

CHAPTER I

GENERAL PROVISIONS

1-1 SHORT TITLE.

This book shall be known and may be cited as the "Revised General Ordinances of the Borough of Surf City (2000)" and is herein referred to as the "Revision" or "Code". (1969 Code § 1-1)

1-2 DEFINITIONS.

For the purpose of this Revision and in the interpretation and application of all other ordinances heretofore or hereafter adopted, except as the context may otherwise require:

Borough shall mean the Borough of Surf City in the County of Ocean and State of New Jersey.

Borough Council or *Council* shall mean the governing body of the Borough, constituted and elected pursuant to law.

Clerk or *Borough Clerk* shall mean the Municipal Clerk duly appointed pursuant to law.

Days shall mean calendar days.

Department shall mean an organizational unit of the Borough government established or designated by ordinance or this Revision as a department, together with any agency or instrumentality of the Borough government assigned to such organizational unit by the Borough Council.

Licensed shall mean licensed in accordance with the appropriate section or chapter of this Revision.

Month shall mean a calendar month unless otherwise specifically provided.

Officer or Official and the title of an Officer or Official shall be construed as if the words of the *Borough of Surf City* followed it.

Ordinance shall mean any act of local legislation heretofore or hereafter adopted, and including this Revision, so long as it shall have been adopted by the procedure required for the adoption of an ordinance and so long as it shall remain in force and effect pursuant to law.

Person shall mean any individual, natural person, partnerships, joint ventures, societies, associations, clubs, trustees, trusts, corporations or unincorporated groups; or any officers, agents, employees, servants, factors or any kind of personal representatives of any thereof in any capacity, acting either for himself or for any other person, under either personal appointment or pursuant to law.

Preceding and following shall mean next before and next after respectively.

Public grounds, public squares, public place or public places shall severally be construed to mean any and every public ground, public square, public park or other public place within the Borough.

Street shall include a street, avenue, road, alley, lane, highway, boulevard, concourse, driveway, culvert, sidewalk and crosswalk, and every class of road, square, place or municipal parking field used by the general public.

Tenant or occupant applied to a building or land, shall include any person who occupies the whole or part of such building or land, whether alone or with others.

Week shall mean seven (7) days.

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Year shall mean a calendar year unless otherwise specifically provided.

(1969 Code § 1-2; New)

1-3 CONSTRUCTION.

For the purpose of this Revision and any other ordinances heretofore or hereafter adopted, except as the context may otherwise require:

The present tense includes the past and future tenses and the future, the present.

The masculine gender includes the feminine and neuter.

The singular number includes the plural and the plural, the singular.

Shall is mandatory and *may* is permissive.

The time within which an act is to be done shall be computed by excluding the first and including the last day, and if the last day be a Sunday or a legal holiday, that day shall be excluded.

Writing and *written* includes printing, typewriting and any other mode of communication using paper of similar material which is in general use, as well as legible handwriting.

And may be construed as meaning *or*, and *or* as *and*, if the sense requires and indicates such meaning.

Whenever a specific time is used in this Code, it shall mean the prevailing and established time in effect in the State of New Jersey during any day in any year.

Any citation of a statute, law or ordinance contained in this Code shall be deemed to refer to such statute, law or ordinance as amended, whether or not such designation is included in the citation.

Chapter shall mean one (1) of the major divisions of this Revision, identified by a Roman numeral, and divided by subject matter.

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Section shall mean a major subdivision of a chapter.

Subsection shall mean a subdivision of a section, identified by a decimal number.

Paragraph shall mean a subdivision under a subsection, identified by an alphabetical letter and/or Arabic number.
(1969 Code § 1-3; New)

1-4 SEVERABILITY.

If any chapter, section, subsection or paragraph of this Revision shall be 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 no such determination shall be deemed to invalidate the remaining chapters, sections, subsections or paragraphs of this Revision. (1969 Code § 1-4)

1-5 GENERAL PENALTY.*

1-5.1 Maximum Penalty. For violation of any provision of this Code or other ordinance of the Borough of Surf City, unless a specific penalty is otherwise provided in connection with the provision violated, the maximum penalty upon conviction of the violation shall be by one (1) or more of the following: imprisonment in the County jail or in any place provided by the municipality for the detention of prisoners, for any term not exceeding ninety (90) days; or by a fine not exceeding two thousand (\$2,000.00) dollars; or by a period of

*Editor's Note: Penalty provision taken from N.J.S.A. 40:49-5.

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community service not exceeding ninety (90) days. (1969 Code § 4-14.1; Ord. No. 91-10 § 1; Ord. No. 92-5 § 4-14.1; New; Ord. No. 2006-13)

1-5.2 Minimum Penalty. The Borough Council may prescribe that for the violation of any particular provision of the Code or of any particular ordinance at least a minimum penalty shall be imposed which shall consist of a fine which may be fixed at an amount not exceeding one hundred (\$100.00) dollars. The court before which any person is convicted of violating any ordinance or Code provision shall have power to impose any fine, term of punishment, or period of community service not less than the minimum and not exceeding the maximum fixed in the Code or such ordinance. (Ord. No. 92-5 § 4-14.2)

1-5.3 Additional Fine for Repeat Offenders. Any person who is convicted of violating this Code or an ordinance within one (1) year of the date of a previous violation of the same provision of this Code or of the same ordinance and who was fined for the previous violation, shall be sentenced by a court to an additional fine as a repeat offender. The additional fine imposed by the court upon a person for a repeated offense shall not be less than the minimum or exceed the maximum fine fixed for a violation of the ordinance or Code provision, but shall be calculated separately from the fine imposed for the violation of the ordinance or Code provision.

If the Borough Council chooses not to impose an additional fine upon a person for a repeated violation of any municipal ordinance, the Council may waive the additional fine by ordinance or resolution. (Ord. No. 92-5 § 4-14.3)

1-5.4 Default of Payment of Fine. Any person convicted of the violation of any provision of this Code or any ordinance may, in the discretion of the court by which he was convicted, and in default of the payment of any fine imposed therefor, be imprisoned in the County jail or place of detention provided by the Borough, for any term not exceeding ninety (90) days,

or be required to perform community service for a period not exceeding ninety (90) days. (Ord. No. 92-5 § 4-14.4)

1-5.5 Separate Violations. Except as otherwise provided, each and every day in which a violation of any provision of this Code or any other ordinance of the Borough exists shall constitute a separate violation. (1969 Code § 4-14.2; Ord. No. 92-5 § 4-14.5)

1-5.6 Applications. The maximum penalty stated in this section is not intended to state an appropriate penalty for each and every violation. At the discretion of the Judge of the Municipal Court, any lesser penalty, including a nominal penalty or no penalty at all, may be appropriate for a particular case or violation. (1969 Code § 4-14.3; Ord. No. 92-5 § 4-14.6)