

Title 9

PUBLIC PEACE, MORALS AND WELFARE

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Chapter 9.04

OFFENSES AGAINST PUBLIC PEACE AND DECENCY

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9.04.010 **Definitions.**

As used in this chapter, the following term shall have the meanings indicated:

“Person” means any individual, partnership or corporation. (Prior code § 5-22.1)

9.04.020 **Weapons—Intent to steal.**

It is unlawful for any person to have upon him/her any picklock, key, crow, jack, bit or

other implement with intent to break and enter into any building or to have upon him/her any pistol, hanger, cutlass, bludgeon or other offensive or dangerous weapon with intent to assault any person or to be found in or near any dwelling house, warehouse, stable, barn, coach house or in any place of public resort or assemblage for business, worship, amusement or other lawful purposes, with intent to steal any goods or chattels. (Prior code § 5-22.2)

9.04.030 **Destruction of property.**

It is unlawful for any person to maliciously destroy, damage or injure property of any kind. (Prior code § 5-22.3)

9.04.040 **Unauthorized use of fire equipment keys.**

It is unlawful for any unauthorized person to have in his/her possession or make or cause to be made, use or cause to be used any key or keys of any fire engine, ambulance, truck or ambulance house, alarm box or other fire or first aid equipment. (Prior code § 5-22.5)

9.04.050 **Unauthorized uniform wearing.**

It is unlawful for any person not a member of a fire company or first aid squad to use or wear the uniform, or any part thereof, regularly used by the members of said company or squad. (Prior code § 5-22.6)

9.04.060 **Graffiti.**

It is unlawful for any person to write or mark or cause to be written or marked any word or figure on any wall, fence, porch, post, building, enclosure, pavement or public street on any public or private property without the owner’s permission. (Prior code § 5-22.7)

9.04.070 Obtaining unwarranted public or private assistance.

It is unlawful for any person to knowingly or designedly, by means of any false statement, made orally or in writing, obtain from the township or from an officer, committee, commission or body thereof or from any private or charitable organization or association of any kind, under pretense that he/she is poor and needy or out of employment, any money, personal property or other valuable thing. (Prior code § 5-22.8)

9.04.080 False representation of finances in obtaining assistance.

It is unlawful for any person, by false representations as to his/her financial situation to obtain from any department or public welfare financial or other assistance in any form. (Prior code § 5-22.9)

9.04.090 Urinating in public.

No person shall urinate or defecate on any public street, public sidewalk or in any public place or in any place open to and used by the public or outdoors upon any private property, within the public view. (Ord. 1998-8 § 1 (part), 1998: prior code § 5-22.10)

9.04.100 Public nuisance.

It is unlawful and shall be public nuisance for any person, if with the purpose to cause public inconvenience, annoyance or alarm, or recklessly creating risk thereof he or she, engages in fighting or threatening, or in violent or tumultuous behavior, or creates hazardous or physically dangerous condition by any act which serves no legitimate purpose of the actor. (Ord. 1998-8 § 1 (part), 1998: prior code § 5-22.11)

9.04.110 Open containers of alcohol.

A. No person shall possess, have, hold, control, maintain, own or otherwise consume an alcoholic beverage or entice or encourage person to drink an alcoholic beverage on any public street, public sidewalk, school, public conveyance, or in any other public place or in any place open to and used by the public or outdoors.

B. This section shall not apply to residential property or real property which is licensed by the Division of Alcoholic Beverage Control in accordance with the provisions of R.S. 33:1-1 et seq. (Ord. 1998-8 § 1 (part), 1998: prior code § 5-22.12)

9.04.120 Smoking in public by minors.

No person under the age of eighteen (18) years shall smoke or carry lighted tobacco in any public place, school, or outdoors, including, but not limited to places of public accommodation or places of public assembly. (Ord. 1998-8 § 1 (part), 1998: prior code § 5-22.13)

9.04.130 Violations and penalties, maximums.

Any person violating or failing to comply with any of the provisions of this chapter shall, upon conviction thereof, be punishable by a fine of not more than five hundred dollars (\$500.00) or by imprisonment for term not to exceed ninety (90) days, or by both such fine and imprisonment, in the discretion of the judge. The continuation of such violation for each successive day shall constitute separate offense, and the person or persons allowing or permitting the continuation of the violation may be punished as provided above for a separate offense. (Ord. 1998-8 § 1 (part), 1998: prior code § 5-22.14)

9.04.140 Fines collected.

All fines imposed and collected under and by virtue of this chapter shall be paid into the treasury of the township. (Ord. 1998-8 § 1 (part), 1998: prior code § 5-22.15)

