

This Ordinance was introduced on March 6, 2007.
Public Hearing will be April 3, 2007.

**BOROUGH OF WASHINGTON
WARREN COUNTY, NEW JERSEY**

ORDINANCE #3-2007

**AN ORDINANCE ESTABLISHING A CURFEW AND REPEALING
THE LOITERING ORDINANCE**

WHEREAS, the New Jersey Legislature enacted N.J.S. 40:48-2.52, Chapter 132, PL 1992 which authorizes municipalities to adopt Ordinances regulating the presence of minors in public places between the hours of 10:00 p.m. to 6:00 a.m.; and

WHEREAS, the Mayor and the Council of the Borough of Washington concur with the sentiments of the New Jersey Legislature that limiting a juvenile's access to public places during these hours is in the minor's and society's best interests; and

WHEREAS, the Mayor and the Council of the Borough of Washington acknowledge the constitutional rights of juveniles to congregate in public places, but desire to balance that right with the valid concerns of the community in keeping juveniles off the streets and safe from the potential hazards thereon; and

WHEREAS, the Mayor and the Council of the Borough of Washington acknowledge the dangers posed to the community and to juveniles by permitting juveniles unfettered access to public places during evening hours, and wish to afford protection to all its citizens; and

WHEREAS, the Mayor and the Borough of Washington believe that an evening curfew is a proactive and minimally intrusive device for combating violence perpetrated by and against juveniles, and for deterring crime; and

WHEREAS, the Borough wishes to repeal the Loitering Ordinance (Chapter 56 of the Revised Ordinances of the Borough of Washington) at this time;

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Borough of Washington, Warren County, as follows:

SECTION A. Curfew. A curfew is hereby established in the Borough as follows:

1. **Definitions.** The following terms shall have the following meanings:

“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, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

“Extra curricular” means an activity relating to officially or semi officially approved and usually organized student activities (such as school plays, school trips, school club activities, athletics, etc.), connected with school.

“Juvenile” means an individual who is under the age of 18 years.

“Guardian” means a person, other than a parent, to whom legal custody of the juvenile has been given by court order or who is acting in the place of the parent or is responsible for the care and welfare of the juvenile.

“Properly authorized representative” means a parent, guardian or person specifically authorized in writing by a parent or guardian to speak for the juvenile with regard to an alleged violation of this Ordinance. Such person may include, but is not limited to, a doctor, a religious leader, a school administrator or teacher, or the representative of a legitimate organization located within the Borough of Washington.

“Public place” means any place to which the public has access, including but not limited to a public street, road, thoroughfare, sidewalk, bridge, alley, plaza, park, recreation or shopping area, public transportation facility, vehicle used for public transportation, parking lot or any other public building, structure or area.

“Serious Bodily Injury” means any bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

2. **Curfew.** There is hereby imposed a curfew on juveniles in the Borough of Washington as follows:

It is unlawful for juveniles under the age of 18, to be in any public place between the hours of 11:00 p.m. and 5:00 a.m., unless accompanied by a parent or lawful guardian or unless the juvenile is engaged in an activity listed in Section 4.

3. **Parent(s)/Guardian(s) Obligations.** It shall be unlawful for any parent(s), lawful guardian(s) or Properly Authorized Representative(s) to intentionally permit, suffer or allow any juvenile in his or her care to violate this Ordinance.

