

Title 9 PUBLIC PEACE AND CONDUCT

Chapters:

Chapter 9.04 OFFENSES AGAINST PUBLIC PEACE AND DECENCY

Sections:

9.04.010 Sling shots prohibited.

No person shall shoot, discharge or propel any metal ball, pellet or other projectile or matter by use of any weapon commonly known as a slung shot or sling shot, within the borough.

(Prior code § 5-11)

9.04.020 Acts prohibited in public places.

- A. No person shall urinate or defecate on any street, avenue, road, highway, sidewalk, building, public place or quasi-public place as defined in Section 9.08.010 except in that place and receptacle provided for such act.
- B. Any person convicted of violating the provisions of Subsection A of this section shall be sentenced to a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) and shall be required to perform public service at the direction and control of the superintendent of public works of the borough. The public service shall include, but not be limited to, the removal of trash, garbage, weeds, brush, debris and waste. Upon conviction of a first offense the defendant shall be required to render four hours of public service to the borough.
- C. Any person convicted of a second or subsequent violation of this section shall be sentenced to a minimum fine of not less than one hundred dollars (\$100.00) but not more than five hundred dollars (\$500.00). Upon a second and all subsequent convictions, the defendant shall be required to render eight hours of public service to the borough as specified in subsection B of this section.
- D. The fines and public service specified in this section are mandatory minimum sentences and shall be imposed by the court upon conviction of a violation of this section.

(Prior code § 5-18)

9.04.030 Consumption of alcohol in public places.

- A. Prohibition on Sale and Consumption.
 - 1. No person shall serve, sell, dispense, drink or consume, or offer to another for consumption, any alcoholic beverage on a public street, highway, avenue, alley, road or parking lot of the borough or upon any public grounds, parks, sidewalks in the borough or in any automobile or other vehicle or in any other means of transportation on the public streets, highways, avenues, alleys, roads, grounds, parking lots, parks and sidewalks of the borough.

2. Nothing herein shall be construed to prohibit the consumption or sale of alcoholic beverages within licensed premises or upon premises authorized by the mayor and the council or as otherwise authorized by the mayor and the council.
 3. It is unlawful for any person, including but not limited to the occupant of a motor vehicle, to consume or pretend to consume any alcoholic beverage or to have in his or her possession any open or unsealed container containing any alcoholic beverage in or upon any public sidewalk, public highway, public park, public recreation area or in or upon any other public place under the supervision or control and management of the borough.
- B. Penalty. Any person convicted of being drunk or in a state of intoxication or consuming alcoholic beverages in any streets, parking lot, or public place as defined in Section 9.08.010, shall be subjected to a minimum mandatory fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) and shall be required to perform four hours of public service to the borough at the direction and supervision of the superintendent of public works. The public service may include, but shall not be limited to, the removal of trash, debris, weeds, brush and waste material from any public place or location as that term is defined in Section 9.08.010. Upon conviction of a second or subsequent offense, the defendant shall be fined a minimum of one hundred dollars (\$100.00) but not more than five hundred dollars (\$500.00) and shall be required to perform eight hours of public service to the borough.

(Ord. 2001/29 § 2 (part); prior code § 5-19)

9.04.040 Gambling prohibited in public places.

No person shall gamble or engage in a game of chance on any street, avenue, road, highway or public place within the borough.

- A. Definitions.
1. "Gambling" means staking or risking something of value upon the outcome of a contest or chance or a future contingent event not under the actor's control or influence, upon an agreement or understanding that he will receive something of value in the event of a certain outcome.
 2. "Game of chance" means any contest, game, pool, gaming scheme or gaming device in which the outcome depends in a material degree upon an element of chance, notwithstanding that skill of the contestants or some other persons may also be a factor therein.
 3. "Player" means a person who engages in any form of gambling as a contestant, bettor or organizer of a game of chance, without receiving or becoming entitled to receive any profit therefrom other than personal gambling winnings.
 4. "Public place" means any place to which the public has access and shall include any street, highway, road, alley, boardwalk or sidewalk. It shall also include the front of the neighborhood of any 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.
 5. "Something of value" means any money or property, any token object or article exchangeable for money or property, or any form of credit or promise directly or indirectly contemplating transfer of money or property or of any interest therein, or involving extension of a service, entertainment or a privilege of playing at a game or scheme without charge.

