

§ 375-1. Definitions.

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

SCHOOL GROUNDS — Includes land and school facilities, as defined in N.J.A.C. 6A:26-1.2 when used for the provision of academic or extracurriculum programs by the district. School grounds includes playgrounds and recreational places. School grounds also includes that portion of land, school facilities and other facilities owned by local municipalities, private entities or other individuals during those times when the district has exclusive use of such land, school facilities, or other facilities for the provision of academic or extracurriculum programs. **[Added 12-10-2002 by Ord. No. 324-C-02]**

SMOKING — The use of a lighted cigar, cigarette, pipe or any other matter or substance which contains tobacco and/or other similar products.

§ 375-2. Promulgation of rules by school board.

Any school board having a public school building or public school property located within the Township of Brick shall make and enforce regulations to prohibit the use of tobacco products anywhere in its building and on its grounds except as part of a classroom instruction or theatrical production. The regulations shall also provide for additional specified limitations regarding smoking on the school grounds as designated by the Board of Education.

§ 375-3. Complaints.

The Superintendent of the school district or his designee or any other person having control of school property or any agent thereof or a police officer or other public servant engaged in the execution or enforcement of this article, or any other citizen, may sign a complaint against any individual for violation of the provisions of this article.

§ 375-4. Complaints against minors.

Upon the signing of a Complaint as provided herein against a person under the age of 18, the Municipal Court shall subpoena the parent(s) and/or guardian(s) of the person charged to appear at the Municipal Court hearing.

§ 375-5. Posting of signs.

Every public entrance to each school within the Township of Brick shall be posted by a person who has control of the building with a sign indicating that the use of tobacco products is prohibited in the building and shall further indicate that violators are subject to a fine and/or punishment, including but not limited to community service. This sign shall be clearly visible to the public and shall contain letters or a symbol which contrast in color with the sign. Similar signs shall be posted at visually accessible sites on the boundaries of the school property.

§ 375-6. Violations and penalties.

Any person who violates of this article shall appear before the Brick Township Municipal Court and shall be subject to punishment as follows:

- A. First offense: up to 15 hours of community service at a place designated by the Municipal Court.
- B. Second offense: up to 30 hours of community service in a place designated by the Municipal Court and/or a fine up to \$100.
- C. Third and subsequent offense: up to 50 hours of community service in a place designated by the Municipal Court and/or a fine up to \$250.
- D. Community service may include participation in a nonsmoking educational or support program approved by the Municipal Court.

§ 375-7. Smoking prohibited on public beaches.

Smoking shall be prohibited on all public beaches within the Township of Brick in all areas unless specifically designated by sign as a "Smoking Permitted Area." For purposes of this prohibition, smoking shall include all uses of tobacco products as defined in § 375-1.

§ 375-8. Violations and penalties.

Any person found smoking on a public beach in violation of this prohibition shall be subject to the penalties as provided in Chapter 1, § 1-15, General penalty.

§ 375-9. Definitions.

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

HEALTH DEPARTMENT — The Ocean County Health Department and may be referred to herein this article as the "Department."

HEALTH OFFICER — The Administrative Officer of the Ocean County Health Department.

PERSON — An individual, partnership, cooperative, association, corporation, personal representative, receiver, trustee, assignee or any other legal entity.

LAW ENFORCEMENT OFFICER — Any member of the Brick Township Police Department or any other municipal Police Department or the New Jersey State Police.

SELF-SERVICE DISPLAYS — Any racks, stands or other display devices from which a customer may take tobacco products directly with only payment to be made to the tobacco retailer.

TOBACCO — Any product made from the tobacco plant for the purpose of smoking, chewing, inhaling and other personal use, including cigars, chewing tobacco, pipe tobacco, snuff and cigarettes in any form.

TOBACCO RETAILER — Any person or entity that operates a store, stand, booth, concession, or place at which sales of tobacco are made to purchasers for consumption or use. This shall also mean a person or entity that owns, operates or uses a vending machine and/or a vending machine location.

