

CITY OF NORTH WILDWOOD COUNTY OF CAPE MAY, NEW JERSEY

ORDINANCE NO. 1933

AN ORDINANCE AMENDING AND SUPPLEMENTING THE CODE OF THE CITY OF NORTH WILDWOOD REGARDING CURFEWS FOR JUVENILES UNDER 18 YEARS OF AGE IN ORDER TO UPDATE SAID CODE TO BE IN ACCORDANCE WITH CURRENT STATE STATUTES

WHEREAS, the Council of the City of North Wildwood continues to review and update its ordinances; and

WHEREAS, the City has an interest in ensuring that all public areas are safe for citizens and visitors; and

WHEREAS, the City has an interest in reducing juvenile violence and crime; and

WHEREAS, the City has an interest in strengthening parental responsibility for children; and

WHEREAS, the City has an interest to promote the safety and well-being of the City's youngest citizens, persons under eighteen (18) years of age, whose inexperience renders them particularly vulnerable to becoming participants in unlawful activities, particularly unlawful drug activities, and to being victimized by older perpetrators of crime; and

WHEREAS, P.L. 1992, Chapter 132 (N.J.S.A. 40:48-2.52 et seq.) authorizes and empowers a municipality to 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 place 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 from, a business or activity which the laws of this State authorize a juvenile to perform and making it unlawful for any parent or guardian to allow an unaccompanied juvenile to be on any public street or in any public place during those hours; and

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

WHEREAS, the threat of ongoing congregation of youth and others that could turn violent mandates the adoption of this prohibition; and

WHEREAS, the imposition of a limited curfew of juvenile's does not violate the parent's ability to direct their children; and

WHEREAS, the limited exceptions provided are specific to limit the abundance of police officer discretion.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of North Wildwood, County of Cape May and State of New Jersey as follows:

Section One. The Code of the City of North Wildwood is hereby amended and supplemented by a new chapter, to be codified in Chapter 208 and which shall be titled "Curfew For Juveniles Under 18 Years Of Age."

Section Two. Chapter 208 of the Code of the City of North Wildwood, previously designated as "Reserved," shall henceforth read as follows:

CHAPTER 208

CURFEW FOR JUVENILES UNDER 18 YEARS OF AGE

§208-1. Curfew Established; Hours.

A. A curfew shall be and hereby is established in accordance with the schedule below for those juveniles of any age under 18 years of age:

1. From May 15 to September 15, curfew shall be 10:00 p.m. until 6:00 a.m. of the following day on any Monday through Sunday.
2. From September 16 to May 14, curfew shall be 11:00 p.m. until 6:00 a.m. on any Monday through Sunday.
3. Beginning 72 hours prior to Halloween and on Halloween night, curfew shall be 10:00 p.m. until 6:00 a.m. of the following day.

§ 208-2. Definitions.

EMERGENCY refers to unforeseen combination of circumstances, or the status or condition resulting therefrom, requiring immediate action to safeguard life, limb or property. The term includes, but is not limited to, fires, natural disasters, automobile accidents, or other similar circumstances that require immediate action to prevent serious bodily injury or loss of life.

SERIOUS BODILY INJURY refers to 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.

ESTABLISHMENT refers to any privately-owned place of business within the City operated for a profit, to which the public is invited, including, but not limited to any place of amusement or entertainment. With respect to such Establishment, the term "Operator" shall mean any person, and any firm, association, partnership (and the members or partners thereof) and/or any corporation (and the officers thereof) conducting or managing that Establishment.

JUVENILE refers to any person under eighteen (18) years of age who has not been emancipated in compliance with all New Jersey State regulations and procedures.

LAW ENFORCEMENT OFFICER refers to a police or other law enforcement officer charged with the duty of enforcing the laws of the State of New Jersey and/or the ordinances of the City of North Wildwood.

PUBLIC PLACE refers to any place to which the public or a substantial group of the public has access, including, but not limited to: streets, highways, roads, sidewalks, alleys, avenues, parks, and/or the common areas of schools, hospitals, apartment houses, office buildings, transportation facilities and shops.

REMAIN refers to the following actions:

- A. to linger or stay at or upon a place; and/or
- B. to fail to leave a place when requested to do so by a law enforcement officer or by the owner, operator or other person in control of that place.

PARENT refers to a biological parent(s), adoptive parent(s), or step-parent(s) of the juvenile (including either parent, if custody is shared under a court order or agreement)

LEGAL GUARDIAN refers to:

- A. any person, other than a parent or caretaker, who, under court order, is the guardian to whom legal custody of the juvenile has been given by court order; or
- B. a public or private agency with whom a juvenile has been placed by a court.