- B. Penalty. Any person convicted of a first offense pursuant to the provisions of this section shall be subject to a minimum mandatory fine of fifty dollars (\$50.00). Any person convicted of a second or subsequent offense shall be subject to a minimum mandatory fine of one hundred dollars (\$100.00) or imprisonment in the county jail for a term not exceeding ninety (90) days or both.
- C. Nonapplicability. Nothing in this section shall be construed to prevent or prohibit any participation in any lawfully sanctioned gambling or gaming activity such as but not limited to: bingo, lotto, the New Jersey State Lottery, or betting conducted at the Freehold Raceway.

(Prior code § 5-20)

9.04.050 Disorderly conduct.

Any person who engages in any of the following conduct shall be deemed guilty of an offense:

- A. Any person who unlawfully fights in a public place or challenges another person in a public place to fight;
- B. Any person who maliciously and wilfully disturbs another person by loud and unreasonable noise;
- C. Any person who uses offensive words in a public place or words which are inherently likely to produce an immediate violent reaction;
- D. Any person who intentionally disrupts any lawful assembly or meeting of persons without lawful authority;
- E. Any person who intentionally obstructs vehicular or pedestrian traffic without lawful authority.

(Ord. 2001/29 § 3)

Chapter 9.06 FIREARMS

Sections:

9.06.010 Definitions.

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

"Firearm" means any pistol, revolver, rifle, shotgun, machine gun, automatic and semi-automatic rifle or any gun or other firearm as the term is commonly used, or any gun, device or instrument in the nature of a weapon from which may be fired or ejected any solid projectile, ball, slug, pellet, missile or bullet or any gas, vapor or other noxious thing by means of a cartridge or shell or by the action of an explosive or igniting of flammable or explosive substances. "Firearm" shall also include, without limitation, any firearm which is in the nature of any air gun, spring gun or pistol, carbon dioxide or compressed air gun or pistol, pellet guns or paint ball guns or other weapon of a similar nature in which the propelling force is a spring, elastic band, carbon dioxide, compressed or other gas, or vapor, air or compressed air, or is ignited by compressed air, and ejecting a bullet or missile smaller than 3/8 of an inch in diameter, with sufficient force to injure a person. It shall also include any other instrument or weapon in which a loaded or blank cartridge, except as noted herein, is used or may be used. It shall also, by definition, include any bow and arrow and slingshot.

(Ord. 2002/7 § 1)

9.06.020 Unlawful discharge.

It shall be unlawful for any person to shoot or discharge any firearm within the borough, except as hereinafter provided.

(Ord. 2002/7 § 2)

9.06.030 Exceptions.

The provisions of this section shall not apply to the following:

- A. Law enforcement officers of any governmental agency, federal, state, county and/or municipal in the performance of their duty or in this official capacity.
- B. Members of any legally recognized military organization while it is in the performance of their official duties.
- C. Privately employed security personnel who are authorized by law to carry firearms while in the performance of their official duties.
- D. Persons lawfully using firearms in the protection of their person or property for self-defense.
- E. Persons who are actually engaged in the defense of life or person.
- F. Person engaged in the discharge of firearms loaded only with blanks for commemorative events or historic pageants; provided, however, those persons shall obtain approval from the borough police department.
- G. Civilian employees of the state and federal government while in the performance of their official duties.
- H. Any representative of the Division of Fish, Game and Wildlife, Department of Environmental Protection, State of New Jersey or Deputy State Conservation Officer or fulltime of the State Division of Parks and Forestry or a New Jersey Transit Police Officer while in the performance of their official duties.
- I. A guard in the employee of any railway express company, banking or building and loan or savings and loan institution in the state of New Jersey while in the actual performance of official duties.
- J. Any type of pistols capable of exploding only paper caps containing thirty-five (35) grams or less explosive composition, including starter pistols used in sporting or athletic events.
- K. The firing of blanks from a firearm during the course of, and as a part of community parade or memorial service with the prior approval of the borough police department.
- L. The firing of bow and arrow (otherwise known as archery) under the auspices of a physical education program conducted by and/or supervised by the Freehold Borough or Freehold Regional High School District Board of Education.
- M. The operation of nail guns, staple guns or similar tools when used for the intended lawful purpose.

(Ord. 2002/7 § 3)

9.06.040 Violations and penalties—Enforcement.

Unless otherwise specified in this section, for a violation of any provision of this chapter, the maximum penalty, upon conviction hereof, shall be a fine not exceeding one thousand dollars (\$1,000.00) or imprisonment

for up to ninety (90) days, or a period of community service not exceeding ninety (90) days, or any combination thereof. The borough or other applicable government agencies and law enforcement personnel, including the Freehold Borough police department, through their various authorized agents, will be responsible for enforcement of this chapter.

