

BOROUGH OF PALMYRA

AN ORDINANCE ESTABLISHING A JUVENILE CURFEW
IN CHAPTER 98 OF THE BOROUGH OF PALMYRA CODE

ORDINANCE NO. 2012-40

Preamble.

Whereas, the governing body of Palmyra further finds and has determined that a curfew meets a very real local need and that curfew ordinances in other communities have been a significant factor in minimizing juvenile delinquency. The regulation of juveniles is an attempt to minimize danger to the juveniles and the community during the danger hours for nocturnal crime and mischief; and

Whereas, parental responsibility for the whereabouts of children is an accepted norm by a substantial majority of the community, and parents and guardians have expressed a desire to have a curfew in order to augment their efforts to supervise and guide their children; and

Whereas, N.J.S.A. 40:48-2.52 provides that a municipality may enact an ordinance making it unlawful for a juvenile of any age under 18 years, within the discretion of the municipality, to be on any public street or in a public right-of-way between the hours of 10:00 p.m. and 6:00 a.m. unless accompanied by the juvenile's 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; and

Whereas, such an ordinance may also make it unlawful for any parent or guardian to allow an accompanied juvenile to be on any public street or in any public right-of-way during those hours; and

Whereas, Betancourt v. Town West New York, 338 N.J. Super. 415 (App. Div. 2001) requires that any such ordinance recognize the right of parents to permit their children to participate in legitimate activities in light of the recognized and fundamental right of parents to raise their children free of interference from the state; and

Whereas, such regulation of juveniles acts to improve the quality of life in the community by eliminating the possibility of nuisance and fosters cooperation and assistance in the control of their children;

1. Curfew established.

It shall be unlawful for a legally unemancipated person under 18 years of age ("juvenile") to be or remain in or upon a public right-of-way (street, alley, sidewalk or public park or any public property) ("public right-of-way") within Palmyra at the following times (the "curfew hours"):

Sunday through Thursday

10:00 p.m. until 6:00 a.m. on the following day

Friday and Saturday

11:00 p.m. until 6:00 a.m. on the following day

Halloween and Mischief Night

9 p.m. until 6:00 a.m. on the following day

Unless accompanied by a parent or guardian except as provided herein.

2. Exceptions.

A. It shall not be considered a violation of this chapter for any person under 18 years of age to be in or remain in or upon a public right-of-way within Palmyra during curfew hours:

- 1) When accompanied by a parent or guardian of such minor;
- 2) When in process of traveling from one destination to another destination, where such destinations are not public rights-of-way within Palmyra, in keeping with permission granted by such juvenile's parent or guardian, for any lawful purpose;
- 3) When traveling to or from a lawful occupation;
- 4) When traveling to or from a private or public school function or function sponsored by any non-profit entity;
- 5) When on a sidewalk immediately in front of juvenile's residence but not otherwise blocking or obstructing the public way; and
- 6) When attending a private or public school function or function sponsored by any nonprofit entity held in a public right-of-way; and

B. Any person under 18 years of age, who continues to be or remains in or upon a public right-of-way within Palmyra within one hour of commencing any travel permitted as an exception in Subsection A(2) through (4) of this subchapter, during curfew hours, or who remains on his sidewalk pursuant to Subsection A(5) of this subchapter for more than one hour during the curfew hours, shall be in violation of Subsection 1 of this chapter.

3. Parental responsibility.

It shall be unlawful for a parent or guardian having legal custody of a juvenile knowingly to permit, or by ineffective control to allow, the juvenile to be or remain upon any public right-of-way under circumstances not constituting an exception to, or otherwise beyond the scope of, the Curfew Ordinance. The term "knowingly" includes knowledge which a parent should reasonably be expected to have concerning the

whereabouts of a juvenile in that parent's legal custody. It is intended to obligate neglectful or careless parents to adhere to a reasonable community standard of parental responsibility through an objective test. It shall, therefore, be no defense that a parent was completely indifferent to the activities or conduct or whereabouts of such juvenile.

4. Detections of violations.

A. In determining the age of the person thought to be a juvenile and in the absence of convincing evidence such as a birth certificate, or government-issued identification, a police officer shall, in the first instance, use his or her best judgment in determining age.

B. A police officer, coming upon a juvenile who appears, in such officer's reasonable judgment, to be in violation of this chapter, shall require such juvenile to continue on their way and leave the public right-of-way. For purposes of this section, a juvenile shall appear to be in violation of this chapter if such juvenile remains idle in essentially one location, or participating in the activity known by the colloquial expression "hanging around."

C. If such juvenile refuses to leave such place, the police officer shall require the juvenile to provide the reason for his being on a public right-of-way or park during curfew hours. If the juvenile refuses to provide such information or move along, or the information provided does not appear to establish that an exception under Subsection 2 above, such shall be prima facie evidence of a violation of this chapter.

D. If a juvenile has provided information to a police officer upon questioning which establishes that an exception under Subsection 2 above, the juvenile shall then be directed to continue on his way and leave such place, unless the juvenile is awaiting another person's arrival with whom to continue a travel permitted pursuant to Subsection 2 above. The officer may inquire as to the identity of such person and the expected time of their arrival. Such juvenile shall, upon the arrival of the awaited traveling companion, immediately continue on his way and leave such place.

E. If a juvenile has been told to continue on his way, and refuses to do so, as provided for in Subsection C or D of this subsection, such juvenile shall then be considered in breach of Subsection 1 of this chapter, regardless of the applicability of any exception in Subsection 2.

Violations and penalties.

A. **Community service.** Any person, juvenile or adult, convicted of a violation of this chapter, shall be required to perform community service as directed by the court. As provided in N.J.S.A. 40:48-2.52, whenever both a juvenile and juvenile's parent or guardian violate the chapter, they shall be required to perform community service together.

B. **Fines.** A juvenile convicted of a violation of the Curfew Ordinance shall be

subject to a fine of \$100 for a first offense, \$200 for a second offense and not less than \$300, nor more than \$1,000, for any third and subsequent offense. Any parent or guardian convicted of a violation, after the warning notice pursuant of a first violation by a juvenile, shall be fined \$100, and for a second offense by a parent or guardian, the fine shall be \$200. For any subsequent offense by a parent, the fine shall be not less than \$300 and not more than \$1,000.

All ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

This Ordinance shall take effect after final adoption and publication according to law.

CERTIFICATION OF CLERK

I, Barbara Sheipe, Clerk of the Borough of Palmyra, County of Burlington, State of New Jersey, do hereby certify the foregoing to be a true and correct copy of an ordinance introduced by the Borough Council held on November 13, 2012. A public hearing and adoption of the foregoing Ordinance to be held on December 3, 2012.



Barbara Sheipe
Borough Clerk