

ORDINANCE NO. 15-08

ADOPTING ORDINANCE

**AN ORDINANCE ADOPTING A REVISION AND CODIFICATION OF THE
ORDINANCES OF THE BOROUGH OF SOUTH TOMS RIVER IN THE
COUNTY OF OCEAN, NEW JERSEY**

WHEREAS, the Mayor and Borough Council of the Borough of South Toms River in the County of Ocean, New Jersey, has caused its ordinances of a general and permanent nature to be amended and supplemented and to be compiled and revised and embodied in a revision and codification known as "The Revised General Ordinances of the Borough of South Toms River, 2008."

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND BOROUGH COUNCIL OF THE BOROUGH OF SOUTH TOMS RIVER IN THE COUNTY OF OCEAN, NEW JERSEY, AS FOLLOWS:

Section 1. The ordinances of the Borough of South Toms River in the County of Ocean, New Jersey, of a general and permanent nature, as codified, Chapters I to XXVI, are hereby ordained as "The Revised General Ordinances of the Borough of South Toms River, 2008."

Section 2. All of the provisions of "The Revised General Ordinances of the Borough of South Toms River, 2008" shall be in force and effect on and after the effective date of this ordinance.

Section 3. All ordinances of a general and permanent nature, adopted by the Mayor and Borough Council (hereafter referred to as the "Council") and in force on October 20, 2008, and not contained in "The Revised General Ordinances of the Borough of South Toms River, 2008," are hereby repealed from and after the effective date of this ordinance, except as hereinafter provided in Section 4.

Section 4. The repeal provided for in Section 3 of this ordinance shall not affect:

- a. Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this ordinance;
- b. Any prosecution, action, suit or other proceeding pending or any judgment rendered on or prior to the effective date of this ordinance;
- c. Any right or franchise conferred by the Council;
- d. Any right, right-of-way or easement acquired or established in any street, road, highway or other public place within the Borough;

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- e. Any ordinance of the Borough providing for laying out, opening, altering, widening, relocating, straightening, accepting or vacating of any street, road or highway within the Borough;
- f. Any ordinance or resolution of the Borough promising or guaranteeing the payment of money by or for the Borough or authorizing the issuing of bonds or other evidence of the Borough's indebtedness, or any contract or obligation assumed by the Borough;
- g. The annual budget appropriation ordinances or resolutions, and all ordinances and resolutions appropriating or transferring funds;
- h. The administrative ordinances or resolutions of the Council not in conflict or inconsistent with the provisions of this Revision;
- i. Any ordinance or resolution of the Council fixing compensation or salaries of the Borough officials and employees or the pay and compensation of positions and clerical employments which are not provided for in this Revision and which are not in conflict or inconsistent therewith;
- j. Any ordinance or resolution of the Council creating employments, positions or offices and fixing duties therefor which are not provided for in this Revision and which are not in conflict or inconsistent therewith;
- k. Concerning the Traffic Chapter, any other provision of this ordinance to the contrary notwithstanding, the repeal provided for in Section 3 of this ordinance shall not become effective with respect to any ordinance regulating traffic or parking on the public streets or highways until the traffic and parking chapter of this Revision is finally approved by the Commissioner of the New Jersey Department of Transportation, and said chapters shall not take effect until finally approved by the Commissioners as aforesaid;
- l. Any ordinances of the Borough Council adopted upon final passage after the 20th day of October, 2008.

Section 5. The effect of proposed changes contained in the Revision is listed below:

Chapter 1: General Provisions. Chapter 1 is a continuation of many of the provisions of the Code that was adopted in 1975.

Section 1-1, Short Title, provides the official title of this Code. Section 1-2, Definitions, has been revised to include new definitions for use within the entire Code or when drafting future ordinances of the Borough. Section 1-3, Construction, provides rules of construction and interpretation of general terms used throughout this Revision, as well as for all ordinances adopted by the Borough of South Toms River. Section 1-4 establishes the divisions within the Code to chapter, section, subsection and paragraphs. In some chapters the text is also divided into Articles to make the Code easier to use.