9.04.150 Violations and penalties, minimums.

Any person or persons violating any provisions of this chapter shall be fined minimum of one hundred dollars (\$100.00) for first conviction and the minimum penalty for second conviction within one year shall be a fine of two hundred dollars (\$200.00) and for third or more convictions within one year the minimum penalty shall be a fine of three hundred dollars (\$300.00). (Ord. 1998-8 § 1 (part), 1998: prior code § 5-22.16)

Chapter 9.08

CURFEW

Sections:

- 9.08.010 Definitions.**
- 9.08.020 Curfew for minors.**
- 9.08.030 Parental responsibility.**
- 9.08.040 Penalties.**
- 9.08.050 Exceptions.**

9.08.010 Definitions.

For the purpose of this chapter, the following terms, phrases, words and their derivations, shall have the meaning given in this section. When not inconsistent with the context, words used the present tense include the future, words in the plural number include the singular and words in the singular number include the plural. The word "shall" is always mandatory and not merely directory.

"Knowingly" includes knowledge or information which a parent should reasonably be expected to have concerning the whereabouts of a minor in that parent's legal custody. It is intended to include and require neglectful or careless parents to maintain reasonable community standard of parental responsibility through an objective test. It shall be no defense that parent was indifferent to the activities or conduct or whereabouts of such minor.

"Minor or juvenile" means any person under the age of eighteen (18) or equivalent phrasing often herein employed, any person seventeen (17) or less years of age.

"Parent" means any persons having legal custody of minor: (i) as natural or adoptive parent; (ii) as legal guardian; (iii) as person who stands in loco parents; or (iv) as person to whom legal custody has been given by court order.

"Public place" means any place to which the public has access, including but not limited to public street, road, thoroughfare, sidewalk, bridge, alley, plaza, park, recreation or shopping area, public transportation facility, vehicle used for public transportation, parking lot or any other public building, structure or area.

"Time of night" as referred to in this chapter, shall be based upon the prevailing standard of time, whether Eastern/Standard Time or Eastern Daylight Saving Time, generally observed at that hour by the public in the township, prima facie the time then observed in the police station.

"Township" means the township of Ocean, county of Ocean, municipal corporation of the state of New Jersey.

"Year of age" means and continues from one birthday, such as the seventeenth to (but not including the day of) the next such as the eighteenth birthday, making it clear that seventeen (17) or less years of age is herein treated as equivalent to the phrase, "unde eighteen (18) years of age." Similarly, for example, thirteen (13) or less years of age means, "under fourteen (14) years of age." (Prior code § 5-23.1)

9.08.020 Curfew for minors.

A. It is unlawful for any person or persons thirteen (13) years of age or less to be or remain in or upon any public place within the township after nine p.m., for the period of October 24th through November 1st of any calendar year and ten p.m. for the period November 2nd through October 23rd of each calendar year.

B. It is unlawful for any person seventeen (17) years of age or less to be or remain in or upon any public place within the township after ten p.m., for the period of October 24th

through November 1st of any calendar year and eleven p.m. for the period November 2nd through October 23rd of each calendar year. (Ord. 2004-26 § 1, 2004; Ord 2002-28 § 23, 2002)

9.08.030 Parental responsibility.

It is unlawful for a parent having legal custody of a minor knowingly to permit or by inefficient control to allow such minor to be or remain upon any township street or in any place under circumstances not constituting an exception to, or otherwise beyond the scope of, the curfew ordinance as contained this chapter. (Prior code § 5-23.3)

9.08.040 Penalties.

A. If, after receipt of warning notice pursuant to this chapter of first violation by a juvenile, second curfew violation is adjudicated against the same minor, the parents of the minor shall be subject to prosecution under Section 9.08.050. Violators of this chapter shall be required to perform community service and may be subject to fine of up to one thousand dollars (\$1,000.00). If both the juvenile and the juvenile's parent violate the curfew ordinance, they shall be required to perform community service together.

B. Any juvenile who shall violate any of the provisions of the curfew ordinance, as contained this chapter, more than three times shall be reported by the chief of police to the juvenile authorities as a juvenile in need of supervision and the chief of police may proceed to file such charges with the Superior Court of New Jersey, Family Part, as he/she may deem appropriate. (Prior code § 5-23.4)

9.08.050 Exceptions.

Notwithstanding the provisions of Sections 9.08.020 through 9.08.040, juveniles engaged

in errands involving medical emergencies or to attend extracurricular school activities (activities sponsored by religious or community-based organizations) and other cultural, educational and social events sponsored by religious or community-based organizations after ten p.m. and before six a.m. shall not be required to comply with the curfew requirements set forth in this chapter. (Prior code § 5-23.5)

Chapter 9.12

UNDERAGE DRINKING

Sections:

- 9.12.010 Purpose.**
- 9.12.020 Definitions.**
- 9.12.030 Prohibition—Possession and/or consumption of alcoholic beverages by person under legal age on private property.**

9.12.010 Purpose.

The purpose of this chapter is to provide an enforcement mechanism under the township ordinances pursuant to Public Law Chapter of the laws of the state of New Jersey. (Ord. 2000-27 § 2, 2000)

9.12.020 Definitions.

As used in this chapter, the following terms are defined:

“Guardian” means person who has qualified as guardian of the underage person pursuant to testamentary or court appointment.

