

CHAPTER XIX

PARKS, BEACHES AND RECREATIONAL AREAS

19-1 PAID BEACHES.

19-1.1 Findings of Fact. The cost of maintaining the public bathing beaches within the Borough has greatly increased due to the unprecedented increase in the number of persons using the same. It is the considered opinion that the cost of maintaining such beaches in a clean, healthy and safe manner should be borne by those desiring to use such beaches. (1969 Code § 5-1.1)

19-1.2 Places of Resort Established. Places of resort, beaches, bathing and recreational facilities safeguards and equipment, are hereby established in the Borough for the public health, recreation and entertainment. Such places of resort shall be located at the oceanfront, upon all of the lands owned by the Borough fronting on the Atlantic Ocean including but not limited to the portion of each beach entrance from the street and barrier to the oceanfront, in those portions of a tract of land sometimes known as Ocean Avenue, together with the lands east of and adjacent thereto in the Borough wherein it has ownership, easement rights or the right to use and occupy the same, and all the lands owned by the Borough fronting on Barnegat Bay. (1969 Code § 5-1.2; Ord. No. 03-11 § I)

19-1.3 Borough to Acquire Land and Facilities. The Borough shall acquire, construct, use and maintain such beaches, bathing and recreational facilities, safeguards and equipment as shall be necessary for the proper establishment and maintenance of these places of resort. The Borough shall have the right and authority to purchase, rent or otherwise

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acquire lifeboats, ropes, poles and other safeguards and equipment for recreation, protection and safeguard of those persons utilizing these places of resort. (1969 Code § 5-1.3)

19-1.4 Beach Locations. The Borough reserves the right to establish, change or abolish the precise location of any one (1) or more bathing beaches referred to in this section by resolution or order as safety and attending circumstances shall require. (1969 Code § 5-1.6)

19-1.5 Hours of Operation. Places of resort shall be kept open during the usual bathing season in the Borough, which is generally from June 25 to September 7. The hours when beaches shall be open are 10:00 a.m. to 5:00 p.m. Daylight Saving Time, except during inclement weather and unless changed by resolution of the Governing Body. The Borough Council shall have the right to determine by resolution or order the period during each year when each of the paid bathing beaches shall be opened and closed. (1969 Code § 5-1.7; New)

19-1.6 Fees. In order to provide the necessary funds to improve, maintain and police the beaches and recreational areas, including the employment of lifeguards and the purchase of necessary equipment for the protection and safeguard of bathers, the following beach badge fees shall be charged for such facilities:

- a. No fees shall be charged to or collected from any child under the age of twelve (12) years.
- b. No fees shall be charged to or collected from any individual while attired in street clothing upon the beach.
- c. Twenty-five (\$25.00) dollars per person, per season, provided that application is made to the proper authorities on or before May 31 of the bathing season.

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- d. Thirty-five (\$35.00) dollars per person, per season, in the event that application is made after the 31st day of May of the bathing season.
- e. Eighteen (\$18.00) dollars per person, per week, or any fractional part thereof, of the bathing season.
- f. Seven (\$7.00) dollars per person per day or any fractional part thereof, of the bathing season.
- g. Requests for refunds shall only be considered by the Governing Body at a regularly scheduled meeting, on a case by case basis. Approval of any such request shall be charged a fifteen (15%) percent administrative fee which will be deducted from said refund prior to issuance.

(1969 Code § 5-1.8; Ord. No. 71-4 § 1; Ord. No. 75-2 § 1; Ord. No. 76-3 § 4; Ord. No. 80-3; Ord. No. 85-4; Ord. No. 86-6; Ord. No. 87-2; Ord. No. 89-4 §§ 1-2; Ord. No. 93-4; Ord. No. 94-2; Ord. No. 95-7; Ord. No. 96-1 § 1; Ord. No. 98-5 § I; Ord. No. 99-2 § I; Ord. No. 2000-1 §§ I, II; Ord. No. 2002-4 § I; Ord. No. 04-04 § I; Ord. No. 2006-01 § I; Ord. No. 2007-02 § I; Ord. No. 2007-8 § I; Ord. No. 2009-4 § I; Ord. No. 2012-03; Ord. No. 2014-03; Ord. No. 2016-03)

