

Karen Edwards

From: Diane Chen <parishrd@yahoo.com>
Sent: Wednesday, February 09, 2022 1:54 PM
To: Rick Taintor; Karen Edwards
Subject: Please forward to PB members and post on Mill Plaza site

Please see the attached city ordinance that the citizens of Newark, Delaware felt compelled to pass to try to quell disorderly conduct from student housing placed to close to family homes.

<https://newarkde.gov/DocumentCenter/View/11863/9D>

Thanks,
Diane

9D

**CITY OF NEWARK
DELAWARE
CITY COUNCIL
PUBLIC HEARING
NOTICE**

March 11, 2019 - 7:00 P.M.

Pursuant to Section 402.2 of the City Charter of the City of Newark, Delaware, notice is hereby given of a public hearing at a regular meeting of the Council in the Council Chamber at the Municipal Building, 220 South Main Street, Newark, Delaware, on Monday, March 11, 2019 at 7:00 p.m., at which time the Council will consider for Second Reading and Final Passage the following proposed Ordinances:

- Bill 19-03 An Ordinance Amending Chapter 2, Administration, Code of the City of Newark, Delaware, By Amending Management Positions, Titles and Pay Grades Related to Communications and Human Resources
- Bill 19-04 An Ordinance Amending Chapter 20, Motor Vehicles, Code of the City of Newark, Delaware, By Permitting Right Turn on Red Traffic Signal from East Cleveland Avenue to Capital Trail and Removing References to the Chrysler Facility
- ✓ Bill 19-05 An Ordinance Amending Chapter 22, Police Offenses, Code of the City of Newark, Delaware, By Creating a Civil Violation for Unruly Social Gatherings
- Bill 19-06 An Ordinance Amending Chapter 31, Weapons, Code of the City of Newark, Delaware, By Amending the Code Sections Regarding Switchblades to Comply with Delaware Code

Renee K. Bensley, CMC
City Secretary

Advertised: **Newark Post** – March 1, 2019

BILL NO. 19-05

1st Reading: 2/25/2019

2nd Reading: _____

CITY OF NEWARK
DELAWARE

ORDINANCE NO. 19-__

An Ordinance Amending Chapter 22, Police Offenses, Code of the City of Newark, Delaware, By Creating a Civil Violation for Unruly Social Gatherings

THE COUNCIL OF THE CITY OF NEWARK HEREBY ORDAINS:

That Chapter 22, Police Offenses, Article IX, Disorderly Conduct and Offenses Against the Public, Code of the City of Newark, Delaware, be hereby amended in the following respects:

AMENDMENT: Create Section 22-74.3, Unruly social gathering, by adding the underscored text as follows:

"Sec. 22-74.3 – Unruly social gathering.

- (a) It shall be a civil violation for any person or organization to allow, host, suffer or permit in or upon any premises within the City of Newark an Unruly Social Gathering, as defined in this section, and such civil offense shall be known as "Unruly Social Gathering".

- (b) For the purposes of this section, "Unruly Social Gathering" shall mean a party, event or assemblage of four or more persons at a residence or other private property within the City of Newark (hereinafter "premises") where three (3) of the following behaviors occur:
 - (1) Underage alcohol service or consumption where
 - a. Alcohol is illegally provided to any person under 21 years old; or

 - b. Persons under 21 are illegally consuming/possessing alcohol; or

 - c. Alcohol is made readily available to persons under 21 years old. For the purposes of this ordinance, alcohol "readily available" is defined as: i) a container holding 660 or more ounces of an alcoholic beverage that attendees under 21 years old can access without impediment; or ii) multiple containers of alcoholic beverages of 6 ounces or more that attendees under 21 years old can access without impediment;

- (2) Where, at any time during the day or night, noise emanating from such premises, including but not limited to, electronically produced noise, is plainly audible across real property boundaries or through partitions common to two residential units within a building, or through such partitions between a person within a building and the public way including, but not limited to common areas and parking lots;
- (3) Where an act constituting Disorderly Premises, as defined in Section 22-74.1, occurs;
- (4) Where an act constituting Non-permitted Occupancy of Rooftops, as defined in Section 22-74.2, occurs;
- (5) Where over 150 persons are present without a Special Event Permit in violation of Section 23-17;
- (6) Where attendees of the event who have exited the premises and are congregating upon and/or blocking public rights of way within 1000 feet of the premises;
- (7) Where an attendee of the event who has exited the premises and is within 1000 feet of the premises, is Publicly Intoxicated in violation of Section 22-78;
- (8) Where an act constituting Criminal Mischief, as defined in Section 22-41, is committed either at the premises, or is committed by an attendee of the event within 1000 feet of the premises;
- (9) Where an attendee of the gathering is observed publicly urinating within 1000 feet of the premises, in violation of Section 22-74;
- (10) Where there is excessive littering in the front or back yard of the premises, with excessive littering defined as 20 or more items of trash lying on the ground or pavement, including, but not limited to discarded beverage cans, beverage bottles, beverage cups and beverage packaging materials;
- (11) Where illegal drugs and/or controlled substances are being used or sold by an attendee of the event either at the premises or within 1000 feet of the premises;