CARETAKER refers to an adult at least 18 years of age who is authorized by the juvenile's parent to be temporarily responsible for the parental care, custody, authority, safety, and any other parental responsibilities required to supervise the juvenile such as but not limited to baby-sitters.

PERSON refers to an individual, not to any association, corporation, or any other legal entity.

TEMPORARY CARE FACILITY refers to a non-locked, non-restrictive shelter located at the City of North Wildwood Police district headquarters or substation, or other detainment area designated by the City of North Wildwood Police Department which juveniles shall wait, under visual supervision, to be retrieved by a parent, legal guardian, or caretaker. No juveniles

waiting in such facility shall be handcuffed and/or secured (by handcuffs or otherwise) to any stationary object.

MOTOR-VEHICLE refers to:

- A. A wheeled conveyance that does not run on rails and is self-propelled, esp. one powered by an internal-combustion engine, a battery or fuel-cell, or a combination of these; and/or
- B. An instrument of transportation or conveyance. 2. Any conveyance used in transporting passengers or things by land, water, or air.

§ 208-3. Offenses.

- A. It shall be unlawful for juveniles during the curfew hours to remain in or upon any Public Place within the City of North Wildwood, 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 City.
- B. A parent, legal guardian, 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 City of North Wildwood, 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 City during curfew hours.
- C. It shall be unlawful for a person who is the owner or driver of any motor vehicle to knowingly permit, allow or encourage a violation of this ordinance.
- D. It shall be unlawful for the Operator 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 the Establishment during curfew hours.
- E. It shall be unlawful for any person, including any juvenile, to give a false name, address, or telephone number to any officer investigating a possible violation of this section

§ 208-4. Defenses.

It shall be unlawful for juveniles during the curfew hours to remain in or upon any Public Place within the City of North Wildwood, 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 City, unless:

- A. The juvenile is accompanied by a parent, legal guardian, or caretaker; or
- B. The juvenile may remain out past curfew on a sidewalk and/or another property such as but not limited to a next-door neighbor directly abutting or adjacent a place where the juvenile resides with a parent, legal guardian, or caretaker until the property owner or a member of the general public complains of the juvenile's presence during curfew hours to the local law enforcement department; or
- C. The juvenile may attend any recreational activities supervised by adults and sponsored by, held, or located at schools, religious organizations, any recreational activity sponsored by the City of North Wildwood, or attend any other organizational function in the City of North Wildwood so long as the organizational function assumes responsibility for the juvenile's care, safety, and well-being through providing adult supervision of the juvenile. The juvenile may travel unsupervised to and from these specified activities without detour during curfew hours; or
- D. The juvenile is on an errand at the direction of the juvenile's parent, legal guardian, or adult temporarily responsible for the parental care, authority, and safety of said juvenile, without any detour or stop; or

- E. The juvenile is involved in interstate travel in any means of transportation through, either beginning, throughout, or terminating, in the City of North Wildwood; or
- F. The juvenile is engaged in an employment activity or is going to or returning to their place of stay from such employment activity, without detour or stop; or
- G. All travel necessary for the juvenile to attend employment and then to return back to their place of stay without detour; or
- H. The juvenile is involved in an emergency; or
- I. It is a defense to prosecution under Subsection § 3-8.3. "Offenses" of this ordinance that the owner, operator, or employee of an establishment or driver of a motor vehicle promptly notified the City of North Wildwood Police Department that a juvenile was present on the premises of the establishment or in the motor vehicle during curfew hours and the juvenile refused to leave; or
- J. The juvenile is exercising First Amendment rights protected by the United States Constitution, such as but not limited to the free exercise of religion, freedom of speech, and the right of assembly in which the juvenile or the juvenile's parent, legal guardian, or caretaker must notify the City of North Wildwood Police Department at least twenty-four (24) hours in advance in order for the City of North Wildwood to comply with all New Jersey State regulations such as but not limited to directives, executive orders, and enacted legislative acts.

§ 208-5. Penalty.

