



Town of Blades

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Ordinance 413B

Amendment to Ordinance 413 Establishing a Curfew for Minors within the corporate limits of the Town of Blades

Whereas, the Town of Blades has received numerous complaints and has experienced unacceptable levels of delinquent juvenile behavior from businesses, residents, and visitors; and

Whereas, the Mayor and Commissioners of the Town of Blades deem it proper and necessary for the good government of the Town, the protection and preservation of persons and property, and of the public health and welfare of the Town and its inhabitants, to amend the Town Ordinance of the Town of Blades, Delaware, to institute a limited curfew for the purpose of deterring juvenile delinquency, and

Whereas, the Mayor and Commissioners of the Town of Blades seek to ensure that reasonable exceptions to a juvenile curfew are in place for the purpose of ensuring the protection of the free exercise of religion, freedom of speech, the right of assembly, and the right to travel.

Be it Ordained, by the Mayor and Commissioners of the Town of Blades, in session met, in the manner following to wit:

Section 1. Ordinance number 413 for the Town of Blades, Delaware is hereby amended as follows:

Minors Unaccompanied by Adult Prohibited from Public Places During Certain Hours

- A. It shall be unlawful for any minor under the age of 18 years to be on any public street or in a public place between the hours of 11:00 p.m. and 5:00 a.m. unless accompanied by the juveniles' parent or guardian. It is unlawful for any parent or guardian to allow an unaccompanied juvenile to be on any public street or in any public place between the same hours above.
- B. It shall be unlawful for juveniles during the curfew hours to remain in or upon any public place, to remain in any motor vehicle operating or parked therein or thereon, and and/or to remain in or upon the premises of any establishment within the Town of Blades, Delaware, unless accompanied by the juveniles' parent or guardian or unless

engaged in or traveling to or from a business or occupation which the laws of this State authorize a juvenile to perform.

C. A parent or caretaker of a juvenile commits an offense if they knowingly permit, allow, or encourage, or by insufficient control of the juvenile, allow the juvenile to remain in or upon a public place, or remain in any motor vehicle operating or parked therein or thereon, and/or to remain in or upon the premises of any establishment within the Town of Blades during curfew hours.

D. It shall be unlawful for the operator of any establishment, or for any person who is an employee thereof, to knowingly permit, all, or encourage a juvenile to remain on the premises of the establishment of the premises during curfew hours. It is the duty of the establishment owner to use all reasonable means to ascertain whether any person who enters or remains on the premises is in fact 18 years of age or older.

E. It shall be unlawful for any person, including any juvenile, to give a false name, address, or telephone number to any officer investigating a possible violation of this section.

Exceptions

It is not a violation unless the officer first affords the person the opportunity to explain his/her conduct and no person shall be convicted of a violation of this ordinance if it is determined at trial that the explanation so given was true and disclosed a lawful purpose. More specifically, the following shall be considered affirmative defenses to prosecution under this article:

A. The juvenile may remain out past curfew on a sidewalk and/or another property directly abutting or adjacent to a place where the juvenile resides with a parent, legal guardian, or caretaker until the property owner or a member of the general public complains of the juvenile's presence during curfew hours to the local law enforcement.

B. The juvenile is attending any recreational activities supervised by adults and sponsored by, held, or located at schools, religious organizations, the Town of Blades, Delaware, or attending any other organizations' function so long as the organization assumes responsibility for the juvenile's care, safety, and well-being through providing adult supervision. The juvenile may travel unsupervised to and from these specified activities without detour during curfew hours.

C. The juvenile is involved in interstate travel in any means of transportation through either beginning, throughout, or terminating in the Town of Blades, Delaware.

D. The juvenile is engaged in an employment activity or is going to or returning to their place of stay from such employment activity, without detour or stop.

E. The juvenile is involved in an emergency.

F. The juvenile is married or had been married or had disabilities of minority removed in accordance with state law.

G. It is an affirmative defense to prosecution under this ordinance, that the owner, operator, or employee of an establishment or driver of a motor vehicle promptly notified the Blades Police Department that a juvenile was present on the premises of the establishment or in the motor vehicle during curfew hours and the juvenile refused to leave. Additionally, it shall be an affirmative defense that the minor who has violated this section, presented to the establishment owner identification, with a photograph of such individual affixed thereon, which identification sets forth information which would lead a reasonable person to believe such individual was not a minor.

H. The juvenile is exercising First Amendment rights protected by the United States Constitution, such as but not limited to the free exercise of religion, freedom of speech, and the right of assembly in which the juvenile, or the juvenile's parent, legal guardian, or caretaker must notify the Blades Police Department at least twenty-four hours in advance in order for the Town of Blades, Delaware to comply with all State of Delaware regulations such as but not limited to directives, executive orders, and enacted legislative acts.

Enforcement

A. Procedures: Any police officer who finds a minor violating any provisions of this ordinance shall obtain such information from such minor as to his/her name and address, age, and the name of his/her parent(s) or guardian. The officer shall make every reasonable effort to contact the minor's parent/guardian if the minor is to be detained or arrested. The minor shall thereupon be instructed to proceed to his/her home forthwith. A police officer may thereafter, in accordance with the provisions of this ordinance, charge the minor with a curfew violation, and may charge the minor's parent(s), as the case may be, with the violation(s). For each violation, an appearance by the minor child and their parent(s) or guardian before the Sussex County Courts is required before a penalty can be imposed.

B. Penalties: Any minor child or parent(s)/guardian of minor child who violate any provision of this ordinance may incur a civil fine in an amount of \$100.00 plus court costs for the first offense, and may incur a civil fine in an amount not to exceed \$300.00 plus costs for each subsequent violation. Any violation of any provision of this ordinance shall constitute a separate offense.

Section 2. If any provision of this Ordinance shall be deemed or held to be invalid or unenforceable for any reason whatsoever, it shall not affect any other provision of this Ordinance which may be given effect without such invalid or unenforceable provision, and to this end, the provisions of this Ordinance are hereby declared to be severable.

Section 3. This Ordinance shall become effective immediately upon its adoption by the Commissioners of the Town of Blades.

