

CHAPTER V

POLICE REGULATIONS*

5-1 Distribution of Handbills.

5-1.1 *Purpose.* The purpose of this section shall be to protect the people against the nuisance of and incident to the promiscuous distribution of handbills and circulars, particularly commercial handbills, as herein defined, with the resulting detriment and danger to public health and safety, the public interest, convenience and necessity requires the regulation thereof and to that end the purposes of this section are specifically declared to be as follows:

a. To protect the people against the unlawful activities or operations of dissolute persons of criminal habits or tendencies, representing themselves as solicitors, canvassers or handbill distributors, by requiring the registration of all such solicitors, canvassers or handbill distributors, together with the names of their employers, and by regulating the business of handbill and advertising distribution through the imposition of reasonable license fees.

b. To protect local residents against trespassing by solicitors, canvassers or handbill distributors upon the private property of such residents if they have given reasonable notice that they do not wish to be solicited by such persons or do not desire to receive handbills or advertising matter.

c. To protect the people against the health and safety menace and the expense incident to the littering of the streets and public places by the promiscuous and uncontrolled distribution of advertising matter and commercial handbills.

d. To preserve to the people their constitutional right to receive and disseminate information not restricted under the ordinary rules of decency and good morals and public order, by distinguishing between the nuisance created by the promiscuous distribution of advertising and commercial circulars and the right to deliver noncommercial handbills to all who are willing to receive the same.

*The general power to adopt local police ordinances of all kinds is contained in R.S. 40:65-1, 2. The authority for regulations concerning removal of grass and weeds is contained in R.S. 40:65-12. The power to compel an owner of property to perform work on his property is contained in R.S. 40:48-3. The power to impose penalties for violations of ordinances is contained in R.S. 40:49-5.

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5-1.2 *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

a. "Billposter" shall mean and include any person engaging in the business for hire of posting, fastening, nailing, or otherwise affixing any written, painted or printed matter of any kind, or other form or reproduction thereof, hereinafter called "sign", containing a message or information of any kind whatsoever, to any outdoor billboard, or to or upon any bridge, fence, pole, post, sidewalk, tree, or to or upon the exterior of any other structure except that the terms of this definition shall not apply to nor include any such sign mounted on, fastened to, or suspended from the outside of any building or other structure, in accordance with and authorized by any provisions of an ordinance or statute, either for any public convenience or use, or regulating the construction or use of so-called outdoor display signs, whether such display signs are illuminated or not.

b. "Commercial handbill" shall mean and include any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter or literature:

1. Which advertises for sale any merchandise, product, commodity, or thing.

2. Which directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interests thereof by sales.

3. Which directs attention to or advertises any meeting, theatrical performance, exhibition, or event of any kind, for which an admission fee is charged for the purpose of private gain or profit; but the terms of this clause shall not apply where an admission fee is charged or a collection is taken up for the purpose of defraying the expenses incident to such meeting, theatrical performance, exhibition, or event of any kind, when either of the same is held, given or takes place in connection with the dissemination of information which is not restricted under the ordinary rules of decency, good morals, public peace, safety and good order; provided that nothing contained in this clause shall be deemed to authorize the holding, giving or taking place of any meeting, theatrical performance, exhibition, or event of any kind, without a license, where such license is or may be required by any law of this state, or under any ordinance of the borough.

4. Which, while containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed for advertising purposes, or for the private benefit and gain of any person so engaged as advertiser or distributor.

5. Which is not covered by the definition of sign, in paragraph a.

c. "Handbill distributor" shall mean and include any person engaging or engaged in the business for hire or gain of distributing commercial or noncommercial handbills, other than newspapers distributed to subscribers thereof, and any person receiving compensation directly or indirectly for the distribution of such handbills.

d. "Newspaper" shall mean and include any newspaper of general circulation as defined by general law, any newspaper duly entered with the Post Office Department of the United States, in accordance with federal statute or regulation, and any newspaper filed and recorded with any recording officer as provided by general law; and, in addition thereto, shall mean and include any periodical or current magazine regularly published with not less than four issues per year and sold to the public.

e. "Noncommercial handbill" shall mean and include any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper booklet, or any other printed or otherwise reproduced original or copies of any matter or literature not included in the aforesaid definitions of a sign, or a commercial handbill, or a newspaper.

f. "Private premises" shall mean and include any dwelling, house, building or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building, or other structure.

g. "Public place" shall mean and include any and all streets, boulevards, avenues, lanes, alleys, or other public ways, and any and all public parks, squares, spaces, plazas, grounds and buildings.

5-1.3 Posting Notice, Placard, Bill, Etc., Prohibited in Certain Cases.

No person shall post, stick, stamp, paint or otherwise fix, or cause the same to be done by any person, any notice, placard, bill, card, poster, advertisement or other paper or device calculated to attract the attention of the public, to or upon any sidewalk, crosswalk, curb or curbstone, flagstone, or any other portion or part of any public way or public place, or any lamp post, electric light, telegraph, telephone or trolley line pole, or

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railway structure, hydrant, shade tree or tree-box, or upon the piers, columns, trusses, girders, railings, gates or other parts of any public bridge or viaduct, or other public structure or building, or upon any pole, box or fixture of the fire alarm or police telegraph system, except such as may be authorized or required by the laws of the United States, or state, and the ordinances of the borough.

5-1.4 *Throwing Handbills Broadcast in Public Places Prohibited.* It shall be unlawful for any person to deposit, place, throw, scatter or cast any commercial handbill in or upon any public place within the borough. It shall be also unlawful for any person to hand out or distribute or sell any commercial handbill in any public place, provided that it shall not be unlawful for any person to hand out or distribute, without charge to the receiver thereof, any noncommercial handbill in any public place to any person willing to accept such noncommercial handbill.

5-1.5 *Placing of Commercial and Noncommercial Handbills in Vehicles.* It shall be unlawful for any person to distribute, deposit, place, throw, scatter or cast any commercial or noncommercial handbill in or upon any automobile or other vehicle. The provisions of this section shall not be deemed to prohibit the handing, transmitting or distributing of any noncommercial handbill to the owner or other occupant of any automobile or other vehicle, who is willing to accept the same.

5-1.6 *Distribution on Uninhabited or Vacant Private Premises.* It shall be unlawful for any person to distribute, deposit, place, throw, scatter or cast any commercial or noncommercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant.

5-1.7 *Prohibiting Distribution Where Properly Posted.* It shall be unlawful for any person to distribute, deposit, place, throw, scatter or cast any commercial or noncommercial handbill upon any premises, if requested by anyone thereon not to do so, or if there is placed on such premises in a conspicuous position near the entrance thereof, a sign bearing the words "No Trespassing," "No Peddlers or Agents," "No Advertisement," or any similar notice, indicating in any manner that the occupants of such premises do not desire to be molested or to have their right of privacy disturbed, or to have any such handbills left upon such premises.

5-1.8 *Distribution on Inhabited Private Premises.* No person licensed under the provisions of this section, or any other person, shall distribute, deposit, place, throw, scatter or cast any commercial or noncommercial

handbill in or upon any private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner, occupant, or any other person then present in or upon such private premises; provided that in case of inhabited private premises which are not posted as provided in this section, the aforesaid licensee or other person, unless requested by anyone upon such premises not to do so, may place or deposit any such handbill in or upon such inhabited private premises, if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or elsewhere, except that mailboxes may not be so used when so prohibited by federal postal laws or regulations.

5-1.9 Name and Address of Printer, Etc., and Distributor of Handbills. It shall be unlawful for any person to distribute, deposit, scatter, hand out or circulate any commercial or noncommercial handbill in any place, under any circumstances, which does not have printed on the cover, front or back thereof, the name and address of the following:

- a. The person who printed, wrote, compiled or manufactured the same.
- b. The person who caused the same to be distributed, provided that in the case of a fictitious name, the true names and addresses of the owners, managers, or agents of the person sponsoring such handbill shall also appear thereon.

5-1.10 Distributors License; Fee.

a. It shall be unlawful for any person to engage in the business of a billposter for hire or as a handbill distributor for hire, or for any person to distribute commercial or noncommercial handbills, without first complying with the terms of this section and all other relevant laws and regulations, provided that nothing contained herein shall apply to any person advertising his business or activity upon his own premises, if such business or activity is regularly established at a definite location in such borough, and also if a license has been obtained therefor, if such license be required under the terms of any applicable law or ordinance.

b. Any person desiring to engage as principal, either in the business of a billposter for hire, or in the business of distributing commercial or noncommercial handbills for hire, shall make application to and receive from the borough clerk, or other officer empowered to issue the same, who shall act whenever the borough clerk is herein referred to, a license in the manner and for the period prescribed by the terms of this section and by all relevant provisions of the municipal code. Such applicant shall make written application to the borough clerk upon a form or forms provided for such purpose by the borough clerk. Such form shall contain, among

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other things that may be required, the name, the business address, and a brief description of the nature of the business to be conducted by the applicant, the probable number of agents and employees so to be engaged, together with a request for a license for the period for which the applicant seeks to engage in such business.

c. Without excluding other just grounds for revocation, the borough council, or official so empowered by law, may revoke any license obtained under an application containing a false or fraudulent statement knowingly made by the applicant with intent to obtain a license by means of false or fraudulent representations, or for violation of this section, or any other grounds specified by law. Such application shall be accompanied by the fee hereinafter provided for in this section. No license issued under this section shall be transferable, and if any such license shall be surrendered by the licensee therein named, or shall be revoked for cause, neither the licensee named in such license, nor any other person, shall be entitled to any refund of any part of such fee.

d. License fees under the terms of this section, and for any such purpose, shall be as follows:

1. For a period of one year, the sum of \$375.00.
2. For a period of three months, the sum of \$150.00.
3. For a period of one week, the sum of \$37.50.
4. For a period of one day, the sum of \$15.00.

Persons acting for licensees, as agents or employees, in the posting or distributing of any such signs or handbills, shall not be required to obtain a license or pay a fee, but each such person shall comply with each and all of the other provisions hereof, and be subject thereto.

5-1.11 *Exemptions.* The provisions of this section shall not be deemed to apply to the distribution of mail by the United States, nor to newspapers as defined in this section, nor to religious, charitable, political, educational or civic organizations engaged in the distribution of handbills of such religious, charitable, political, educational or civic organizations by the members of such organizations.

