

ORDINANCE NO. 115

AN ORDINANCE TO ESTABLISH A NOCTURNAL CURFEW APPLICABLE TO JUVENILES; PROVIDING RESPONSIBILITY FOR PARENTS OR GUARDIANS OF JUVENILES AND OPERATORS OF ESTABLISHMENTS; AND THE PENALTIES FOR THE VIOLATIONS THEREOF.

WHEREAS, the Commissioners of Bridgeville have determined that there has been an increase in the range of unacceptable behavior of juveniles including vandalism, public drinking and littering, drug use, breaking and entering, and harassment of the residents, as well as violence; and

WHEREAS, persons under the age of 17 are particular susceptible and by their lack of maturity and experience to participate in unlawful activities or to be the victims of older perpetrators of crime; and

WHEREAS, curfew for those persons or juveniles under the age of 17 will be in the interest of the public health, safety and general welfare and will promote the public's good, safety and welfare; and

WHEREAS, parental responsibility for the whereabouts of children is the accepted norm and legal sanctions to enforce such responsibility have demonstrated the effectiveness of many communities, that the Commissioners of Bridgeville have determined that a curfew ordinance will increase parental responsibility for juveniles within their control and decrease juvenile delinquency; and

WHEREAS, the passage of this ordinance is pursuant to the police powers of the Commissioners of Bridgeville;

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE COMMISSIONERS OF BRIDGEVILLE AS FOLLOWS:

Section 1: It shall be unlawful for any person under the age of 17 years to congregate, loiter, wander, stroll, stand or play in or upon the public streets, highways, roads, alleys, parks, public buildings, places of amusement and entertainment, places of employment, vacant lots, or any public places in the Town of Bridgeville, either on foot or in or upon any conveyance being driven or parked thereon, between the hours of 11:00 p.m., local time, until 6:00 a.m. on all nights of the week except Friday and Saturday nights which shall be from 12:00 midnight, local time, until 6:00 a.m., unless accompanied by his or her parent, guardian, or other adult person having his or her care, custody or control.

Section 2: It shall be unlawful for the parent, guardian or other adult person having the care and custody of a person under the age of 17 years to suffer or permit by insufficient control to allow such person to congregate, loiter, wander, stroll, stand

or play in or upon the public streets, highways, roads, alleys, parks, public buildings, places of amusement and entertainment, places of employment, vacant lots, or any public places in the Town of Bridgeville, either on foot or in or upon any conveyance being driven or parked thereon between the hours of 11:00 p.m., local time, until 6:00 a.m. on all nights of the week except Friday and Saturday nights which shall be from 12:00 midnight, local time, until 6:00 a.m., unless accompanied by his or her parent, guardian, or other adult person having his or her care, custody or control.

Section 3: It shall be unlawful for any person, firm or corporation operating places of amusement or entertainment, or any agent, servant or employee of any person, firm or corporation to permit any person under the age of 17 years to enter or remain in such places of amusement or entertainment during the hours prohibited under this section, unless such person is accompanied by his or her parent, guardian or other adult person having his or her care, custody or control.

Section 4: The following shall constitute valid exceptions to the operation of this Ordinance;

(a) When a person under the age of 17 is assisting in an actual emergency;

(b) When a juvenile is returning home by a direct route (without any unnecessary detour or stop) from and within one hour of the termination of any school activity or an activity of religious or other voluntary association;

(c) When a juvenile is married.

Section 5: Enforcement Procedures

(a) If a police officer reasonably believes that a juvenile is in a public place in violation of the Ordinance, the officer shall notify the juvenile that he or she is in violation of the Ordinance and shall require the juvenile to provide his or her name, address and telephone number and how to contact his/her parent or guardian. In determining the age of the juvenile and in the absence of convincing evidence such as a birth certificate, a police officer shall, in the first instance of violation of the Ordinance, use his or her best judgment in determining age.

(b) The police officer shall issue the juvenile a written warning that the juvenile is in violation of the Ordinance and order the juvenile to go promptly home. The Chief of Police shall send the parent or guardian of the juvenile written notice of the violation pursuant to subject (f).

(c) Police procedures shall constantly be refined in the light of experience and may provide that the police officer

may deliver to a parent or guardian thereof a juvenile under appropriate circumstances; for example, a juvenile of tender age, near home, whose identity and address may readily be ascertained or are known.