Section 1-5, General Penalty, is new and is applicable to the entire Code or any other ordinance of the Borough of South Toms River, unless otherwise provided in the specific section. In subsection 1-5.1a, a maximum penalty of one or more of the following: two thousand (\$2,000.00) dollars fine, or ninety (90) days imprisonment, or a period of community service not exceeding ninety (90) days is established to conform to State Statutes. Subsection 1-5.1 eliminates the need to restate the maximum penalty clause

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each time a new regulatory ordinance is adopted; and paragraph b. of this subsection provides a specific penalty for unlawful solid waste disposal.

Subsection 1-5.2, Minimum Penalty, is new and states that the Borough Council may establish a minimum penalty not to exceed one hundred (\$100.00) dollars for any particular Code provisions or ordinance. Subsection 1-5.4, Additional Fines for Repeat Offenders, is new and provides that any person who is convicted of a violation within one year of a previous violation of the same Code provision or ordinance shall be sentenced by a court to an additional fine as a repeat offender. The Borough Council may choose to waive the additional fine. Subsection 1-5.5, Default of Payment of Fine, provides that a person who defaults in payment of his fine may be detained in the County Jail or required to perform community service. Subsection 1-5.6, Violation of Housing or Zoning Codes; Time Permitted to Abate Condition; Hearing, provides that the Borough Council may impose a fine greater than one thousand two hundred fifty (\$1,250.00) dollars if they provide a 30-day period to cure or amend the condition and also provides for a hearing.

Subsection 1-5.7, Separate Violations, provides that each day a violation exists shall constitute a separate violation if provided by ordinance. Subsection 1-5.8, Application, states that the maximum penalty is not intended as an appropriate penalty for each violation and also states that, at the discretion of the Judge, any lesser penalty may be appropriate for a particular violation.

Throughout the Code penalties have been revised to refer to Section 1-5, General Penalty.

Section 1-6, Severability, provides the severability of unconstitutional or unenforceable Code provisions and is applicable for the entire Code.

Section 1-7, relating to Maintenance of the Code, is new and provides that the Municipal Clerk shall keep the Code up-to-date.

Section 1-8, Additions and Amendments to the Code, provides that all ordinances adopted with the intention of being part of the Code shall be deemed incorporated when adopted.

Section 1-9, Sale of Code Book, Supplements Provided, states that copies of the Code may be purchased from the Municipal Clerk.

Section 1-10, Tampering with Code Provisions, states it is unlawful to amend or alter the Code without authorization.

Chapter 2: Administration. This Administrative Chapter has been organized into nine (9) articles as follows:

- Article I Mayor and Borough Council
- Article II Meeting of the Borough Council
- Article III Departments of Local Government
- Article IV Offices Established

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Article V	Municipal Court
Article VI	Boards, Committees and Commissions
Article VII	Certain Contracts and Agreements
Article VIII	Policies and Procedures
Article IX	Administrative Fees and Charges

Some parts of Article I, Mayor and Borough Council have been revised to provide the public with a general knowledge of the Borough form of government and many sections are a continuation of the 1975 Code. In Section 2-1, subsection 2-1.1 provides for the organization of the Governing Body; subsection 2-1.2 provides that the Council may adopt rules of procedure and subsection 2-1.3 is new and requires that ordinances of the preceding year are codified.

Subsection 2-1.5 provides the qualifications to fill a vacancy in elective office.

Section 2-3, Borough Council, has been revised to add a new section concerning Powers of the Council.

Section 2-4, Compensation of Mayor and Borough Council, is new.

In Article II, Meetings of the Borough Council, the following subsections are new:

Subsection 2-5.2 provides that meetings shall be held in compliance with the Open Public Meetings Act; subsection 2-5.4 which requires the Borough Attorney and the Borough Clerk to attend Council Meetings; and subsection 2-5.5 which provides that the Council may convene in informal conference meetings.

In Section 2-6, Ordinances, new subsections have been included to provide the procedure for passage of an ordinance; publication of proposed ordinances; ordinances presented for Mayor's approval or veto, and the procedure to adopt over Mayor's veto.

In Article III, Departments of the Local Government, Section 2-8, Department of Administration and Executive is new, which establishes this Department. In Section 2-9, Municipal Clerk, new subsections provide for the appointment, term and qualifications of the Municipal Clerk.

In Section 2-17, Chief Financial Officer, new sections have been added to provide the qualifications, compensation, term and powers of this office.

Section 2-18, Tax Assessor, is new and provides for the appointment, qualifications, duties, salary and term of this office.

Section 2-19, Tax Collector, has been amended to provide for the Certificate required for this position.