“Relative” means the under aged person’s parent, grandparent, aunt or uncle, sibling, or any other person related by blood or affinity. (Ord. 2000-27 § 3, 2000)

9.12.030 Prohibition—Possession and/or consumption of alcoholic beverages by person under legal age on private property.

A. Any person under the legal age to purchase alcoholic beverages, who knowingly possesses without legal authority, or who knowingly consumes any alcoholic beverage on private property, shall be punished by fine of two hundred fifty dollars (\$250.00) for first

offense and three hundred fifty dollars (\$350.00) for any subsequent offense. The court may, in addition to the fine authorized for this offense, suspend the driving privileges of said defendant for period of up to six months or in the alternative, if the defendant has not yet obtained such driving privilege, may suspend or postpone the opportunity for said defendant to obtain his/her driving privileges for period of up to six months.

B. Upon conviction of any person, and the suspension or postponement of that person’s driver’s license, the court shall forward report to the Division of Motor Vehicles, stating the first and last day of the suspension or postponement imposed by the court pursuant to this chapter. If the person at the time of the imposition of sentence is less than seventeen (17) years of age, the period of postponement, including suspension or postponement of the privilege of operating motorized bicycle, shall commence on the day the sentence is imposed and shall run for the period as set by the court from the date the person reaches the age of seventeen (17) years.

C. If a person at the time of the imposition of sentence has valid driver’s license issued by this state, and the court suspends same, the court shall immediately collect the license and forward it to the Division along with the report. If for any reason the license cannot be collected, the court shall include in the report the complete name, address, date of birth, eye color and sex of the person, as well as the first and last date of the license suspension period imposed by the court.

D. The court shall inform the person orally and in writing that if the person is convicted of operating motor vehicle during the period of license suspension or postponement, the person shall be subject to the penalties set forth in R.S. 39:3-40. A person shall be re-

quired to acknowledge receipt of the written notice in writing. Failure to receive written notice or failure to acknowledge in writing the receipt of written notice shall not be defense to subsequent charge of violation of R.S. 39:3-40.

E. The court shall, with respect to the driving privileges of any person convicted under this chapter who is not a New Jersey resident, suspend or postpone, as appropriate, the nonresident driving privilege of the person based on the age of the person and submit to the Division the required report. The court shall not collect the license of nonresident convicted under this chapter. Upon receipt of report by the court, the Division shall notify the appropriate officials in the licensing jurisdiction of the suspension or postponement.

F. This chapter does not prohibit an under aged person from consuming or possessing an alcoholic beverage in connection with religious observance, ceremony, or rite or consuming or possessing an alcoholic beverage in the presence of and with the permission of a parent, guardian, or relative who has attained the legal age to purchase and consume alcoholic beverages.

G. This chapter does not prohibit possession of alcoholic beverages by any such person while actually engaged the performance of employment by a person who is licensed under Title 33 of the New Jersey Statutes, or while engaged in the preparation of food while enrolled culinary arts or hotel management program at county vocational school or post secondary educational institution. However, no ordinance enacted pursuant to this chapter shall be construed to preclude the imposition of a penalty under R.S. 33:1-81, or any other section of law against a person who is convicted of unlawful alcoholic beverage activity on or at premises licensed for the sale

of alcoholic beverages. (Ord. 2000-27 § 4, 2000)

Chapter 9.16

PARENTAL RESPONSIBILITY

Sections:

- 9.16.010** **Definitions.**
- 9.16.020** **Prohibited acts of parents.**
- 9.16.030** **Notice to parents.**
- 9.16.040** **Parental responsibility.**
- 9.16.050** **Penalty.**
- 9.16.060** **Cumulative remedy.**

9.16.010 **Definitions.**

“Minor” means any unemancipated person under the age of eighteen (18) years.