5-1.12 *Owner Not To Permit Use of Premises for Posting of Objectionable Matter or Material.* It shall be unlawful for the owner, lessee, occupant or agent of premises to permit any person, whether licensed or acting under the terms of this section or otherwise, to post, affix or otherwise attach to any building, structure or fixture located upon such premises, whether such fixture be natural or artificial, any poster or handbill containing any matter prohibited by the terms of this section.

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5-2.2 *Certain Types of Loitering Prohibited.* No person shall loiter in a public place in such a manner as to:

- a. Create or cause to be created a danger of a breach of the peace.
- b. Create or cause to be created any disturbance or annoyance to the comfort and repose of any person.
- c. Obstruct the free passage of pedestrians or vehicles.
- d. Obstruct, molest or interfere with any person lawfully in a public place. This paragraph shall include the making of unsolicited remarks of an offensive, disgusting or insulting nature or which are calculated to annoy or disturb the person to, or in whose hearing, they are made.

5-2.3 *Violation.* Any person violating the provisions of subsection 5-2.2 shall be ordered to move on by a police officer, failing which he shall be guilty of a violation.

5-2.4 *Loitering by Minors; Notice; Presumption.* No parent or guardian of a minor under the age of 18 years shall knowingly permit that minor to loiter in violation of this section. Whenever any minor under the age of 18 years is charged with a violation of this section, his parent or guardian shall be notified of this fact by the chief of police or any other person designated by the chief of police to give such notice. If at any time within 30 days following the given notice, the minor to whom such notice relates again violates this section, it shall be presumed in the absence of evidence to the contrary that the minor did so with the knowledge and permission of his parent or guardian.

5-3 **Noise.**

No person shall make, aid, countenance or assist in making any improper noise, riot, disturbance or breach of the peace in or upon any street, highway, thoroughfare, sidewalk, building or other public or quasi-public place, or upon private property which is not his own, or disquiet or disturb any congregation or assembly of any kind whatsoever in any church or other building by any rude, disorderly or indecent behavior of any kind.

No person shall make or permit the making of any disturbing noise by the use of a phonograph, radio, television, musical instrument, lawn mower of any type, either power or manual, or other machines or devices, producing or reproducing of sound in such manner as to disturb the peace,

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quiet and comfort of their neighbors. The operation of any such sets, instruments, machines or devices between the hours of 10:00 p.m. and 7:00 a.m., Monday through Saturday and 10:00 p.m. and 9:00 a.m., Sunday, in such a manner as to be plainly audible at a distance of 50 feet from the building or vehicle in which it is located, shall be prima facie evidence of a violation of this section.

5-4 Shopping Carts.

No person except store owners and their employees shall operate or use any store owned wire cart, commonly known as shopping carts, on the streets of the borough for the distance of more than 200 feet from the property of any store, shop or supermarket from which the cart is obtained.

5-5 Open Wells; Excavations.

5-5.1 *Public Nuisance.* Any unprotected open well, or excavation of a depth of three feet or more and of such width and length that a human being could fall into it, or a cellar which has been excavated and foundation laid or partially laid, and later abandoned and left unprotected on vacant land, are hereby declared a public nuisance.

5-5.2 *Complaints and Action.* When a complaint is made to the mayor and council as to the existence of a public nuisance as described in subsection 5-5.1, the mayor and council shall order an investigation made of such condition by the health officer and building inspector of the borough and a report of such investigation shall be made within ten days. If the report shows such a public nuisance does exist and the same is not protected by a fence or barrier surrounding it to prevent persons from falling into it and that it constitutes a dangerous condition, then the mayor and council shall forthwith cause a notice to be given to the owner of the property that the condition constitutes a public nuisance. The notice shall be served personally upon the owner of the property if such owner resides in the borough, and if he resides out of the borough, the notice shall be sent by certified mail to such owner at the address appearing on the tax duplicate for the current year for the property on which the condition is located. The notice shall notify the owner of the existence of the public nuisance and require that the owner, upon receipt of the notice forthwith cause the nuisance to be abandoned by either having the well or excavation filled in, or the abandoned foundation removed and the

5-1.13 *Handbills Offensive to Public Morals Prohibited.* It shall be unlawful for any person to post, to hand out, distribute or transmit any sign, or any commercial or noncommercial handbill:

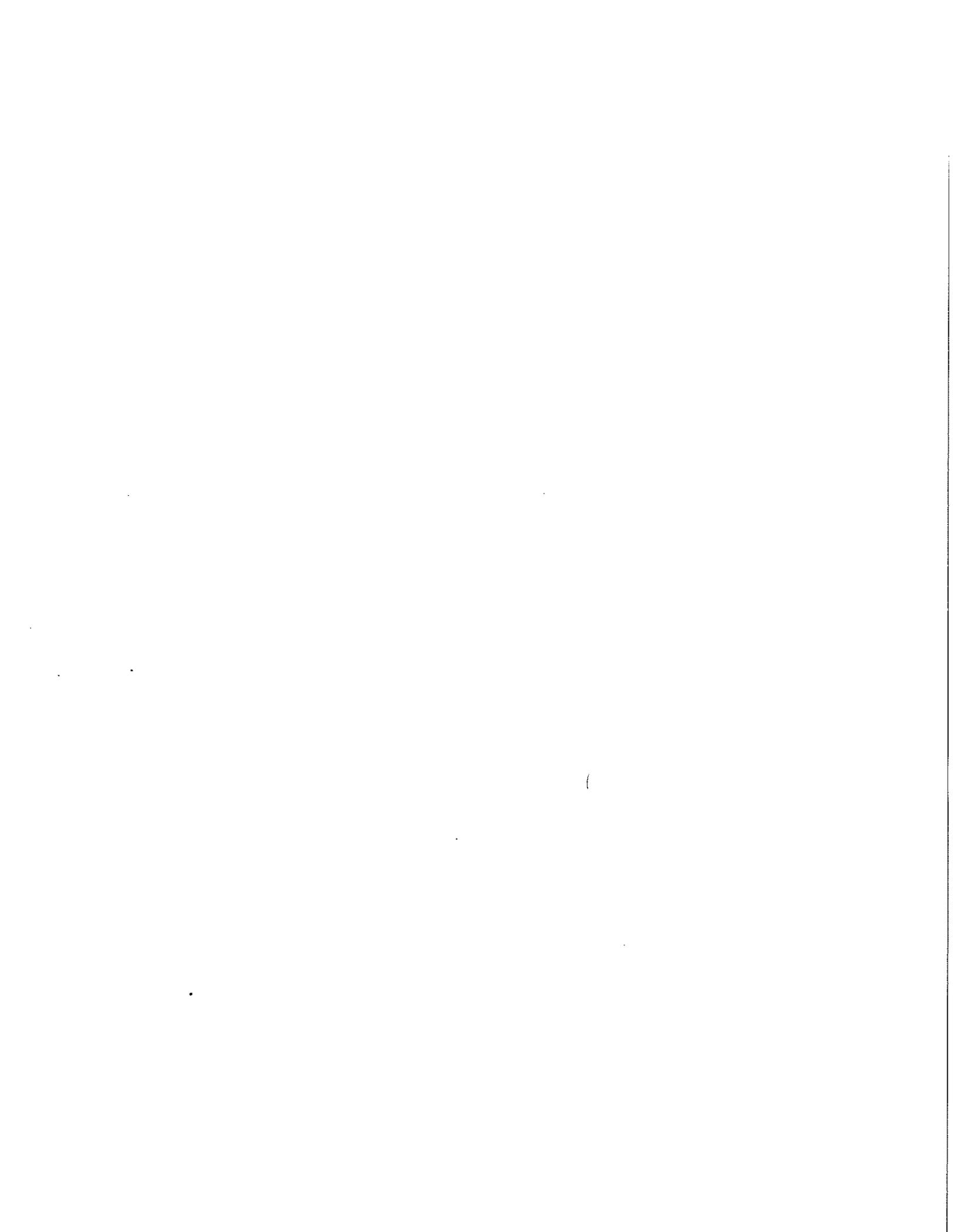
- a. Which may reasonably tend to incite riot or other public disorder, or which advocates disloyalty to or the overthrow of the Government of the United States or of this state by means of any artifice, scheme, or violence, or which urges any unlawful conduct, or encourages or tends to encourage a breach of the public peace or good order of the community.
- b. Which is offensive to public morals or decency, or which contains blasphemous, obscene, libelous or scurrilous language.

5-1.14 *Certain Existing Ordinance Not Affected.* This section shall not be deemed to repeal, amend or modify any ordinance ever ordained, either prohibiting, regulating or licensing canvassers, hawkers, peddlers, transient merchants, or any person, using the public streets or places for any private business or enterprise, or for commercial sales not covered herein.

5-2 Loitering.

5-2.1 *Definitions.* As used in this section:

- a. "Loitering" shall mean remaining idle or walking aimlessly about in essentially one location.
- b. "Public place" shall mean a place to which the public has access and shall include any public building and grounds, street, highway, road, alley, boardwalk or sidewalk. It shall also include the front or the neighborhood of a store, shop, restaurant, tavern or other place of business, and public grounds, areas, parks and marinas, as well as parking lots or other vacant private property not owned by or under the control of the person charged with violating this section or, in the case of a minor, not owned or under the control of his parent or guardian.
- c. "Parent" or "guardian" shall mean and include any adult person having care or custody of a minor, whether by reason of blood relationship, the order of any court or otherwise.



excavation filled in and all debris taken away from the property. If the nuisance is not abandoned within 30 days from the receipt of notice, the owner of the property shall thereupon be guilty of a violation of this section unless during the 30-day period the owner appears before the mayor and council at a regular meeting and shows cause why the same does not constitute a public nuisance as defined herein. After hearing the owner, if the mayor and council reaffirms their previous decision that the condition constitutes a public nuisance, then the owner shall be guilty of a violation of this section.

5-6 Garbage and Rubbish Collection.

