

**OFFICIAL
BOROUGH OF FRANKLIN PARK
ORDINANCE NO. 686-2024**

**AN ORDINANCE OF THE BOROUGH OF FRANKLIN PARK,
ALLEGHENY COUNTY, PENNSYLVANIA, AMENDING
CHAPTER 56 IN THE CODE OF THE BOROUGH OF FRANKLIN
PARK, "POLICE DEPARTMENT," TO ADDRESS THE RIGHT OF
BOROUGH POLICE OFFICERS TO MAKE WARRANTLESS
ARRESTS FOR SUMMARY OFFENSES AND RESTATE THE
GUIDELINES AND PROCEDURES APPLICABLE TO ARRESTS
MADE BY THE BOROUGH POLICE OFFICERS FOR SUMMARY
OFFENSES.**

WHEREAS, Section 1121(b) of the Borough Code, 8 Pa.C.S. § 1121(b), grants the Borough of Franklin Park ("Borough") police officers the powers and abilities as are granted to police officers under the laws of the Commonwealth, the rule of the Supreme Court, and the ordinances of the Borough for which a fine or penalty is imposed; and

WHEREAS, 42 Pa.C.S. § 8902(a) grants the Borough police officers the right to arrest without a warrant upon probable cause when there is ongoing conduct that imperils the personal security of any person or endangers public or private property; and

WHEREAS, 42 Pa.C.S. § 8902(b) requires the Borough Council to promulgate guidelines to be followed by a police officer when making a warrantless arrest; and

WHEREAS, the Borough Council desires to amend Chapter 56 of the Code of the Borough of Franklin Park, "Police Department," to restate the guidelines and procedures regarding the rights of police officers in making arrests for certain harmful conduct without a warrant.

NOW, THEREFORE, be it ordained and enacted by the Borough Council of the Borough of Franklin Park, and it is hereby ordained and enacted by and with the authority of the same, incorporating the above recitals by reference:

SECTION 1. That Chapter 56 is the Code of the Borough of Franklin Park, "Police Department," is amended by adding a new Section 56-5, "Warrantless arrest," and a new Section 56-6, "Guidelines and procedures for warrantless arrest" as follows:

§ 56-5 Warrantless arrest.

- A. In addition to any other laws of the Commonwealth that permit a warrantless arrest, and are authorized under 42 Pa.C.S.A. § 8902, a police officer shall have the right to arrest a defendant without a warrant when there is probable cause to support the commission of one or more of the following enumerated summary offenses, the defendant's conduct is ongoing and within the view of the police officer, and the defendant's ongoing conduct imperils the personal security of any person or endangers public or private property:

- (1) 18 Pa.C.S. § 5503, Disorderly Conduct.

(2) 18 Pa.C.S. § 5505, Public Drunkenness and Similar Misconduct.

(3) 18 Pa.C.S. § 5507, Obstructing Highways and Other Public Passages.

(4) 18 Pa.C.S. § 6308, Purchase, Consumption, Possession or Transportation of Liquor Malt or Brewed Beverages.

B. For purposes of this Section, the term "arrest" means a "formal arrest" or "custodial detention," and does not include an "investigative detention," as such terms are defined under the laws of this Commonwealth.

§ 56-6 Guidelines and procedures for warrantless arrest.

A. In determining whether to arrest a defendant without a warrant for an offense set forth in § 56-5, a police officer should consider the following factors:

(1) The condition of the defendant;

(2) The circumstances surrounding the incident;

(3) The likelihood that the conduct will persist if the defendant is not placed under arrest;

(4) The likelihood that, if the conduct persists, it will endanger the defendant or any other person;

(5) The likelihood that, if the conduct persists, it may result in damage to public or private property; and

(6) The likelihood or danger that the defendant will flee.

B. When a defendant has been arrested without a warrant for an offense set forth in § 56-5, the police officer shall either release the defendant from custody or take the defendant before the proper issuing authority, as set forth in Pa. R. Crim. P. 441(A)-(C).

(1) Release from Custody. When a police officer has arrested a defendant without a warrant, the officer shall promptly release the defendant when the defendant poses no threat of immediate physical harm to another person or to himself or herself and the police officer has reasonable grounds to believe that the defendant will appear as required.

(a) At the time a defendant is released from custody, a citation shall be issued to the defendant, and the case shall proceed in accordance with the Pennsylvania Rules of Criminal Procedure, specifically Pa. R. Crim. P. 403 - 409, setting forth "Procedures when Citation is Issued to Defendant."

(2) Transport to Issuing Authority. When a defendant has not been released from custody, the defendant shall be taken without unnecessary delay before the issuing authority and the police officer shall file the citation against the defendant, which will follow the procedure set forth in Pa. R. Crim. P. 441(C).

C. In accordance with 42 Pa.C.S. § 6326, when a defendant under 18 years of age is arrested without a warrant for an offense set forth in § 56-5, the police officer shall notify the defendant's parent, guardian or other custodian of the minor's arrest and whereabouts.

(1) When a defendant under 18 years of age is arrested without a warrant for an offense set forth in § 56-5, and poses no threat of immediate physical harm to himself or herself and there are no reasonable grounds to believe that the defendant will fail to appear as required:

(a) A police officer, following processing and issuance of a citation, shall promptly release the defendant to the defendant's parent, guardian, or other custodian.

(b) Should a defendant's parent, guardian, or other custodian fail to respond or refuse to accept custody of the defendant, the police officer shall contact the Allegheny County Juvenile Probation Department to arrange shelter for the defendant.

SECTION 2. That any other ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3. All ordinances or parts of ordinances pertaining to the subjects covered by this ordinance shall remain in full force and effect, except to the extent which they are inconsistent herewith in which case this ordinance shall control. The provisions of this ordinance shall not affect any suit or prosecution pending or to be instituted to enforce any of the prior ordinances.

SECTION 4. That if any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The Borough Council hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

SECTION 5. That this Ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect in accordance with applicable law.

ORDAINED and **ENACTED** this 21st day of August, 2024, by the Council of the Borough of Franklin Park in lawful session duly assembled.

ATTEST:

BOROUGH OF FRANKLIN PARK

Cathy L. Gummert
Secretary

By: [Signature]
Council President

Approved by me this 21st day of August, 2024

[Signature]
Mayor