

An Ordinance relating to curfew for minors, regulating use of streets, parks, playgrounds and public docks during nocturnal hours, and providing for related matters such as regulations and other exceptions, parental responsibilities, police procedures, penalties, construction and continuing evaluation as well as implementation through voluntary research and local action for the prevention of juvenile delinquency, and repealing Ordinance No. 192.

THE TOWN COUNCIL OF THE TOWN OF COUPEVILLE do ordain as follows:

SECTION 1 - SHORT TITLE: This Ordinance shall be known and may be cited as Curfew Ordinance.

SECTION 2 - DEFINITIONS: For the purposes of the Curfew Ordinance the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular and words in the singular number include the plural. The word "shall" is always mandatory and not merely directory.

A) TOWN is the Town of Coupeville, Island County, Washington, with administrative offices at #4 NE Seventh Street, Coupeville, Washington 98239.

B) MINOR is any person under the age of 18, or, in equivalent phrasing often herein employed, any person 17 or less years of age.

C) PARENT is any person having legal custody of a minor (i) as a natural or adoptive parent, (ii) as a legal guardian, (iii) as a person who stands in loco parentis or (iv) as a person to whom legal custody has been given by order of court.

D) REMAIN means to stay behind, to tarry and to stay unnecessarily upon the streets, and the other locations specified herein including the congregating of groups (or of interacting minors) totalling four or more persons in which any minor involved would not be using the streets for ordinary or serious purposes such as passage. To implement that thought with additional precision and precaution, numerous exceptions are merely defined in Section 4 so that this is not a mere prohibitory or presence type of curfew ordinance. More and more exceptions become available with increasing years and advancing maturity as appropriate in the interest of reasonable regulation which is intended by use of the meaningful phrase "be or remain" found constitutional in Baker v. Borough of Steelton, 17 Daugh. 17 (1912), a decision properly classified in Thistlewood v. Trial Magistrate for Ocean City, 236 Md. 548, 204 A.2d 688, 691 (1964) as relating to a curfew ordinance of the "remaining" type.

E) STREET is a way or place, of whatsoever nature, open to the use of the public as a matter of right for purposes of vehicular travel or in the case of a sidewalk thereof for pedestrian travel. The term street includes the

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1 legal right-of-way, including but not limited to the traffic lanes, the
2 curb, the sidewalks whether paved or unpaved, and any grass plots or other
3 grounds found within the legal right-of-way of a street. The term street
4 applies irrespective of what it be called or formally named, whether alley,
5 avenue, court, road or otherwise.

6 F) TIME OF NIGHT referred to herein is based upon the prevailing standard of
7 time, whether Pacific Standard Time or Pacific Daylight Saving Time,
8 generally observed at that hour by the public in the Town of Coupeville,
9 prima facie the time then observed by the police on duty.

10 G) YEAR OF AGE continues from one birthday, such as the seventeenth to (but
11 not including the day of) the next, such as the eighteenth birthday, making
12 it clear that 17 or less years of age is herein treated as equivalent to
13 the phrase "under 18 years of age," the latter phrase in practice,
14 unfortunately, having confused a number of persons into the mistaken thought
15 that 18-year olds might be involved. Similarly, for example, 11 or less
16 years of age means "under 12 years of age."

17 SECTION 3 - CURFEW FOR MINORS: It shall be unlawful for any person 17 or
18 less years of age (under 18) to be or remain in or upon the streets, public
19 parks, docks, wharves, public buildings, except with permission of the owner or
20 the Town Police Department, and places of amusement, including arcades and vacant
21 land, without permission of the owner, within the Town of Coupeville at night
22 during the period ending at 6:00 A.M. and beginning:

- 23 A) At 11:00 P.M. on Sunday through Thursday, and
24 B) 1:00 A.M. Saturday and Sunday.