(d) Notwithstanding paragraph (b) of this Section, when: (1) a juvenile has received one previous written warning for violation of this Ordinance; or (2) a police officer has reasonable grounds to believe that the juvenile has engaged in delinquent conduct, the procedure shall then be to take the juvenile to the police station where a parent or guardian shall immediately be notified to come for the juvenile whereupon the parent or guardian and the juvenile shall be questioned. This is intended to permit ascertainment, under constitutional safeguards, of relevant facts, and to centralize responsibilities in the person designated there and then on duty for accurate, effective, fair, impartial and uniform enforcement, and recording, thus, making available experienced personnel and access to information and records.

(e) When a parent or guardian, immediately called, has come to take charge of the juvenile, and the appropriate information has been recorded, the juvenile shall be released to the custody of such parent or guardian. If the parent or guardian cannot be located or fails to take charge of the juvenile, then the juvenile shall be released to the juvenile authorities, except to the extent that in accordance with police regulations, approved in advance by juvenile authorities, the juvenile may temporarily be entrusted to an adult, neighbor or other person who will on behalf of a parent or guardian assume the responsibility of caring for the juvenile pending the availability or arrival of a parent or guardian.

(f) In the case of a first violation of the Ordinance by a juvenile, the Chief of Police shall by certified mail send to a parent or guardian written notice of the violation with a warning that any subsequent violation will result in full enforcement of the Ordinance, including enforcement of parental responsibility and of applicable penalties.

(g) For the first violation of the Ordinance by an operator of an establishment who permits a juvenile to remain on the premises, a police officer shall issue a written notice of the violation with a warning that any subsequent violation will result in full enforcement of the Ordinance, including enforcement of operator responsibility and of applicable penalties.

(h) In any event, the police officer shall within 24 hours, file a written report with the Chief of Police or shall participate to the extent of the information for which he or she is responsible in the preparation for a report on the curfew violation. It is not the intention of this Section to require extensive reports that will prevent police officers from

performing their primary police duties. The reports shall be as simple as is reasonably possible and may be completed by police departmental personnel other than sworn police officers.

Section 6: Penalties

(a) If, after the warning notice pursuant to Section 5 of a first violation by a juvenile, a parent violates Section 2 (in connection with second violation by the juvenile), this shall be treated as first offense by the parents. For the first offense by a parent, the fine shall be \$50.00, and for each subsequent offense by a parent the fine shall be increased by an additional \$20.00, e.g., \$70.00 for the second offense, \$90.00 for the third offense. The judge of the Family Court of the State of Delaware, upon finding a parent guilty, shall sentence the parent to pay this fine and the cost of prosecution.

(b) The parent or legal guardian having custody of a juvenile subject to this Section shall be liable for all costs incurred by the Town for providing personnel to remain in the company of a juvenile who has been detained as a curfew violator if the parent or guardian does not pick up the juvenile within one hour after receiving notice from the Town that the Town is detaining the juvenile for a curfew violation. The amount to be paid by the parent or guardian shall be based on the hourly wage of the Town employee who is assigned to remain with the juvenile plus the cost of benefits for that employee.

(c) The parent or legal guardian having custody of a juvenile subject to this Section shall be liable for any fine or condition of restitution or reparation imposed by a court upon a curfew violation, provided that the curfew violator has not paid the fine or made restitution or reparation within the time order by the court, and further provided that the parent or legal guardian has been made a party defendant in all enforcement proceedings against the curfew violator and shall be served with all citations, summons, complaints, notices and other documents required to be served on the curfew violator defendant.

(d) Any juvenile who shall violate any of the provisions of the Ordinance more than three times shall be reported to the Chief of Police to the juvenile authorities as a juvenile in need of supervision and the Chief of Police may proceed to file such charges with the courts as he or she may deem appropriate.

(e) If, after warning notice pursuant to Section 5 of a violation of the Ordinance, an operator of an establishment violates Section 3 a second time, this shall be treated as a first offense by an operator, the fine shall be \$50.00 and for each subsequent offense by an operator the fine shall be increased by an additional \$20.00, e.g., \$70.00 for the second offense, \$90.00 for the third offense.

Section 7. This Ordinance shall become effective upon its adoption by a majority of the Commissioners of the Town of Bridgeville.

COMMISSIONERS OF BRIDGEVILLE

BY:

Howard C. Harkley
President

ATTEST:

Margaret W. Sipple
Secretary

ADOPTED: Nov. 11, 1996