Section 2-21, Borough Engineer, has been revised to add qualifications and appointment.

Section 2-22 is new and requires an annual audit of Borough financial transactions.

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Section 2-25, Emergency Management Coordinator, has been revised to add the creation of the position and the duties and responsibilities.

In Section 2-31, Municipal Court, new sections have been included to state the qualifications, functions and temporary replacement of the Judge.

Chapter 3: Police Regulations. This chapter contains the regulations enforced by the Police Department which includes regulations concerning disorderly conduct; possession or consumption of alcoholic beverages in public or private places; sex offender residency regulation; drug-free public facility zones; litter control; noise restrictions; motor vehicle regulations; unlicensed motor vehicles; throwing objects at transportation vehicles prohibited; depositing objects in streets; curfew for minors; malicious damage by minors; use of skateboards, sporting or hobby activities prohibited on municipal or board of education property; removal of personal recreation equipment from streets when not in use; indecency and immorality; regulation of massage parlors; firearms and fireworks; hunting and trapping; false alarms; games of chance on Sunday; sales in public streets; smoking prohibition; storage and disposition of impounded and abandoned vehicles; alarm systems; false alarms.

Chapter 4: General Licensing. This chapter establishes mercantile licenses; license for the sale or distribution of food, beverages or food products; taxicabs; billiard parlors; theatrical performances, circuses and carnivals; garage sales; pinball machines, video games and similar devices; amusement parks; licensing of towing operators and trailer occupancy license.

Chapter 5: Animal Control. Regulations concerning the licensing of dogs and cats, the control of dogs, rabies inoculations required for dogs and cats; prohibiting commercial kennels; requiring the proper disposal of pet waste; and feeding of waterfowl prohibited.

Chapter 6: Alcoholic Beverage Control. The existing Borough ordinances on this subject have been rearranged for purposes of topical sequence and new text material has been included.

Subsection 6-6.6, Violations and Penalties for Persons Under the Legal Age, is new and provides a specific penalty for violations by persons under the legal age pursuant to Statutes.

Chapter 7: Traffic. This chapter contains the Traffic Ordinances of the Borough placed in accordance with the model of organization that has been recommended by the State of New Jersey Division of Motor Vehicles. This chapter may not be enforced until approval is obtained from the Commissioner of the New Jersey State Department of Transportation.

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Chapter 8: Beaches, Parks and Recreational Areas. This chapter includes Borough regulations governing parks, beaches and rivers; use of boats and watercraft; rental of Community Center/Recreation building and property at Mathis Plaza.

Chapter 9: Personnel Policies.

Article I codifies the regulations dealing with conflict of interest; holidays and hours of employment for Borough employees; use of municipal vehicles and residency requirements.

Article II contains regulations applicable to the Police Department, including the drug testing policy.

Chapter 10: Human Resources. This chapter includes the appointments and duties to municipal positions that have been established by ordinance.

Chapter 11: Reserved.

Chapter 12: Building and Housing. This chapter codifies the regulations adopted for the enforcement of the State Uniform Construction Code and the Construction fee schedule.

Chapter 13: Property Maintenance and Rental Housing. Included in this chapter are regulations establishing the BOCA Basic Housing Property Maintenance Code; rental housing regulations; the requirement to remove snow, ice, grass and weeds from sidewalks and prohibiting the outdoor storage of scrap, junk or waste materials.

Chapter 14: Fire Prevention and Protection. This chapter provides for the enforcement of the State Uniform Fire Code; additional inspections; fire zones and fire lanes; the installation of key boxes and the permit required for controlled burning.

Chapter 15: Streets and Sidewalks. This chapter regulates excavations in streets.

Chapter 16: Solid Waste Management. The collection of garbage and trash, the recycling program and the disposal of yard waste are included in this chapter.

Chapter 17: Reserved.

Chapter 18: Sewer and Water. The creation and contract authority of the South Toms River Sewerage Authority; the regulations for sewer and water service; mandatory connections to sewers and prohibited acts relative to sewer connections are contained herein.

Chapter 19: Flood Damage Prevention. The regulations concerning flood protection are complete in this chapter.

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Chapter 20: Reserved.

Chapter 21: Reserved.

Chapter 22: Cable Television. This chapter contains a reference to the ordinance that granted renewal of consent to Comcast of Toms River.

