

ORDINANCE NO. 2007-02

**AN ORDINANCE OF THE BOROUGH OF COALDALE,
SCHUYLKILL COUNTY, PENNSYLVANIA
ESTABLISHING SEX OFFENDER RESIDENCY
RESTRICTIONS AND PENALTIES FOR VIOLATIONS**

WHEREAS, the Pennsylvania State Legislature adopted requirements for the registration of sexual offenders (Megan's Law); and the requirements are set forth at 42 Pa C.S.A. beginning at Sections 9791; and

WHEREAS, Megan's Law requires that persons convicted of various offenses, and persons adjudicated as a sexually violent predator, must register with the Pennsylvania State Police for certain prescribed time periods in accordance with a registration procedure as set forth in Megan's Law; and

WHEREAS, Megan's Law does not contain any restrictions with respect to where persons convicted of the crimes subjected to registration or person adjudicated sexually violent offenders may reside; and

WHEREAS, the Council Members of the Borough of Coaldale ("Borough") finds that the danger of recidivism posed by persons convicted of the crimes identified in Megan's Law and persons adjudicated as sexually violent predators is of paramount concern to the Borough of Coaldale; and

WHEREAS, the Board finds that persons who have committed the violations reference in Megan's Law or who have been adjudicated as a sexually violent predator, have a reduced expectation of privacy; and, furthermore, that residency restrictions for such persons provides additional protection for children and places where children congregate; and

WHEREAS, the Board has reviewed the findings of the Pennsylvania Legislature in its enactment of Megan's Law, the findings and reports of other States and Commonwealths including, but not limited to Alabama, Iowa, Louisiana, Georgia, all of which relate, in part, to restrictions imposed upon sex offenders with respect to residency.

NOW, THEREFORE, be it hereby ORDAINED and ENACTED as follows:

1. Definitions:

A) Child Care Facility. A licensed day care center, child facility or any other child care services facility which may be exempt from licensing pursuant to the laws of the Commonwealth of Pennsylvania.

B) Common Open Space. The area of land and/or water restricted from future development for the purpose of protecting natural features of or for providing recreational opportunities for residents of the Borough of Coaldale, which said Open Space is owned, regulated and/or maintained by the Borough of Coaldale.

C) Community Center. A building and related facilities used for educational, social culture or recreational activities.

D) Permanent Residence. A place where a person lives, abides, lodges, or resides for fourteen (14) or more consecutive days.

E) Public Park or Recreational Facility. Any recreational facility, playground or park, owned or operated or operated by the Borough of Coaldale, or any other governmental agency, including, but not limited to, the School District, the County of Schuylkill or the Commonwealth of Pennsylvania.

F) School. Shall mean any public or private school which provides education services to a minor.

G) Sex Offender. Shall mean any person, over the age of eighteen (18) years of age, who has been convicted of any crime against a minor identified in Megan's Law which includes, but is not limited to, kidnapping, luring a child into a motor vehicle, institutional sexual assault, indecent assault, incest, prostitution, receiving sexual material, sexual abuse of children, unlawful contact with minors, sexual exploitation of children, rape, involuntary deviate sexual intercourse, sexual assault, aggravated indecent assault, and individuals convicted of any attempt to commit any of the offenses enumerated therein.

H) Temporary Residence. A place where a person lives, abides, lodges, or resides for a period of less than fourteen (14) days in the aggregate during any calendar year, which is not the person's permanent address or place where the person routinely lives, abides, lodges, or resides and which is not the person's Permanent Residence.

2. Residency Restriction/Prohibition.

A) It shall be unlawful for any Sex Offender to establish a Permanent Residence or Temporary Residence within 1,500 feet of any Child Care Facility, Common Open Space, Community Center, Public Park or Recreational Facility, or School.

B) For the purpose of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the Permanent Residence or the Temporary Residence of the Sex Offender to the nearest outer property line of a Child Care Facility, Common Open Space, Community Center, Public Park or Recreational Facility, or School.

3. Notice to Move.

Any Sex Offender who resides in a Permanent Residence or Temporary Residence within 1,500 feet of any Child Care Facility, Common Open Space, Community Center, Public Park or Recreation Facility or School shall, within forty-five (45) days of receipt of written notice of the Sex Offender's non-compliance with this Ordinance, move from said location to a new location, but said location may not be within 1,500 feet of any Child Care Facility, Common Open Space, Community Center, Public Park or Recreation Facility or School within the Borough. It shall constitute a continuing violation for each day beyond the forty-five (45) days the Sex Offender continues to reside within 1,500 feet of a Child Care Facility, Common Open Space, Community Center, Public Park or Recreation Facility or School. Furthermore, it shall be a violation each day that a Sex Offender shall move from one (1) location in the Borough of Coaldale to another that is within 1,500 feet of any Child Care Facility, Common Open Space, Community Center, Public Park or Recreation Facility or School.

4. Exceptions.

This Ordinance shall not apply to any person who has established Permanent or Temporary Residence prior to July 29, 2006; and it shall not apply if the Child Care Facility, Common Open Space, Community Center, Public Park or Recreation Facility or School within 1,500 of the Sex Offender's Permanent Residence or Temporary Residence was established subsequent to the establishment of the Sex Offender's Permanent Residence or Temporary Residence.

5. Exemptions.

The provisions of this Ordinance shall not be applicable to person incarcerated in any facilities owned, maintained and/or operated by the Borough of Coaldale.

6) Penalties.

Any person who violates the provisions of this Ordinance shall, upon conviction, before a District Judge, be sentenced to a term of imprisonment up to ninety (90) days and shall be fined not more than One Thousand (\$1,000) Dollars for each violation, plus the costs of prosecution and reasonable attorney's fees.

7. Enforcement.

The Borough of Coaldale Police Department shall be charged with the enforcement of this Ordinance.

8. Publication.

The Borough of Coaldale Manager is herein directed by July 29, 2006 to have prepared and posted on the municipal building a map of the Borough of Coaldale depicting the areas

of prosecution.

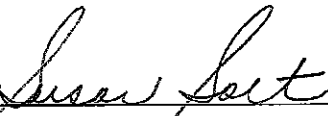
2. Any violation of this Ordinance, whether such violation occurs more than once during any particular day or on separate days, shall be considered as a separate offense.

SECTION XIII - SEVERABILITY

If any section or provision of this Ordinance is declared by any Court of competent jurisdiction to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect the unconstitutionality, legality or validity of this Ordinance as a whole, nor the constitutionality, legality or validity of any other section or provision of this Ordinance other than the one so declared to be unconstitutional, illegal or invalid.

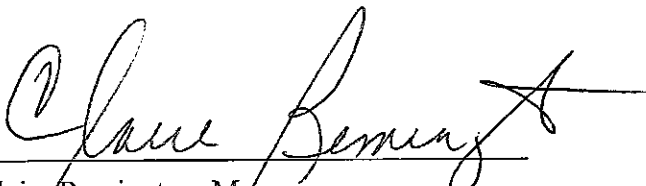
ORDAINED AND ENACTED by the Council of the Borough of Coaldale at a public meeting held this 10th day of July, 2007.

BOROUGH OF COALDALE

BY: 
Susan Solt, President

ATTEST:


Louise Lill, Secretary


Claire Remington, Mayor