is hereby created the Borough of Mount Pleasant Anti-graffiti Trust Fund. Civil and criminal penalties assessed against violators of this Part and public and private sector contributions and grants to the Borough for graffiti abatement efforts shall be placed in the fund. The Director shall direct the expenditures of monies in the fund which shall be limited to the payment of the cost of removal of graffiti, the costs of administering this Part, public awareness programs and any such other public purpose as may be approved by Borough Council and the Mayor.

(Ord. 624, 1/19/2010)

§6-508. Reward.

The Mayor, or his designee, may grant awards up to the sum of \$200 for information leading to the arrest and/or conviction of any individual for violating provisions of this Part. Reward funds are to be paid from the Anti-graffiti Trust Fund.

(Ord. 624, 1/19/2010)

§6-509. Enforcement Procedure.

1. If the party cited for a violation of this Part is a minor/juvenile, a citation may be issued to the minor/juvenile and the parent(s) and/or guardian(s). If cited, the minor/juvenile

and parent(s) or guardian(s) shall appear in district justice court. The parent(s) or guardian(s) shall be forwarded a copy of the citation of the juvenile, and said citation will be mailed via certified mail, return receipt requested, and will include a warning that the parent(s) is (are) responsible and liable as the juvenile's parent(s). Any and all records of such citations shall be maintained in the Borough's database. Each violation shall constitute a separate offense.

2. If the parent(s) or guardian(s) has (have) been warned pursuant to subsection .1 hereof, then the officer may issue a citation to the parent(s) or guardian(s) for every subsequent violation of this Part. Each violation shall constitute a separate offense.

3. Once a citation is issued, pursuant to subsection .2 hereof, each and every subsequent violation of this Part is cause for an officer to issue a citation to the parent(s) or guardian(s) of the juvenile.

4. If any operator of an establishment or any agents or employees of any operator fail to comply with the provisions of this Part, a police officer shall issue a citation for said violation. Each violation shall constitute a separate offense.

(Ord. 624, 1/19/2010)

§6-510. Penalties.

1. Any person, firm or corporation who shall violate §6-503, "Prohibitions," shall be, upon conviction thereof, sentenced to pay a fine of not more than \$300 for the first offense and a fine of not more than \$1,000 plus costs for a second or subsequent violation and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days for a second or subsequent offense.

2. In addition to any penalty in accordance with this Part, the defendant shall make restitution to the victim for damages or loss caused directly or indirectly by the defendant's offense in reasonable amount or manner to be determined by the court.

3. In addition to such penalty, the court may, in imposing sentence, order the defendant to perform community service no less than 50 hours and not to exceed 100 hours.

(Ord. 624, 1/19/2010)

