

TOWN OF NEWTON

ORDINANCE #2023-21

AN ORDINANCE TO AMEND, REVISE, AND SUPPLEMENT THE TOWN CODE OF THE TOWN OF NEWTON, CREATING CHAPTER 330 OF THE TOWN CODE OF THE TOWN OF NEWTON, COUNTY OF SUSSEX, STATE OF NEW JERSEY, ENTITLED "CURFEW"

WHEREAS, over the past several months, the Town of Newton has received a number of complaints in relation to various incidents of juvenile misbehavior/delinquency/violence/violation of law; and

WHEREAS, the Town has a clear interest in reducing violence and crime committed by juveniles against residents, citizens, or properties in the Town; and

WHEREAS, the Town also believes that responsibility exists with parents, guardians, and/or caretakers to promote the safety and well-being of the Town's youngest citizens, those under the age of eighteen (18) years, while continuing to provide consistency with N.J.S.A. 40:48-2.52 and New Jersey Attorney General Directive 2020-12 to ensure an appropriate curfew, both as to hours and enforcement procedures, is instituted in an effort to prevent future acts of juvenile misbehavior/delinquency/violence/violation of law within the Town;

NOW, THEREFORE BE IT ORDAINED, by the Mayor and the Town Council of the Town of Newton, County of Sussex, State of New Jersey, that the Town Code of the Town of Newton is hereby amended, revised, and supplemented by creating a new Chapter 330, entitled "Curfew", which shall read as follows:

CHAPTER 330, SECTION 1, Curfew Definitions.

- A. "Caretaker" is hereby defined and refers to an adult who is at least eighteen (18) years of age who has been formally authorized, by the juvenile's parents to be temporarily responsible for the parental care, custody, authority, safety, and/or any other parental responsibilities required to supervise the juvenile, such as, but not limited to, babysitter(s).
- B. "Establishment" is hereby defined and refers to any privately owned place within the Town, to which any member of the public is invited, including, but not limited to, any place of amusement, business, eating/dining, entertainment, and/or convenience store.

- C. "Guardian" is hereby defined and refers to any person, other than a parent or caregiver, who, pursuant to a Court order, is the guardian to whom legal custody of the juvenile has been given pursuant to a Court order; or, a public or private agency with whom a juvenile has been placed by a Court. In either circumstance, they are responsible for the care and/or welfare of the juvenile.
- D. "Juvenile" is hereby defined and refers to any person under eighteen (18) years of age who has not been emancipated in accordance with all New Jersey State laws, regulations, and/or procedures, whether or not they reside in the Town of Newton.
- E. "Law Enforcement Officer" is hereby defined and refers to a police officer and/or any other law enforcement officer charged with the duty of enforcing the laws of the State of New Jersey, and/or the County of Sussex, and/or the laws and/or ordinances of the Town of Newton.
- F. "Motor Vehicle" is hereby defined and refers to: (1) a wheeled conveyance that does not run on rails and is self-propelled, including, but not limited to, one which is powered by an internal-combustion engine, a battery or a fuel-cell, or any combination of these; and/or, (2) an instrument of transportation or conveyance.
- G. "Parent" is hereby defined and refers to a biological parent(s), adoptive parent(s), or step-parent(s) of the juvenile, including, either parent if juvenile custody is shared under a Court order or other legal agreement.
- H. "Public Place" is hereby defined and refers to any place to which the public has access to, including, but not limited to, public street, public highways, roads, sidewalks, bridges, alleys, plazas, avenues, parks, thoroughfares, recreational, and/or public transportation facilities, vehicles used for public transportation, parking lots, the common areas of schools, apartment houses, office buildings, commercial facilities/establishments, shops, and/or hospitals, as well as any other public building, structure, and/or area which members of the public at any time of the day or night have access to.

CHAPTER 330, SECTION 2, Curfew Hours Established.

It shall be unlawful for any juvenile, as defined herein, to be in or on any Public Place and/or Establishment, as defined herein, in the Town between the hours of 10:00PM and 6:00AM, whether on foot, bicycle, scooter, skateboard, and/or Motor Vehicle, unless said juvenile is accompanied by a Parent, Guardian, and/or Caretaker, who must be over the age of eighteen (18) years.

CHAPTER 330, SECTION 3, Offenses.