4. **Exceptions.** Notwithstanding anything to the contrary herein, juveniles who are engaged in the activities listed below shall not be deemed to be in violation of this Ordinance:
- A. engaged in errands involving emergencies;
 - B. attending extra curricular school activities;
 - C. participating in or attending a legitimate evening activity sponsored by the Borough, the Board of Education, or some other legitimate adult supervised organization within the Borough, or other similar entity that takes responsibility for the juvenile, and shall include attendance at church and religious activities and school activities, including classes, dances and sports events, as well as public fireworks displays and other similar events;
 - D. present on the sidewalk or curbside immediately adjacent to or across from his/her own residence;
 - E. engaged in or traveling to or from a business or occupation which the laws of the State of New Jersey authorize a juvenile to perform;
 - F. engaged in lawful, bonafide protests or other constitutionally protected activities; or
 - G. in direct transit to or from such activities, without any detour or stop, listed above during curfew hours.
5. **Police Responsibility.** The Washington Borough Police Department shall have the following responsibilities with respect to the Curfew law:
- A. The police department shall keep a recording (The Log) of any juveniles who have been convicted or pled guilty to a violation of this Ordinance. The Log shall be kept in accordance with the laws pertaining to the confidentiality of information pertaining to juveniles. No less often than every six months the police department shall remove from said Log of persons:
 - I. Those over the age of 18 years;
 - II. If convicted, the juvenile's name will be removed from the Log upon 18th birthday;
 - III. If juvenile's name is in the Log and charges do not result in conviction, his/her name will be removed after six (6) months;
 - IV. If the juvenile's name is on the Log and the juvenile is not charged, his/her name will be removed after six (6) months.
 - B. A police officer who stops a juvenile for violation of this Ordinance, whose name does not appear on the Log, shall not arrest or issue a summons to the juvenile provided that the juvenile voluntarily supplies his/her name, address, telephone number and the name, address and telephone number of his/her parent(s) or legal guardian(s). In such cases, the officer shall follow up with the juvenile's parent(s) or legal guardian(s) about the reasons for the alleged violation. If the juvenile and his/her parent(s) or legal

guardian(s) agree to meet with the juvenile officer of the department, or other designated member of the department, about the juvenile's alleged violation and the risks and hazards to unattended juveniles during curfew hours, no summons shall be issued to the juvenile or his/her parent(s) or legal guardian(s). However, the juvenile's name shall be recorded in the Log. If the parent(s) or legal guardian(s) refuse to meet with the juvenile officer or a member of the police department, then a summons will be issued to the parent(s)/legal guardian(s) for violation of the Ordinance.

- C. Provided that a juvenile supplies his/her name, address, telephone number and the name, address and telephone number of his/her parent(s) or legal guardian(s), no police officer who stops a juvenile for violation of this Ordinance shall issue a summons or arrest said juvenile if the juvenile presents to the officer a reason(s) authorized by this Ordinance to be in a public area until such time as the officer has had the opportunity to investigate the reasons expressed by the juvenile. Any such summons must be issued within thirty (30) days of the initial stop. No police officer shall arrest any juvenile for curfew ordinance violations unless:
- I. there is an immediate and clear risk to the health of the juvenile or any third party; or
 - II. the juvenile has been convicted on two or more occasions for violation of this Ordinance; or
 - III. the juvenile refuses to provide his/her name, address and telephone number and the juvenile's parent(s) or legal guardian(s)' name, address and telephone number or
 - IV. if the juvenile is under 13 years of age.

6. Juvenile's Responsibility if Confronted by a Police Officer Regarding Potential Curfew Violations. Any juvenile confronted by a police officer about whether the juvenile is in violation of this Ordinance shall provide the juvenile's name, address and telephone number and the juvenile's parent(s) or legal guardian(s)' name, address and telephone number. An individual over the age of 18 years shall present proof of his/her age.

7. Juveniles in Automobiles. No police officer of the Borough of Washington shall stop any motor vehicle lawfully upon the streets of the Borough of Washington based solely on a suspicion that a juvenile in the vehicle is in violation of this Ordinance. A juvenile who is in a vehicle operated by a properly licensed operator shall not be considered in violation of this Ordinance regardless of time of day.

8. Violations. Any person found guilty of having violated any portion of Section 2, Section 3, Section 4 or Section 5 of this Ordinance shall perform community

service not to exceed ninety (90) days and/or be subject to a fine of no more than One Thousand (\$1,000.00) Dollars. If parents or guardians, as well as a juvenile, are found guilty of violating this Ordinance, the parents or guardians shall perform community service together with the juvenile.

SECTION B. Chapter 56 of the Code of the Borough of Washington, Loitering, is repealed in its entirety.

SECTION C. In accordance with Chapter 3, Article II, Section 15, Subsection E of the Code of the Borough of Washington, this Ordinance shall become effective twenty (20) days after final passage unless the Council, by an affirmative vote of five (5) Council Members, shall adopt a resolution declaring the Ordinance to be an emergency upon which said Ordinance will take effect upon final passage.

SECTION D. Severability: If any part(s) of this Ordinance are for any reason held to be invalid by a court of competent jurisdiction, such adjudication shall not affect the validity of the remaining portions of this ordinance.

This Ordinance shall take effect upon its adoption and final publication in accordance with law.