- A. Any juvenile violating this section shall be provided at least two (2) curbside warnings by a law enforcement officer and an opportunity for the juvenile to leave the Public Place within the City of North Wildwood, the motor vehicle operating or parked therein or thereon, and/or in or upon the premises of any establishment within the City before the law enforcement officer issues a stationhouse adjustment to the juvenile.
- B. After the second curbside warning, or if the juvenile refuses to leave after a curbside warning, the juvenile shall be subject to having a stationhouse adjustment and the juvenile's parent, legal guardian, or caretaker called to develop an appropriate resolution.
- C. No summons or juvenile delinquency charge shall be issued to a juvenile violating the provisions of this ordinance.
- D. Any parent, legal guardian, or caretaker violating this section shall, upon conviction in the Municipal Court of the City, be liable for a penalty according to the following scheme:
 - 1. For the first offense, a fine of not less than \$250.00 not more than \$500.00.
 - 2. For a second offense occurring within one (1) year of a prior violation, a fine of not less than \$500.00 nor more than \$1,000.00.
 - 3. For a third or subsequent offense occurring within one (1) year of two (2) or more violations, a fine of not less than \$1,000.00 nor more than \$1,500.00.
 - 4. Any adult who violates a provision of this subchapter is guilty of a separate offense for each day, or part of a day, during which the violation is committed, continued, or permitted.

§ 208-6. Enforcement.

- A. The law enforcement officer shall not issue a curbside warning to juvenile or issuance of a summons to appear in the Municipal Court of the City to a parent, legal guardian, or caretaker under this section unless the law enforcement officer reasonably believes that an offense has occurred and that, based on any response

and other circumstances, no defense in Subsection §208-4 “Defenses” of this ordinance is present.

B. Before taking any enforcement action hereunder, the law enforcement officer shall make an immediate investigation to establish such reasonable belief exists that an offense has occurred and no defenses in Subsection §208-4 “Defenses” of this ordinance is presented or proffered for the purpose of ascertaining whether or not the presence of a juvenile in a Public Place, motor vehicle and/or Establishment within the City during the Curfew hours violates this section:

1. if such investigation reveals that the presence of said juvenile is in violation of this section then:

a. the law enforcement officer shall ask the apparent juvenile offender’s age and reason for being out in the Public Place within the City of North Wildwood, in any motor vehicle operating or parked therein or thereon, and/or in or upon the premises of any establishment within the City; and

b. the law enforcement officer issues a curbside warning and shall ask the juvenile to leave the Public Place within the City of North Wildwood, any motor vehicle operating or parked therein or thereon, and/or in or upon the premises of any establishment within the City, unless the juvenile continues to remain;

c. if the juvenile has not previously been issued a first or second curbside warning for any such curfew violation, then the officer shall issue a first or second curbside warning to the juvenile; or

d. if the juvenile has previously been issued at least a second curbside warning for any such curfew violation in Subsection §208-5 “Penalty” of this ordinance or if the juvenile continues to remain in the Public Place within the City of North Wildwood, any motor vehicle operating or parked therein or thereon, and/or in or upon the premises of any establishment within the City, the officer is empowered to engage in a stationhouse adjustment where the officer shall have the juvenile’s parent, legal guardian, or caretaker called to develop an appropriate resolution. In such case the juvenile’s continuing to remain in the Public Place within the City of North Wildwood, any motor vehicle operating or parked therein or thereon, and/or in or upon the premises of any establishment within the City constitutes a breach of the peace.

e. As called for in section (iv) above, if a juvenile refuses to give a law enforcement officer his or her name and address, refuses to give the name and address of his or her parent(s), legal guardian(s), or caretaker(s), or if no parent, legal guardian, or caretaker can be located prior to the end of the applicable curfew hours, or if located, no parent, legal guardian, or caretaker appears to accept custody of the juvenile, the law enforcement officer shall be empowered to provide a stationhouse adjustment to the juvenile who shall be taken to a Temporary Care Facility as defined in Subsection §208-2 “Definitions” of this ordinance for a period not to exceed the remainder of the curfew hours to be dealt with in the manner and pursuant to such procedures as required by law so that the juvenile’s parent, legal guardian, or caretaker may retrieve the juvenile. In such case the juvenile’s conduct constitutes a breach of the peace.

2. If such investigation reveals that such juvenile’s parent, legal guardian, or caretaker is in violation of this section pursuant to Subsection §208-3 “Offenses” of this ordinance:

a. A law enforcement officer shall be empowered to issue a summons to such juvenile’s parent, legal guardian, or caretaker where the juvenile’s parent, legal guardian, or caretaker shall appear in front of the Municipal Court of the City of North Wildwood.

Section Three. If any portion of this Ordinance is determined to be invalid by a court of competent jurisdiction, that determination shall have no effect upon the remainder of this Ordinance, which shall remain valid and operable.

Section Four. All Ordinances or parts of Ordinances inconsistent with this Ordinance, to the extent of such inconsistencies only, be and the same hereby are repealed.

Section Five. This Ordinance shall take effect immediately upon final passage and publication as provided by law.

Patrick T. Rosenello, Mayor

W. Scott Jett, City Clerk

Introduced: April 2, 2024
Advertised: April 10, 2024
Public Hearing/Final: May 7, 2024
Advertised: May 15, 2024