

ORDINANCE NO. 2021-

AN ORDINANCE OF THE BOROUGH OF NEW BRITAIN, BUCKS COUNTY, PENNSYLVANIA AMENDING PART II – “GENERAL LEGISLATION” OF THE BOROUGH’S CODE OF ORDINANCES BY ADDING A NEW CHAPTER, CHAPTER 318 ENTITLED “PUBLIC SAFETY,” AND A NEW ARTICLE I THEREUNDER, TITLED “WARRANTLESS ARRESTS FOR SUMMARY OFFENSES” TO PROMULGATE THE GUIDELINES AND PROCEDURES FOR POLICE OFFICERS WITH RESPECT TO WARRANTLESS ARRESTS.

WHEREAS, the Borough of New Britain (hereinafter referred to as the “Borough”) is organized and operating in accordance with the laws of the Commonwealth of Pennsylvania;

WHEREAS, pursuant to the Borough Code of the Commonwealth of Pennsylvania, 8 Pa.C.S. § 101, *et seq.*, the Borough Council of the Borough of New Britain (hereinafter referred to as the “Borough Council”) has the authority to enact, amend, and repeal the provisions of the New Britain Borough Code of Ordinances (hereinafter referred to as the “Code”);

WHEREAS, Borough Council’s corporate powers include the ability to enact regulations as may be necessary for the health, safety, morals, and general welfare of the residents of the Borough;

WHEREAS, in accordance with the powers and duties vested in Borough Council under the Borough Code and Pennsylvania law, Borough Council desires to enact an ordinance authorizing warrantless arrests for summary offenses, and establishing the guidelines and procedures related to such warrantless arrests for both adults and juveniles; and

WHEREAS, the proposed ordinance has been advertised, considered, and reviewed in accordance with the Borough Code.

NOW THEREFORE, in consideration of the foregoing, be it and it is hereby **ORDAINED** and **ENACTED** by the Borough Council of the Borough of New Britain as follows:

1. The Code of the Borough of New Britain, Part II – “General Legislation“ is hereby amended by creating a new Chapter 318 – “Public Safety,” Article I – “Warrantless Arrests for Summary Offenses” with the contents thereof set forth in Exhibit “A” hereto.
2. All other ordinances, portions of ordinances, or any section of the Code inconsistent with this Ordinance, are hereby repealed to the extent of the inconsistency.
3. The provisions of this Ordinance are severable. If any section, clause, sentence part or provision hereof shall be held illegal, invalid, or unconstitutional by a court of competent jurisdiction, such decision of the court shall not affect or impair any of the remaining sections, clauses, sentences, parts or provisions of this Ordinance. It is hereby declared to be the intent of Borough Council that this Ordinance would have been adopted if such

illegal, invalid or unconstitutional section, clause, sentence or part of a provision had not been included herein.

4. This Ordinance shall be effective immediately upon the Approval of the Mayor or immediately upon a majority of Council plus one voting to override the Mayor's veto.

ENACTED and **ORDAINED** by the Borough of New Britain this ____ day of _____, 2021.

BOROUGH COUNCIL
NEW BRITAIN BOROUGH

By: _____
Peter LaMontagne, Council President

ATTEST:

Amanda Zimmerman, Borough Secretary

EXAMINED and **APPROVED** by me this ____ day of _____, 2021.

David Holewinski, Mayor

EXHIBIT A

Part II – “General Legislation”

Chapter 318 – “Public Safety”

Article I – “Warrantless Arrests for Summary Offenses”

§318-1. Title.

This part shall be known as the “Warrantless Arrest Ordinance.”

§318-2. Right of Warrantless Arrest.

- A. In addition to any other laws of the Commonwealth that permit a warrantless arrest, and as authorized under 42 Pa.C.S. §8902, a police officer shall have the right to arrest a defendant without a warrant when there is probable cause to support the commission of one or more of the following enumerated summary offenses, the defendant’s conduct is ongoing and within the view of the police officer, and the defendant’s ongoing conduct imperils the personal security of any person or endangers public or private property:

18 Pa.C.S. §5503, Disorderly Conduct

18 Pa.C.S. §5505, Public Drunkenness and Similar Misconduct

18 Pa.C.S. §5507, Obstructing Highways and Other Public Passages

18 Pa.C.S. §6308, Purchase, Consumption, Possession or Transportation of
Liquor or Malt or Brewed Beverages

- B. For purposes of this Part, the term “arrest” means a “formal arrest” or “custodial detention,” and does not include an “investigative detention,” as such terms are defined under the laws of this Commonwealth.

§318-3. Guidelines and Procedures for Warrantless Arrest.

- A. In determining whether to arrest a defendant without a warrant for an offense set forth in §318-2.A, a police officer should consider the following factors:

- 1) The condition of the defendant;
- 2) The circumstances surrounding the incident;
- 3) The likelihood that the conduct will persist if the defendant is not placed under arrest;
- 4) The likelihood that, if the conduct persists, it will endanger the defendant or any other person;

- 5) The likelihood that, if the conduct persists, it may result in damage to public or private property; and
- 6) The likelihood or danger that the defendant will flee.

B. When a defendant has been arrested without a warrant for an offense set forth in §318-2.A, the police officer shall either release the defendant from custody or take the defendant before the proper issuing authority, as set forth in Pa.R.Crim.P. 441(A)-(C).

§318-4. Release from Custody.

- A. When a police officer has arrested a defendant without a warrant, the officer shall promptly release the defendant when:
- 1) The defendant poses no threat of immediate physical harm to another person or to himself or herself; and,
 - 2) The police officer has reasonable grounds to believe that the defendant will appear as required.
- B. At the time a defendant is released from custody, a citation shall be issued to the defendant, and the case shall proceed in accordance with the Pennsylvania Rules of Criminal Procedure, specifically Pa.R.Crim.P. 403-409, setting forth “Procedures when Citation is Issued to Defendant.”

§318-5. Transport to Issuing Authority.

When a defendant has not been released from custody, the defendant shall be taken without unnecessary delay before the issuing authority and the police officer shall file the citation against the defendant, at which time will follow the procedure set forth in Pa.R.Crim.P. 441(C).

§318-6. Juveniles Arrested Without Warrant for Enumerated Summary Offenses.

- A. In accordance with 42 Pa.C.S. §6326, when a defendant under 18 years of age is arrested without a warrant for an offense set forth in §318-2.A, the police officer shall notify the defendant’s parent, guardian or other custodian of the child’s arrest and whereabouts.
- B. When a defendant under 18 years of age is arrested without a warrant for an offense set forth in §318-2.A, and poses no threat of immediate physical harm to himself or herself and there are no reasonable grounds to believe that the defendant will fail to appear as required:
- 1) A police officer, following processing and the issuance of a citation, shall promptly release the defendant to the defendant’s parent, guardian or other custodian.

- 2) Should a defendant's parent, guardian or other custodian fail to respond or refuse to accept custody of the defendant, the police officer shall contact the Bucks County Juvenile Probation Department to arrange shelter for the defendant.

§318-7. Severability.

The provisions of this Article are severable. If any section, clause, sentence part or provision hereof shall be held illegal, invalid, or unconstitutional by a court of competent jurisdiction, such decision of the court shall not affect or impair any of the remaining sections, clauses, sentences, parts or provisions of this Article. It is hereby declared to be the intent of Borough Council that this Article would have been adopted if such illegal, invalid or unconstitutional section, clause, sentence or part of a provision had not been included herein.

§318-8. Repealer.

All other ordinances, portions of ordinances, or any section of the Code inconsistent with this Article, are hereby repealed to the extent of the inconsistency.