

DELAWARE TOWNSHIP
ORDINANCE #2016-02

AN ORDINANCE OF THE TOWNSHIP OF DELAWARE, COUNTY OF HUNTERDON AND STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER III “POLICE REGULATIONS” OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF DELAWARE TO CREATE SECTION 3-12 ENTITLED “PROTECTIVE CUSTODY OF INTOXICATED DRIVERS” #2016-02

BE IT ORDAINED by the Township Committee of the Township of Delaware, Hunterdon County, New Jersey as follows:

Section 1. Chapter III “POLICE REGULATIONS” of the Revised General Ordinances of the Township of Delaware shall be amended and supplemented to create Section 3-12 “Protective Custody of Intoxicated Drivers” as follows:

3-12 PROTECTIVE CUSTODY OF INTOXICATED DRIVERS

3-12.1 Findings. Pursuant to N.J.S.A. 39:4-50.22, commonly known as “John’s Law,” a law enforcement agency that has arrested a person for a violation of N.J.S.A. 39:4-50, “Driving While Intoxicated,” may impound an arrestee’s vehicle and release the arrestee into the care of an individual summoned to transport or accompany the arrestee from the premises of the law enforcement agency in order to ensure that the arrestee does not again operate a motor vehicle while under the influence. When an arrestee is unable to summon an individual to transport or accompany the arrestee from the premises of the law enforcement agency, the arrestee may present a danger to himself or others if provisions are not made to hold the arrestee in protective custody. Pursuant to N.J.S.A. 40:48-1(34) and 40:48-1.3, a municipality is authorized to enact an ordinance providing that a person who has been arrested for “Driving While Intoxicated” in violation of N.J.S.A. 39:4-50 may be held in protective custody at an appropriate police or other facility for up to eight (8) hours. The Hunterdon County Jail is an appropriate facility in which to maintain an arrestee until the arrestee is no longer a danger to himself or others. The Mayor and Township Committee find and declare that the implementation of this chapter furthers the protection of the public health, safety and welfare.

3-12.2 Protective Custody Required; Release. Any person arrested for a violation of the provisions of N.J.S.A. 39:4-50 shall be held in protective custody at an appropriate police or other facility, including but not limited to the Hunterdon County Jail, where the person's condition may be monitored until the person is no longer a danger to himself or others, at which time the person shall be released from protective custody. A person is no longer considered a danger to himself or others when the person's blood alcohol concentration is less than 0.05% and the person is no longer under the influence of any intoxicating liquor or narcotic or hallucinogenic or habit-forming drug to the extent that the person's faculties are impaired. In no event shall a person be held in protective custody for a period of longer than eight (8) hours without being provided an appropriate hearing.

3-12.3 Exceptions; Liability. Notwithstanding the provisions of this chapter, provided that it is not a detriment to public safety, the Police Department may, because of the age, health, or safety of the arrestee, release the arrestee pursuant to the provisions of N.J.S.A. 39:4-50.22, or provide an alternative to protective custody. The Township shall not be subject to liability if a person is released from protective custody pursuant to the provisions of this chapter.

3-12.4 Use of State Police Facilities. Nothing in this chapter shall be construed as requiring the use of New Jersey State Police facilities by the Township for the purposes of this chapter.

3-12.5 Incorporation of Statute. The provisions of N.J.S.A. 39:4-50.22, as may be amended from time to time, are hereby incorporated into, and are deemed to be a part hereof.

Section 2. Repealer. All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed.

Section 3. Severability. If any section, subsection, sentence, clause, phrase or portion of the Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 4. Adoption. Upon adoption, this Ordinance will be incorporated into and become part of the Revised General Ordinances of the Township of Delaware.

Section 5. Effective Date. This Ordinance shall take effect immediately upon final passage and publication according to the Laws of the State of New Jersey.

ATTEST:

Judith A. Allen, RMC
Township Clerk
March 14, 2016
Published 3/17/16

Susan D. Lockwood, Mayor

PLEASE TAKE NOTICE that the Delaware Township Committee approved the above ordinance on first reading at its Regular Meeting held on March 14, 2016. It will be considered on second reading for final adoption and will have a public hearing at a Regular Meeting beginning at 7:30 p.m. on March 28, 2016 at the Delaware Township Municipal Building, 570 Rosemont Ringoes Rd. (Rt. 604), Sergeantsville, NJ. At that time an opportunity will be given for all interested citizens to be heard