- (12) Where an attendee of the event exits the premises and trespasses on other private property within 1000 feet of the premises;
 - (13) Where there occurs any other conduct that threatens the health, safety and good and quiet order of the City of Newark.
- (c) Persons civilly responsible for an Unruly Social Gathering include:
- (1) All persons who plan, organize and/or supervise the Unruly Social Gathering;
 - (2) The leadership/officers of any organization or club who plans, organizes and/or supervises the Unruly Social Gathering.
 - (3) The persons civilly responsible for an Unruly Social Gathering are not limited to persons living in the premises or listed on any lease thereto. Further, it is not necessary for a person civilly responsible for an Unruly Social Gathering to be present during that event.
- (d) Civil Penalties for responsible persons/organizations:
- (1) For a first offense, such person shall be assessed a civil penalty of \$500 and 20 hours of Community Service directly benefiting the City of Newark, with said Community Service to be fully performed at the time the violator submits his or her voluntary assessment, or within 60 days of adjudication of said charge;
 - (2) For a second offense, such person shall be assessed a civil penalty of \$1,000 and 32 hours of Community Service directly benefitting the City of Newark, with said Community Service to be fully performed at the time the violator submits his or her voluntary assessment, or within 60 days of adjudication of said charge;
 - (3) For a third offense, such person shall be assessed a civil penalty of \$1,500 and 48 hours of Community Service directly benefitting the City of Newark, with said Community Service to be fully performed at the time the violator submits his or her voluntary assessment, or within 60 days of adjudication of said charge;
 - (4) For a fourth offense, and any additional offense thereafter, such person shall be assessed a civil penalty of \$2,000 and 60 hours of Community Service directly benefitting the City of Newark, with

said Community Service to be fully performed at the time the violator submits his or her voluntary assessment, or within 60 days of adjudication of said charge;

- (e) If any clause, sentence, part, section, or portion of this Ordinance is found by a court of competent jurisdiction to be illegal or unenforceable, such clause, sentence, part, section, or portion so found shall be regarded as though it were not part of this Ordinance and the remaining parts of this Ordinance shall be fully valid, binding and enforceable.
- (f) Nothing in this section shall be construed to preclude or otherwise limit the prosecution of or the conviction for a violation of this chapter or any other provision of the law. A person may be assessed with a civil penalty for any Unruly Social Gathering and be criminally prosecuted and convicted of a violation of this chapter or of any other provision of the law.
- (g) Information concerning a civil offense classified in this section shall not appear on a person's certified criminal record.
- (h) The entire period of community service shall be assigned by and performed under the supervision of a designee of the Chief of Police of the City of Newark. Reasonable effort shall be made to assign the individual to a type of community service that is reasonably expected to have the most rehabilitative effect on such person.
- (i) Nothing contained herein shall be construed to repeal or modify any existing laws or ordinances of the City of Newark.
- (j) A violator of this section may pay the civil penalty prescribed and provide suitable documentation of completed community service as a voluntary assessment, in lieu of a Court appearance, either in person or by mailing the citation, the fine and the community service documentation to the Alderman's Court.
- (k) Any person cited under this section who wishes to appeal the citation shall appear in Alderman's Court at the time listed in the citation. Upon appeal, should the Court uphold the issuance of the citation and find that a violation has occurred, court costs, in addition to the applicable civil penalty, shall be imposed by the Alderman or Deputy Alderman. The standard of proof needed for a finding that a civil violation has occurred is by a preponderance of the evidence. If the person to whom a citation has been issued fails to appear in answer to the citation, or to pay the

civil penalty and/or perform the applicable community service within the time specified, he or she may be found in contempt of the Alderman's Court, and a warrant for his or her arrest may be issued."

MOTION for Acceptance as First Reading on February 25, 2019.

by Council Member Morehead.

Second Reading and Final Passage on _____, 2019.

VOTE: __ to __.

Mayor

Attest:

City Secretary

Approved as to Legality & Form:

City Solicitor



**CITY OF NEWARK
DELAWARE**

February 14, 2019

To: Mayor and Council

From: Paul E. Bilodeau, City Solicitor

PEB/RMB

Re: Unruly Social Gathering Ordinance

At the Council meeting on January 28, 2019, there was a presentation from Sgt. D'Elia pertaining to a possible law aimed at substantially reducing or eliminating the disruptive "super-parties" that have been occurring within the City. Sgt. D'Elia discussed a potential law that impacted both the hosts of the disruptive parties, and landlords of any rental properties involved. After public comment, Council directed staff to meet with representatives of the Old Newark Civic Association and the Newark Landlord Association. After this meeting, the consensus was to first focus on civil prosecution of the hosts of the disruptive parties, and, if this legislation proved ineffective, then add the component impacting landlords. Accordingly, attached please find a proposed Unruly Social Gathering Ordinance that imposes civil liability upon the hosts/planners of the disruptive parties.

Briefly, under this proposed legislation, any person that plans, organizes or supervises an Unruly Social Gathering can be subject to a civil assessment/fine **and** mandatory community service that benefits the City. One does not need to live at the party location to be deemed responsible. One does not need to be present at the event if he or she is found to have planned or organized it. Additionally, the leadership/officers of any organization or club that conducts an Unruly Social Gathering can face civil assessments and mandatory community service benefitting Newark.

In order for an event to be deemed an Unruly Social Gathering, there needs to have occurred three or more of the behaviors that are listed in subsection (b). This includes the acts of party attendees that occur within 1,000 feet of the property of where the party is occurring.

As this is a civil offense, in proving its case, the City's burden of proof is by a "preponderance of the evidence" as opposed to "beyond a reasonable doubt". This is a much lower burden for the City to meet. Further, the imposition of a civil citation to those responsible for an Unruly Social Gathering will not in any way preclude the imposition of criminal charges where appropriate.

The Newark Police Department supports this legislation.

Please contact me if you have any questions.

Attachment

PEB

CC: Tom Coleman, Acting City Manager
Paul Tiernan, NPD Chief