25 SECTION 4 - EXCEPTIONS: In the following exceptional cases a minor on a
26 Town street during the nocturnal hours for which Section 3 is intended to provide
27 the maximum limits of regulation (and a clear general guide for minors, their
28 parents and their fellow citizens) shall not, however, be considered in violation
29 of the Curfew Ordinance:

- 30 A) When accompanied by a parent of such minor.
31 B) When accompanied by an adult authorized by a parent of such minor to take
32 said parent's place in accompanying said minor for a designated period of
33 time and purpose within a specified area.
34 C) When exercising First Amendment rights protected by the United States
35 Constitution, such as the free exercise of religion, freedom of speech
36 and the right of assembly. Such minor shall evidence the bona fides of
37 such exercise by first delivering, to police personnel, at the Coupeville
38 Town Hall, where and by whom priority messages to the Mayor are regularly
39 received, a written communication, signed by such minor and countersigned
40 if practicable by a parent of such minor with their home address and
41 telephone number, addressed to the Mayor of the Town, specifying when,

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- 1 where and in what manner said minor will be on the streets at night (during
2 hours when the Curfew Ordinance is otherwise applicable to said minor) in
3 the exercise of a First Amendment right specified in such communication.
4 In case of reasonable necessity but only after such minor's parent has
5 communicated to the Town of Coupeville Police Department the facts establish-
6 ing such reasonable necessity relating to specified streets at a time
7 designated for a described purpose including points of origin and destina-
8 tion. A copy of such communication, or of the police record thereof, duly
9 certified by the Chief of Police to be correct, with an appropriate
10 notation of the time it was received and of the name and address of such
11 parent and minor, shall be admissible evidence.
12
13 E) When the minor is on the right-of-way of the street or sidewalk of the place
14 where such minor resides, or on the right-of-way of the street or sidewalk
15 of either nextdoor neighbor.
16
17 F) When returning home, by a direct route from (and within 30 minutes of the
18 termination of) a movie showing, a school activity, or an activity of a
19 religious or other voluntary association, of which prior notice, indicating
20 the place and probable time of termination, has been given in writing to,
21 and duly filed for immediate reference by the Chief of Police or the officer
22 assigned by him on duty, thus encouraging (here as in other exceptional
23 situations) conduct on the part of the minors involved in such activities
24 and striking a fair balance for any somewhat conflicting interests.
25
26 G) When the minor carries a certified card of employment, renewable each
27 calendar year or when the current facts change, dated or reissued not more
28 than 365 days previously, signed by the Chief of Police and briefly
29 identifying the minor, the addresses of his home and of his place of
30 employment, and his hours of employment.
31
32 H) When the minor is, with parental consent, in a motor vehicle travelling
interstate or intrastate. This also exempts interstate or intrastate
travel beginning or ending in the Town of Coupeville.
I) When a minor is acting from necessity, self defense or emergency which
compels him to leave his home.
J) Each of the foregoing exceptions, and their several limitations such as
provisions for notification, are severable, as hereinafter provided but
here reemphasized; and additional, also severable, exceptions, broadening
with the progress toward maturity of minors enrolled respectively in
elementary, junior high and high schools, will be considered by council as
warranted by future experience illuminated by the views of student govern-
ment associations, school personnel, citizens, associations, ward, precinct
and neighborhood spokesman, parents, officers and persons in authority
concerned positively with minors as well as with juvenile delinquency.

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1 SECTION 5 - PARENTAL RESPONSIBILITY: It shall be unlawful for a parent
2 having legal custody of a minor knowingly to permit or by inefficient control to
3 allow such minor to be or remain upon any Town street under circumstances not
4 constituting an exception to, or otherwise beyond the scope of, the Curfew
5 Ordinance. The term "knowingly" includes knowledge which a parent should
6 reasonably be expected to have concerning the whereabouts of a minor in that
7 parent's legal custody. It is intended to continue to keep neglectful or care-
8 less parents up to a reasonable community standard of parental responsibility
9 through an objective test. It shall be no defense that a parent was completely
10 indifferent to the activities or conduct or whereabouts of such minor.

