

ORDINANCE NO. 2004- 5

AN ORDINANCE OF THE BOROUGH OF COALDALE, SCHUYLKILL COUNTY,
PENNSYLVANIA, ESTABLISHING A CURFEW, THUS AMENDING, REPEALING,
REPLACING AND SUPERCEDING THE CODE OF ORDINANCES OF THE BOROUGH OF
COALDALE

CHAPTER 47 CURFEW

BE IT ORDAINED AND ENACTED by the Council of the Borough of Coaldale and
Commonwealth of Pennsylvania:

The Code of Ordinances of the Borough of Coaldale Chapter 47 Curfew is hereby repealed,
amended, replaced, and superceded, such that it shall hereafter provide as follows:

CURFEW

47-1 Definitions. As used within this section, the following words and phrases shall have the
meanings ascribed to them below:

EMERGENCY - refers to 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.

ESTABLISHMENT - refers to any privately-owned place of business within the Borough operated
for a profit, to which the public is invited, including, but not limited to any place of amusement or
entertainment. With respect to such Establishment, the term "Operator" shall mean any person, and
any firm, association, partnership (and the members or partners thereof) and/or any corporation (and
the officers thereof) conducting or managing that Establishment.

PARENT - refers to:

1. a person who is a minor's biological or adoptive parent and who has legal custody of a
minor (including either parent, if custody is shared under court order or agreement);
2. a person who is the biological or adoptive parent with whom a minor regularly resides;
3. a person judicially appointed as a legal guardian of the minor; and/or
4. a person eighteen (18) years of age or older standing *in loco parentis* (as indicated by the
authorization of an individual listed in part(s) (1), (2) or (3) of this definition, above, for the
person to assume the care or physical custody of the child, or as indicated by any other
circumstances).

PERSON - refers to an individual, not to any association, corporation, or any other legal entity.

PUBLIC PLACE - refers to any place to which the public or a substantial group of the public has access, including, but not limited to: streets, highways, roads, sidewalks, alleys, vacant lots, playgrounds, avenues, parks, and/or the common areas of schools, hospitals, apartment houses, office buildings, transportation facilities and shops.

REMAIN - refers to the following actions:

1. to linger or stay at or upon a place to stay unnecessarily upon the streets including the congregating of groups (or of interacting minors) totaling four or more persons in which any minor involved would not be using the streets for ordinary purposes such as mere passage or going home; and/or
2. to fail to leave a place when requested to do so by an officer or by the owner, operator or other person in control of that place.

MINOR - person under the age of eighteen (18) years who has not been emancipated by court order.

47-2 Purposes. This is a Curfew Ordinance prescribing, in accordance with prevailing community standards, regulations for the conduct of minors on streets at night, for the protection of younger children in the Borough from each other and from other persons on the streets during nighttime hours, for the enforcement of parental control and responsibility for their children, for the protection of the public from nocturnal mischief by minors and for the reduction of the incident of juvenile criminal activity, all for the good of minors, for the furtherance of family responsibility, and for the public good, safety and welfare.

47-3 Curfew; Exceptions. It shall be unlawful for any minor to be or remain in or upon any public highway, park or other public place within the Borough of Coaldale, or in any enclosure or vehicle which is on or in close proximity to any such public place within the Borough of Coaldale, during the following hours: on Sunday evenings through Thursday evenings, between the hours of 10:30 p.m. and 5:00 a.m. on the following day; and on Friday evenings through Saturday evenings, between the hours of 11:30 p.m. and 5:00 a.m. on the following day. Exceptions to the above are the following:

(A) Minor accompanied by parent, guardian or other person having legal care or custody of such minor;

(B) Minor possessing a written statement dated that day and signed by parent, guardian, or other person having the legal care or custody of such minor, which statement specifies the time, place, purpose and necessity of the minor being in a public place contrary to this Ordinance;

(C) Minor lawfully employed making it necessary to be in or in highways, streets, parks, etc., as stated above and possessing a current letter certifying the same and signed by employer, parent or guardian;

(D) Minor is involved in an emergency.

