



Michael Davis, Trustee  
Albert Duebber, Trustee  
Jerome Luebbers, Trustee

Kenneth Ryan, Fiscal Officer

Gerard Schroeder, Acting Administrator

First Reading: August 6, 2008

Second Reading: Dispensed

**RESOLUTION NO. 2008-117  
RESOLUTION ESTABLISHING A CURFEW FOR MINORS  
WITHIN DELHI TOWNSHIP PURSUANT TO RC. 505.89  
AND  
DISPENSING WITH THE SECOND READING**

WHEREAS, R.C. 505.89 authorizes in relevant part a Board of Township Trustees to adopt a juvenile curfew within the Township upon finding of necessity therefor; and

WHEREAS, on June 11, 2008, the Board of Trustees of Delhi Township received an updated Juvenile Curfew Feasibility Study from the Delhi Township Police Department (prior studies conducted in October, 1996 and May, 2006) and in response thereto conducted public hearings regarding the adoption of a curfew within Delhi Township; and

WHEREAS, based upon the continuing recommendation of the Delhi Township Police Department for a juvenile curfew restricting both school time and nighttime hours, the fact that many communities neighboring Delhi Township have enacted similar curfew ordinances which may cause minors from those communities to take refuge in Delhi Township, coupled with the Township's need to protect minor children from becoming victims as well as perpetrators of crimes during both school time and nighttime hours, the Board hereby declares that a juvenile curfew is necessary for the preservation of the public health, safety and welfare.

BE IT RESOLVED, by the Board of Trustees of Delhi Township pursuant to R.C. 505.89 of the Revised Code, that it is necessary for the reasons set forth above to adopt and establish a curfew for minors in the Township with the following definitions and provisions:

**SECTION 1: Definitions**

1. CURFEW HOURS mean:

- a) 11 :00 p.m. on any Sunday through Thursday until 6:00 a.m. of the following day;
- b) 12:00 a.m. until 6:00 a.m. on any Friday or Saturday;
- c) 8:00 a.m. until 3:00 p.m., Monday through Friday from September 1 through May 31 while school is in session at any public or private school or alternative

program in which the minor is enrolled or was last enrolled if suspended or expelled at the time in question.

2. EMERGENCY means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes but is not limited to: a fire, natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.
3. EMPLOYMENT ACTIVITY means any bona fide service performed for wage or salary under contract for hire, written, expressed, or implied, or an approved work study program.
4. ESTABLISHMENT means any privately owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.
5. GUARDIAN means:
  - a) a person who under court order is the guardian of the person of a minor; or
  - b) a public or private agency with whom a minor has been placed by a court.
6. MINOR means any person under the age of 18 years of age who is not married or otherwise emancipated.
7. PARENT means a person who is:
  - a) a biological parent, adoptive parent, or step-parent or guardian entrusted with the care and custody of a minor;
  - b) a person, at least 21 years of age, who is authorized by a parent or guardian to *have* the care of and responsibility for a minor prior to any act which is prohibited by this Resolution.
8. PUBLIC PLACE means any place which is open to the public and includes, but is not limited to: streets, highways, sidewalks, parks, public buildings and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.
9. REMAINS means to:
  - a) linger or stay; or
  - b) fail to leave the premises of any establishment or public place when requested to do so by a police officer or the owner, operator, or other person in control of the establishment or public place.

## **SECTION 2: Offenses**

1. A minor violates the curfew adopted hereby if he or she remains in any public place or on the premises of any establishment within Delhi Township during curfew hours in Section 1: 1.a) or b).
2. A minor violates the curfew adopted hereby if he or she remains in any public place or on the premises of any establishment with Delhi Township during curfew hours in Section 1: 1.c) at any time when the minor is required to be in attendance at any

public or private school or alternative program in which the minor is enrolled or in the event the minor is under suspension or has been expelled by any public or private school or alternative program at any time when the minor would have been required to be in attendance at school if not under suspension or expulsion.

### **SECTION 3: Defenses**

1. It is a defense to prosecution under Section 2 that the minor was:
  - a) accompanied by the minors parent or guardian;
  - b) on an errand at the direction of the minor's parent or guardian, without any detour or stop;
  - c) engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
  - d) involved in an emergency;
  - e) on the sidewalk abutting the minor's residence or abutting an adjacent residence if an adult resident of the adjacent residence did not complain to the police department about the minor's presence;
  - f) attending an activity organized and supervised by adults and sponsored by Delhi Township, another political subdivision, school district, civic organization, church or other similar organization that takes responsibility for the minor, or attending an official school or religious activity;
  - g) going to or coming from, without any detour or stop, those activities identified in Section 3: 1.f) herein;
  - h) in a motor vehicle traveling home, without any detour or stop, from a location outside of Delhi Township;
  - i) exercising any right protected by the United States or Ohio Constitutions.

The following defenses are only applicable to the curfew hours in Section 1: i.c):

- j) not required to attend school because school was not in session on the date and time in question;
- k) the minor is participating in a bona fide home schooling program;
- l) the minor was attending school or an authorized school function.

### **SECTION 4: Enforcement**

1. Before taking any enforcement action under this Resolution, a police officer shall ask the apparent offender's age and reason for being in the public place or establishment. The officer shall not issue a citation or make an arrest under this Resolution unless the officer reasonably believes that an offense has occurred and that based on any response and other circumstances, no defense in Section 3: is present.
2. The Police Department shall adopt reasonable policies and procedures to implement and enforce this curfew, including discretion to issue warnings, refer to the Township

referee (if possible), notify parent or guardian, transport home or to 2020 Auburn Avenue, etc.

**SECTION 5: Penalties**

Any minor found violating any provision of this Resolution shall be charged as being an unruly child and shall be dealt with in accordance with the juvenile law and procedure as provided in Chapter 2151 of the Revised Code, except as may otherwise be permitted hereunder or required by applicable law.

**SECTION 6: Severability**

If any Section, sub-Section, sentence, clause, phrase or portion of the provisions of this Resolution is for any reason declared by any court of competent jurisdiction to be invalid or unconstitutional, such Section, sub-Section, sentence, clause, phrase or portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining provisions of this Resolution.

**SECTION 7:**

The Trustees of Delhi Township upon majority vote do hereby dispense with the requirement-that this resolution be read on two separate days, and hereby authorize the adoption of this resolution upon its first reading.

**SECTION 8:**

This resolution shall take effect on August 6, 2008, following the filing of this resolution with the Delhi Township Fiscal Officer.

**SECTION 9:**

It is hereby determined that all formal actions of the Board of Trustees relating to the adoption of this Resolution were taken in an open meeting of the Board of Township Trustees and that all deliberations of such Board of Trustees were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

**INTRODUCTION AND VOTE RECORD:** Trustee Davis introduced the foregoing Resolution and moved its adoption. Trustee Duebber seconded the Motion. The roll being called upon the question of adoption of the Resolution by the Township Fiscal Officer, the vote resulted as follows:

Mr. Luebbers Aye      Mr. Duebber Aye      Mr. Davis Aye

Adopted at the meeting of the Board of Trustees this 6th day of August 2008.

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Jerome F. Luebbers, President

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Albert C. Duebber, Vice President

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Michael D. Davis, Trustee

**AUTHENTICATION**

This is to certify that this resolution was duly adopted by the Board of Trustees, and filed with the Delhi Township Fiscal Officer, this 6th day of August, 2008.

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Kenneth J. Ryan,  
Delhi Township Fiscal Officer

APPROVED AS TO FORM:

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David C. Lane, Law Director