11 SECTION 6 - POLICE PROCEDURES: A policeman of the Town, upon finding or
12 having attention called to any minor on the streets in prima facie violation of
13 the Curfew Ordinance, normally shall take the minor to the Coupeville Town Hall,
14 where a parent shall immediately be notified to come for such minor, whereupon
15 they shall be interrogated. This is intended to permit ascertainment, under
16 constitutional safeguards, or relevant facts, and to centralize responsibility
17 in the police officer there and then on duty for accurate, effective, fair,
18 impartial and uniform enforcement and recording; thus making available the best
19 of facilities and access to information and records. In the absence of con-
20 vincing evidence such as a birth certificate, the police officer shall use his
21 best judgement in determining age.

22 A) Police procedures shall consistently be refined in the light of experience
23 and may provide, inter alia, that the policeman may deliver to a parent
24 thereof a minor under appropriate circumstances, for example, a minor of
25 tender age near home whose identity and address may readily be ascertained
26 or are known.

27 B) In any event such policeman shall within 24 hours file a written report
28 with the Chief of Police.

29 C) When a parent, immediately called, has not come to take charge of the minor,
30 and the appropriate information has been recorded, the officer shall contact
31 the Department of Social and Health Services to make arrangements for
32 temporary custody of the minor. If the parent cannot be located, or fails
33 to take charge of the minor, then the minor shall be released to the
34 Department of Social and Health Services, except to the extent that in
35 accordance with police regulations, approved in advance by the Department
36 of Social and Health Services, the minor may temporarily be entrusted to
37 a relative, neighbor or other person who will on behalf of a parent assume
38 the responsibility of caring for the minor pending the availability or
39 arrival of a parent.

40 D) In the case of a first violation by a minor the Chief of Police shall, by
41 certified mail, send to a parent written notice of said violation with a

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warning that any subsequent violation will result in full enforcement of the Curfew Ordinance, including enforcement of parental responsibility and of applicable penalties.

E) No minor only charged with an offense under this Ordinance shall be searched by reason of being arrested or otherwise taken into custody unless the officer has a reasonable belief that he or she is in danger and such belief is based on articulate facts and circumstances warranting alarm for his or her safety.

SECTION 7 - PENALTIES: If, after the warning notice pursuant to Section 6D) of a first violation by a minor, a parent violates Section 5 (in connection with a second violation by said minor), this shall be treated as a first offense by the parent. The maximum penalty shall be a fine of \$500.00. Any violation by a minor shall be a Class E offense.

SECTION 8 - CONSTRUCTION: Severability is intended throughout and within the provisions of the Curfew Ordinance. If any provision, including inter alia any exception, part, phrase or term, or the application thereof to any person or circumstance is held invalid, the application to other persons or circumstances shall not be affected thereby and the validity of the Curfew Ordinance in any and all other respects shall not be affected thereby. The Town Council does not intend a result that is absurd, impossible of execution or unreasonable. It is intended that the Curfew Ordinance be held inapplicable in such cases, if any, where its application would be unconstitutional. A constitutional construction is intended and shall be given. Council does not intend to violate the Constitution of the State of Washington or the Constitution of the United States of America.

The Town Council further intends to have this Ordinance not conflict with the applicable state laws regulating the conduct of juveniles.

SECTION 9 - CONTINUING EVALUATION: The Town Council shall continue its evaluation and updating of the Curfew Ordinance.

A) Accordingly, there shall be compiled and informally reported to the Town Council through effective channels (reports of Mayor and Chief of Police on a regular basis) for consideration by the Town Council in further updating and continuing evaluation of the Curfew Ordinance.

SECTION 10 - SEVERABILITY CLAUSE: If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance, or the application of the provision to other persons or circumstances is not affected.

SECTION 11 - EFFECTIVE DATE: This Ordinance shall be in full force and effect five days after its passage and publication as required by law.

PASSED by the Town Council and APPROVED by its Mayor this 9th day of December, 1985.

ATTEST:
Davis G. Ward
TREASURER-CLERK

By: Lee H. Haddy
MAYOR

THE TOWN OF COUPEVILLE