5-6.1 Definitions. As used in this section:

a. "Ashes" shall mean cinders, clinkers, partly burned fuel and the residue from the combustion of wood, coal, coke, or any other material ordinarily burned for household, domestic or heating purposes.

b. "Garbage" shall mean any waste material in process of or subject to decomposition or decay incident to ordinary domestic or business use or purpose, and shall include, among other things, kitchen refuse, animal or vegetable matter, offal and decaying and decomposing substances.

c. "Rubbish" shall mean waste substances, except garbage and ashes, and shall apply particularly to such articles as paper, paper cartons, tin cans, rags, corn husks, bottles, broken glass, crockery, leaves, grass rakings of yards and lawns (when free from earth), beds, bed springs, mattresses, straw, excelsior, floor shavings, and all other waste material, except garbage and ashes.

d. "Occupant" shall mean the owner, agent, tenant, lessee, caretaker or any other person in charge of any premises affected by this section, whichever classification may be appropriate and effective for the enforcement of this section.

e. "Litter" shall mean any used or unconsumed substance or waste material which has been discarded, whether made of aluminum, glass, plastic, rubber, paper, or other natural or synthetic material, or any combination thereof, including, but not limited to, any bottle, jar or can, or any top, cap or detachable tab of any bottle, jar or can, any unlighted cigarette, cigar, match or any flaming or glowing material or any garbage, trash, refuse, debris, rubbish, grass clippings or other lawn or garden waste, newspapers, magazines, glass, metal, plastic or paper containers or other packaging or construction material, but does not include the waste of the primary processes of mining or other extraction processes, logging, sawmilling, farming or manufacturing.

f. "Litter receptacle" shall mean a container suitable for the depositing of litter.

g. "Person" shall mean any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

5-6.2 *Occupant of Property to Provide Proper Receptacles.* The occupant of each property in the borough shall provide suitable receptacles, as hereinafter prescribed, in which the occupant shall place and keep garbage separately in one container, and shall keep separately ashes and rubbish in another container, and the occupant shall securely tie all the waste paper in bundles. Ashes and rubbish, when mingled, shall not be acceptable for collection and removal.

5-6.3 *Watertight Metal Receptacles Required.*

a. Receptacles for garbage shall be of metal or plastic material sufficiently strong for the purpose and may be pails, cans or plastic containers with a capacity of not less than two and one-half nor more than 20 gallons. They shall be watertight, shall have tight-fitting metal or plastic covers, and shall be kept covered except when opened for filling or emptying of material.

b. Receptacles for rubbish, other than paper, shall be strong boxes, baskets or barrels in which it is conveniently possible to place such rubbish.

c. All receptacles for garbage, ashes or rubbish and all bundles of waste paper shall be set by the occupant along the curb line of the street or at a suitable place in the rear of the premises accessible for collection as may be determined by the borough council not sooner than 5:00 p.m. on the day prior to the time fixed for collection. All receptacles shall be removed from the street and from any point in front of the principal building situated upon the premises not later than 9:00 a.m. of the day following collection.

d. The occupant shall keep all receptacles clean and in a proper condition for safe handling.

5-6.4 *Clean Up Week.* The borough council, in conjunction with the board of health, may designate two weeks in each year as "Clean Up Week," during which week there shall be removed from the curb of any and all premises in the borough all rubbish or other material placed there for collection, of which, however, no single piece shall weigh more than 100 pounds.

5-6.5 *Placing Litter on Public or Private Property.* It shall be unlawful for any person to throw, drop, discard or otherwise place any litter of any nature upon public or private property other than in a litter receptacle, or having done so, to allow such litter to remain.

5-6.6 *Discarding Litter from Vehicle or Boat.* Whenever any litter is thrown or discarded or allowed to fall from a vehicle or boat in violation of this section, the operator or owner, or both, of the motor vehicle or boat shall also be deemed to have violated this section.

5-6.7 *Existence of Obnoxious Growths Reported.* Whenever the chief of the fire department, chief of police or health officer of the borough shall determine that there exists upon any lands lying within the limits of the borough brush, weeds, dead and dying trees, stumps, roots, obnoxious growths, filth, garbage, trash and debris, removal of which may be necessary and expedient for the public health, safety or general welfare or to eliminate a fire hazard, he shall file with the mayor and council a written report identifying the property and describing the brush, weeds, dead and dying trees, stumps, roots, obnoxious growths, filth, garbage, trash and debris, removal of which may be necessary and the reason or reasons for which such removal may be necessary.

5-6.8 *Removal Ordered by Council; Notice to Owner.* After receipt of such report, the mayor and council shall proceed to ascertain the condition existing upon and with respect to such lands and if the mayor and council determine that the removal of such brush, weeds, dead and dying trees, stumps, roots, obnoxious growths, filth, garbage, trash and debris is necessary and expedient for the preservation of the public health, safety or general welfare or to eliminate a fire hazard, the mayor and council shall adopt a resolution to that effect. The resolution shall also direct that the clerk of the borough give notice in writing to the owner or owners, tenant or tenants of such lands to remove such brush, weeds, dead and dying trees, stumps, roots, obnoxious growths, filth, garbage, trash and debris within ten days after such notice. Such notice shall be given by registered mail, return receipt requested, directed in case of an owner to the address of such owner as the same appears upon the last tax duplicate of the borough and in the case of a tenant to the street address of the lands in question.

5-6.9 *Duty of Owner to Remove Within Time Permitted.* It shall be the duty of the owner or tenant of such lands to remove such brush, weeds, dead and dying trees, stumps, roots, obnoxious growths, filth, garbage, trash and debris within ten days after notice given as hereinabove provided.

5-6.10 *Borough to Remove; Cost to be Lien.* Should the owner or tenant to whom such notice is given fail to remove such brush, weeds, dead and dying trees, stumps, roots, obnoxious growths, filth, garbage, trash and debris, within the ten day period prescribed in such notice, the borough shall proceed to cause to have removed such brush, weeds, dead and dying trees, stumps, roots, obnoxious growths, filth, garbage,

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trash and debris and upon completion of such removal shall certify the cost thereof to the mayor and council. The mayor and council shall examine the certificate and if it shall be found correct, the mayor and council shall cause the cost as thereon to be charged against the lands from which said brush, weeds, dead and dying trees, stumps, roots, obnoxious growths, filth, garbage, trash and debris shall have been removed; and the amount so charged shall forthwith become a lien upon such lands and shall be added to and become and form part of the taxes to be assessed and levied upon such lands, if the same to bear interest at the same rate as taxes and shall be controlled and enforced by the same officers and in the same manner as taxes.

5-6.11 *Violations and Penalties.* Any person(s) who is found to be in violation of the provisions of this section shall upon conviction be subject to the penalties provided in section 5-13.

5-7 **Abandoned Motor Vehicles.**

5-7.1 *Definitions.* As used in this section:

a. "Vehicle" shall mean a machine propelled or designed to be propelled or towed by power other than human power and designed to travel along the ground by use of wheels, treads, runners, or slides and transport persons or property or pull machinery and shall include, without limitation, automobiles, trucks, trailers, motorcycles, tractors, buggies and wagons.

b. "Street or highway" shall mean the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

c. "Property" shall mean any real property within the borough which is not a street or highway.

5-7.2 *Abandonment of Vehicles Prohibited.* No person shall abandon any vehicle within the borough and no person shall leave any vehicle at any place within the borough for such time and under such circumstances as to cause such vehicle to reasonably appear to have been abandoned.

5-7.3 *Leaving of Wrecked, Inoperable Vehicles on Streets.* No person shall leave any partially dismantled, inoperable, wrecked or junked vehicle on any street or highway within the borough except in case of an emergency and then for a period of not more than 48 hours.

5-7.4 *Disposition of Wrecked or Discarded Vehicles.* No person in charge or control of any property within the borough, whether as owner, tenant, occupant, lessee or otherwise, shall allow any partially dismantled, inoperable, wrecked, junked or discarded vehicle to remain on such property longer than 72 hours; and no person shall leave any such vehicle on any property within the borough for a longer time than 72 hours. This section shall not apply with regard to a vehicle in an enclosed building; a vehicle on the premises of a public enterprise operated in a lawful place and manner when necessary to the operation of such business enterprise, or a vehicle in an appropriate storage place or depository maintained in a lawful manner by the borough.

5-7.5 *Impounding.* The chief of police or any member of his department designated by him is authorized to take possession of, remove or have removed any vehicle left at any place within the borough which reasonably appears to be in violation of this section or is lost, stolen or unclaimed. Upon taking possession of or impounding any vehicle, the police department shall immediately notify the owner of the vehicle of the place at which such vehicle was taken and is being held. The owner shall arrange to reclaim the vehicle and shall be responsible for paying all reasonable costs of removal and storage of the vehicle and any fine or penalty and court costs assessed against him for the violation which gave rise to the seizure or taking possession of such vehicle. In the event the police department is unable to locate the owner of the vehicle or in the event the vehicle is not reclaimed by the owner, the police department is authorized to dispose of the vehicle in accordance with N.J.S.A. 39:10A-1, *et seq.*, and all other applicable laws.

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5-7.6 *Storage Fees.* When any vehicle has been so impounded and detained upon property of the borough as herein provided the fee for storage of the said vehicle shall be at the rate of six (\$6.00) dollars per day, or any part of a day. All removal costs and storage fees shall be paid before the vehicle shall be removed from impound.

5-8 **Firearms.**

5-8.1 *Discharging Firearms on Street Prohibited.* No person shall fire, discharge, or set off, any gun, rifle, pistol or other firearm upon any of the public streets, avenues, driveways and parks of the borough.

5-8.2 *Restriction on Limits for Discharging Firearms.* No person shall fire, discharge or set off any gun, rifle, pistol or other firearm within the limits of the borough, within 300 feet of any highway, building or structure, or near any vehicle or in any other place or manner which is likely to cause damage or destruction to property, or injury to any person.

5-9 **Free Public Library.**

5-9.1 *Failure to Return Books.* No person shall retain or fail to return any book or article borrowed from the Free Public Library of the borough contrary to the rules and regulations of the library after 15 days have elapsed from the date of posting by certified mail, return receipt requested, of a notice demanding return, addressed to the person at the last address furnished to the library.

5-9.2 *Damage to Books.* No person shall willfully or maliciously cut, tear, deface, disfigure, damage or destroy any book or other article, or any part thereof, which is owned by or is in the custody of the library.

5-9.3 *Use of Fraudulent Name.* No person with intent to defraud shall register or furnish a false name or address, or use any card other than the one issued to the person for the purpose of borrowing any book or article from the library.

5-10 **Brush and Hedges.**

5-10.1 *Definition.* For the purpose of this section, "roadway" shall mean that portion of any street, avenue, or highway lying between the curb lines, or in the event that no curb line is established comprising the travelled portion.

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5-10.2 *Police Report.* The police department under the direction of the chairman of the police committee shall report to the borough council the existence on any property within the borough of any brush, hedges and other plant life growing within ten feet of any roadway and within 25 feet of the intersection of any two or more roadways; and any limbs or

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foliage on any tree overhanging or over or upon land within a radius of 25 feet from the intersection of any two or more roadways which are likely to become traffic hazards and dangerous to the public safety. Such reports to the borough council may be recognized by it if coming from any other source.