In relation to and in addition to Section 2 above:

- (1) It shall be unlawful for a juvenile during the curfew hours to remain in or upon any Public Place within the geographic boundaries of the Town of Newton, to 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 geographic boundaries of the Town.
- (2) A Parent, Guardian, and/or Caretaker of a juvenile commits an offense if they knowingly permit, allow, and/or encourage or, by insufficient control of the juvenile, allow the juvenile to remain in or upon any Public Place within the geographic boundaries of the Town of Newton and/or to remain in any Motor Vehicle operating or parked therein or thereon and/or to remain in or upon the premises or any Establishment within the Town during curfew hours.
- (3) It shall be unlawful for a person, who is the owner and/or driver of any Motor Vehicle to knowingly permit, allow, and/or encourage a violation of this Ordinance/Town Code provision.
- (4) It shall be unlawful for the Operator/Owner of any Establishment, or for any person who is an employee thereof, to knowingly permit, allow, or encourage a juvenile to remain upon the premises of any Establishment during curfew hours.
- (5) It shall be unlawful for any person, including any juvenile, to give a false name, address, and/or telephone number to any Law Enforcement Officer investigating, in any manner, a possible violation of this Ordinance/Town Code provision.

CHAPTER 330, SECTION 4, Exceptions/Defenses.

- (1) It shall be unlawful for a juvenile, during the curfew hours, to remain in or upon any Public Place within the geographic boundaries of the Town of Newton, to remain in any Motor Vehicle operating or parked therein or thereon, and/or remain in or upon the premises of any Establishment within the geographic boundaries of the Town, unless:
- (a) The juvenile is accompanied by a Parent, Guardian, and/or Caretaker; or
 - (b) The juvenile is engaged in an employment activity or traveling to or from an employment activity, without detour or stop, which the laws of the State of New Jersey authorize a juvenile to perform during curfew hours; or
 - (c) The juvenile is engaged in an errand or errands involving a medical emergency or emergencies during curfew hours; or
 - (d) The juvenile is attending an extracurricular school activity and/or traveling to or from such extracurricular school activity; without detour or stop, during curfew hours; or
 - (e) The juvenile is attending an activity sponsored by a religious or community-based organization of a cultural, educational, or social nature if said activity is supervised by at least two (2) or more adults. This shall also involve the juvenile's travel to or from the activity, as defined herein, without detour or stop during curfew hours.

CHAPTER 330, SECTION 5, Adult Responsibility.

It shall be unlawful for any Parent, Guardian, and/or Caretaker to allow any unaccompanied juvenile to be on any Public Place, Motor Vehicle, and/or Establishment during the curfew hours, except as noted in Section 4, Chapter 330 above.

CHAPTER 330, SECTION 6, Adult Permission Presumed.

If it should be established that any juvenile remaining idle, loitering, wandering, strolling, or remaining in or upon any Public Place and/or Establishment, and/or sitting in or upon a Motor Vehicle, within the geographic boundaries of the Town of Newton in violation of any of the provisions of this Chapter, then it shall be presumed, in the absence of proof to the contrary, that the Parent, Guardian, and/or Caretaker of the juvenile knowingly permitted the juvenile to violate any of the provisions of this Chapter.

CHAPTER 330, SECTION 7, Penalties.

Any juvenile violating any provision of this Chapter shall be subject to the following:

- (1) First Offense: Upon the initial occurrence of any violation of this Chapter by a juvenile, the Town of Newton Police Department or other authorized Law Enforcement Officer shall issue the juvenile a verbal curbside warning. A verbal curbside warning for any violation of this Chapter shall be documented with a case number and an entry in the curbside warning tracking system.
- (2) Second Offense: Upon a second (2nd) occurrence of any violation of this Chapter by a juvenile, the Town of Newton Police Department or other authorized Law Enforcement Officer shall issue a formal written warning to the juvenile and shall issue a formal written warning to the juvenile's Parent, Guardian, and/or Caretaker. The issuance of a formal written warning shall be documented with a case number in the curbside warning tracking system and/or curfew ordinance violation log.
- (3) Third or Subsequent Offense: Upon a third (3rd) and/or subsequent occurrence of any violation of this Chapter by a juvenile, the Town of Newton Police Department will issue a formal complaint summons to the juvenile and a formal complaint summons to the Parent, Guardian, and/or Caretaker of the juvenile offender. In the event a juvenile is charged with an act of juvenile delinquency, while engaged in a third (3rd) or subsequent violation of any provision of this Chapter, a violation of the Chapter will be added to the formal complaint.

(4) If a juvenile and/or Parent, Guardian, and/or Caretaker is found to have violated any provisions of this Chapter either by a finding of guilt or a plea of guilty for a third or subsequent offense shall be subject to the provisions of Section 8, Chapter 330 below.

CHAPTER 330, SECTION 8, Penalties.

