

Chapter 109. Drugs and Smoking

[HISTORY: Adopted by the Township Council of the Township of Lopatcong as indicated in article histories. Amendments noted where applicable.]

Article I. Drug-Free School Zones

[Adopted 9-21-1988 by Ord. No. 1988-23]

§ 109-1. Adoption of map.

In accordance with and pursuant to the authority of P.L. 1988, c. 44 (N.J.S.A. 2C:35-7), the Drug-Free School Zone Map produced on August 5, 1988, by Engineer Eugene Buczynski, Municipal 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 and which is owned by or leased to any elementary or secondary school or school board and of the areas on or within 1,000 feet of such school property.

§ 109-2. Map to constitute official boundaries.

The Drug-Free School Zone Map approved and adopted pursuant to § 109-1 of this article shall continue to constitute an official finding and record at 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 until such time, if any, that this article shall be amended to reflect any additions or deletions with respect to the location and boundaries of school property and Drug-Free School Zones.

§ 109-3. Notification of changes.

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 Municipal Engineer and the Municipal 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.

§ 109-4. Availability of copies.

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 § 109-1 of this article 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 article shall be provided without cost to the County Clerk and to the office of the Warren County Prosecutor.

§ 109-5. 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 § 109-1 of this article 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 and secondary schools within the municipality.
 - (2) The boundaries of the real property which is owned by or leased to such schools or a school board.
 - (3) Such school property is and continues to be used for school purposes.
 - (4) The location and boundaries of areas which are on or within 1,000 feet of such school property.
- B. Except as is otherwise expressly noted on the face of the approved and adopted map, all of the property depicted on the map approved and adopted herein as school property was owned by or leased to a school or school board and was being used for school purposes as of July 9, 1987, that being the effective date of P.L. 1987, c. 101 (N.J.S.A. 2C:35-7).
- C. Pursuant to the provisions of P.L. 1988, c. 44, 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 § 109-1 of this article. The failure of the map approved herein to depict the location and boundaries of any property which is, in fact, used for school purposes and which is owned by or leased to any elementary or secondary school or school board, whether the absence of such depiction is the result of inadvertent omission or the result of any changes in the location and boundaries of such property which have not yet been incorporated into a revised approved map, shall not be deemed to be an official finding and record that such property is not owned by or leased to a school or school board or that such property is not used for school purposes.
- D. All of the requirements set forth in P.L. 1988, c. 44, concerning the preparation, approval and adoption of a Drug-Free School Zone map have been complied with.

Article II. Drunk-Driving-Free School Zones

[Adopted 6-7-2000 by Ord. No. 2000-09]

§ 109-6. Designation of school crossings.

In accordance with and pursuant to the authority of P.L. 1999, c. 1985,^[1] the following is a list of school crossings which have been so designated by the Township of Lopatcong:

- A. Strykers Road and Powderhorn Drive.
- B. Red School Lane and Baltimore Street.
- C. Powderhorn Drive and Dryden Terrace.
- D. The rear parking lot of the Lopatcong Township School.

[1] *Editor's Note: See N.J.S.A. 39:4-50.*

§ 109-7. Adoption of map.

[Amended 11-3-2004 by Ord. No. 2004-14]

The Drunk-Driving-Free School Zones Map completed by Schoor DePalma on or about April 26, 2000, and amended by Maser Consulting, P.A., on or about September 14, 2004, is hereby approved and adopted as an official finding and record of the location and areas within the municipality of the property which is used for school purposes and which is owned by or leased to any elementary or secondary school on school land and of the area on or within 1,000 feet of such school property.

§ 109-8. Map and list to constitute official findings.

The Drunk-Driving-Free-School Zones Map approved and adopted pursuant to § 109-7 of this article 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 until such time, if any, that this article shall be amended to reflect any additions or deletions with respect to the location and boundaries of school property and drunk-driving-free school zones. The list of school crossings designated above by the Township Council shall continue to constitute an official finding and record of the location of school crossing zones within the Township of Lopatcong until such time, if any, that this article shall be amended to reflect any additions or deletions with respect to school crossing zones in Lopatcong Township.