5-10.3 *Notice to Owner.* On the filing of any report, or on its own motion, the borough council, where it deems it necessary and expedient for the preservation of the public safety, shall cause to be served a written notice requiring the owner or tenant to keep all such brush, hedges and other plant life cut to a height of not more than two and one-half feet and all such limbs and foliage on any such trees trimmed to not less than ten feet from the ground.

5-10.4 *Work Performed by Borough.* In the event the owner or tenant neglects or refuses to cut or trim the same within a ten-day period, or within any other time herein specified, or as specified in the notice, the required trimming or cutting shall be done by the borough under the direction of the chief of police or someone appointed by him, or the superintendent of the street department, or such other municipal officer as the borough council may designate. The person under whose direction the work is done shall keep an accurate record of the cost and certify the cost to the borough council. The council shall examine the cost and if found to be correct shall notify the collector of taxes to charge the cost against the lands from which they were removed, or in the event the cost is excessive to cause the reasonable cost to be charged against the lands. Any amount so charged shall become a lien upon the lands and shall be added to and become a part of the taxes next to be assessed and levied upon the lands in the amount and as provided and authorized by R.S. 40:48-2.27.

5-10.5 *Notice.* A notice shall be served upon an owner or tenant residing in the borough in person or by leaving it with a member of his family over the age of 14 years; upon an owner or tenant not residing in the borough either by personal service or by mailing the same to him at his last known post office address, or by service upon the occupant, manager, operator or agent of the owner in charge of the property. In the event the owner or tenant is unknown or for any reason service cannot be made, the notice shall be published at least once not less than thirty days before the proposed removal in a newspaper circulating in the borough.

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5-11 Exhibitions and Assemblies.

5-11.1 Definition. As used in this section, "exhibition" shall mean any shows, concerts, festivals, dances, theatrical performances, school sponsored events, parades, picnics, athletic exhibitons or public gatherings for the purpose of amusement and "assembly" shall mean any private gathering not open to the general public but involving the off-site use of borough streets in excess of the following standards: (a) Over 75 cars if the premises involved borders on a county road; (b) Over 50 cars if the premises involved does not border on a county road.

5-11.2 Notice Required. No person shall conduct, operate, engage in or permit any exhibition or any assembly on any lands or premises owned, leased, occupied or controlled by any person within the borough unless notice has been furnished to the borough in the manner and upon the conditions hereinafter set forth.

5-11.3 Notice; Information Required. For all events other than private gatherings, the notice shall be filed with the borough clerk at least three days prior to the time specified for the exhibiton or assembly to commence, and shall contain the following information:

- a. The name and address of the person responsible for conducting the exhibition or assembly.
- b. The type exhibition or assembly and the purposes of same.
- c. A description of the premises and the name and address of the owner of the premises.
- d. The provisions made for the parking, ingress and egress of automobiles, including the estimated number of vehicles to be in attendance.
- e. The length of the exhibition or assembly and the hours or operation.

5-11.4 Notice for Private Gatherings. For private gatherings, eight hours prior notification by telephone or in writing is required, stating the name and address of the person responsible for the party, number of attendees expected, and plans for parking.

5-11.5 Rules and Regulations. The person responsible for the exhibition or assembly shall:

- a. Promptly furnish such further information that the borough may request in the interest of public safety.

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b. Exercise due diligence to prevent unlawful or immoral acts as well as noisy or boisterous conduct or conduct which threatens to create a breach of the peace or to annoy the comfort and repose of any person.

c. Maintain at his own expense one or more persons to be responsible for the proper conduct of the event who shall remain upon the premises at all times during the length of the exhibition or assembly and the hours of operation.

d. Take all proper means to maintain a flow of traffic and use of the premises without congestion of traffic.

e. Observe such other further reasonable regulations in accordance with the standards of this ordinance as the borough may impose at the time.

5-11.6 *Action by Police Department.* Upon receipt of the application, the borough clerk shall confer with the police department which shall thereafter:

a. Post those streets or portions of streets adjacent to the assembly or exhibition wherein the judgment of the police department, parking would interfere with vehicular traffic to prohibit parking on said streets as a temporary emergency.

b. Cooperate with the applicant in reviewing the plan for maintaining flow of traffic and use of the premises without congestion of traffic.

c. Take such other further reasonable steps in conformance with the purposes of this section as shall insure the safe and orderly movement of other traffic and emergency vehicles upon the streets of the borough.

5-11.7 *Exclusion.* The provisions of this section shall not apply to:

a. Any school-sponsored or publicly-sponsored event wherein it is contemplated that available on-site parking can accommodate anticipated vehicles.

b. Any regularly scheduled school-sponsored event wherein the schedule has been previously furnished to the borough.

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5-12 Raffles.

The conduct of games of chance commonly known as raffles shall be as defined in R.S. 5:8-51 and shall be authorized on Sundays as provided for in R.S. 5:8-58.

5-13 Penalty.

5-13.1 *Maximum Penalty.* For violation of any provision of this chapter, any other chapter of this revision, or any other ordinance of the borough where no specific penalty is provided regarding the section or sections violated, the maximum penalty, upon conviction, shall be a fine not exceeding two thousand (\$2,000.00) dollars or imprisonment for a period not exceeding 90 days, or both, or to a period of community service not exceeding 90 days at the discretion of the Municipal Court Judge.

Whenever a fine is to be imposed in an amount greater than one thousand two hundred fifty (\$1,250.00) dollars for violations of housing or zoning codes, the owner shall be provided a 30-day period during which the owner shall be afforded the opportunity to cure or abate the condition and shall be afforded the opportunity for a hearing before the Court for an independent determination concerning the violation. Subsequent to the expiration of the 30-day period, a fine greater than one thousand two hundred fifty (\$1,250.00) dollars may be imposed if the Court has determined that the abatement has not been substantially completed.

5-13.2 *Separate Violations.* Except as otherwise provided, each and every day in which a violation of any provision of this chapter or any other ordinance of the borough exists shall continue a separate violation.

5-13.3 *Application.* The maximum penalty stated in this section is not intended to state an appropriate penalty for each and every violation. Any lesser penalty, including a nominal penalty or no penalty at all, may be appropriate for a particular case or violation.

5-13.4 *Minimum Penalty.* The governing body may prescribe that, for the violation of any particular code provision or ordinance, at least a minimum penalty shall be imposed which shall consist of a fine which may be fixed at an amount not exceeding one hundred (\$100.00) dollars. (N.J.S.A. 40:49-5)

5-14 Regional Recycling Coalition [Used Newspapers].**5-14.1 Definitions.**

a. "Used newspaper" shall be deemed to include paper of the type commonly referred to as news print and distributed at stated intervals, usually daily or weekly having printed thereon news and opinions and containing advertisements and other matters of public interest. Expressly excluded, however, are all magazines or other periodicals as well as all other paper products of any nature whatsoever.

b. "Solid waste" shall be deemed to include all garbage and rubbish normally placed at the curb by the residents of Little Silver for regular twice-weekly municipal collection.

c. "Person" shall mean any person, firm, partnership, association, corporation, company or organization of any kind.

5-14.2 Interlocal Agreement. Pursuant to the "Interlocal Service Act", N.J.S.A. 40:8A-1 et seq. the Governing Body of the Borough of Little Silver is hereby authorized to enter into an agreement the form of which is annexed hereto and made a part hereof by and among the Borough of Fair Haven, the Borough of Monmouth Beach, the Borough of Little Silver, the Borough of Oceanport, the Borough of West Long Branch, the Borough of Shrewsbury and the Borough of Tinton Falls. The Borough of Little Silver

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will enter into the interlocal agreement if, and only if, the governing bodies of all the other boroughs above named agree to and simultaneously enter into the agreement.

5-14.3 *Coalition Established.* For the purpose of administering the provisions of this section and the agreement there is hereby established a "Regional Recycling Coalition" which shall be comprised of one representative from each of the above named member municipalities, each such representative to be selected in such manner and to serve for such term as the governing body of the municipality he represents may from time to time determine.

5-14.4 *Separate and Bundle Used Newspapers.* On and after the date fixed and promulgated by the Governing Body of the Borough of Little Silver, it shall be mandatory for all persons who are owners, lessees and occupants of residential dwellings in Little Silver to separate used newspapers from all other solid waste produced by such residents and to separately bundle newspapers for pick-up, collection and recycling.

5-14.5 *Bundle for Collection; Placement at Curb.* The newspapers shall be compacted and shall be tied securely in bundles not exceeding 50 pounds in weight with a rope or cord sufficient in strength to facilitate handling. Such bundles shall be placed separately at the curb for collection not earlier than on the day preceding those days to be designated for collection by the Regional Recycling Coalition under the rules and regulations promulgated in accordance with the terms hereof.

5-14.6 *Collection; Papers Become Property of Coalition.* From the time of placement at the curb by any resident of used newspapers for collection in accordance with the terms hereof, such used newspapers shall be and become the property of the Regional Recycling Coalition or its authorizing agent. It shall be a violation of the section for any person unauthorized by the Regional Recycling Coalition to collect or pick up or cause to be collected or picked up any such newspapers during the twenty-four hour period commencing at 6:00 a.m. on any day preceding a day designated for collection under the rules promulgated by the Regional Recycling Coalition in accordance with the terms hereof. Any and each such collection in violation hereof from one or more residences during the 24 hour period shall constitute a separate and distinct offense punishable as hereinafter provided.

5-14.7 *Separate Newspaper Drives Allowed.* This section is in no way intended to prohibit separate newspaper drives by outside charitable organizations on days other than those designated for collection by the borough.

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5-14.8 *Coalition Establish Regulations.* The Regional Recycling Coalition is hereby authorized and directed to establish and promulgate reasonable regulations as to the manner, days and times for the collection of used newspapers in accordance with the terms hereof.

5-14.9 *Violation and Penalty.* Any person, firm or corporation who violates or neglects to comply with subsection 5-14.6 hereof, or any regulation promulgated pursuant thereto, shall, upon conviction thereof be punished by a fine not to exceed two hundred (\$200.00) dollars. Any person, firm or corporation who violates or neglects to comply with subsections 5-14.4 or 5-14.5 hereof, or any regulation promulgated pursuant thereto, shall, upon conviction thereof be punished by a fine not to exceed five (\$5.00) dollars.

5-14.10 *Enforcement.* It shall be the duty of the police departments of the respective member municipalities of the Regional Recycling Coalition to see to the enforcement of this section and to prosecute all violations hereof.