19-1.7 Beach Badges, Acquisition. No person over the age of eleven (11) years shall bathe at or otherwise use the lands, facilities or privileges of any bathing beach or recreational areas in the Borough, including the Borough tennis courts located in the Richard A. Zachariae Recreation Area, without having first acquired and then having conspicuously displayed, as hereinbelow set forth in subsection 19-1.8, a proper and effective beach badge, license or permit to use the beaches. (Ord. No. 91-1; Ord. No. 92-4)

19-1.8 Display of Beach Badges. Any person using the lands, facilities or privileges of any bathing beaches or recreational areas in the Borough, including the Borough tennis courts located at the Richard A. Zachariae Recreation Area, shall, while bathing or otherwise using such lands,

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facilities and privileges, prominently and conspicuously display a beach badge upon his or her person, by affixing the same to their garments or clothing actually worn by them, in such a manner as to be clearly visible. The wearing of such badge on the tennis courts shall be mandatory between the hours of 8:00 a.m. and 5:00 p.m. (Ord. No. 91-1)

19-1.9 Exceptions. Any person who has attained the age of sixty-five (65) years shall be exempt from the provisions of subsections 19-1.7 and 19-1.8. (Ord. No. 91-1)

19-1.10 Lifeguards. The Borough shall engage, hire and pay such lifeguards as shall be required for the proper maintenance of places of resort. (1969 Code § 5-1.4)

19-1.11 Police. The Borough shall have the right to police places of resort. (1969 Code § 5-1.5)

19-1.12 Display of Counterfeit or Fictitious Beach Badges. No person shall manufacture, possess or display a counterfeit, forged, altered or fictitious beach badge, or beach badge not issued or authorized by the Borough of Surf City or otherwise lacking in authenticity, for the purpose of using the lands, facilities or privileges of any bathing beaches or recreational areas in the Borough, or misleading a public servant in the performance of his or her official duties. No person shall convey to another a beach badge which he or she knows to be counterfeit, forged, altered or fictitious, or a beach badge not issued or authorized by the Borough of Surf City or otherwise lacking in authenticity which purposely creates a false impression or invites reliance on said beach badge to use the lands, facilities or privileges of any bathing beaches or recreational areas in the Borough. Any person who violates any provision of this section shall, upon conviction thereof, be punishable by a fine of not less than one hundred (\$100.00) dollars nor more than two thousand (\$2,000.00) dollars, by imprisonment for a term not to exceed ninety (90) days or by

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community service of not more than ninety (90) days, or any combination of fine, imprisonment and community service as determined by the Municipal Court Judge. (Ord. No. 2008-09 § 1; Ord. No. 2009-01 § 1)

19-2 BEACH REGULATIONS.

19-2.1 General. No person shall do any of the following things at or upon the beaches of the Borough:

- a. Throw, drop, or pass out any wastepaper, garbage or other refuse.
- b. In any way litter, make unsightly, damage, destroy or disfigure any beach or any public or private property thereat.
- c. Make any loud noise, sound or music to the annoyance of any other person.
- d. Use loud, profane or indecent language.
- e. Play ball or any other game, engage in any activity which will endanger another person or interfere with the enjoyment of the quiet use of such places of resort by another person.
- f. Conduct or engage in any beach party, picnic or similar outing, or take any intoxicating liquor onto places of resort.
- g. Take or permit his or her dog to be on such places of resort, except dogs shall be permitted on the Ocean Beach from October 1 up to and including April 30.
- h. Go into the water at any beach when it is unsafe to do so; when directed by any lifeguard to come out of the water; or when intoxicated.
- i. Remain in the water at any beach when it is unsafe to do so; when directed by any lifeguard to come out of the water; or when intoxicated.
- j. Molest or disturb any person in the peaceful enjoyment of places of resort.

