

Amfsw

ORDINANCE NO. 3-74

AN ORDINANCE PROHIBITING CHILDREN UNDER EIGHTEEN YEARS OF AGE TO BE OR REMAIN IN OR UPON ANY OF THE STREETS, ALLEYS, PARKS OR PUBLIC PLACES IN THE BOROUGH OF AVOCA AT NIGHT DURING CERTAIN HOURS, UNLESS ACCOMPANIED AS HEREIN PROVIDED; PRESCRIBING THE MANNER OF ENFORCEMENT AND FIXING THE PENALTY FOR VIOLATION OF THIS ORDINANCE

THE BOROUGH OF AVOCA hereby ordains as follows:

1. HOURS FOR MINORS; EXCEPTIONS

It shall be unlawful for any person under eighteen (18) years of age to be or remain in or upon any of the public streets, alleys, parks or public commons in the Borough at night after the hour of 10:00 P.M., on Sunday, Monday, Tuesday, Wednesday and Thursday, and after the hour of 11:00 P.M. on Friday and Saturday, unless such person is accompanied by a parent, guardian or other person having legal custody of said minor person; or said minor person is in the performance of an errand, or duly directed by such parent, guardian or other person having the care or custody of said minor person, or whose employment makes it necessary to be upon said streets, alleys, parks or public commons during the nighttime after the said specified hours, provided that this exception shall not apply when the person underage shall be playing or unnecessarily loitering in or upon said streets, alleys, parks or public commons, whether alone or accompanied by a parent, guardian or any other person whomsoever.

2. RESPONSIBILITY OF PARENT OR GUARDIAN

It is hereby made unlawful for any parent, guardian or other person having the legal care or custody of any of the children of the above-designed age, while in such custody, to go or be in or upon any of the streets, alleys, parks or public commons in said Borough after the time prohibited in Section 1 of this Ordinance, except as therein provided.

3. AUTHORITY OF POLICE DEPARTMENT TO ARREST AND DETAIN

The Police Department of the Borough of Avoca is hereby authorized to arrest, without warrant, any person wilfully violating Sections 1 and 2 of this Ordinance, and detain such person for a reasonable time in which a Complaint can be made and a warrant served.

4. PREREQUISITE TO CONFINEMENT OF MINOR

No child nor minor person arrested under the provisions of this Ordinance shall be placed in confinement until the parent or guardian of such person shall be notified of such arrest and shall have refused to be held responsible for the observance of the provisions of Sections 1 of the Ordinance by said minor person.

5. DETERMINATION OF AGE

The Police Officers of the Borough in taking children into custody under this Ordinance shall use their discretion in determining age, and in doubtful cases may require positive proof, and until such proof is furnished, the Officer's judgment shall prevail.

6. VIOLATIONS AND PENALTIES

Any person or guardian violating the provisions of this Ordinance shall be punishable by a fine of not less than ten (\$10.00) dollars nor more than fifty (\$50.00) dollars, and upon conviction, in default of payment, be imprisoned in Luzerne County Jail for a period not exceeding ten (10) days.

7. INCONSISTENT ORDINANCES REPEALED; SEVERABILITY

All other Ordinances or Resolutions or parts of Ordinances or Resolutions inconsistent herewith are hereby repealed. The provisions of this Ordinance are severable, and if any of its provisions or exceptions shall be illegal, invalid or unconstitutional, the decision of the Court shall not affect nor impair any of the remaining provisions of this Ordinance. It is hereby declared to be the legislative intent that this Ordinance would have been adopted if such illegal, invalid, unconstitutional provisions or exceptions had not been included herein.

ORDAINED AND ENACTED at a Regular Meeting of the Borough Council held the 4th day of SEPTEMBER 1979.

BOROUGH OF AVOCA

BY James J. Sullivan
President of Council

ATTEST:

Mark Boone
Borough Secretary