5-15 *Joggers and Other Pedestrians.*

5-15.1 *Findings and Declaration of Policy.* It is hereby found and declared that there exists in the borough a need to protect the public against the hazards and dangers incident to running and jogging in the roadways of the borough. It is further found and declared that certain precautionary measures are necessary in order to reduce those said hazards and dangers.

5-15.2 *Regulations.* Any person using the public streets of the Borough of Little Silver during the period from a half-hour after sunset to a half-hour before sunrise, and at any other time when, due to weather conditions, there is not sufficient light to see clearly persons and vehicles on the highway at a distance of 300 feet ahead, shall be required to wear on his or her person reflective apparel or materials of sufficient size between the waist and shoulders on his or her front and back so as to be visible to vehicular traffic from a distance of 300 feet, in addition to complying with the provisions of N.J.S.A.39:4-32 et.seq. which apply to pedestrians. Joggers and other pedestrians shall run or walk in the direction facing vehicular traffic.

5-15.3 *Joggers.* All joggers shall run in single file and not side or abreast of each other.

5-15.4 *Penalty.* The penalty for violation of this section shall be twenty-five (\$25.00) dollars.

5-16 Smoking in Public Places.

5-16.1 *Prohibited Areas.* No person shall smoke or carry lighted tobacco in any municipally owned building. Said buildings include but are not limited to, the Little Silver Borough Hall/Police Station, Library, Post Office Museum, Department of Public Works Garage, Little Silver Railroad Station and the premises at 124 Willow Drive, commonly known as the Storck House.

5-16.2 *Penalty.* Any person violating this section shall be subject to a fine of not less than twenty-five (\$25.00) dollars and not more than two hundred (\$200.00) dollars.

5-17 Regulating Conduct During Halloween Season.**5-17.1 Prohibition.**

a. On October 30, it shall be unlawful for any person under the age of 18 years to appear or be upon any public street, park or other publicly-owned property not their own or not the property of their parent or guardian after 7:00 p.m. in the borough unless accompanied by their parent or guardian.

b. On October 31, it shall be unlawful for any person to engage or participate in so-called "trick or treat" activities, parades or other Halloween celebrations upon any public street, park or other publicly-owned property or upon any property not their own or not the property of such person's parent or guardian in the borough after the hour of 8:30 p.m.; provided, however, that this provision shall not apply to any person participating in a parade or celebration sanctioned by the borough.

c. On October 31, it shall be unlawful for any person under the age of 18 years to appear or be upon any public street, park or other publicly-owned property not their own or not the property of their parent or guardian after 8:30 p.m. in the borough unless accompanied by their parent or guardian.

d. On October 30 and 31, it shall be unlawful for any person to sell eggs, pressurized spray cans of any content, such as paint, shaving cream or dangerous or flammable liquid or material, to any person under the age of 18 years unless such person gives to the seller a reasonable explanation of his intended use or consumption of such materials.

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5-17.2 *Confiscating Articles Causing Damage.* Any instrument, weapon, tool, device, product, material, liquid or other thing or things possessed or used by any person for the purpose of causing property damage or malicious mischief may and shall be confiscated by any officer properly charged with the enforcement of the law and shall be turned over to the chief of police of the borough.

5-17.3 *Detention of Juveniles.* Juveniles apprehended and charged with violation of this section may be detained by the police department of the borough at police headquarters or other suitable place until the arrival of their parents or guardians; provided, however, that the police department shall notify such parents or guardians of such detention as promptly as reasonably possible.

5-17.4 *Violations: Violations by Juveniles.* Any person violating the provisions of this section shall, upon conviction thereof, be subject to the penalty as stated in section 5-13; provided, however, that if such person is a juvenile under the age of 18, he or she shall be subject to such penalty as the juvenile conference committee or juvenile court, as the case may be, may see fit to impose consistent with the powers conferred by law upon the juvenile conference committee and juvenile court.

5-18 Recycling.

5-18.1 *Purpose.*

a. On and after October 1, 1987, it shall be mandatory for all persons who are owners, lessees and occupants of residential property; owners, lessees and occupants of business and industrial property; and owners lessees and occupants of private, public and governmental institutions and buildings to separate: (1) leaves; (2) glass bottles and jars; (3) newspapers, bundled and tied; (4) aluminum cans; (5) tin and bi-metal cans (6) corrugated cardboard, flattened and tied; (7) pourable plastic containers (#1 & #2); (8) clean mixed paper; and (9) high grade paper, (10) cereal boxes, as hereinafter defined, from all other solid waste for the purpose of collection and ultimate recycling of said materials.

b. On and after April 1, 1988, it shall be mandatory for all owners, lessees and occupants of business and industrial property and of private, public and governmental institutions and buildings to separate corrugated cardboard and/or high grade paper from all other solid waste produced by said nonresidential establishments, and

provide for the collection, storage and the ultimate recycling of said material.

c. On or after October 1, 1988, no owner, lessee and/or occupant of any residential property, business or industrial property, or private, public or governmental institution or building shall be permitted to place any construction, demolition or land clearing debris which shall include asphalt, concrete, brick, block and/or wood waste such as stumps, large tree parts, pallets and large pieces of lumber, with other solid waste for landfill disposal.

d. On or after January 1, 2010, computers, computer monitors and related electronics hardware, as well as analog or digital televisions, are prohibited from being placed with other solid waste for landfill disposal.

e. Any multi-family complexes, businesses or institutions not served by municipal forces or through a municipal contractor, shall arrange for proper separation, collection and disposition of these materials separate from any solid waste generated for disposal.

f. On and after the adoption of this section, and in accordance with existing State regulations (N.J.A.C. 14A3-11), all service stations, oil retailers and motor vehicle reinspection stations with "used oil holding tanks" shall accept up to five gallons at a time of used motor oil from individuals changing oil from cars, lawn mowers or motorcycles and shall post a sign informing the public that they are a "used oil collection site."

g. No liquids of any type may be placed with recyclables or solid waste for disposal. No chemicals, paints, pesticides, herbicides, reactive polishes or cleaners, cleaning or automotive products may be placed with recyclables or solid waste for disposal ("hazardous waste exclusion").

h. All apartment and other multi-family complexes, schools, businesses and institutions shall provide separate and clearly marked containers for use and the various categories of recyclables as indicated in paragraph a.

i. All apartment and other multi-family complexes, schools, businesses and institutions not served by municipal forces or through a municipal contractor shall provide an annual report describing arrangement for solid waste and recycling services, including company name and contact information for such contracted services.

j. Any applicant for a construction or demolition permit for any property within the municipality shall be required to provide a debris management plan for handling solid wastes and recyclables generated

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during such activity, including the estimated number and types of containers to be used and the disposition of such material.

k. Grass clippings; white goods (refrigerators, dehumidifiers, air conditioners, freezers, dishwashers, washing machines, dryers, stoves, hot water heaters and furnaces); wet and dry cell batteries; and asphalt shingles may not be disposed with mixed household or commercial trash.

l. Residents, business and institutions within the borough may only use those recycling haulers and/or facilities registered with the county.

m. Businesses, institutions and multi-family housing complexes not served by municipal recycling collection programs shall provide the municipal recycling coordinator with the name and address of the company providing solid waste and recycling collection systems.

n. Businesses or institutions hauling their own recyclables shall provide the municipal recycling coordinator with quarterly reports on the quantity and destination of recyclables.

o. The Borough of Little Silver shall issue construction and demolition permits only after the applicant has identified disposal and recycling arrangements. The applicant shall provide appropriate records documenting the quantity and disposition of all materials.

p. The Borough of Little Silver may periodically provide for the curbside collection of leaves, brush and yard waste from residences, businesses and institutions within the Borough of Little Silver. The borough council shall establish a schedule for the collection of such materials.

q. Leaves, brush and yard waste, including tree trimmings and shrubbery clippings, set out for collection by the Borough of Little Silver, shall originate from the property of the residence, business, or institution, and shall both include commercial brush waste.

r. Leaves, brush and yard waste shall be placed in such a manner as to not obstruct any sidewalk, right-of-way, view of traffic, crosswalk, fire hydrant, catch basin or mailbox.

s. Sweeping, raking, blowing or otherwise placing yard waste that is not containerized at the curb or along the street is only allowed during the seven days prior to a scheduled and announced collection, and shall not be placed closer than ten feet from any storm drain inlet. Placement of such yard waste at the curb or along the street at any other time or in any other manner is a violation of this section. If such placement occurs, the party responsible for placement of the yard

waste must remove the yard waste from the street and/or dispose of same properly at the expense of said responsible party or said party shall be deemed in violation of this section.

t. Any company or agency providing dumpsters, roll off or other containers to multi-family residential complexes with shared disposal/recycling areas, businesses, institutions, or construction/demolition job sites, shall be responsible for clearly marking such containers to "trash" or for specific "recyclables," as may be appropriate.

u. Designated recyclables placed at curbside for collection are to be placed in a rigid container with a secure lid.

5-18.2 *Definitions.* As used in this section:

"Aluminum" shall mean all disposable items made of aluminum including aluminum containers used for soda, beer or other beverages, foil, wrappers, containers for prepared food, screen frames and lawn chairs.

"Containerized" shall mean the placement of yard waste in a trash can, bucket, bar or other vessel, such as to prevent the yard waste from spilling or blowing out into the street and coming into contact with stormwater.

"Corrugated cardboard" shall mean cardboard of the type used to make cardboard boxes, cartons, pasteboard and similar corrugated and kraft paper material.

"Glass" shall mean all products made from silica or sand, soda ash and limestone; the product being transparent or translucent and being used for packaging or bottling of various matters excluding however, blue or flat glass commonly known as window glass.

"High grade paper" shall mean white and/or off-white stationery, photocopy and computer paper.

"Mixed paper" shall mean glossy papers, magazines, office paper, envelopes, junk mail, greeting cards, gift wrapping paper, and the like.

"Newspaper" shall mean only clean white used newspaper free from plastic wrappers, glossy advertising, magazines and/or magazine supplements.

"Person" shall mean any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

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"Pourable plastic bottles" shall mean plastic milk jugs, plastic soda bottles, plastic juice jugs, plastic laundry and dish detergent jugs, and the like.

"Solid waste" shall mean all garbage and rubbish normally produced by the occupants of commercial, industrial and residential property and disposed of by private or public pick-up.

"Street" shall mean any street, avenue, boulevard, road, parkway, viaduct, drive, or other way, which is an existing State, county, or municipal roadway, and includes the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, curbs, sidewalks, parking areas, and other areas within the street lines.

