

**ORDINANCE NO. 04-2012
TOWNSHIP OF TEWKSBURY
COUNTY OF HUNTERDON
STATE OF NEW JERSEY**

**AN ORDINANCE FOR PROTECTIVE CUSTODY OF INDIVIDUALS ARRESTED FOR
DRIVING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS**

WHEREAS, pursuant to NJSA 39:4-50.22, commonly known as “John’s Law”, a law enforcement agency arresting a person for a violation of NJSA 39:4-50, driving under the influence of alcohol or drugs, may release said person to an individual summoned by the arrestee to transport or accompany the arrestee from the premises of a law enforcement agency; and

WHEREAS , in situations where the arrestee is unable to summon an individual to transport or accompany the arrestee from the premises of a law enforcement agency pursuant to NJSA 39:4-50.22, that the arrestee may present a danger to self or other if provisions are not made for the arrestee’s protective custody; and

WHEREAS, pursuant to NJSA 40:48-1.3, a municipality may enact an Ordinance providing that person arrested for a violation of the provisions of NJSA 39:4-50, driving under the influence of alcohol or drugs shall be held in protective custody at an appropriate police or other facility where the arrestee’s condition may be monitored until the arrestee is no longer a danger to himself or others, and that municipalities have additional authority under NJSA 40:48-1 (34) to provide protective custody for persons arrested for operating a motor vehicle in violation of NJSA 39:4-50, driving under the influence of alcohol or drugs; and

WHEREAS, it is recognized that it is an inefficient use of police resources to require that protective custody be held at the police station, and that the Hunterdon County Jail, among other places, could be a more appropriate facility within which to monitor the arrestee’s condition until the arrestee is no longer a danger to himself or others.

IT IS THEREFORE, ENACTED AS FOLLOWS:

When an individual is arrested within this jurisdiction for operating a motor vehicle while under the influence of alcohol or drugs pursuant to NJSA 39:4-50, and where the arrestee is unable to summon an individual to transport or accompany the arrestee from the premises of a law enforcement agency pursuant to NJSA 39:4-50.22, the arresting officer or other designated police officer shall:

1. Make arrangements for the arrestee to be held in protective custody at an appropriate police or other appropriate facility as defined further herein until such time that the arrestee is no longer a danger to himself or other as defined in paragraph 2 of this Ordinance.
2. The officer or other individual holding the arrestee shall release the arrestee from protective custody when he is no longer a danger to himself or others, which is defined as when the arrestee’s blood alcohol level is less than .05% and that 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.

3. The period of protective custody shall not exceed eight hours without providing the arrestee an appropriate hearing before the municipal court to determine if a protective custody period longer than eight hours is required in order to prevent the arrestee from being a danger to himself or others as defined in paragraph 2 of this Ordinance.
4. For the purposes of this Ordinance, an appropriate facility shall include a police station, the Hunterdon County Jail or if the arresting officer deems appropriate, a school or hospital that has supervisory measures in place to ensure that the arrestee will not be released until such time that the arrestee is no longer a danger to himself or others as defined in paragraph 2 of this Ordinance

BE IT ORDAINED, that this Ordinance shall take effect immediately upon final passage and adoption and publication according to law.

Dana Desiderio
Mayor

Attest:

Roberta A. Brassard
Municipal Clerk