

ORDINANCE NUMBER 267

**AN ORDINANCE OF THE BOROUGH OF BALLY, BERKS COUNTY,
PENNSYLVANIA ESTABLISHING A CURFEW FOR MINORS LIVING
AND PASSING THROUGH THE BOROUGH AND PROVIDING
PENALTIES FOR ANY VIOLATIONS**

Section 1. Curfew Established.

It shall be unlawful for boys and girls under eighteen (18) years of age, such persons being defined for purposes of this chapter as a child or children, to be, or remain, in or upon the streets, alleys, parks or public places in the Borough of Bally at night between the hours of 11:00 p.m. and the immediately following 6:00 a.m., prevailing time.

Section 2. Responsibility of parents; exceptions.

It is hereby unlawful for any parent, guardian or other person having the legal care or custody of any of the children above designated to allow or permit any such child, ward or other person under such age, while in such legal care or custody, to go or be in or upon any streets, alleys, parks or public places in the Borough of Bally after the time prohibited in Section One, above, except in the following circumstances:

- A. When such child is accompanied by his or her parent, guardian or other person having the legal care or custody of such child.
- B. When returning home by a direct route from (and within thirty (30) minutes of the termination of) a school activity or an activity of a religious or other voluntary association.
- C. When going to or returning home from a child's place of employment, so long as the child carries on his person a letter certified by the employer, the parent, guardian or other person having the legal care or custody of such child identifying the child, the place of employment and the hours of the child's employment.
- D. In case of reasonable necessity, so long as the child's parent, guardian or other person having legal care or custody of such child provides a written communication to the Borough Police verifying such necessity within seventy-two (72) hours of such necessity.
- E. When 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, provided that there shall first be delivered to the office of the Borough Police a written communication signed by the child and signed by a parent or guardian of the child specifying when, where and in what manner the child will be on the streets at night during hours which the curfew provisions of this ordinance are applicable in the exercise of a First Amendment right.

Section 3. Violations and penalties.

Any child found upon the borough streets, alleys, parks or public places within the Borough of Bally in violation of Section One, above, shall be taken into custody by the borough police and released to his or her parents, guardian or person having the legal care or custody of such child, and a report thereof shall be made promptly to the Mayor. If the parent, guardian or person having the legal care or custody of such child shall again allow him or her to be on the streets, alleys, parks or public places in violation of Section One, above, the parent, guardian or person having the legal care or custody of such child so offending shall, upon conviction by a court having jurisdiction thereof, be guilty of a summary offense and be sentenced to pay a fine of not more than Three Hundred Dollars (\$300) and all court costs.

Section 4. Repeated Violations.

Any child who shall violate this ordinance more than three (3) times shall be reported to the Berks County Juvenile Probation Office, and such proceedings shall be initiated in the Juvenile Division of the Court of Common Pleas of Berks County as may be deemed necessary by the Juvenile Probation Office. The parent, guardian or person having legal care or custody of such child shall likewise be reported to the Berks County Juvenile Probation Office and Berks County Children and Youth Services for a determination of the necessity of Juvenile Dependency proceedings.

Section 5. Determination of Age.

The Police Officers of the borough, in taking children into custody, shall use their discretion in the determination of age, and in doubtful cases may require positive proof, and until such proof is furnished, the officer's judgment shall prevail.

Section 6. Severability.

If any provision(s) of this Ordinance shall be determined to be unlawful, invalid, void or unenforceable, then that provision(s) shall be considered severable from the remaining provisions of this Ordinance which shall remain in full force and effect.

ENACTED AND ORDAINED into an Ordinance this 4th day of September, 2007.


Leo D. Mutter, Council President

Attest: 
Andrea Delo, Secretary

Approved:


Philip D. Ferrizzi, Mayor