"Tin and bimetallic cans" shall mean steel cans, tin-plated steel cans, cans with ferrous and non-ferrous components or any other all-metal cans excluding aluminum cans.

"Woodwaste" shall include tree parts and pieces of lumber which exceed four feet in length, tree stumps and wood pallets.

"Yard waste" shall mean leaves and grass clippings, but shall not include commercial brush waste.

5-18.3 *Recycling Coordinator.*

a. The position of municipal recycling coordinator is hereby created and established within the Borough of Little Silver, which position shall be filled by appointment by the mayor with approval of the council.

b. The duties of the municipal recycling coordinator shall include, but are not limited to: preparation of such annual or other reports as required by State or county agencies regarding local solid waste and recycling programs; reviewing performance of local schools and municipal agencies in conducting recycling activities, periodic review of local residential and business recycling practices and compliance, review and recommendation on local subdivision and site plan submittals and local construction and demolition projects for appropriate solid waste and recycling provisions, reports to the municipal governing body on the implementation and enforcement of the provisions of this ordinance, and other reports or responsibilities as may be requested by the municipal governing body.

c. The duly appointed municipal recycling coordinator, the Monmouth County Health Department, and Property Maintenance

Code Enforcement Officer are hereby individually and severally empowered to inspect solid waste and recycling arrangements and compliance at local residences, businesses, schools and institutions, and to enforce the provisions of this section, by issuance of summonses and complaints. A typical inspection may consist of sorting through containers and opening bagged solid wastes to detect the presence of any recyclable materials.

5-18.4 Collection by Authorized Persons.

a. The mayor and council may use municipal personnel to collect recyclable materials as set forth herein at curbside and/or from a drop-off center, and shall sell said recyclable materials if a market exists therefor, pursuant to N.J.S.A. 40A:11-1, et seq.

b. The mayor and council may elect to enter into agreements with qualified persons or corporations authorizing them to collect said recyclable materials at curbside or from a drop-off center and to sell said recyclable materials, provided the amount of money realized exceeds the cost of collection.

5-18.5 Collection by Unauthorized Persons Prohibited.

a. Recyclable materials as defined herein shall be the property of the Borough of Little Silver once placed at the curbside or brought to a drop-off center.

b. It shall be a violation of this chapter for any person unauthorized by the mayor and council to pick up, or cause to be picked up, said recyclable materials as defined herein. Each such collection in violation hereof shall constitute a separate and distinct offense punishable as hereinafter provided.

5-18.6 Direct Disposal of Recyclable Material. Anything herein to the contrary notwithstanding, any person, partnership or corporation who is owner, lessee or occupant of a residential or nonresidential property may donate or sell said recyclable materials as defined herein to any person, partnership or corporation whether or not operating for profit. Said person, partnership or corporation purchasing recyclable materials shall not pick up said recyclable materials at curbside or at a municipal drop-off center.

5-18.7 Violations and Penalties. Any person, firm or corporation who violates or neglects to comply with any provision of this section or any rule or regulation promulgated pursuant thereto shall be

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punishable for a first violation, fifty (\$50.00) dollars, for a second violation, one hundred fifty (\$150.00) dollars, and for a third violation a mandatory court appearance punishable by a fine not to exceed two thousand (\$2,000.00) dollars, or up to 90 days in jail, or both. As an alternate penalty, a convicted person may be ordered to perform community service in the recycling program for a period not to exceed 90 days.

5-18.8 *Enforcement.* This section shall be enforced by the Police Department and/or other appropriate officials of the Borough of Little Silver to insure compliance with any provisions of this chapter or any rule or regulation promulgated pursuant thereto. Each day such violation or neglect is committed or permitted to continue shall constitute a separate offense and be punishable as such.

5-19 Drug-Free Zones.

5-19.1 *Approval and Adoption of Drug-Free Zone Map.* In accordance with and pursuant to the authority of P.L. 1988, C.44(3) (NJSA: 2C:35-7) and P.L. 1997, C.327(1) (NJSA: 2C:35-7.1), the drug-free zone map produced on or about 1 August 1988 by Leon S. Avakian, Borough Engineer, and amended on or about May 1, 1998 by Leon S. Avakian, Borough Engineer, is hereby 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, public parks, public buildings or public housing facilities and of the areas on or within 1,000 feet of school property and within 500 feet of a public park, public building or public housing facility.

5-19.2 *Location and Boundaries of School Property.* The drug-free zone map approved and adopted pursuant to subsection 5-19.1 of this section shall continue to constitute an official finding and record as to the location and boundaries of areas on or within 1,000 feet of property owned by or leased to any elementary or secondary school or school board which is used for school purposes and 500 feet of any public park, public building or public housing facility until such time, if any, that this section shall be amended to reflect any additions or deletions with respect to the location and boundaries of drug-free zones.

5-19.3 *Changes in Location or Boundaries.* The school board, or the chief administrative officer in the case of any private or parochial

school, is hereby directed and shall have the continuing obligation to promptly notify the borough administrator and the borough 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.

5-19.4 *Copies of Map on File.* The clerk of the municipality is hereby directed to receive and to keep on file the original of the map approved and adopted pursuant to subsection 5-19.1 of this section, and to provide at a reasonable cost a true copy thereof to any person, agency, or court which may from time to time request such a copy, along with a certification that such copy is a true copy of the map approved and adopted herein and kept on file. It is hereby further directed that a true copy of such map and of this section shall be provided without cost to the Monmouth County Clerk and to the Office of the Monmouth County Prosecutor.

5-19.5 *Additional Matters.* The following additional matters are hereby determined, declared, recited and stated:

a. It is understood that the map approved and adopted pursuant to subsection 5-19.1 of this section was prepared and is intended to be used as evidence in 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:

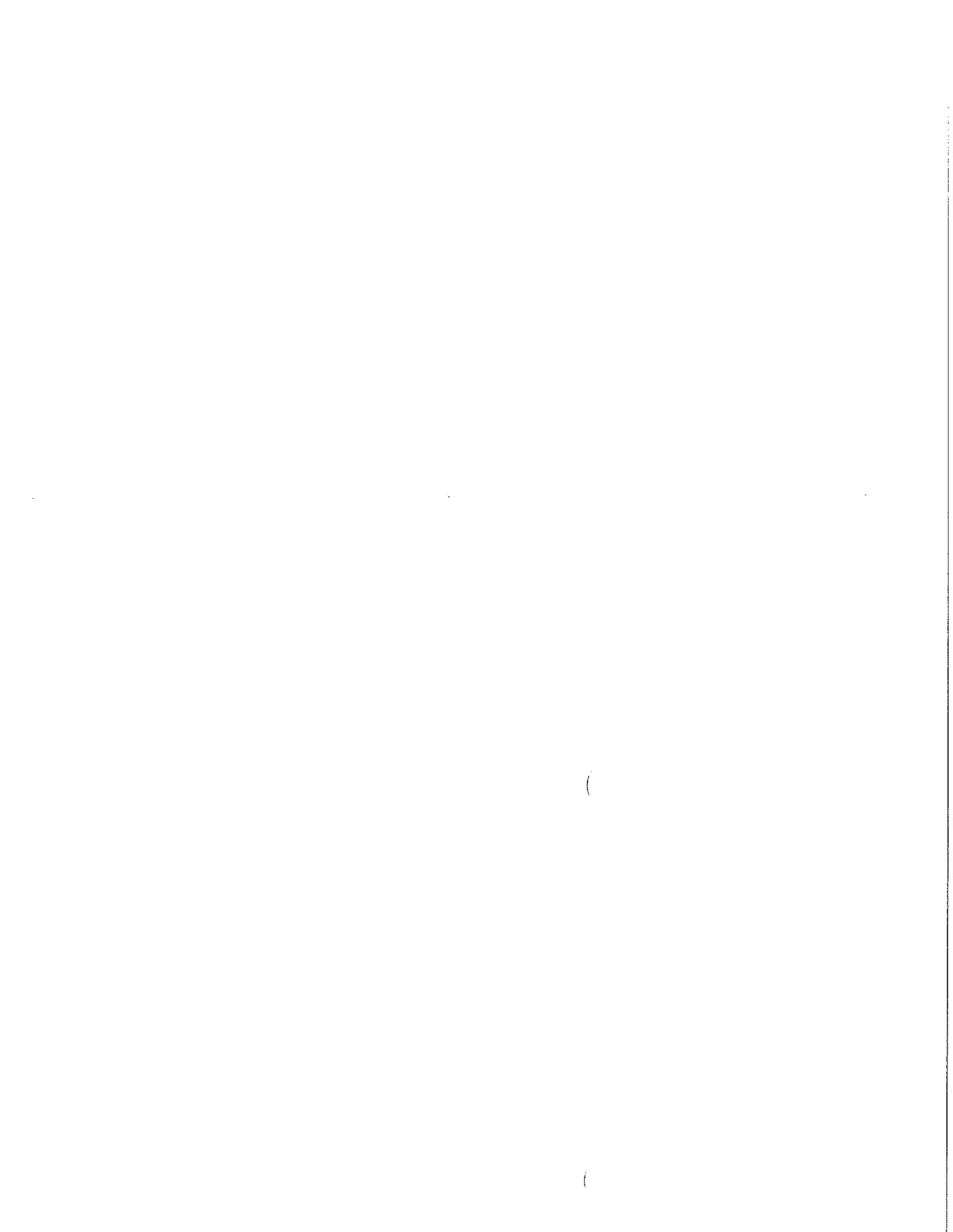
1. The location of elementary schools, secondary schools, public parks, public buildings and public housing facilities within the municipality;

2. The boundaries of the real property which is owned by or leased to such schools or a school board, or the municipality;

3. That such school or municipal property is and continues to be used for public purposes; and

4. The location and boundaries of areas which are on or within 1,000 feet of such school property or 500 feet of such public parks, public building and public housing facilities.

b. Pursuant to the provisions of P.L. 1988, C.44 and P.L. 1997, C.327(1) a prosecutor is 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 subsection 5-19.1 of this section. The failure of the map approved herein to depict the location and boundaries of any property which is, in fact, used for school purposes, a public park, public building or public housing facility and



which is owned by or leased to any elementary or secondary school, school board or municipality 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 a school or school board or municipality or that such property is not used for school purposes, a public park, public building, or public housing facility.

c. All of the requirements set forth in P.L. 1988, C.44 and P.L. 1997, C.327(1) concerning the preparation, approval and adoption of a drug-free zone map have been complied with.

