

**ORDINANCE OF THE TOWNSHIP OF DEPTFORD AMENDING
THE DEPTFORD TOWNSHIP CODE TO INCLUDE 3-19.1 HOURS
OF OPERATION THROUGH AND INCLUDING 3-19.5**

WHEREAS, the Deptford Township Council desires to establish hours for certain retail establishments,

WHEREAS, Deptford Township passed Ordinance 0.17.04 to effectuate the changes set forth in the within Ordinance; and

WHEREAS, procedural challenges have been raised regarding the adoption of Ordinance 0.17.04; and

WHEREAS, by passage of Ordinance 0.20.04, Deptford Township Council desires to effectuate the changes set forth herein and ratify Ordinance 0.17.04 to the extent that it is consistent with Ordinance 0.20.04; and

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of Deptford, County of Gloucester and State of New Jersey that the Township of Deptford Code be and the same is hereby amended to include the following provisions:

Section 1. 3-19.1 Hours of Operation

No retail establishment, which meets all of the criteria set forth in subsections a, b and c below, may be open for business between the hours of 11 P.M. and 6 A.M. except from the day after Thanksgiving thru January 2nd,

- a. Is greater than 125,000 square feet in sales area; and
- b. Is within the BC-2 or BC-3 zoning districts; and
- c. That will, based upon Average Annual Daily Traffic generation data as set forth in the ITE Traffic Generation Manual latest edition, generate traffic on any adjacent right-of-way greater than 110% of that generated by a shopping center use.

Section 2. 3-19.2 Application to Zoning Officer

- a. Any retail establishment greater than 125,000 square feet located in a BC-2 or BC-3 zone which wishes to operate during the prohibited hours of 11 P.M. and 6 A.M. may make application and provide any supporting documents to the Deptford Township Zoning Officer, (who shall be charged with the administration and enforcement of this Ordinance) for determination by the Zoning Officer after consultation with the Township Planner as to whether criteria set forth in Chapter 3-19.1 a, b and c have been met. Within thirty (30) days of receiving such an application, the Zoning Officer shall make a determination as to whether the criteria set forth in Chapter 3-19.1 a, b and c have been met. If such criteria have been met, the Zoning Officer shall notify the applicant in writing that the applicant is precluded from conducting business between 11 P.M. and 6 A.M. except from the day after Thanksgiving thru January 2nd. In the event the Zoning Officer determines that any of the criteria set forth in Chapter 3-19.1 a, b or c has not been met, the Zoning Officer shall notify the applicant that the applicant is permitted to operate between the hours of 11 P.M. and 6 A.M.
- b. Any such applicant shall be responsible for the cost of all professional review charges related to the application of the Township Planner, Township Attorney and/or Township Engineers at the rates regularly charged by such professionals to the Township and shall post with the Township at the time of filing the application an escrow of \$250.

Section 3. 3-19.3 Violations

Operation of any retail establishment greater than 125,000 square feet in a BC-2 or BC-3 zone without the operator having first obtained a written determination that such operation is permitted pursuant to 3-19.2a shall be a violation of this ordinance. Each day an establishment is operated in violation of this ordinance shall constitute a separate and distinct offense.

Section 4. 3-19.4 Penalties

For each violation of this ordinance the court may impose a fine not to exceed \$1,250.00, imprisonment in the county jail for a period not to exceed ninety (90) days, and a period of community service not to exceed ninety (90) days.

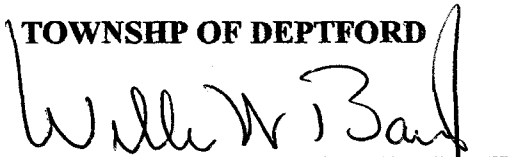
Section 5. 3-19.5 Savings Clause

If any chapter, section, subsection or paragraph of this ordinance is declared to be unconstitutional, invalid or inoperative, in whole or in part by a court of competent jurisdiction such chapter, section, subsection or paragraph shall, to the extent that it is not unconstitutional, invalid or inoperative, remain in full force and effect, and such determination shall not be deemed to invalidate the remaining chapters, sections, subsections or paragraphs of this section.

Section 6.

This Ordinance shall take effect twenty (20) days after final passage Pursuant to N.J.S.A. 40:69A-181.

TOWNSHIP OF DEPTFORD


WILLIAM W. BAIN, JR. MAYOR

ATTEST:


DINA L. ZAWADSKI, CLERK

CERTIFICATION

The above Ordinance was introduced and passed upon first reading at a meeting of the Township Council of the Township of Deptford held on the 8th day of November, 2004 and will be taken up for final consideration and passage at the Regular meeting of Mayor and Council of the Township of Deptford to be held at the Municipal Building, 1011 Cooper Street, Deptford, NJ, Gloucester County, on the 6th day of Dec. 2004 at 6:30 P.M. or as soon thereafter as the matter can be reached at which time any person interested shall be given an opportunity to be heard.


DINA L. ZAWADSKI, CLERK