

ORDINANCE NO. 177

AN ORDINANCE OF THE BOROUGH OF COKEBURG, DEFINING TERMS; CREATING HOURS OF CURFEW FOR MINORS; PROVIDING FOR ENFORCEMENT BY THE POLICE DEPARTMENT; PROVIDING PENALTIES, A SAVINGS CLAUSE, A SEVERABILITY CLAUSE, AND AN EFFECTIVE DATE.

Be it ordained and enacted by the Council of the Borough of Cokeburg, that the following ordinance, to be known as the CURFEW ORDINANCE OF THE BOROUGH OF COKEBURG, is hereby ordained and enacted as follows:

SECTION 1. CURFEW HOURS FOR MINORS,

(a) Definitions.

(1) CURFEW HOURS means:

(A) 10:00 p.m. until 6:00 a.m.

(2) DIRECT ROUTE means the shortest path of travel through a public place to reach a final destination without any detour or stop along the way.

(3) EMERGENCY means, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

(4) HOLDING LOCATION means a place designated by the chief of police to which a minor taken into custody for a violation of this section will be delivered to await pick up by a parent or juvenile authority.

(5) MINOR means any person under sixteen (16) years of age.

(6) PARENT means a person who is:

(A) the natural or adoptive parent of another person;

or,

(B) the court-appointed guardian of another person

(7) PUBLIC PLACE means any street, alley, highway, sidewalk, playground, park, plaza, building, or other place used by or open to the public.

(8) REMAIN means to:

(A) linger or stay unnecessarily; or

(B) fail to leave premises when requested to do so by a police officer or other person in control of the premises.

(b) Offenses.

(1) A minor commits an offense if he remains in any public place within the Borough during curfew hours.

(2) A parent of a minor commits an offense if he knowingly permits, or by insufficient control, allows the minor to remain in any public place within the Borough during curfew hours.

(c) Defenses.

(1) It is a defense to prosecution under Subsection (b) that the minor was:

(A) accompanied by the minor's parent;

(B) on an errand at the direction of the minor's parent and was using a direct route;

(C) in a motor vehicle involved in interstate travel;

(D) engaged in an employment activity, including but not limited to newspaper delivery, and was using a direct route;

(E) involved in an emergency;

(F) on the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police officer about the minor's presence;

(G) attending an official school or religious activity or returning home by a direct route from an official school or religious activity;

(H) exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly.

(d) Enforcement.

(1) A police officer, shall upon finding a minor in violation of Subsection (b)(1),

(A) ascertain the name and address of the minor;

(B) issue to the minor a written warning that the minor is in violation of Subsection (b)(1); and

(C) order the minor to go promptly home by a direct route.

(2) Notwithstanding paragraph (1) of this subsection, a police officer, upon finding a minor in violation of Subsection (b)(1), may take the minor into custody and deliver the minor to a holding location if;

(A) the minor has received a previous written warning for a violation of Subsection (b)(1) within a six month period; or

(B) reasonable grounds exist to believe the minor has engaged in delinquent conduct or conduct indicating a need for supervision.

(3) When a minor is taken into custody under this subsection, the police department shall immediately notify a parent to pick up the minor at the holding location. After a parent arrives at the holding location and provides the information required by the chief of police to file an incident report, the minor shall be released into the custody of the parent. If a parent cannot be located or fails to take charge of the minor, the minor shall be released to the juvenile authorities.

(4) If a minor is not taken into custody for a violation of Subsection (b)(1), the police department shall by certified mail, return receipt requested, notify a parent of the minor that the minor has violated Subsection (b)(1) and include a warning that any subsequent violation may result in prosecution of the minor and the parent under this section.

(5) The police officers of the Borough of Cokeburg shall use their discretion in determining age, and in doubtful cases may require proof of age; but until such proof is furnished, the officer's judgment shall prevail.

(e) Penalties.

(1) Any minor who violates Subsection (b)(1) of this Ordinance two or more times within any six month period shall be subject

to appropriate action by the juvenile court.

(2) Any parent of a minor, who for a second time within a six month period violates Subsection (b)(2) of this Ordinance, will upon conviction be subject to a fine not to exceed \$50.00.

SECTION 2. The terms and provisions of this Ordinance are severable. If any sentence, clause or section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, or sections or parts of this Ordinance. It is hereby declared as the intent of the Borough Council that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

ANTHONY J. SENECA
ATTORNEY AT LAW
335 NORTH MAIN STREET
WASHINGTON, PENNSYLVANIA 15301

SECTION 3. This Ordinance shall take effect immediately upon its passage.

SECTION 4. Any ordinance, or part of any ordinance, inconsistent herewith, is hereby repealed. Ordinance NO. 48 is specifically repealed, hereby.

ADOPTED this 10th day of Dec, 1997, by the COUNCIL
OF THE BOROUGH OF COKEBURG, Washington County, Pennsylvania.

BOROUGH OF COKEBURG

Peter Ladisic
PRESIDENT OF COUNCIL

ATTEST:

Sally Sloushek
SECRETARY

EXAMINED AND APPROVED this 10th day of Dec, 1997

ANTHONY J. SENECA
ATTORNEY AT LAW
335 NORTH MAIN STREET
WASHINGTON, PENNSYLVANIA 15301

ATTEST:

Sally Sloushek
SECRETARY

By: Edward M. Lukitch
MAYOR OF COKEBURG