5-20 Alarm Systems.

5-20.1 *Registration Required.*

a. Any person who desires to own, operate, lease or maintain an alarm system in the Borough of Little Silver shall file a registration application on the form provided by the Borough of Little Silver Police Department. The application shall contain the location of the alarm system; the installer's name and address; the type of device; information relating to false alarms and testing procedures; a list of the names, addresses and telephone numbers of persons to be contacted in the event of an alarm, at least one of whom shall have an address and phone number different from the registrant; and such other necessary information as may be required by the police department. It shall be the registrant's obligation to file a written amendment with the police department within ten days indicative of any changes contained in their present registration application.

b. The police department shall issue a registration certificate for the ownership, operation or maintenance of an alarm system to any person desiring to own, operate, lease or maintain an alarm system if the police department is satisfied that the registration information is complete and that the alarm system is capable of being operated in conformance with the section. The registration certificate may be granted subject to any special conditions stated thereon, if this is deemed necessary by the police department.

c. A registration certificate shall be valid for as long as the registrant occupies the premises for which the certificate has been issued, provided all required amendments thereto have been filed. A

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registration certificate shall automatically terminate upon a change in occupancy for the premises for which the certificate was issued.

d. The Borough of Little Silver shall not charge a fee to any person filing a registration application or an amendment thereto.

5-20.2 Applicability.

a. The provisions of this section shall apply to any person who owns, operates, leases or maintains any alarm system situated in the Borough of Little Silver if the alarm system has an audible signaling device, or a device which requires a response by the police department, fire department, first aid squad, or other borough agency. The provisions of the section shall in no way prohibit service by private source to persons within or without the borough, so long as such activity is not in violation of this section, and provided further, that any person owning, operating, leasing or maintaining a premises protected by an alarm system shall be responsible for the registration thereof in accordance with this section.

5-20.3 Maintenance — Malfunction and Disconnection. All components of an alarm system shall be maintained in good repair, and shall operate in a proper manner. When evidence exists that there has been failure to comply with the maintenance and operation requirements of this section, the police department shall then be authorized to demand that such alarm system be disconnected until such time as compliance with the provisions of this section has been established. The police department shall have the right to disconnect any malfunctioning equipment from any alarm system until such time as the malfunction has been corrected, and the alarm system is operating in accordance with the provisions of this section.

5-20.4 The Limit for Audible Alarm. All audible signaling devices shall be equipped with a timing device to limit the sounding of the signaling device to 15 minutes or less.

5-20.5 Rule-Making Authority. The police department shall have the authority to promulgate written rules and regulations and incorporate recommendations proposed by the fire department, first aid squad or other borough agencies, subject to the approval by a resolution adopted by the Mayor and Council of the Borough of Little Silver, which rules and regulations shall supplement this section, and provide for record keeping and the efficient operation and management of alarm systems in the Borough of Little Silver.

5-20.6 *False Alarms and Penalties.* In the case of a false alarm, or of improper maintenance or operation of an alarm system, any person having knowledge thereof shall immediately notify the police department. The police department shall cause an investigation to be made of all false alarms and of all improper maintenance or operation of alarm systems, and shall keep a record of such false alarms on file. For such false alarms, this section prescribes the following penalties:

a. For the first and second false alarm in any given calendar year, a warning shall be issued.

b. For the third false alarm in the same calendar year, a fine not to exceed twenty-five (\$25.00) dollars shall be paid to the borough.

c. For the fourth or any subsequent false alarm in a calendar year, a fine not to exceed fifty (\$50.00) dollars shall be paid to the borough.

d. Where the investigation of the police department discloses a continued disregard by the owner for taking remedial steps for avoiding false alarms, or for continued failure to maintain or operate an alarm system, the police department shall have the right to require disconnection for a limited or permanent time of the alarm system, giving the owner an opportunity to show cause to the police department why such action should not be taken. A person aggrieved by the decision of the police department shall have the right to appeal said decision to the mayor and council within ten days of the decision.

e. Any unauthorized equipment pertaining to an alarm system may be ordered to be disconnected by the police department for non-compliance with this section. Any placing, installing or maintaining unauthorized equipment or failing to file a required registration application or amendment thereto shall be a violation of this section, and shall be subject to a fine not to exceed fifty (\$50.00) dollars which shall be paid to the borough. Each and every day that such equipment is installed, or maintained, shall be considered a separate violation. Any person placing, installing or maintaining any alarm system shall be deemed as having consented to inspection of the premises on which said alarm system is installed or maintained at reasonable hours by the police department.

f. Any Act of God (i.e., flood, hurricane, earthquake, etc.) which affects the operation and performance of an approved alarm system shall, after such determination by the police department, not subject the owner, operator, lessee or maintainer, to any fine or penalty as herein prescribed in this section.

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5-20.7 *Definitions.* As used in this section the following terms shall have the meanings indicated:

a. *Alarm system* shall mean any device, such as a bell, siren, whistle, horn, gong, or clackson, employed to call attention to, or provide warning of, intrusion by any person, or by fire, smoke, flood, or other peril, whether the same provides a visual or audio response, alarm, or warning, if such warning is capable of being heard or received at any point beyond the interior walls of the house, apartment, office, store, industrial building or other structure in or on which the alarm system has been placed.

b. *Dial alarm* shall mean that type of automatic telephone dialing service using the telephone system to transmit an alarm of intrusion, fire, smoke, flood, or other peril, to the police department or any third party.

c. *Local alarm* shall mean any alarm device which, when actuated, produces an audible signal to give a warning of intrusion, fire, smoke, flood, or other peril.

d. *Person* shall mean any individual, person, firm, association, partnership, corporation, joint venture, society, club, trustee, trust, or incorporated activity.

e. *Registrant* shall mean any person owning, operating, leasing or maintaining an alarm system within the scope of this section who has been issued a registration certificate to operate and maintain such alarm system.

5-20.8 *Constitutionality.* Except as the same may be clearly inconsistent herewith, this section shall not be deemed to repeal any ordinance, rule or regulation which regulates any activity in the Borough of Little Silver. All ordinances, or part of ordinances, inconsistent with the terms of this section shall be, and the same are, hereby repealed to the extent of such inconsistencies. If any subsection, or part of a subsection, of this section is declared to be held illegal or unconstitutional, no other part of a subsection of this section, or other ordinance, shall be affected thereby, but the unconstitutional subsection or part thereof shall be rescinded, and the remaining provisions of this section shall continue in full force.

5-20.9 *Violations; Enforcement.* Any person violating any of the provisions of this chapter shall, upon conviction thereof, be subject to the penalties set forth in section 5-20.6, above, in the discretion of the judge of the municipal court.

5-21 Road Hazards.

a. It shall be unlawful for any person, contractor, partnership, corporation, stock company or syndicate who owns, leases, is in charge of, or in control of any property abutting a public street or public right-of-way to obstruct or cause to be obstructed the safe movement of traffic on said street or public right-of-way including the paved sidewalk or paved street by the placement of ice, snow, garbage, limbs, branches, brush, leaves, debris, water which turns to ice, or any other material which may result in the creation of conditions which may cause harm, injury or damage to any person or property using the said public street or public right-of-way.

b. It shall be unlawful to place leaves, limbs, brush or other vegetative materials to the curb for collection except in compliance with the following collection schedule:

Leaves:

October 1 - December 31

Limbs, Branches, Hedge and Shrub Trimmings:

January 1 - September 30

c. Any person, firm or corporation who violates or neglects to comply with the provisions of this section or any rule or regulation promulgated thereto shall upon conviction be subject to the penalties provided in section 5-13.

5-22 Disturbances of Peace and Good Order.

a. *Places of Public or Private Assembly.* No person shall disturb or interfere with the quiet or good of any place of assembly, public or private, including but not by way of limitation, schools, churches, libraries and reading rooms, by noisy, indecent or disorderly conduct.

b. *Public or Quasi-Public Places.* No person shall create a disturbance or breach of the peace in or upon any public street or public or quasi-public or in any public conveyance, or in or upon any private property not his own.

5-23 Sex Offender Residency Restriction.

5-23.1 *Prohibition.* No person over the age of 18 who has been convicted of a violation of any crime against a minor, as identified in N.J.S.A. 2C:7-1, et seq., and who, as a result of said 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 2,500 feet of:

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- a. Any public or private school where the dominant school population is 18 years of age or younger;
- b. Any child care center;
- c. Any borough, county or State park, playground or preserve; or
- d. Any public library.

5-23.2 *Relocation Requirement.* Any person meeting the definition set forth in subsection 5-23.1, who resides or lives within 2,500 feet of any of the facilities listed in subsection 5-23.1 within the borough, shall have 60 days from receipt of written notice of the prohibition set forth in subsection 5-23.1 to move to a location that is not within 2,500 feet of one of those facilities within the borough. Failure to so relocate, as stated herein, shall constitute a violation of this section.

5-23.3 *Prior Residency Established.* Neither subsection 5-23.1 or subsection 5-23.2 shall be deemed applicable to a person who has established a residence prior to the effective date of this section* throughout the period of time the person remains a resident at that location.

5-23.4 *Penalty for Violation.* Each and every individual in violation of subsection 5-23.2 shall be subject to a fine not exceeding one thousand two hundred fifty (\$1,250.00) dollars, which fine shall be at least five hundred (\$500.00) dollars, or shall be imprisoned for a term not exceeding 90 days, or both, or shall be required to perform community service not to exceed 90 days for each offense.

5-23.5 *Map.* The prohibited areas established herein shall be depicted on a map prepared by the borough engineer entitled "Sex Offender Residency Prohibited Areas." Said map shall be updated, as needed, by the borough engineer. Said map shall be kept on file by the borough clerk, and a fee of ten (\$10.00) dollars is hereby established for any person or agency requesting a copy of same.

5-24 **Improper Disposal of Waste.**

5-24.1 *Purpose.* The purpose of this section is to prohibit the spilling, dumping, or disposal of materials other than stormwater to the municipal separate storm sewer system (MS4) operated by the Borough of Little Silver, so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

*Editor's Note: Ordinance No. 615-06, codified herein as section 5-23, was adopted April 17, 2006.

5-24.2 *Definitions.* For the purpose of this section, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this section clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

Municipal separate storm sewer system (MS4) shall mean a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) that is owned or operated by the Borough of Little Silver or other public body, and is designed and used for collecting and conveying stormwater.