“Parent” shall be defined to include either or both natural parents of minor, the legal guardians of such minor, or any other adult persons who have voluntarily or otherwise assumed the responsibilities of a natural parent with respect to custody, care and control of such minor For the purposes of the enforcement of this chapter, the term “parent” shall not apply to natural parents, legal guardians or other persons whose responsibility for the custody and control of such minor has been transferred to another person or otherwise terminated by court order, or by the emancipation of the minor by marriage, military service or other circumstances. Persons claiming the benefit of any such termination or transfer of responsibilities shall bear the burden of establishing such any proceeding hereunder.

A. “Violation of the public peace” shall be defined including any of the following acts:

- 1. Defacing, damaging, or destroying public property or the private property of another within the township;
- 2. Committing an assault or assault and battery upon another in the township;

3. Robbery, stealing or larceny including shoplifting;

4. Knowingly receiving stolen property;

5. Breaking and entering or entering without breaking into the property of another with the intent to steal;

6. Threatening another with the intention of extorting money or anything of value;

7. Possession or use of controlled dangerous substance as such shall be defined under R.S. 24;

8. Juvenile delinquency based upon any of the above offenses. (Ord. 2002-28 § 25, 2002; prior code § 5-13.1)

9.16.020 **Prohibited acts of parents.**

No parent shall assist, aid, abet, allow, permit, suffer or encourage a minor to commit violation of the public peace, as defined in Section 9.16.010, either by overt act, by failure to act or by lack of supervision and control over such minor. (Prior code § 5-13.2)

9.16.030 **Notice to parents.**

A. Immediate Notice of Detention. Whenever a minor shall be taken into custody or detained for the commission of any such violation of the public peace within the township, the parents of the minor shall be immediately notified by the police department of such custody or detention and the reasons therefor, and of the responsibility of parents under the provisions of this section.

B. Written Notice of Delinquency. When minor is charged with violation of the public peace and the court makes an adjudication of delinquency, the chief of police or his/her designated agent shall forthwith serve written notice of adjudication of delinquency upon the parents, together with written warning of the penalties and other provisions of this chapter with respect to the commission within one

year of second violation of the public peace by the minor. (Prior code § 5-13.3)

9.16.040 Parental responsibility.

A. Presumption. If at any time within one year of serving notice the minor shall be charged with violation of the public peace and shall again be adjudicated delinquent, it shall be presumed, subject to rebuttal by competent evidence that the parents of the minor during such period of time, allowed, permitted or authorized the minor to commit violation of the public peace.

B. Police Record. A record of such notifications shall be kept by the police department. (Prior code § 5-13.4)

9.16.050 Penalty.

Any parent who shall violate the terms of this shall, upon conviction thereof, be subject to punishment by a fine not to exceed five hundred dollars (\$500.00). (Prior code § 5-13.5)

9.16.060 Cumulative remedy.

The remedy provisions of this chapter shall be cumulative, not exclusive, and the state or any other person shall have the right to proceed under legally available remedies. (Prior code § 5-13.6)

Chapter 9.20

DRUG-FREE SCHOOL ZONES

Sections:

- 9.20.010 Adoption of drug-free school zones.**
- 9.20.020 Location and boundaries of school property.**
- 9.20.030 Notification of changes to location and boundaries.**
- 9.20.040 Copies of map on file.**
- 9.20.050 Additional matters.**

9.20.010 Adoption of drug-free school zones.

In accordance with and pursuant to the authority of L. 1988, c. 44 (C. 2C:35-7), the drug-free school zone map produced on or about December 15, 1987 by Richard Lane, P.E., county engineer, is approved and adopted as an official finding and record of the location and areas within the municipality of property which is used for school purposes and which is owned by or leased to any elementary or secondary school or school board, and of the areas on or within one thousand (1,000) feet of such school property. (Prior code § 5-19.1)

9.20.020 Location and boundaries of school property.

The drug-free school zone map approved and adopted pursuant to Section 9.20.010 shall continue to constitute an official finding and record as to the location and boundaries of areas on or within one thousand (1,000) feet of property owned by or leased to any elementary or secondary school or school board which is used for school purposes until such time if any that this chapter shall be amended to reflect any additions or deletions

with respect to the location and boundaries of school property and drug-free school zones. (Prior code § 5-19.2)

9.20.030 Notification of changes to location and boundaries.

The school board, or the chief administrative officer in the case of any private or parochial school, is directed and shall have the continuing obligation to promptly notify the county engineer and the township attorney of any changes or contemplated changes in the location and boundaries of any property owned by or leased to any elementary or secondary school or school board and which is used for school purposes. (Prior code § 5-19.3)

