



# Town of Newton

*Council-Manager Plan Since 1956*

Eileen Kithcart  
Office of the Town Manager

ekithcart@tellurian.net  
www.newtontownhall.com

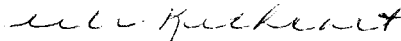
June 11, 2008

Mr. John Paff  
NJ Libertarian Party  
P.O. Box 5424  
Somerset, NJ 08875-5424

Dear Mr. Paff,

In response to your email of May 14, 2008, please be advise the that the Newton Town Council adopted Ordinance 2008-10 at their meeting on June 9, 2008. This ordinance repeals Section 5-2 of the Town of Newton's Revised General Ordinances relating to loitering. I have enclosed a copy for your files.

Sincerely,

  
Eileen Kithcart  
Newton Town Manager

**TOWN OF NEWTON  
ORDINANCE NO. 2008 – 10**

**ORDINANCE REPEALING CHAPTER 5, SECTION 2, "LOITERING" OF THE REVISED  
GENERAL ORDINANCES OF THE TOWN OF NEWTON**

**WHEREAS**, Chapter 5 Section 2, of the Revised General Ordinances of the Town of Newton entitled "Loitering" prohibits certain activities commonly referred to as "loitering." and;

**WHEREAS**, Loitering ordinances, like the ordinance contained in Chapter 5, Section 2 of the Revised General Ordinances of the Town of Newton, were declared invalid by the New Jersey Supreme Court in State v. Crawley, 90 N.J. 241 (1982) and;

**WHEREAS**, The Court invalidated municipal loitering ordinances based on the fact that the New Jersey Code of Criminal Justice had contained a prohibition on loitering which was repealed by the State Legislature; and

**WHEREAS**, This ordinance has not been enforced and was rendered irrelevant by the Court decision.

**NOW, THEREFORE, BE IT ORDAINED** by the Town Council of the Town of Newton, County of Sussex and State of New Jersey, as follows:

**Section 1.** Chapter 5, Section 2 of the Revised General Ordinance of the Town of Newton, entitled "Loitering" shall be and is hereby repealed in its entirety.

**Section 2.** If any section or provision of this Ordinance shall be held invalid in any Court of competent jurisdiction, the same shall not affect the other sections or provisions of this Ordinance, except so far as the section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

**Section 3.** All Ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed to the extent of such inconsistency.

**Section 4.** This Ordinance shall take effect immediately after final passage and publication in the manner provided by law.

**TAKE NOTICE** that the above entitled Ordinance was introduced at a regular meeting of the Town Council of the Town of Newton held on May 28, 2008. It was adopted, after public hearing and final reading thereon, at a regular meeting of said Governing Body to be conducted on June 9, 2008, and shall take effect according to law.

  
for Lorraine A. Read, RMC  
Newton Municipal Clerk

**5-1.3 Sweeping Litter into Gutters Prohibited.**

No person, including merchants owning or occupying a place of business, shall sweep into or deposit in any gutter, street or other public place within the Town the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter.

**5-1.4 Litter Thrown by Persons in Vehicles.**

No person while a driver or passenger in a vehicle shall throw or deposit litter upon any street or other public place within the Town or upon private property.

**5-1.5 Truck Loads Causing Litter.**

No person shall drive or move any truck or other vehicle within the Town unless such vehicle is so constructed or loaded as to prevent its load, contents or litter from being blown or deposited upon any street, alley or other public place; nor shall any person drive or move any vehicle or truck within the Town, the wheels or tires of which carry onto or deposit in any street, alley or other public place, mud, dirt, sticky substances, litter or foreign matter of any kind.

**5-1.6 Transportation from Outside Town.**

No person shall bring, cart, remove, transport or collect any litter from outside or into the Town for the purpose of dumping or depositing thereof, without the express consent of the town council. No truck or other vehicle containing litter which has been transported into the Town shall be parked or allowed to remain standing on any street in the Town or on any public property for a period in excess of two hours.

**5-1.7 Handbills.**

No person shall cast or place or cause to be cast or placed any advertisement, handbill, circular or paper on any public streets, on sidewalks, into any vestibules or yards, upon porches of any dwelling house or other buildings, or into any vehicle while on the public highways or on private property within the Town, except that this section shall not apply to newspapers and addressed envelopes delivered to subscribers and addresses. Advertisements, handbills, circulars and papers may be distributed in the Town, provided that they are securely placed at each dwelling so as not to be blown

away by the wind.