VENDING MACHINE — Any automated, self-service device which, upon insertion of money, tokens or any other form of payment, dispenses cigarettes or other tobacco products.

§ 375-10. Sale to minors prohibited.

It shall be unlawful to sell tobacco to a person under 18 years of age.

§ 375-11. Sign requirements.

A. Not less than a six-inch by three-inch sign shall be posted in a conspicuous place near each cash register in all retail establishments which sell tobacco products containing the following language:

"A person who sells or offers to sell a tobacco product to a person under 18 years of age shall pay a penalty of up to \$1,000 and may be subject to a license suspension or revocation. Proof of age may be required for purchase."

B. All signs may reference this article of the Code of the Township of Brick and N.J.S.A. 54:40A-4.1.

§ 375-12. Identification required.

It shall be unlawful for a tobacco retailer to sell or permit to be sold tobacco or any cigarette paper to any individual without requesting and examining identification from the purchaser positively establishing the purchaser's age as 18 years or greater unless the seller has some other conclusive basis for determining the buyer is over the age of 18 years.

§ 375-13. Tobacco vending machines prohibited.

It shall be unlawful to offer for sale or to sell tobacco through a tobacco vending machine in the Township of Brick except if the operation of the machine to vend tobacco products is possible only by the activation of an electronic switch or other device which is controlled by the proprietor or employee at or over the age of 18 and only after the proprietor or employee has made the reasonable determination that the person wishing to use the tobacco vending machine is 18 years of age or older.

§ 375-14. Removal of tobacco vending machines and self-service tobacco displays.

All tobacco vending machines and self-service tobacco displays made unlawful by the terms of this article shall be removed within 30 days from the effective date of this article.

§ 375-15. Enforcement.

- A. Whenever the Health Officer, or his/her designees, or a law enforcement officer reasonably believes there exists a violation of this article, such officer or designee may issue a summons and complaint not later than 60 days after discovery of the alleged violation. The complaint shall be written and shall state with reasonable particularity the nature of the violation, including reference to the section of this article alleged to have been violated. The complaint shall be delivered personally or sent by certified mail to the alleged violator.
- B. The Health Officer, designee or law enforcement officer charged with enforcement of this article, after giving proper identification, may inspect any matter, thing, premises, place, person, record, vehicle, incident or event as necessary.
- C. It shall be unlawful for any person to molest, willfully oppose, verbally abuse or otherwise obstruct the Health Officer, designee or law enforcement officer, who may request the assistance of the Brick Township Police Department, or other police agency or peace officer when necessary to execute his or her official duty in a manner prescribed by law.
- D. Citizens may bring complaints against violators of this article.

§ 375-16. Liberal construction.

This article shall be liberally construed for the health, safety, and welfare of the people of the Township of Brick.

§ 375-17. Violations and penalties.

- A. Unless otherwise provided by law, statute or ordinance, any person violating any of the provisions of this article shall, upon conviction thereof, pay a penalty of not less than \$100 nor more than \$1,000 for each offense. A complaint shall be made in the Municipal Court or before such other judicial officer having authority under the laws of the State of New Jersey.
- B. Each sale of tobacco to a minor shall constitute a separate violation. Each day that a tobacco vending machine or self-service tobacco display remains on any premises or tobacco is sold without the required sign shall constitute a separate and distinct offense.
- C. The Ocean County Health Department may suspend the retail food establishment license of any person convicted of violation of this article for a period of not more

than three days, pursuant to the authority of the Health Department to license and regulate food establishments as provided by N.J.S.A. 26:3-31(c).

§ 375-18. Copies of article.

A certified copy of this article shall be forwarded by the Township Clerk to the following:

- A. Mayor and Council Members.
- B. Business Administrator.
- C. Chief Financial Officer.
- D. Code Enforcement Officer.
- E. Chief of Police.
- F. Township Attorney.
- G. Ocean County Health Department.