9.20.040 Copies of map on file.

The clerk of the municipality is directed to receive and to keep on file the original of the map approved and adopted pursuant to Section 9.20.010, and to provide at reasonable cost true copy thereof to any person, agency or court which may from time to time request such copy, along with certification that such copy is true copy of the map approved, adopted and kept on file. It is further directed that true copy of such map and of this chapter shall be provided without cost to the county clerk and to the office of the Ocean County prosecutor. (Prior code § 5-19.4)

9.20.050 Additional matters.

The following additional matters are determined, declared, recited and stated:

A. It is understood that the map approved and adopted pursuant to Section 9.20.010 was prepared and is intended to be used as evidence prosecutions arising under the criminal laws of this state, and that pursuant to state

law, such map shall constitute prima facie evidence of the following:

1. The location of elementary and secondary schools within the municipality;
2. The boundaries of the real property which is owned by or leased to such schools or school board;
3. That such school property is and continues to be used for school purposes; and
4. The location and boundaries of areas which are on or within one thousand (1,000) feet of such school property.

B. All of the property depicted on the map approved and adopted in Section 9.20.010 as school property was owned by (or leased to) a school or school board and was being used for school purposes as of July 9, 1987, that being the effective date of L. 1987, c. 101 (C. 2C:35-7).

C. Pursuant to the provisions of L. 1988, c.44, a prosecutor not precluded from introducing or relying upon any other evidence or testimony to establish a violation of the offense defined in that statute including use of a map or diagram other than the one approved and adopted pursuant to Section 9.20.010. The failure of the map approved to depict the location and boundaries of any property which is, in fact, used for school purposes and which is owned by or leased to any elementary or secondary school or school board, whether the absence of such depiction is the result of inadvertent omission or the result of any changes in the location and boundaries of such property which have not yet been incorporated into a revised approved map, shall not be deemed to be an official finding and record that such property is not owned by or leased to school or school board, or that such property is not used for school purposes.

D. All of the requirements set forth in L. 1988, c. 44 concerning the preparation, ap-

proval and adoption of a drug free school zone map have been compiled with. (Prior code § 5-19.5)

Chapter 9.24

TOBACCO SALES RESTRICTIONS

Sections:

- 9.24.010 Prohibition of tobacco sales to minor.**
- 9.24.020 Identification required.**
- 9.24.030 Prohibition of tobacco vending machines and self-service tobacco displays.**
- 9.24.040 Removal of tobacco vending machines and self-service displays.**
- 9.24.050 Definitions.**
- 9.24.060 Enforcement.**
- 9.24.070 Severability and repealer.**
- 9.24.080 Penalties.**

9.24.010 Prohibition of tobacco sales to minor.

A. It is unlawful to sell tobacco to a person under eighteen (18) years of age.

B. Sign Requirements. Not less than a six inch by eight inch (6" x 8") sign shall be posted in a conspicuous place near each cash register in all retail establishments which sell tobacco products containing the following language:

SALE OF TOBACCO PRODUCTS TO MINORS UNDER THE AGE OF 18 IS PROHIBITED BY LAW. Legal proof of age must be shown. A person who sells or offers to sell a tobacco product to a person under 18 years of age may be prosecuted in accordance with state and local ordinances.

(Ord. 2002-13 § 1, 2002)

9.24.020 Identification required.

It is unlawful for tobacco retailer to sell or permit to be sold tobacco to any individual without requesting and examining identification from the purchaser positively establishing the purchaser's age as eighteen (18) years or greater, unless the seller has some other conclusive basis for determining the buyer is over the age of eighteen (18) years. (Ord. 2002-13 § 2, 2002)

9.24.030 Prohibition of tobacco vending machines and self-service tobacco displays.

A. It is unlawful to offer for sale or to sell tobacco through a tobacco vending machine in the township of Ocean.

B. Self-service tobacco displays are prohibited in all retail establishments. (Ord. 2002-13 § 3, 2002)

9.24.040 Removal of tobacco vending machines and self-service displays.

All tobacco vending machines and self-service tobacco displays made unlawful by the terms of this chapter shall be removed within thirty (30) days from the effective date of this ordinance codified in this chapter. (Ord. 2002-13 § 4, 2002)

9.24.050 Definitions.

As used in this chapter, the following terms are defined:

"Health department" means the Ocean County health department, and may be referred to in this chapter as the "department."

"Health officer" means the administrative officer of the Ocean County health department.

"Law enforcement officer" means any member of the township police department or

any other municipal police department of the New Jersey State Police.

“Person” means an individual, partnership, cooperative, association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

“Self-service displays” means any racks, stands or other display devices from which a customer may take tobacco products directly with only payment to be made to the tobacco retailer.

“Tobacco” means any product made from the tobacco plant for the purpose of smoking, chewing, inhaling and other personal use including cigars, chewing tobacco, pipe tobacco, snuff and cigarettes in any form.

