

**TOWNSHIP OF MANSFIELD
COUNTY OF BURLINGTON
ORDINANCE 2008-2**

**AN ORDINANCE TO AMEND THE CODE OF
THE TOWNSHIP OF MANSFIELD BY DELETING AND
REPEALING CHAPTER 28 THEREOF “LOITERING” AND
REPLACING IT WITH A NEW CHAPTER 28, TO BE ENTITLED
LOITERING/CURFEW**

Be it enacted by the Mansfield Township Committee as follows:

Section 1.

The Code of the Township of Mansfield is hereby amended by deleting and repealing Chapter 28, Loitering

Section 2.

The Code of the Township of Mansfield is hereby amended by adding thereto a new chapter, to replace Chapter 28 hereinabove repealed, to be Chapter 28 Loitering/Curfew, to read as follows:

Chapter 28

LOITERING/CURFEW

- §28-1 Definitions.**
- §28-2 Certain types prohibited**
- §28-3 Discretion of Police Officers**
- §28- 4 Hours**
- §28- 5 Exceptions**
- §28-6 Parental responsibility**
- §28-7 Enforcement procedures**
- §28-8 Violations and penalties**
- §28-9 When Effective**

§16-1 Definitions.

For the purpose of this ordinance, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this Chapter clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number, the word “shall” is always mandatory and not merely directory.

LOITERING – Remaining idle in essentially one location, whether on foot or in or upon a parked automobile or other vehicle and shall include the concepts of spending time idly, loafing or walking about aimlessly.

PUBLIC PLACE – Any and all places in which members of the public are admitted or may freely traverse; and the proscriptions set forth herein shall be deemed to apply, without limitation, to any street, sidewalk, corner or intersection, park or other public place, any public gathering or assembly or in front of, in or around any store, shop or business or commercial establishment common areas of schools, shopping centers, parking lots, playgrounds, transportation facilities, theaters, restaurants, shops, bowling alleys, cafes, arcades, and similar areas that are open to the use of the public or upon any private property or place.

EMERGENCY — An unforeseen combination of circumstances, or the resulting state, that calls for immediate action. The term includes, but is not limited to, a fire, natural disaster or automobile accident or any situation requiring immediate action to prevent serious bodily injury or loss of life.

JUVENILE or MINOR — Any un-emancipated person under the age of 18.

PARENT — Any person having legal custody of a juvenile as a natural or adoptive parent, as a legal guardian, or as a person to whom legal custody has been given by court order.

REMAIN — To stay behind, to tarry and to stay unnecessarily in a public place in which any juvenile involved would not be using the streets for ordinary or serious purposes, such as mere passage or going home, or to fail to leave the premises of an establishment when requested to do so by a police officer or the operator of an establishment. To implement this provision with additional precision and precaution, numerous exceptions are expressly defined in this chapter.

TOWNSHIP — The Township of Mansfield, County of Burlington, New Jersey.

Section 28.2 – Certain Types Prohibited.

No person shall loiter in a public place in such manner as to:

- A. Create or clearly cause to be created an immediate, actual, physical violent reaction from any person, which violent reaction will cause a threat to the peace and order of the public.
- B. Create or cause to be created any disturbance or annoyance to be comfort and repose of any person to react immediately in such a way as to threaten by physical violence the peace and order of the public.
- C. Obstruct the free passage of pedestrians or vehicles.
- D. Obstruct, molest or interfere with any person lawfully in any public place as defined herein.

Section 28.3 – Discretion of Police Officer.

When any police officer shall, in the exercise of reasonable judgment, decide that the presence of any person in any public place is causing or is likely to cause any of the conditions enumerated in Section 28-2 herein, he may, if he deems it necessary for the preservation of the public peace and safety, order that person to leave that place.

Section 28.4 – Hours.

It shall be unlawful for any person under 18 years of age to be or remain in or upon a public place within the Township of Mansfield during the period ending at 6:00 am and beginning:

- A. At 8:30 pm prevailing time on October 28, 29, and 30 (commonly known as “Mischief Night”)
- B. At 9:00 pm prevailing time, on October 31 (commonly known as “Halloween”)

Section 28.5 – Exceptions.