§ 109-9. Changes in locations 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 office of the Township Engineer and the Township Attorney of any changes or contemplated changes in the location and boundaries of any property owned by or leased to any elementary or secondary school or school board and which is used for school purposes or of any additions or deletions to school crossings.

§ 109-10. Original map and list to be on file; copies.

The Township Clerk is hereby directed to receive and to keep on file the original of the map approved and adopted pursuant to § 109-7 of this article and the list of school crossings 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 list and of this article shall be provided without cost to the Warren County Clerk and to the office of the Warren County Prosecutor.

§ 109-11. Map and list as evidence.

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

- A. It is understood that the map and list approved and adopted pursuant to this article was prepared and is intended to be used as evidence in prosecutions arising under the criminal and traffic law of this state and that, pursuant to state law, such map and list shall constitute prima facie evidence of the following:
- (1) The location of elementary and secondary schools within the municipality.
 - (2) The boundaries of the real property which is owned by or leased to such schools or a school board.
 - (3) That such school property is and continues to be used for school purposes.
 - (4) The location and boundaries of areas which are on or within 1,000 feet of such school property.
 - (5) The location of all school crossings in the Township of Lopatcong.

Article III. Smoke-Free Zones

[Adopted 4-3-2013 by Ord. No. 2013-01^[1]]

[1] *Editor's Note: This ordinance also repealed former Art. III, Smoke-Free Zones, adopted 11-7-2001 by Ord. No. 2001-33.*

§ 109-12. Public property.

- A. Definitions. As used in this article, the following words shall have the following meanings:

ENCLOSED AREA

All areas between a floor and a ceiling, extending to the outer perimeter walls of a structure.

MUNICIPAL BUILDING

Includes all structures owned, leased, rented and/or operated by the Township of Lopatcong, and/or occupied by Township employees and used for official business of the Township of Lopatcong.

PARKS AND RECREATIONAL FACILITIES

Includes all public parks, playgrounds, ball fields, publicly owned or leased by the Township of Lopatcong and all property owned or leased by the Township of Lopatcong upon which the public is invited or upon which the public is permitted and where individuals gather for recreational activities, including all areas adjacent to such facilities, including, but not limited to, any parking area driveway or drive aisle.

SMOKING

The burning of, inhaling from, exhaling the smoke from, or the possession of a lighted cigar, cigarette, pipe, or any other matter or substance which contains tobacco or any other matter that can be smoked, or the inhaling or exhaling of smoke or vapor from an electronic smoking device.

B. Prohibition of smoking in public places; signs.

- (1) Smoking shall be prohibited in all municipal buildings as defined herein. "No smoking" signs or the international "no smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a diagonal red line through its cross section) shall be clearly, sufficiently and conspicuously posted at each municipal building entrance and within each closed area where smoking is prohibited by this article. The sign shall be clearly visible to the public and shall contain letters or a symbol which contrasts in color with the sign, indicating that smoking is prohibited therein. The sign shall also indicate that violators are subject to a fine.
- (2) Smoking shall be prohibited within a thirty-five-foot radius of the front entrance of all municipal buildings. "No smoking" signs or the international "no smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a diagonal red line through its cross section) shall be clearly, sufficiently and conspicuously posted both on the buildings and at the thirty-five-foot perimeter of the front entrance of all municipal buildings where smoking is prohibited by this article. The sign shall be clearly visible to the public and shall contain letters or a symbol which contrasts in color with the sign, indicating that smoking is prohibited therein. The sign shall also indicate that violators are subject to a fine.
- (3) Smoking shall be prohibited in all public parks and recreation facilities owned or leased by the Township of Lopatcong and all property owned or leased by the Township of Lopatcong upon which the public is invited or upon which the public is permitted or individuals gather for recreational activities, including all areas adjacent to such facilities, including, but not limited to any parking area, driveway or drive aisle, which have been designated with "no smoking" signs. "No smoking" signs or the international "no smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a diagonal red line through its cross section) shall be clearly, sufficiently and conspicuously posted in all areas regulated by this article. The sign shall be clearly visible to the public and shall contain letters or a symbol which contrasts in color with the sign, indicating that smoking is prohibited in the designated area. The sign shall also indicate that violators are subject to a fine.
- (4) Smoking shall be prohibited in any vehicle registered to the Township of Lopatcong.