“Tobacco retailer” means any person or entity that operates a store, stand, booth, concession, or place at which sales of tobacco are made to purchasers for consumption or use. This shall also mean a person or entity that owns, operates or uses a vending machine and/or vending machine location.

“Vending machine” means any automated, self-service device which, upon insertion of money, tokens or any other form of payment, dispenses cigarettes or other tobacco products. (Ord. 2002-13 § 5, 2002)

9.24.060 Enforcement.

A. Whenever the health officer, or his/her designee or law enforcement officer, reasonably believes there exists a violation of this chapter, such officer or designee may issue summons and complaint not later than sixty (60) days after discovery of the alleged violation. The complaint shall be written and shall state with reasonable particularity the nature of the violation, including reference to the article and section of this chapter alleged to have been violated. The complaint shall be

delivered personally or sent by certified mail to the alleged violator.

B. The health officer, designee or law enforcement officer charged with enforcement of this chapter, after giving proper identification, may inspect any matter, thing, premises, place, person, record, vehicle, incident, or event as necessary.

C. It is unlawful for any person to molest, willfully oppose, verbally abuse or otherwise obstruct the health officer, designee or law enforcement officer who may request the assistance of the township police department, or other police agency or peace officer when necessary to execute his or her official duty in manner prescribed by law.

D. Citizens may bring complaints against violators of this chapter. (Ord. 2002-13 § 6, 2002)

9.24.070 Severability and repealer.

A. If any, section, subsection or paragraph of the ordinance codified in this chapter is declared to be unconstitutional, invalid or inoperative in whole or in part by court of competent jurisdiction, such section, subsection, or paragraph shall, to the extent that it is not unconstitutional, invalid or inoperative, remain in full force and effect, and no such determination shall be deemed to invalidate the remaining sections, subsections or paragraphs of this chapter.

B. This chapter shall be liberally construed for the health, safety, and welfare of the people of the township.

C. All ordinances or parts of ordinances inconsistent with this chapter are repealed to the extent of such inconsistency. (Ord. 2002-13 § 7, 2002)

9.24.080 Penalties.

A. Unless otherwise provided by law, statute or ordinance, any person violating any of the provisions of this chapter shall, upon conviction thereof, pay penalty of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for each offense. A complaint shall be made in the municipal court or before such other judicial officer having authority under the laws of the state of New Jersey.

B. Each sale of tobacco to a minor shall constitute separate violation. Each day that a tobacco vending machine or self-service tobacco display remains on any premises or tobacco is sold without the required sign shall constitute a separate and distinct offense. (Ord. 2002-13 § 8, 2002)

Chapter 9.25**SEX OFFENDER RESIDENCY
PROHIBITION****Sections:****9.25.010 Regulations.****9.25.010 Regulations.**

A. No person over the age of eighteen (18) who has been convicted of a violation of any crime against a minor as listed in N.J.S.A. 2C:7-2, and who, as a result of such conviction, is required to register with the proper authorities pursuant to N.J.S.A. 2C:7-1, et seq., registration and notification of release of certain offenders, shall be permitted to reside or live within two thousand five hundred (2,500) feet of any school, park, playground or daycare center located within the township of Ocean.

B. A person who resides or lives within two thousand five hundred (2,500) feet of any school park, playground or daycare center within the township of Ocean shall have sixty (60) days from receipt of written notice of the prohibition set forth in this chapter, to relocate their residence. Failure to move to a location, which is in compliance with this section within the time period prescribed, shall constitute a violation of this chapter.

C. This section shall not apply to a person who has established a residence prior to date of June 1, 2005.

D. Any violation of this section shall be punishable by a fine not exceeding one thousand two hundred fifty dollars (\$1,250.00) and/or imprisonment for a term not exceeding ninety (90) days and/or a period of community service not exceeding ninety (90) days. (Ord. 2005-19 § 2, 2005)

Chapter 9.28

NEWSRACKS

Sections:

- 9.28.010 Purpose.**
- 9.28.020 Definitions.**
- 9.28.030 Permit required.**
- 9.28.040 Application for permit.**
- 9.28.050 Conditions of issuance of permit.**
- 9.28.060 Maintenance and installation.**
- 9.28.070 Location and placement.**
- 9.28.080 Indemnification.**
- 9.28.090 Violations—Penalties.**
- 9.28.100 Suspension or revocation of permit.**
- 9.28.110 Administration.**
- 9.28.120 Abandonment.**

9.28.010 Purpose.

The purpose of the provisions hereinafter contained and enacted is to secure and promote the public health and general welfare of persons in the township of Ocean in their use of public rights-of-way:

A. The uncontrolled placement of newsracks in public rights-of-way presents an inconvenience and danger to the safety and welfare of persons using such rights-of-way, including pedestrians, persons entering and leaving vehicles and buildings and persons performing essential utility, traffic control and emergency services.