The following shall constitute valid exceptions to the operation of this chapter:

- A. When a juvenile is accompanied by a parent of such juvenile or by an adult authorized by a parent of such juvenile to take said parent's place in accompanying said juvenile for a designated period of time and purpose within a specified area.
- B. When the juvenile is on an errand involving a medical emergency as directed by a parent of such juvenile.
- C. When a juvenile is exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right of assembly, by carrying upon his or her person a writing signed by the juvenile and countersigned by a parent of the juvenile with their home address and telephone number, specifying when, where and in what manner the juvenile will be in a public place during hours when this chapter is applicable to said minor in the exercise of the First Amendment right specified in such writing.
- D. When a juvenile is on the sidewalk or property where the juvenile resides or on either side of or across the street from the place where the juvenile resides and the adult owner or resident of that property has given permission for the juvenile to be there.
- E. When a juvenile is returning home by a direct route (without any unnecessary detour or stop) from and within one hour of the termination of a school activity or

an activity of a cultural, educational or social event sponsored by a religious or community-based organization.

- F. When the juvenile is legally employed and is traveling to or returning home from, by a direct route, the juvenile's place of employment.
- G. When the juvenile is, with parental consent, engaged in normal interstate travel through the Township or originating or terminating in the Township.

Section 28.6 - . Parental Responsibility.

It shall be unlawful for a parent having legal custody of a juvenile knowingly to permit or by inefficient control to allow the juvenile to remain in any township public place under circumstances not constituting an exception to or otherwise beyond the scope of this chapter. The term "knowingly" includes knowledge that a parent should reasonably be expected to have concerning the whereabouts of a juvenile in that parent's legal custody. This requirement is intended to hold a neglectful or careless parent up 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.

Section 28.7 - . Enforcement Procedures.

- A. If a police officer reasonably believes that a juvenile is on the streets or public place in violation of this chapter, the officer shall notify the juvenile that (s)he is in violation of these provisions and shall require the juvenile to provide his/her name, address and telephone number and information on how to contact his/her parents or guardians. The juvenile shall then be taken to police headquarters where a parent or guardian shall immediately be notified to come for the juvenile. A complete record of the circumstances under which the juvenile was first seen or discovered in the apparent violation of this chapter shall be made. Such record shall include the name and address of the juvenile, the names and addresses of all persons who have any legal or moral obligation for the juvenile's well-being and the nature of such obligation, as, for example, parent, guardian or custodian.
- B. When a parent or guardian has come to take charge of the juvenile and the appropriate information has been recorded, the juvenile shall then be released to the custody of such parent.
- C. If the parent cannot be located or fails to take charge of the juvenile, then the juvenile shall be released in accordance with police regulations which provide that the juvenile may temporarily be entrusted to an adult relative, neighbor or other person who will, on behalf of a parent or guardian, assume the responsibility of caring for the juvenile pending the availability or arrival of a parent or guardian.

Section 28.8 - . Violations and penalties.

- A. In the case of a first violation by a juvenile, the Director of Public Safety shall cause a written notice of the violation, with a warning that any subsequent violation will result in full enforcement of this chapter, including enforcement of parental responsibility and of applicable penalties, to be served upon the juvenile's parent or legal guardian, either by personal service or by certified mail. If, after the warning notice of a first violation by the juvenile, a parent violates § 28.6 in connection with a second violation by the juvenile, this shall be treated as a first offense by the parent.

- B. Any juvenile who violates any provision of this chapter a second time shall be issued a summons for violation of the requisite chapter and shall be required to appear before a court of competent jurisdiction to answer the allegation. Any juvenile who violates any provision of this chapter a third or subsequent time shall be cited as set forth in the previous sentence and, in addition, the juvenile's parent or guardian shall also be issued a summons for the same violation and required to appear before a court of competent jurisdiction to answer the allegation.

- C. Any person who violates this chapter shall, upon conviction thereof in a proceeding before a court of competent jurisdiction, be required to perform community service and may be subject to a fine of up to \$200. If both a juvenile and the juvenile's parent or guardian violates this chapter, they shall be required to perform community service together.

Section 28.9-. When Effective.

This Chapter shall take effect upon its final passage and publication, according to law.

Introduced: January 9, 2008
Adopted: January 23, 2008