(Ord. 2002/7 § 4)

Chapter 9.12 CURFEW

Sections:

9.12.010 Short title.

This chapter shall be known and may be cited as the "Curfew Ordinance of the Borough of Freehold."

(Prior code § 5-7.1)

9.12.020 Definitions.

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

"Borough" means the borough of Freehold, Monmouth County, a municipal corporation of the state of New Jersey.

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

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

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

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

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

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

(Prior code § 5-7.2)

9.12.030 Curfew for minors.

- A. It is unlawful for any person or persons thirteen (13) or less years of age to be or remain in or upon any public place within the borough at night between ten p.m. and six a.m.
- B. It is unlawful for any person or persons seventeen (17) or less years of age to be or remain in or upon any public place within the borough at night:
 - 1. Between nine p.m. and six a.m. for the period beginning October 24th through November 1st;
 - 2. Between eleven p.m. and six a.m. for the period beginning November 2nd through October 23th.
- C. Notwithstanding subsections A and B of this section, a person shall not violate this section if such person is or remains in or upon any public place during the proscribed hours for the following reasons:
 - 1. For medical emergencies;
 - 2. Extracurricular school activities;
 - 3. Any cultural, educational and social events sponsored by religious or community-based organizations.

(Ord. 2001/29 § 4; prior code § 5-7.3)

9.12.040 Parental responsibility.

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

(Prior code § 5-7.4)

9.12.050 Penalties—More than one violation.

- A. If, after receipt of a warning notice pursuant to this chapter of a first violation by a juvenile, a second curfew violation is adjudicated against the same minor the parents of the minor shall be subject to prosecution under this section. Violators of this chapter shall be required to perform community service and may be subject to a fine of up to one thousand dollars (\$1,000.00). If both juvenile and the juvenile's parent violate the curfew ordinance, they shall be required to perform community service together.
- B. Any juvenile who shall violate any of the provisions of the curfew ordinance, as contained in this chapter, more than three times shall be reported by the chief of police to the juvenile authorities as a juvenile in need of supervision and the chief of police may proceed to file such charges with the Superior Court of New Jersey, Family Part, as he or she may deem appropriate.

(Prior code § 5-7.5)

9.12.060 Enforcement procedure.

If a police officer reasonably believes that a juvenile is on the streets in violation of the curfew ordinance, as contained in this chapter, the office shall notify the juvenile that he or she is in violation of this chapter and shall require the juvenile to provide his or her name, address, and telephone number and how to contact his or her parent or guardian. In determining the age of the juvenile and in the absence of convincing evidence such as a birth certificate or driver's license, a police officer on the street shall use his or her best judgment in determining age. If the officer determines that a person is in violation of this chapter he or she shall take the juvenile to the police station where a parent or guardian shall immediately be notified to come for the juvenile whereupon they

shall be questioned. This is intended to permit ascertainment, under constitutional safeguards, of relevant facts and to centralize responsibility in the person designated there and then on duty for accurate, effective, fair, impartial and uniform enforcement, and recording, thus making available experienced personnel and access to information and records.

- A. Police procedures shall constantly be refined in the light of experience and may provide that the police officer may deliver to a parent or guardian thereof a juvenile under appropriate circumstances, for example, a juvenile of tender age near home whose identity and address may readily be ascertained or are known.
- B. A police officer discharging an enforcement obligation under this chapter shall file a written report with the chief of police or shall participate to the extent of the information for which he or she is responsible in the preparation of a report on the curfew violation. It is not the intention of this chapter to require extensive reports that will prevent police officers from performing their primary police duties. The reports shall be as simple as is reasonably possible and may be completed by police departmental personnel other than sworn police officers.
- C. When a parent or guardian, immediately called, has come to take charge of the juvenile, and the appropriate information has been recorded, the juvenile shall be released to the custody of such parent. If the parent cannot be located or fails to take charge of the juvenile, then the juvenile shall be released to the juvenile authorities, except to the extent that in accordance with police regulations, approved in advance by juvenile authorities, the juvenile may temporarily be entrusted to an adult relative, neighbor or other person who will on behalf of a parent or guardian assume the responsibility of caring for the juvenile pending the availability or arrival of a parent or guardian.
- D. In the case of a first violation by a juvenile the chief of police shall, by certified mail, send to the parents or guardians of the minor, written notice of the violation with a warning that any subsequent violation will result in full enforcement of the curfew ordinance as contained in this chapter, including enforcement of parental responsibility and of applicable penalties.