B. Newsracks located that caused an inconvenience and/or danger to persons using public rights-of-way, and unsightly newsracks located therein constitute public nuisances. (Ord. 2005-32 § 2 (part), 2005)

9.28.020 Definitions.

As used in this section, the following terms shall have the meanings indicated:

“Distributor” means the person responsible for placing and maintaining a newsrack in a public right-of-way.

“Newsrack” means any self-service or coin-operated box, container, storage unit or other dispenser installed, used or maintained for the display, sale or distribution of newspapers or other periodicals.

“Parkway” means that area between the sidewalk and the curb of any street, and where there is no sidewalk, that area between the edge of the roadway and property line adjacent thereto. Parkway shall also include any area within a roadway which is not open to vehicular travel.

“Roadway” means that portion of a street improved, designed or ordinarily used for vehicular travel.

“Sidewalk” means any surface provided for the exclusive use of pedestrians.

“Street” means all that area dedicated to public use for public street purposes and shall include, but not be limited to, roadways, parkways, alleys and sidewalks. (Ord. 2005-32 § 2 (part), 2005)

9.28.030 Permit required.

It is unlawful for any person, firm or corporation to erect, place, maintain or operate on any public street or sidewalk, or in any other public way or place in the township of Ocean any newsrack without first having obtained a permit from the township of Ocean, specifying the exact location of such newsrack(s). One permit may be issued to include any number of newsracks and shall be signed by the applicant. (Ord. 2005-32 § 2 (part), 2005)

9.28.040 Application for permit.

Application for such permit shall be made, in writing, to the township of Ocean upon such form as shall be provided, and shall contain the name and address of the applicant, the proposed specific location of such newsrack and shall be signed by the applicant. (Ord. 2005-32 § 2 (part), 2005)

9.28.050 Conditions of issuance of permit.

A. As an express condition of the acceptance of such permit, the permittee thereby agrees to indemnify and save harmless the township of Ocean, its officers, directors and employees against any loss or liability or damage, including expenses and costs for bodily or personal injury and for property damage sustained by any person as the result of the installation, use or maintenance of a newsrack within the township of Ocean.

B. Permits shall be issued for the installation of a newsrack or newsracks without prior inspection of the location, but such newsrack or newsracks and the installation, use or maintenance thereof shall be conditioned upon observance of the provisions of this chapter and such reasonable rules and regulations as may be established by the township of Ocean. Permits shall be issued within ten (10) days after the application has been filed. An annual permit fee of fifty dollars (\$50.00) per newsrack is required.

C. Such permits shall be valid for one year and shall be renewable every January pursuant to the procedure for original applications referred to in Section 9.28.040 of this chapter and payment of the fee of fifty dollars (\$50.00) per newspaper rack. (Ord. 2005-32 § 2 (part), 2005)

9.28.060 Maintenance and installation.

A. No newsrack shall exceed five feet in height, thirty (30) inches in width or two feet in thickness.

B. Chaining or otherwise securing newspaper vending machines onto public property is prohibited.

C. No newsrack shall be used for advertising signs or publicity purposes other than that dealing with the display, sale or purchase of the newspaper or periodical sold or offered therein.

D. Each newsrack shall be equipped with a coin-return mechanism to permit a person using the machine to secure an immediate refund in the event he/she is unable to receive the publication paid for. The coin-return mechanisms shall be maintained in good working order. This requirement shall be waived for newsracks exclusively offering free newspapers or periodicals.

E. Each newsrack shall have affixed to it, in a readily visible place as to be seen by anyone using the newsrack, a notice setting forth the name and address of the distributor and the telephone number of a working telephone service to call to report a malfunction of the coin-return mechanism. This requirement shall be waived for newsracks exclusively offering free newspapers or periodicals.