C. Enforcement. The enforcement authority of this article shall be the Police Department, Fire Department, Recreation Department, Public Works Department and Health Department of the Township of Lopatcong.

D. Violations and penalties. Any person who violates any provision of this article shall be subject to a fine not less than \$250 for the first offense, \$500 for the second offense and \$1,000 for each subsequent offense. Any municipal employee found in violation of this article may also be subject to discipline in accordance with the provisions of the Township of Lopatcong's policies and procedure.

Article IV. Possession/Purchase of Tobacco Products by Minors

[Adopted 5-7-2003 by Ord. No. 2003-10]

§ 109-13. Definitions.

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

HEALTH OFFICER

The Health Officer of Warren County and/or his designee.

MINOR

Any person less than 18 years of age.

POLICE OFFICER

A police officer of the Township of Lopatcong.

PUBLIC PLACE

Any parks, recreational areas, school property, libraries, bikeways, pathways, theaters, bowling alleys, malls, parking areas or public places, restaurants open to the public and located in the Township of Lopatcong and the Lopatcong Township Municipal Complex.

TOBACCO

Any product made from the tobacco plant or containing tobacco leaf for the purpose of smoking, chewing, inhaling and other personal use, including but not limited to cigars, chewing tobacco, pipe tobacco, snuff and cigarettes in any form.

§ 109-14. Prohibition of tobacco possession or use by minors.

- A. It shall be unlawful for any person under the age of 18 years to smoke or use tobacco in or on any public place or to possess in open view tobacco in any public place.
- B. The minor's name, address, the date, time and location of the violation and the name of the witness to the violation shall be reported to the Health Officer for further action in accordance with the provisions of this article.

§ 109-15. Offenses occurring on school property.

- A. If a violation of this article occurs on the property of any public or private elementary or secondary school, the offender's name and address, the date, time and location of the violation and the name of the witness to the violation shall be reported to the Health Officer for further action in accordance with the provisions of this article.
- B. The principal of the school and/or his/her designee (or designees) are authorized to confiscate the illegally possessed tobacco or tobacco products.
- C. The provisions of this section shall apply to all students, regardless of age.

§ 109-16. Offenses occurring in public places other than school property; enforcement.

Police officers have the authority to enforce the provisions of this article.

§ 109-17. Possession or use of false identification to obtain tobacco products.

It shall be unlawful for any person under the age of 18 years to use any false identification or use any identification other than his/her own, for the purposes of obtaining or attempting to obtain tobacco products.

§ 109-18. Nonapplicability.

- A. This article shall not apply to a minor smoking or using tobacco in a nonpublic place which constitutes the residence of the minor and his or her parent(s) or guardians(s).
- B.

This article shall not be deemed to prohibit persons under the age of 18 years from performing the necessary handling of tobacco products when acting as the agent of the minor's employer within the scope of employment.

- C. This article shall not apply to the possession of tobacco products by minors as part of law enforcement efforts to curtail the sale of tobacco products to persons under the age of 18 years.
- D. The provisions of this article shall not apply to violations of N.J.S.A. 26:3D-1 et seq., N.J.S.A. 26:3E-7 and N.J.S.A. 2C:33-13, as per N.J.S.A. 2A:4A-23.

§ 109-19. Enforcement.

A violation of this article shall be enforced as follows:

- A. First offense. A warning, in writing, will be given to the offender and his or her parent or guardian by the Health Officer. The parent or guardian of the offender shall be provided with anti-tobacco use literature by the Health Officer.
- B. Second offense
 - (1) If the offense occurs on school property, the offender will be referred to a substance abuse counselor for anti-smoking counseling, as provided for by the Board of Education.
 - (2) If the offense occurs on a public place other than school property, the procedures for a first offense will be followed.
 - (3) If a period of one year or more passes after the commission of the second offense, the next offense will not be considered a third offense, but the procedure for a second offense will be repeated.
- C. Third and subsequent offense(s).
 - (1) A complaint will be issued to the offender for an appearance in Municipal Court.
 - (2) The offender will be referred to an advanced anti-smoking education program approved by the Health Department. Any costs involved for these programs shall be paid by the offender.
 - (3) Offender may also be subject to a fine not to exceed \$1,000 and/or community service.