- A. Any juvenile, Parent, Guardian, and/or Caretaker who is found guilty or pleads guilty in the Town of Newton Municipal Court or other court of jurisdiction, to any violation of this Chapter for a third or subsequent offense of any provision of this Chapter shall be required to perform community service and may, in addition, be subject to fine of not to exceed One Thousand (\$1,000.00) Dollars.
- B. The continuation of such violation for each successive day shall constitute a separate offense and the person(s) (juvenile, and/or Parent, and/or Guardian, and/or Caretaker) allowing and/or permitting the continuation of the violation may be punished as provided for above for each separate offense. If both a juvenile and his/her/their Parent, Guardian, and/or Caretaker are found guilty or plead guilty to any provision of this Chapter and are required to perform community service, they shall be required to perform community service together.

CHAPTER 330, SECTION 9, Enforcement.

- A. The Law Enforcement Officer shall not issue a verbal and/or written curbside warning to a juvenile or issue a summons to appear in the Town's Municipal Court (either juvenile or a Parent, Guardian, and/or Caretaker) unless the Law Enforcement Officer reasonably believes that a violation of any provision of this Chapter has occurred.
- B. Before taking any enforcement action for a second offense and beyond, the Law Enforcement Officer shall endeavor to make an immediate investigation to establish such reasonable belief exists that an offense has occurred.
- C. As to either Section A and/or Section B above, if the investigation reveals the presence of the juvenile is in violation of any provision of this Chapter, then the Law Enforcement Officer:

- (1) Shall ask the apparent juvenile offender's age and residence and the reason(s) for being out in a Public Place within the geographic boundaries of the Town of Newton; and/or, in any Motor Vehicle operating or parked therein or thereon; and/or, in or upon the premises of any Establishment within the Town; and
 - (2) Shall issue a verbal and/or written curbside warning (as set forth above) and shall ask the juvenile to leave the Public Place within the geographic boundaries of the Town of Newton, any Motor Vehicle operating or parked thereon or therein and/or in or upon the premises of any Establishment within the Town; and
 - (3) Shall issue to the juvenile a violation notice as to any provisions of this Chapter to the juvenile if it is not the juvenile's first notice for any violation of this Chapter; and
 - (4) If a juvenile refuses to give a Law Enforcement Officer, his/her/their name and/or address, refuses to give the name and address of his/her/their Parent(s), Guardian(s), and/or Caretaker(s) or if no Parent(s), Guardian(s), and/or Caretaker(s) can be located prior to the end of the applicable curfew hours, or, if located, no Parent(s), Guardian(s), and/or Caretaker(s) appears to accept custody of the juvenile, the Law Enforcement Officer shall be empowered to take the juvenile to the Newton Town Police Department Headquarters for a period not to exceed the curfew hours so that the juvenile's Parent, Guardian, and/or Caretaker may retrieve the juvenile.
- D. If the investigation conducted pursuant to this Section reveals the juvenile's Parent, Guardian, and/or Caretaker is violation of any provision of this Chapter, a Law Enforcement Officer shall be empowered to issue a summons to such juvenile's Parent, Guardian, and/or Caretaker, where the juvenile's Parent, Guardian, and/or Caretaker shall appear in front of the Municipal Court of the Town of Newton.

CHAPTER 330, SECTION 10, School Day Curfew.

No juvenile under the age of eighteen (18) shall be in any Public Place within the geographic boundaries of the Town of Newton when the juvenile is required to be in attendance at either a public or non-public school, unless the juvenile is accompanied by a Parent, Guardian, and/or Caretaker or is carrying written permission from the juvenile's educational authority allowing the juvenile to be in a Public Place.

CHAPTER 330, SECTION 11, Severability.

If, for any reason, any section of this Chapter shall be deemed invalid by a court of competent jurisdiction, the remaining sections and/or any and all other unaffected language of this Chapter and this Ordinance shall remain in full force and effect.

CHAPTER 330, SECTION 12, Repealer.

Any Ordinance or any part of any Ordinance and/or provision of the Town Code that is inconsistent with this Ordinance shall be repealed to the extent of the inconsistencies only.

CHAPTER 330, SECTION 13, Publication and Effective Date.

This Ordinance shall take in effect immediately upon the adoption and publication of this Ordinance in accordance with law.

NOTICE

TAKE NOTICE the above Ordinance was introduced at a special meeting of the Town Council of the Town of Newton conducted on July 31, 2023 via video conferencing. It was adopted, after final reading and public hearing thereon, at a meeting of the Newton Town Council conducted at 7:00 pm on August 21, 2023 in the Council Chambers at the Newton Municipal Building, 39 Trinity Street, Newton, New Jersey, and shall take effect in accordance with law.



Teresa A. Oswin, RMC
Municipal Clerk