F. Each newsrack shall be maintained in a neat and clean condition and in good repair at all times. Specifically, but without limiting the generality of the foregoing, each newsrack shall be serviced and maintained so that:

1. It is reasonably free of dirt and grease;
2. It is reasonably free of chipped, faded, peeling and cracked paint in visible painted areas thereof;

3. It is reasonably free of rust and corrosion in the visible unpainted metal areas thereon;

4. The clear plastic or glass parts thereof, if any, through which the publications therein are viewed, are unbroken and reasonably free of cracks, dents, blemishes and discoloration;

5. The paper or cardboard parts or inserts thereof are reasonably free of tears, peeling or fading;

6. The structural parts thereof are not broken or unduly misshapen. (Ord. 2005-32 § 2 (part), 2005)

9.28.070 Location and placement.

Any newsrack which rests in whole or in part on any portion of a public right-of-way shall be located in accordance with the provisions of this section:

A. No newsrack shall be permitted to be placed in any residential district within the township.

B. No newsrack shall be used or maintained which projects onto, into or over any part of the roadway of any public street, or which rests, wholly or in part, upon, along or over any portion of the roadway of any public street.

C. No newsrack shall be permitted to rest upon, in or over any public sidewalk or parkway, when such installation, use or maintenance endangers the safety of persons or property, or when such site or location is used for public utility purposes, public transportation purposes or other governmental use, or when such newsrack unreasonably interferes with or impedes the flow of pedestrian or vehicular traffic, including any legally marked or stopped vehicle, the ingress or egress from any residence or place of business or the use of poles, posts, traffic signs or signals, hy-

drants, mailboxes or other objects permitted at or near such location.

D. No newsrack shall be installed above or within proximity to interfere with the use, maintenance and/or repair of any gas line, water line, sewer line or other such utility line.

E. No newsrack shall be chained, bolted, anchored to the ground or otherwise attached to any fixture located in the public right-of-way, except to other newsracks.

F. Newsracks may be placed next to each other, provided that no group of newsracks shall extend for a distance of more than eight feet along a curb and space of not less than three feet shall separate each group of newsracks.

G. No newsrack shall be placed, installed, used or maintained:

1. Within five feet of any marked crosswalk;

2. Within twelve (12) feet of the curb return of any unmarked crosswalk;

3. Within ten (10) feet of any fire hydrant, fire call box, police call box or other emergency facility;

4. Within five feet of any driveway;

5. Within three feet ahead or fifteen (15) feet to the rear of any sign marking a designated bus stop;

6. Within three feet of the outer end of any bus bench;

7. At any location whereby the clear space for the passageway of pedestrians is reduced to less than six feet;

8. Within three feet of or on any public areas improved with lawn, flowers, shrubs, trees or other landscaping;

9. Within five feet of any utility pole;

10. Within ten (10) feet of any no parking area;

11. Within ten (10) feet of any traffic sign;

12. Within five feet of any mailbox;

13. Within five feet of any public telephone;

14. Within fifteen (15) feet of any designated handicapped parking area;

15. Within one hundred (100) feet of any other newsracks on the same side of the street in the same block containing the same issue or edition of the same publication. (Ord. 2005-32 § 2 (part), 2005)

9.28.080 Indemnification.

Each distributor shall execute and deliver to the township clerk a written agreement under which the distributor, in exchange for permission to place a newspaper vending machine in the public rights-of-way, agrees to indemnify, hold harmless and defend the township, its officers, agents and employees, from any loss, liability or damage sustained by any person as a result of the placement or maintenance of such newspaper vending machines in the public rights-of-way. (Ord. 2005-32 § 2 (part), 2005)

9.28.090 Violations—Penalties.

A. Any person violating or failing to comply with any other provision of this chapter shall, upon conviction thereof, be punished by a fine of not less than one hundred dollars (\$100.00) and not more than one thousand dollars (\$1,000.00), by imprisonment not to exceed ninety (90) days or by community service of not more than ninety (90) days or any combination of fine, imprisonment and community service, as determined in the discretion of the municipal court judge. The continuation of such violation for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of the violation may be punished as provided above for each separate offense.

B. The violation of any provisions of this chapter shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction. (Ord. 2005-32 § 2 (part), 2005)

9.28.100 Suspension or revocation of permit.

In addition to the enforcement procedures provision in Section 9.28.090 of this chapter, it shall be within the power and discretion of the township of Ocean code enforcement officer to suspend or revoke the permit for continued or repeated violations or infractions of any provisions of this section or any rule, direction or regulation of the township of Ocean. Suspension or revocation shall be mandatory for the third offense against Section 9.28.090 of this chapter. (Ord. 2005-32 § 2 (part), 2005)

9.28.110 Administration.

“Township of Ocean” as used in this section shall include the Ocean Township police department, township clerk, code enforcement officer and/or director of public works. (Ord. 2005-32 § 2 (part), 2005)

9.28.120 Abandonment.

In the event that a newsrack remains empty for a period of thirty (30) continuous days, the same shall be deemed abandoned, and may be treated in the manner as provided for in Section 9.28.090 of this chapter in violation of the provisions of this section. (Ord. 2005-32 § 2 (part), 2005)