

CHAPTER 138: LOITERING

[HISTORY: Adopted by the Borough Council of the Borough of Newport 7-27-1979 by Ord. No. 215 (Ch. 6, Part 4, of the 1985 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Curfew - See Ch. 106.

Disorderly conduct - See Ch. 113.

Noise - See Ch. 145.

§ 138-1. Loitering or prowling prohibited.

It shall be unlawful for any person to loiter or prowl in a place, at a time or in a manner not usual for law-abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity.

- A. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the actor takes flight upon appearance of a police officer, refuses to identify himself or herself, or manifestly endeavors to conceal himself or herself or any object.
- B. As a procedural condition to conviction, if practicable and unless flight by the actor or other circumstances makes it impracticable, a police officer shall, prior to any arrest under this section, afford the actor an opportunity to dispel any alarm which would otherwise be warranted, by requesting said actor to identify himself or herself and explain his or her presence and conduct. Also, no person shall be convicted of an offense under this section if it appears at the hearing that the explanation given by the actor was true and, if believed by the police officer at the time, would have dispelled the alarm.

§ 138-2. Lingering in or about specific facilities.

Under circumstances falling short of rendering such person an implied invitee or licensee, it shall be unlawful for any person to linger in or about, and for a purpose unconnected with lawful activity related to, facilities of a restricted public nature, including a store, shopping center, school, railroad stop or station, the post office, the Borough's municipal or community building, or any place of public worship, or any parking area serving any such facility of a restricted public nature. Such specific places shall be deemed to include, to the fullest extent permitted as reasonable under all the circumstances, any point within 100 feet of such place or facility for the effective dispelling of alarm for safety of persons or property, prevention of

disruption of activities in which such facilities specialize, and minimizing of trespassing or trespassing ab initio.

§ 138-3. Group loitering.

On any public street, including sidewalks thereof (and walls, steps or points immediately adjacent thereto so as to minimize evasion), it shall be unlawful for three or more persons as a group, or as interacting individuals or groups, to linger for more than 10 minutes under circumstances that warrant alarm for the safety of persons or property in the vicinity.

- A. A police officer, acting reasonably and objectively, may warn such persons to disperse.
- B. If reasonably necessary to dispel any alarm which would otherwise be warranted, a police officer may clear the area of such persons, causing those who refuse or fail to leave to be taken to the police station. At the police station, the ranking officer on duty shall ascertain relevant facts, under constitutional safeguards, and assume centralized responsibility for accurate, effective, fair, impartial and uniform enforcement. Such persons may thereupon be permitted to return or be escorted, to their respective homes if such action is consonant with dispelled alarm for the safety of persons or property in the area affected. Said ranking officer on duty shall, within 24 hours, file a written report.[Amended 1-8-2013 by Ord. No. 348]
- C. As a last resort for effective crowd control, after consultation with the Mayor, if same be practicable, proceedings maybe instituted before a Magisterial District Judge under this § 138-3.

§ 138-4. Arrests.

Any police officer shall be and is hereby authorized to arrest on view and without warrant any person violating any of the sections hereof.

§ 138-5. Violations and penalties.

[Amended 4-9-1985 by Ord. No. 238; 1-8-2013 by Ord. No. 348] Any person, firm or corporation who shall violate any provision of this chapter shall, upon conviction thereof, be sentenced to pay a fine of not more than \$600; and/or to imprisonment for a term not to exceed 30 days. Editor's Note: Original Section 406, Construction and advisory opinions, which followed this section, was repealed 1-8-2013 by Ord. No. 348.

§ 138-6. Parent and guardian responsibilities.

[Added 2-15-1994 by Ord. No. 279]

- A. It shall be unlawful for a parent or guardian having legal custody of a minor knowingly to permit, or by inefficient control to allow, such minor to be or remain in an area or under facts which would violate §§ 138-1, 138-2 and 138-3, or otherwise of the Loitering Ordinance. The term “knowingly” includes knowledge which a parent should reasonably be expected to have concerning the whereabouts of a minor in that parent’s legal custody. It is intended to continue to keep neglectful or careless parents up to a reasonable standard of parental responsibility through an objective test. It shall, a fortiori, be no defense that a parent was completely indifferent to the activities or conduct or whereabouts of such minor.
- B. In the case of a first violation by a minor, the police officer or other Borough agent or official shall, by certified mail, send to a parent written notice of said violation with a warning that any subsequent violation will result in full enforcement of the loitering ordinance, including enforcement of parental responsibility and of applicable penalties. The sending of the notice shall be deemed notice; receipt thereof need not be established.
- C. Except as otherwise provided below, any person, firm or corporation who shall violate any provision of this chapter, including any parent who is culpable hereunder, shall, upon conviction thereof, be sentenced to pay a fine of not more than \$600; and/or to imprisonment for a term not to exceed 30 days.[Amended 1-8-2013 by Ord. No. 348]
- D. If, after the warning notice pursuant to Subsection B above of a first violation by a minor, a parent violates subsection A above (in connection with a second violation by said minor), this shall be treated as a first offense by the parent. For such a parental offense, a parent shall be fined up to \$600. The Magisterial District Judge, upon finding a parent guilty, shall sentence the parent to pay such fine and the costs of prosecution, and upon refusal to pay such fine and costs, to be imprisonment in the jail of Perry County for a period not exceeding 30 days.[Amended 1-8-2013 by Ord. No. 348]
- E. Any minor who shall violate any of the provisions of this part more than three times shall be reported by the Mayor or police to a society or organization whose purpose it is to take charge of incorrigibles and delinquents and proceedings shall then be taken under the Juvenile Act, 42 Pa.C.S.A. § 6301 et seq., before the Juvenile Court for the treatment, supervision and rehabilitation of such minor.[Amended 1-8-2013 by Ord. No. 348]
- F. A like procedure before the juvenile authorities shall be followed in any case where the imposing of a fine or fines upon a parent shall not be effective, or where for any other reason the provisions of this chapter cannot be made effective by the imposition of penalties under Subsections D, E and F, hereof.