Chapter 23: Health Regulations. The adoption of Public Health Nuisance Code is codified in this chapter.

Chapter 24: Stormwater Management. Ordinance No. 9-05, establishing storm sewer regulations, is complete in Chapter 24.

Chapter 25: Reserved.

Chapter 26: Land Development Regulations. This chapter contains the Land Development Regulations as continued from the 1975 Codes, as amended and supplemented by ordinance.

Throughout the Code revisions have been made to refer to the appropriate enforcing agent or agency. In many instances the revisions now refer to the Chief Financial Officer, the Code Enforcement Official, the Construction Official or the Fire Official.

During the editorial process of preparing this Code, there has been reorganization and editing of the source ordinances, not to effect substantive changes but intended to eliminate word duplications and overlapping and to effect uniformity of expression. In some cases provisions of the source ordinances have not been included in the Revision either because they have been expressly or impliedly repealed by later ordinances, are obsolete or no longer apply in the Borough of South Toms River.

Section 6. A copy of the Revised General Ordinances of the Borough of South Toms River, 2008, in the County of Ocean and State of New Jersey, has been filed in the office of the Municipal Clerk of the Borough of South Toms River and shall remain there for the use and examination of the public until final action is taken on this ordinance, and if this ordinance shall be adopted, such copy shall be certified to by the Clerk in the Borough of South Toms River by impressing thereon the seal of the Borough of South Toms River, as provided by law, and such certified copy shall remain on file in the office of the Municipal Clerk of the Borough of South Toms River to be made available to persons desiring to examine the same during all times while the Revision is in effect.

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Section 7. Amendments to the Revision. Any and all additions, amendments and supplements to the Revision when passed and adopted in such form as to indicate the intent of the Borough Council to make them a part thereof shall be deemed to be incorporated into such revisions so that reference to "The Revised General Ordinances of the Borough of South Toms River, 2008" shall be understood and intended to include such additions and amendments. Whenever such additions, amendments and supplements to the Revision shall be adopted they shall thereafter be printed and, as provided hereunder inserted in the book containing the Revised General Ordinances as amended and supplemented thereto.

Section 8. It shall be the duty of the Municipal Clerk or someone authorized and directed by the Clerk to keep up-to-date the certified copy of the book containing "The Revised General Ordinances of the Borough of South Toms River, 2008," required to be filed in his or her office for the use of the public. All changes in the Revision and all ordinances adopted subsequent to the effective date of this codification shall be adopted specifically as part of the Revision and shall, when finally adopted, be included therein by reference until such changes or new ordinances are printed as supplements to the Code, at which time such supplements shall be inserted therein.

Section 9. The Municipal Clerk of the Borough of South Toms River, pursuant to law, shall cause to be published in the manner required a copy of this adopting ordinance in a newspaper of general circulation in the Borough of South Toms River. Sufficient copies of the Revised General Ordinances of the Borough of South Toms River shall be maintained in the office of the Municipal Clerk for inspection by the public at all times during regular office hours. The enactment and publication of this adopting ordinance coupled with availability of copies of the Revision for inspection by the public shall be deemed, held and considered to be true and legal publication of all provisions of the Revision for all purposes.

Section 10. Copies of the book containing "The Revised General Ordinances of the Borough of South Toms River, 2008" may be purchased from the Municipal Clerk upon the payment of a fee to be set by resolution of the Council which may also arrange by resolution the procedures for the periodic supplementation thereof.

Section 11. Each section of "The Revised General Ordinances of the Borough of South Toms River, 2008" and every part of each section is an independent section or part of a section and the holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.

Section 12. This ordinance shall take effect immediately upon final passage and publication thereof according to law.

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MICHAEL KEENE MAYOR

Mayor

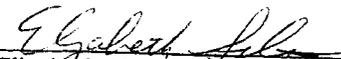

ELIZABETH SILVESTRI CLERK

Borough Clerk

Introduced: November 17, 2008

Adopted: December 15, 2008

I HEREBY CERTIFY that the foregoing ordinance is a true copy of an ordinance given its final reading and adopted by the Mayor and Borough Council of the Borough of South Toms River, in the County of Ocean, New Jersey, at a regular meeting of that body, held in the Council Chamber, Borough Hall on the 15 day of December, 2008 and approved by the Mayor on that date.


Elizabeth Silvestri, RMC/MMC
Municipal Clerk