(E) Minor traveling to and from church, school or municipal activity with parental

permission statement as in Subsection 6-3(B) above.

47-4 Others not to Permit Violation.

(A) It is hereby made unlawful for any parent, guardian or the person having the legal care or custody of a minor to allow, permit, or encourage such minor to violate any of the provisions of this Ordinance without legal justification therefor.

(B) It is hereby made unlawful for a person who is the owner or operator of any motor vehicle to knowingly permit, allow or encourage a violation of Section 47-3.

(C) It is hereby made unlawful for the Operator of any Establishment, or for any person who is an employee thereof, to knowingly permit, allow or encourage a minor to remain upon the premises of the Establishment during curfew hours. It shall be a defense to prosecution under this subsection that the Operator or employee of an Establishment promptly notified the police department that a minor was present at the Establishment after curfew hours and refused to leave.

(D) It is hereby made unlawful for any person (including any minor) to give a false name, address, or telephone number to any officer investigating a possible violation of this section.

47-5 Procedure upon Violation: Any minor found upon the streets, alleys, parks or public places within the Borough of Coaldale in violation of Section 47-3 shall be taken into custody by the Borough of Coaldale police or legally deputized individual, and be delivered to his parent(s), guardian, or person having the legal custody of said minor, at which time both the minor and parent(s), guardian, or person having the legal custody of said minor shall be given and acknowledge in writing their receipt of a copy of this Ordinance. A report of the foregoing, along with the written acknowledgment of receipt of the Ordinance, shall be filed and kept in a book for that specific purpose. Upon the second violation by the said minor of Section 47-3 hereof, said minor shall be issued a citation and shall be remanded to the District Justice for disposition. Additionally, said parent(s), guardian or person having the legal custody of said minor shall, having allowed him again to be on the streets, alleys, parks or public places in violation of Section 47-3, upon such second violation by the said minor of Section 47-3 hereof and having received a copy of this Ordinance at the time of the first violation, be issued a citation for violation of Section 47-4 of this Ordinance and shall be remanded to the District Justice for disposition.

47-6 Procedure in Case of Repeated Violations or Other Factors Interfering with Enforcement.

Any minor who shall violate this Ordinance more than three (3) times may, at the discretion of the proper Borough of Coaldale officials, be reported to a society or organization the purpose of which is to take charge of incorrigibles and delinquents, and proceedings shall then be taken in the proper court for the permanent welfare of such minor and a like procedure may be taken in cases where the arrest of the parent is not effective, or where for any other reason for the provisions of Section 47-2 of this Ordinance cannot be made effective by the imposition of fines and penalties.

47-7 Police Discretion in Age Determination. The police officers of the Borough of Coaldale in taking minors into custody shall use their discretion in determining age and in doubtful cases may require positive proof of age. Until such proof is furnished, the officer's judgment shall prevail.

47-8 Penalties. Any person who shall violate any provision of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than Three Hundred (\$300.00) Dollars, and/or to imprisonment for a term not to exceed ninety (90) days.

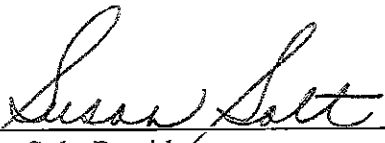
47-9 Repealer. All Ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed. Chapter 47 of the Code of Ordinances of the Borough of Coaldale dated March 8, 1976 is specifically repealed and superceded hereby.

47-10 Severability. If any sentence, clause, 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, sections or parts of this Ordinance. It is hereby declared as the intent of the Council Members that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, sections or part thereof not been included herein.

47-11 Effective Date. This Ordinance shall become effective on June 9, 2004.

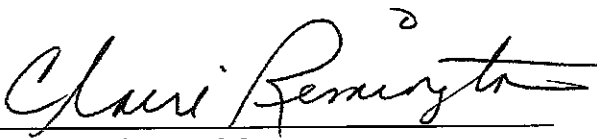
ENACTED AND ORDAINED this 9th day of June, 2004

BOROUGH OF COALDALE

BY: 
Susan Solt, President

ATTEST:


Louise Lill, Secretary


Claire Remington, Mayor