- k. Do anything to endanger the life or safety of himself, herself or any other person.
 - l. Dump or throw garbage or other refuse in the water at any beach.
 - m. Go out in the water at any beach farther then directed to by any lifeguard or in violation of any reasonable order of the lifeguard when the safety of any bather is or may be endangered by going into the water.
 - n. Refuse or neglect to obey the orders and directions of any lifeguard as to time, place and distances for bathing.
 - o. Interfere with or obstruct any Police Officer, lifeguard and badge checker in the performance of his duties.
 - p. Bring or allow to be brought upon the beaches any insulated to thermal type cooler or device used for holding food and beverage with the intent of consuming such food or beverage upon the beaches, except that a small insulated or thermal type cooler no larger than 10"H x 11"W x 14"L containing non-alcoholic beverages used solely for the purpose of personal hydration.
- (1969 Code § 5-2.1; Ord. No. 71-3 § 3; Ord. No. 96-1 § 2; Ord. No. 2013-01)

19-2.2 Resort Regulations. No persons shall:

- a. Sleep on any beach, either oceanside or bayside, between the hours of 12:00 midnight and 7:00 a.m.
- b. Sleep in any car or motor vehicle parked in any street or park, or on any beach or public property.
- c. Consume any alcoholic beverage upon any beach, street or in any automobile or other vehicle on any street or beach, in any public park or in any public building except a licensed establishment.
- d. Engage in the consumption of any food, lunches or beverages on any beach, street or highway or in any

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alley, public place or public park except as so noted in subsection 19-2.1p.

- e. Engage in the peddling of food, food products, beverages, ice cream or similar products, or confections on any bay or ocean beach, or in any public park.
- f. The hours of operation of the recreational areas located within the Borough shall be set by resolution of the governing body.

(1969 Code § 5-2.5; Ord. No. 92-13)

19-2.3 Surfing. No person shall ride or operate a surfboard in any area of the beaches not designated for that purpose. The Borough Council, by and through its Beach Committee acting as its agent and representative, shall designate areas of the beaches for the use of those persons desiring to engage in surfing. In these areas, no bathing or fishing shall be permitted while areas are being used for surfing. The use of the designated surfing areas shall be subject to the control and supervision of the Beach Committee. The Committee may change the location of the surfing areas, designate the hours of use of the areas and adopt such other regulations for the management thereof as the public welfare may require. Any area designated for surfing purposes shall be so posted. (1969 Code § 5-2.2)

19-2.4 Fishing. No person shall surf fish, fish or crab in any area of the beaches not designated for that purpose. The Borough Council, by and through its Beach Committee, shall designate areas of the beaches for the use of those persons desiring to engage in surf fishing or crabbing. In these areas, no bathing shall be permitted when the areas are being used for surf fishing or crabbing. The use of the designated surf fishing and crabbing areas shall be subject to the control and supervision of the Beach Committee. The Committee may change the location of the surf fishing and crabbing areas, designate the hours and use of these areas, and adopt such other regulations for the management thereof as the public

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welfare may require. Any area designated for surf fishing and crabbing purposes shall be so posted. (1969 Code § 5-2.3)

19-2.5 Bathing Beach at Barnegat Bay and Fishing at the Street Ends at Barnegat Bay.

- a. No boat or raft of any description shall operate within the bay bathing zone between the south sideline of Fifteenth Street, extended, and the northside line of Seventeenth Street, extended.
- b. No boat or raft shall be launched or pulled out of the water for any purpose within any portion of the bay bathing beach.
- c. No boat or raft shall be anchored or moored in any way on the waters adjacent to the bay bathing beach.
- d. No fishing or crabbing shall be permitted in the bay bathing zone.
- e. No seines or fish nets shall be operated in any part of the bay bathing zone.
(1969 Code § 5-2.4)

19-2.6 Operation of Motor Vehicles.

- a. Every person desiring to operate a motor vehicle on the strand of ocean beach of the Borough shall first register the same with the Surf City Police Department and upon payment of the twenty-five (\$25.00) dollars fee shall be issued a permit which will be effective from September of the current year to May of the next year.
- b. No vehicle, except Municipal, State or Federal vehicles shall be operated on the strand or beachfront during the period from the fourth Saturday in May to the third Saturday in September.
- c. No vehicle shall be operated on the strand or beachfront at a speed in excess of twenty (20) miles per hour.