(Prior code § 5-7.6)

9.12.070 Violations—Penalties.

- A. If, after receipt of a warning notice pursuant to Section 9.12.060 of a first violation by a juvenile, a second curfew violation is adjudicated against the same minor the parents or guardians of the minor shall be subject to prosecution under Section 9.12.050. For the first parental offense a parent shall be subject to a mandatory fine of not less than twenty-five dollars (\$25.00), and for each subsequent offense by a parent the minimum fine shall be increased by an additional twenty-five dollars (\$25.00) e.g., fifty dollars (\$50.00) for the second offense, seventy-five dollars (\$75.00) for the third offense. The judge of the municipal court upon finding a parent guilty, may sentence the parent to pay this fine and the costs of prosecution.
- B. Any juvenile who shall violate any of the provisions of the curfew ordinance, as contained in this chapter, more than three times shall be reported by the chief of police to the juvenile authorities as a juvenile in need of supervision and the chief of police may proceed to file such charges with the Superior Court of New Jersey, Family Part, as he or she may deem appropriate.

(Prior code § 5-7.7)

9.12.080 Notice.

Notice of the existence of this chapter and of the curfew regulations established by it shall be posted in, on or about public or quasi-public places as may be determined by the chief of police in order that the public may be constantly informed of the existence of this chapter and its regulations.

(Prior code § 5-7.8)

Chapter 9.16 DRUG FREE ZONES

Sections:

9.16.010 Plan adopted.

The "Plan of Drug Free Zones" prepared for the Borough of Freehold by Abbington Associates, Inc. with first revision dated April 29, 1998 and second revision dated October 1, 2001, is approved and adopted by the Borough of Freehold.

A true copy of the plan shall be on file in the office of the borough clerk and a true copy of the plan and the ordinance codified in this chapter shall be provided to the Monmouth County prosecutor's office.

(Ord. 2005/3 §§ 1, 2; Ord. 29/98 §§ 1, 2)

Chapter 9.20 PARENTAL RESPONSIBILITY

Sections:

9.20.010 Definitions.

As used in this chapter:

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

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

"Violation of the public peace" means and includes any of the following acts: defacing, damaging or destroying public property or the private property of another, within the borough, or committing an assault or assault and battery upon another in the borough; robbery, stealing or larceny including shoplifting; knowingly receiving stolen property; violation of any breaking and entering or entering without breaking into the property of another with the intent to steal; or threatening another with the intention of extorting money or anything of value; or possession and/or use of a controlled dangerous substance, as same shall be defined under Title 24, Revised Statutes of New Jersey, or juvenile delinquency based upon any of the above or similar offenses.

(Prior code § 5-17.1)

9.20.020 Certain Acts prohibited.

It is unlawful for any parent to assist, aid, abet, allow, permit, suffer or encourage a minor to commit a violation of the public peace, as defined herein, either by overt act, by failure to act or by lack of supervision and control over such minor. Whenever a minor shall be taken into custody or detained for the commission of any such violation of the public peace within the borough, the parents of such minor shall be immediately notified by the police department of such custody or detention and the reasons therefor, and of the responsibility of parents under this chapter. When a minor is charged with a violation of the public peace, as defined herein, and the court makes an adjudication of delinquency, the chief of police, or his or her designated agent, shall forthwith serve written notice of the adjudication of delinquency upon the parents, together with a written warning, in a form approved by the borough attorney of the penalties and other provisions of this chapter with respect to the commission within one year of a second violation of the public peace by the minor. If at any time within one year of the giving of such notice, such minor shall be charged with a violation of the public peace, and shall again be adjudicated delinquent, it shall be presumed, subject to rebuttal by competent evidence that the parents of the minor during the period of time, allowed, permitted or suffered the minor to commit a violation of the public peace. A record of such notifications shall be kept by the police department.

(Prior code § 5-17.2)

9.20.030 Violation—Penalty.

Any parent convicted of violating this chapter shall be subject to punishment as provided by Section 1.08.010.

(Prior code § 5-17.3)

9.20.040 Cumulative remedy.

The remedy provisions of this chapter shall be cumulative, not exclusive, and the state or any other person shall have the right to proceed under any other legally available remedies.

(Prior code § 5-17.4)

Chapter 9.24 GRAFFITI

Sections:

9.24.010 Definitions.

"Commercial building" means any building that is used, or any building a portion of which is used, for buying, selling or otherwise providing goods or services, or other lawful business, commercial, professional services or manufacturing activities.