**5-2 Loitering.**

Subsections:

- 5-2.1 Definitions.
- 5-2.2 Certain Types of Loitering Prohibited.
- 5-2.3 Discretion of Police Officer.
- 5-2.4 Loitering by Minors.
- 5-2.5 Notice of Violation.
- 5-2.6 Presumption.

**5-2.1 Definitions.**

As used in this section:

a. "Loitering" shall mean remaining idle in essentially one location and shall include the concepts of spending time idly, loafing or walking about aimlessly, and shall also include the colloquial expression "hanging around".

b. "Public place" shall mean any place to which the public has access and shall include any street, highway, road, alley, boardwalk or sidewalk. It shall also include the front or the neighborhood of any store, shop, restaurant, tavern or other place of business; public grounds, areas, parks and marinas; and parking lots or other vacant private property not owned by or under the control of the person charged with violating this section or, in the case of a minor, not owned or under the control of his parent or guardian.

c. "Parent" or "guardian" shall mean and include any adult person having care or custody of a minor, whether by reason of blood relationship, or order of any court or otherwise.

**5-2.2 Certain Types of Loitering Prohibited.**

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

- a. Create or cause to be created a danger or a breach of the peace.
- b. Create or cause to be created any disturbance or annoyance to the comfort and repose of any person.
- c. Obstruct the free passage of pedestrians or vehicles.

d. Obstruct, molest or interfere with any person lawfully in any public place. This paragraph shall include the making of unsolicited remarks of an offensive, disgusting or insulting nature or which are calculated to annoy or disturb the person to whom or in whose hearing they are made.

#### **5-2.3 Discretion of Police Officer.**

Whenever 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 subsection 5-2.2, he may, if he deems it necessary for the preservation of the public peace and safety, order that person to leave that place. Any person who shall refuse to leave after being ordered to do so by a police officer shall be guilty of a violation of this section.

#### **5-2.4 Loitering by Minors.**

No parent or guardian of a minor under the age of 18 years shall knowingly permit that minor to loiter in violation of this section.

#### **5-2.5 Notice of Violation.**

If at any time within 30 days following the giving of notice as provided in subsection 5-2.5, the minor to whom such notice relates again violates this section, it shall be presumed in the absence of evidence to the contrary that the minor did so with the knowledge and permission of his parent or guardian.

### **Section 5-3 Noise.**

Subsections:

- 5-3.1 Noise Prohibited.
- 5-3.2 Definitions.
- 5-3.3 Noises Prohibited.
- 5-3.4 Use of Sound Trucks Prohibited.
- 5-3.5 Noncommercial Use of Sound Amplifying Equipment.
- 5-3.6 Regulations for Use.
- 5-3.7 Exceptions and Exclusions.

#### **5-3.1 Noise Prohibited.**

It shall be unlawful for any person to make, to continue, or cause to be made or continued and allowed, unnecessary or unusual noise, or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the Town of Newton.

#### **5-3.2 Definitions.**

As used in this section:

a. "Sound truck" shall mean a motor vehicle or any other means of conveyance having mounted thereon or attached thereto any sound amplifying equipment.

b. "Sound amplifying equipment" shall mean any machine or device for the amplification of the human voice, music or any other sounds. Sound amplifying equipment as used herein shall not be construed as including standard automobile radios when used and heard only by occupants of the vehicles in which they are installed, or warning devices on authorized emergency vehicles, or horns or other warning devices on other vehicles used only for traffic safety purposes.

#### **5-3.3 Noises Prohibited.**

The following acts are declared to be loud, disturbing and unnecessary noises in violation of this section, but enumerations shall not be deemed to be exclusive:

a. Horns, Signaling Devices, etc. The sounding of any horn or signaling device on any automobile, motorcycle, street car, or other vehicle on any street or public place of the Town, except as a danger warning; the creation by means of any such signaling device or any unreasonably loud or harsh sound; the sounding of any such device for any unnecessary and unreasonable period of time; the use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up.

b. Radios, Phonographs, etc. Using, operating or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet, and comfort of the neighboring inhabitants, or at any time at louder volume than is necessary for convenient hearing for the personal enjoyment of persons who are in the room, vehicle or chamber in which the machine or device is operated and who are voluntary listeners; the operation of any device between the hours of 11:00pm and 7:00am in such a manner as to be plainly audible at a distance of 50 feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.