Person shall mean any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

Stormwater shall mean any water resulting from precipitation (including rain and snow) that runs off the land's surface, is transmitted to the subsurface, is captured by separate storm sewers or other sewerage or drainage facilities, or is conveyed by snow removal equipment.

5-24.3 *Prohibited Conduct.* The spilling, dumping, or disposal of materials other than stormwater to the municipal separate storm sewer system operated by the Borough of Little Silver is prohibited. The spilling, dumping, or disposal of materials other than stormwater in such a manner as to cause the discharge of pollutants to the municipal separate storm sewer system is also prohibited.

5-24.4 *Exceptions to Prohibition.*

- a. Water line flushing and discharges from potable water sources.
- b. Uncontaminated groundwater (e.g., infiltration, crawl space or basement sump pumps, foundation or footing drains, rising groundwaters).
- c. Air conditioning condensate (excluding contact and non-contact cooling water).
- d. Irrigation water (including landscape and lawn watering runoff).
- e. Flows from springs, riparian habitats and wetlands, water reservoir discharges and diverted stream flows.
- f. Residential car washing water and residential swimming pool discharges.
- g. Sidewalk, driveway and street wash water.
- h. Flows from firefighting activities.

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i Flows from rinsing of the following equipment with clean water:

1. Beach maintenance equipment immediately following their use for their intended purposes; and

2. Equipment used in the application of salt and de-icing materials immediately following salt and de-icing material applications. Prior to rinsing with clean water, all residual salt and de-icing materials must be removed from equipment and vehicles to the maximum extent practicable using dry cleaning methods (e.g., shoveling and sweeping). Recovered materials are to be returned to storage for reuse or properly discarded.

3. Rinsing of equipment, as noted in the above situation is limited to exterior, undercarriage, and exposed parts and does not apply to engines or other enclosed machinery.

5-24.5 *Enforcement.* This section shall be enforced by the police department and/or other appropriate officials of the Borough of Little Silver.

5-24.6 *Violations and Penalties.* Any person(s) who continues to be in violation of the provisions of this section, after being duly notified, shall upon conviction be subject to the penalties provided in section 5-13.

5-25 **Pet Waste.**

5-25.1 *Purpose.* The purpose of this section is to establish requirements for the proper disposal of pet solid waste in the Borough of Little Silver, so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

5-25.2 *Definitions.* For the purpose of this section, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this section clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

Immediate shall mean that the pet solid waste is removed at once, without delay.

Owner/keeper shall mean any person who shall possess, maintain, house or harbor any pet or otherwise have custody of any pet, whether or not the owner of such pet.

Person shall mean any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

Pet shall mean a domesticated animal (other than a disability assistance animal) kept for amusement or companionship.

Pet solid waste shall mean waste matter expelled from the bowels of the pet; excrement.

Proper disposal shall mean placement in a designated waste receptacle, or other suitable container, and discarded in a refuse container which is regularly emptied by the municipality or some other refuse collector; or disposal into a system designed to convey domestic sewage for proper treatment and disposal.

5-25.3 *Requirements for Disposal.* All pet owners and keepers are required to immediately and properly dispose of their pet's solid waste deposited on any property, public or private, not owned or possessed by that person.

5-25.4 *Exemptions.* Any owner or keeper who requires the use of a disability assistance animal shall be exempt from the provisions of this section while such animal is being used for that purpose.

5-25.5 *Enforcement.* This section shall be enforced by the police department and/or other appropriate officials of the Borough of Little Silver.

5-25.6 *Violations and Penalties.* Any person(s) who continues to be in violation of the provisions of this section, after being duly notified, shall upon conviction be subject to the penalties provided in section 5-13.

5-26 Wildlife Feeding.

5-26.1 *Purpose.* The purpose of this section is to prohibit the feeding of unconfined wildlife in any public park or on any other property owned or operated by the Borough of Little Silver, so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

5-26.2 *Definitions.* For the purpose of this section, the following terms, phrases, words and their derivations shall have the meanings

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stated herein unless their use in the text of this section clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

Feed shall mean to give, place, expose, deposit, distribute, or scatter any edible material with the intention of feeding, attracting or enticing wildlife. Feeding does not include baiting in the legal taking of fish and/or game.

Person shall mean any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

Wildlife shall mean all animals that are neither human nor domesticated.

5-26.3 *Prohibited Conduct.* No person shall feed, in any public park or on any other property owned or operated by the Borough of Little Silver, any wildlife, excluding confined wildlife (for example, wildlife confined in zoos, parks, or rehabilitation centers, or unconfined wildlife at environmental education centers).

5-26.4 *Enforcement.*

a. This section shall be enforced by the police department and/or other appropriate officials of the Borough of Little Silver.

b. Any person found to be in violation of this section shall be ordered to cease the feeding immediately.

5-26.5 *Violations and Penalties.* Any person(s) who continues to be in violation of the provisions of this section, after being duly notified, shall upon conviction be subject to the penalties provided in section 5-13.

5-27 Refuse Containers/Dumpsters.

5-27.1 *Purpose.* The purpose of this section is to require dumpsters and other refuse containers that are outdoors or exposed to stormwater to be covered at all times and prohibits the spilling, dumping, leaking, or otherwise discharge of liquids, semi-liquids or solids from the containers to the municipal separate storm sewer system(s) operated by the Borough of Little Silver and/or the waters of the State so as to

protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

5-27.2 Definitions. For the purpose of this section, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this chapter clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

Municipal separate storm sewer system (MS4) shall mean a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) that is owned or operated by the Borough of Little Silver or other public body, and is designed and used for collecting and conveying stormwater. NOTE: In municipalities with combined sewer systems, add the following: "MS4s do not include combined sewer systems, which are sewer systems that are designed to carry sanitary sewage at all times and to collect and transport stormwater from streets and other sources.

Person shall mean any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

Refuse container shall mean any waste container that a person controls whether owned, leased, or operated, including dumpsters, trash cans, garbage pails, and plastic trash bags.

Stormwater shall mean water resulting from precipitation (including rains and snow) that runs off the land's surface, is transmitted to the subsurface, is captured by separate storm sewers or other sewerage or drainage facilities, or is conveyed by snow removal equipment.

Waters of the State shall mean the ocean and its estuaries, all springs, streams and bodies of surface or ground water, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

5-27.3 Prohibited Conduct. Any person who controls, whether owned, leased, or operated, a refuse container or dumpster must ensure that such container or dumpster is covered at all times and shall prevent refuse from spilling out or overflowing.

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Any person who owns, leases or otherwise uses a refuse container or dumpster must ensure that such container or dumpster does not leak or otherwise discharge liquids, semi-liquids or solids to the municipal separate storm sewer system(s) operated by the Borough of Little Silver.

a. *Exceptions to Prohibition.*

1. Permitted temporary demolition containers.
2. Litter receptacles (other than dumpsters or other bulk containers).
3. Individual homeowner trash and recycling containers.
4. Refuse containers at facilities authorized to discharge stormwater under a valid NJPDES permit.
5. Large bulky items (e.g., furniture, bound carpet and padding, white goods placed curbside for pickup).

5-27.4 *Enforcement.* This section shall be enforced by the Police Department and/or other appropriate officials of the Borough of Little Silver.

5-27.5 *Violations and Penalties.* Any person(s) who is found to be in violation of the provisions of this section, after being duly notified, shall upon conviction be subject to the penalties provided in section 5-13.

5-28 Private Storm Drain Inlet Retrofitting.

5-28.1 *Purpose.* The purpose of this section is to require the retrofitting of existing storm drain inlets which are in direct contact with repaving, repairing, reconstruction, or resurfacing or alterations of facilities on private property, to prevent the discharge of solids and floatables (such as plastic bottles, cans, food wrappers and other litter) to the municipal separate storm sewer system(s) operated by the Borough of Little Silver so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

5-28.2 *Definitions.* For the purpose of this section, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this section clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used

in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

Municipal separate storm sewer system (MS4) shall mean a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) that is owned or operated by the Borough of Little Silver or other public body, and is designed and used for collecting and conveying stormwater. NOTE: In municipalities with combined sewer systems, add the following: "MS4s do not include combined sewer systems, which are sewer systems that are designed to carry sanitary sewage at all times and to collect and transport stormwater from streets and other sources.

Person shall mean any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

Storm drain inlet shall mean an opening in a storm drain used to collect stormwater runoff and includes, but is not limited to, a grate inlet, curb-opening inlet, slotted inlet, and combination inlet.

Waters of the State shall mean the ocean and its estuaries, all springs, streams and bodies of surface or ground water, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

5-28.3 *Prohibited Conduct.* No person in control of private property (except a residential lot with one single-family house) shall authorize the repaving, repairing (excluding the repair of individual potholes), resurfacing (including top coating or chip sealing with asphalt emulsion or a thin base of hot bitumen), reconstructing or altering any surface that is in direct contact with an existing storm drain inlet on that property unless the storm drain inlet either:

- a. Already meets the design standard below to control passage of solid and floatable materials; or
- b. Is retrofitted or replaced to meet the standard in subsection 5-28.4 below prior to the completion of the project.

5-28.4 *Design Standard.* Storm drain inlets identified in subsection 5-28.3 above shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this paragraph, "solid and floatable materials" means

sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see subsection 5-28.4c below.

a. Design engineers shall use either of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:

1. The New Jersey Department of Transportation (NJDOT) bicycle safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines (April 1996); or

2. A different grate, if each individual clear space in that grate has an area of no more than seven square inches, or is no greater than 0.5 inches across the smallest dimension.

Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb-opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater basin floors.

b. Whenever design engineers use a curb-opening inlet, the clear space in that curb opening (or each individual clear space, if the curb opening has two or more clear spaces) shall have an area of no more than seven square inches, or be no greater than two inches across the smallest dimension.

c. This standard does not apply:

1. Where the municipal engineer agrees that this standard would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets that meet these standards;

2. Where flows are conveyed through any device (e.g., end of pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:

(a) A rectangular space four and five-eighths inches long and one and one-half inches wide (this option does not apply for outfall netting facilities); or

(b) A bar screen having a bar spacing of 0.5 inches.

3. Where flows are conveyed through a trash rack that has parallel bars with one-inch spacing between the bars; or

4. Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.

5-28.5 *Enforcement.* This section shall be enforced by the police department and/or appropriate officials of the Borough of Little Silver.

5-28.6 *Violations and Penalties.* Any person(s) who is found to be in violation of the provisions of this section, after being duly notified, shall upon conviction be subject to the penalties provided in section 5-13.