"Graffiti" means any unauthorized inscription, word, figure, painting, letter, name, number, symbol, slogan, message, drawing, picture, writing, or other mark or defacement of any kind visible to the public from a public place that is written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of public or private property, that is not consented to or authorized in advance by the owner or occupant of the property.

"Graffiti implement" means an aerosol paint container, broad-tipped marker, gum label, paint stick or graffiti stick, etching equipment, brush or any other device capable of scarring or leaving a visible mark on any natural or manmade surface.

"Public place or public property" means a place to which the public has access including, but not limited to, any highway, street, road, sidewalk, building, parking area, plaza, shopping area, playground, park or transportation facility, fence, bridge or portion thereof, utility or other poles, or signs.

"Residential building" means any building containing one or more dwelling units.

(Ord. No. 2009/1, § 1, 2-17-09)

9.24.020 Prohibited acts.

- A. Defacement. It shall be unlawful for any person to apply graffiti to any natural or manmade surface on any public property or, without the permission of the owner or occupant, on any private property.
- B. Possession of Graffiti Implements.
 - 1. By Minors at or Near School Facilities. It shall be unlawful for any person under the age of eighteen (18) years to possess any graffiti implement while on any school property, grounds, facilities, buildings, or structures, or in areas immediately adjacent to those specific locations upon public property, or upon private property without the prior written consent of the owner or occupant of such private property. The provisions of this section shall not apply to the possession of graffiti implements by a minor attending or traveling to or from a school at which the minor is enrolled if the minor is participating in a class at the school that formally requires the possession of broad-tipped markers. The burden of proof in any prosecution for violation of this Section shall be upon the minor student to establish the need to possess a broad-tipped marker.
 - 2. In Designated Public Places. It shall be unlawful for any person to possess any graffiti implement while in or upon any public facility, park, playground, recreational facility, or other public building or structure or while in or within fifty (50) feet of an underpass, bridge abutment, storm drain, or similar types of infrastructure unless otherwise authorized to possess same.
- C. Removal of Graffiti.
 - 1. Whenever graffiti is observed or reported, a notice (certified mail) shall be sent by the borough to the property owner(s) advising them that they have fifteen (15) business days to remove the graffiti.
 - 2. Freehold Borough will be permitted to remove the graffiti from the property if the property owner(s) fail to remove same within the fifteen (15) day time frame.
 - 3. The property owner(s) will reimburse Freehold Borough for all costs incurred for the graffiti removal.
 - 4. Failure to reimburse the borough for incurred costs within sixty (60) days after removal may result in a lien against the property.

(Ord. No. 2009/1, § 1, 2-17-09)

9.24.030 Penalties.

- A. Fines and Imprisonment. Any person violating this chapter shall be punished by a fine of two hundred and fifty dollars (\$250.00) for the first offense; five hundred dollars (\$500.00) for the second offense; and one-thousand two hundred fifty dollars (\$1,250.00) for each subsequent offense, or by imprisonment for a term not to exceed sixty (60) days, or by both fine and imprisonment at the discretion of the court.

In the case of a minor, the parents or legal guardian shall be jointly and severally liable with the minor for payment of all fines.

Upon an application and finding of indigence, the court may decline to order fines against the minor, parents or guardian.

- B. Restitution. In addition to any punishment specified in this section, the court shall order any violator to make restitution to the victim or the borough for damages or loss caused directly or indirectly by the violator's offense in the amount or manner determined by the court. In the case of a minor, the parents or legal guardian shall be ordered jointly and severally liable with the minor to make the restitution.

(Ord. No. 2009/1, § 1, 2-17-09)

9.24.040 Reward.

- A. The borough may elect to offer a reward, in an amount not to exceed one hundred dollars (\$100.00) for information leading to the identification and apprehension of any person who willfully damages or destroys any public or private property by the use of graffiti. In the event of damage to public property, the offender or the parents or legal guardian of any unemancipated minor must reimburse the city for any reward paid. In the event of multiple contributors of information, the reward amount shall be divided by the borough in the manner it shall deem appropriate.
- B. Claims for rewards under this section shall be filed with the police chief in the manner specified by the chief.
- C. No claim for a reward shall be allowed unless the police chief or designee investigates and verifies the accuracy of the claim and determines that the requirements of this section have been satisfied.
- D. No reward shall be paid to any public employee whose duty it is to investigate or enforce this section.
- E. The chief of police is authorized to grant such reward with the consent of the mayor and council.
- F. The reward shall only be given upon notification by the municipal court that the matter has been adjudicated.

(Ord. No. 2009/1, § 1, 2-17-09)