

LOCAL LAW NO.: _____, 2008

OF

A LOCAL LAW TO AMEND (ADD) SECTION _____ OF THE
CHARTER LAWS OF THE CITY OF NEWBURGH
ESTABLISHING A SAFE STREETS-SAVE LIVES ORDINANCE
IN THE CITY OF NEWBURGH

BE IT ENACTED, by the Council of the City of Newburgh, New York that
Section _____ of the Charter Laws of the City, be and is hereby amended
(added) to read as follows:

Section 1 – Findings

The City Council of the City of Newburgh, New York finds, that in order to maintain peace, quiet, and order across all precincts (wards) and areas of the City of Newburgh, and in an effort to reduce juvenile crime, protect the children of the City of Newburgh, and respond to the ongoing problems of unsupervised and unattended youth, by providing mechanisms that reinforce parental authority, and ultimately prevent the continuing escalation of juvenile crime, delinquency and victimization, that it is necessary and appropriate to adopt this Local Law establishing a Safe Streets – Save Lives Ordinance as specified herein.

Section 2 – Safe Streets-Save Lives Ordinance established.

It shall be unlawful for any child under the age of ____ years, who is not in the presence of a parent, legal guardian, or other adult persons responsible for the care of said child, to remain in, upon or about any public street, highway, park, vacant lot, or any other public place between the hours of _____ and _____ daily.

Section 3 – Responsibility of parent or guardian

It shall be unlawful for any parent, guardian, or other person having the legal care and custody of any person under ____ years of age to allow or permit any such child, ward or other person under such age, while in his or her legal or physical custody, to go to, or be in or upon any of the streets, highways, parks, vacant lots, alleys and other public places of the City of Newburgh between the hours of _____ and _____

Section 4 – Exceptions

This local law shall not apply to any child, nor shall it apply to any person responsible for the care or custody of such child if such child shall be engaged in activity during the hours designated herein if such activity is related to such child's lawful employment, or is related to such child's participation in an activity which is religious, educational, charitable, civic, sponsored and supervised by a responsible adult or by a governmental, community-based or non-profit organization; or if the child is accompanied by a responsible adult, or if the child has been emancipated or is a married juvenile or sidewalk bordering residence¹; or to any lawful activity directly related to the protection and care of the health, life, safety or property of another person; or if such activity is undertaken in connection with first amendment activities² and any other right or privilege which is protected by the Constitution of the United States or the Constitution of the State of New York.

Section 5 – Penalties for Offenses

A. In the case of a first violation of this ordinance, the Police Department, or other authorized authority, shall send a letter, with a copy of the violation notice, to the parents or legal guardians of the youth. This notice shall serve as a warning to the parents that an additional violation of this ordinance shall result in the appearance of the parents and youth before the City of Newburgh Community Accountability Board for disposition and sanction.

B. In the case of a second violation of this ordinance the Police Department, or other authorized authority, shall send a letter, with a copy of the violation notice, to the parents or legal guardians of the youth. This notice shall direct the appearance of said parents, legal guardians and youth before the Community Accountability Board for disposition and sanction and which will have the authority to impose penalties that may include up to 25 hours of community service as provided by law.

C. In the case of a third violation, and all subsequent violations thereafter, of this ordinance, the penalties imposed shall be pursuant to Subsection B above, including a fine of up to \$100 and 25 hours of community service. Additionally, the police shall notify the Department of Social Services and/or Child Protective Services, as necessary and appropriate, for further formal intervention, charges and court involvement.

D. The penalties imposed for a violation of this ordinance by a youth aged 16 or 17 shall be the penalties defined herein, however, the penalties are imposed on the minor rather than the parents and/or legal guardian.

¹ Presence on a sidewalk that may be considered a public area yet borders a home or other residence of the juvenile.

² Participation in activities that are protected by the first amendment, such as meetings or rallies. (Source: OJJDP – Bulletin NCJ 159533 – April 1996)

Section 6 – Affirmative Defenses

The following list of affirmative defenses which the defendant and/or his/her parents, legal guardian and/or attorney may present as a defense to a charge in violation of the Safe Streets – Save Lives ordinance herein:

- A. Emergency situation
- B. Returning to home from employment
- C. Engaged in religious observation and/or practice
- D. Returning home from a scholastic event and/or activity
- E. All other constitutional defenses allowed provided for under New York State Penal Law (PL) and Criminal Procedure Law (CPL).

Section 7 – Arrest and confinement

Arrest and confinement shall be the last sanction imposed as a result of repeated violation of this ordinance. No child or minor person found to be in violation of this ordinance shall be placed in confinement, other than being kept in a supervised, secure site until the parents, guardians or other person having legal or physical custody and control of such child or minor person shall have been personally notified of this violation, and shall have refused to be held responsible for the non-observance of the provisions of _____ of this Chapter by such child or minor persons. Upon such refusal, the police officers of the City of Newburgh shall comply with the provisions of the Family Court Act and the Social Services Law of the State of New York, and the rules and regulations and procedures appertaining thereto. Efforts to keep youth secure until said parents or guardians are located, must include pro-active strategies, and creation of a dedicated Safe Streets – Save Lives center or use of recreational centers and churches to receive juveniles who have been picked up by the police for violations of this ordinance. Staffing of such centers should include social service professionals and community volunteers. Interventions in the form of referrals to social services providers and counseling for youth and families, recreation and jobs programs, anti-drug and anti-gang programs and the creation of a hotline for follow-up services and crisis intervention are an integral part of a pro-active strategy to prevent or reduce youth crime and delinquency.

Section 8 – Effective Date; Expiration Date