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- d. Only motor vehicles properly registered and licensed to drive on the public highways of the State of New Jersey and equipped with four-wheel drive and used for the purpose of sport fishing shall be permitted on the strand or beachfront.
- e. No permitted vehicle shall be operated on the sand dunes, and all permitted vehicles shall obtain access to the beach front from the public streets only at places specifically designed by the Police Department.
- f. All permitted vehicles shall be required to maintain a reasonable distance from congested bathing beaches or other areas where bathers, and fishermen or others using the beach are present.
- g. No rubbish, debris or litter of any sort shall be discarded from any vehicle while being operated on the ocean beach.
- h. No vehicles shall be operated on the beach front at night without adequate lights.
- i. Every vehicle being operated on the beach shall be operated in a safe, reasonable and careful manner at all times so as not to endanger the lives and safety of other persons using the beach front.
(Ord. No. 71-3 § 1; Ord. No. 92-13; New; Ord. No. 2000-3 § I)

19-3 BOROUGH-OWNED PARKING AREA AND BOAT RAMP ON THE BAY FRONT BETWEEN SOUTH FIRST STREET AND NORTH FIRST STREET.

19-3.1 Parking Area Established. The facilities of the Borough-owned parking area between South First Street and North First Street, extending from the westerly side of Barnegat Avenue to the bayfront, all such premises lying within the boundaries of the Richard A. Zachariae Recreation

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Area, is to be used for parking, solely by cars with trailers attached, or detached boat trailers, in either case bearing stickers as hereafter provided, and shall be used for such parking only in connection with boat launching or retrieval. (1969 Code § 5-3.1)

19-3.2 Stickers Required; Fees. Stickers for the purposes stated in subsection 19-3.1 and for use of the boat ramp shall be issued by the Municipal Clerk in accordance with the following fee schedule for annual stickers. The parking of any motor vehicle or trailer or utilization of the boat ramp without an official sticker is specifically prohibited.

- a. To owners of property in the Borough using the boat ramp or parking lot, upon proof of such ownership, no fee (for personal use only).
- b. To all other persons using the boat ramp or parking lot, for personal use only, fifty (\$50.00) dollars per season.
- c. To any person using the boat ramp or parking lot for commercial purposes, one hundred (\$100.00) dollars per season.
- d. To all other persons, using the boat ramp or parking lot, for personal use only, fifteen (\$15.00) dollars per day.
- e. Requests for refunds shall only be considered by the Governing Body at a regularly scheduled meeting, on a case by case basis. Approval of any such request shall be charged a fifteen (15%) percent administrative fee which will be deducted from said refund prior to issuance.
(1969 Code § 5-3.2; Ord. No. 88-9 § 1; Ord. No. 89-5 § 2; Ord. No. 99-2 § 2; Ord. No. 2007-8 § II)

19-3.3 Exceptions. Any provision of this section to the contrary notwithstanding, during the hours of 6:00 p.m. and 9:00 p.m., only automobiles without stickers may use the foregoing area for parking. (1969 Code § 5-3.3)

19-3.4 Application for Stickers. Any person applying for a parking sticker as authorized herein must present his registration certificate for car, boat and/or trailer in order that the date of issuance of the parking stickers may be stamped on such certificate. (1969 Code § 5-3.4)

19-3.5 Prohibited Parking. The parking of vehicles and/or trailers overnight shall be strictly prohibited. For the purpose of this subsection, overnight shall be between the hours of 9:00 p.m. and 6:00 a.m. (Ord. No. 2000-1 § III)

19-4 LAUNCHING OF WATERCRAFT AND BOATS.

19-4.1 Definitions. As used in this section:

Watercraft and *boat* shall mean and include all boats or vessels registered with the State of New Jersey, documented pursuant to the laws of the United States of America or registered in any other State and shall also include surfboards, kayaks, canoes, paddleboats, as well as any other flotation device designed so that the operator and any passengers to be carried, if any, may be carried so that they are not immersed in the water upon which the flotation device rests. Innertubes, rubber rafts and other flotation devices commonly used for watersports where the occupant or users thereof is immersed wholly or partially in the water are not included in this definition.

(Ord. No. 90-14 § 1)

19-4.2 Launching of Boats and Watercraft Forbidden; Exception. The launching of any boat or watercraft into the waters of the Atlantic Ocean or Barnegat Bay from the upland located in the Borough is strictly prohibited, except as in this section expressly permitted. (Ord. No. 90-14 § 1)

19-4.3 Permitted Launchings. The only launchings of boats, vessels and watercrafts permitted in the waters of the

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Atlantic Ocean or Barnegat Bay from the upland located in the Borough shall be:

- a. Boat launchings from the Municipal launching ramp owned and operated by the Borough.
 - b. Boat launchings from any marina located in the marine commercial district or on the bayfront in the Borough; and
 - c. Launching of surfboards in the designated surfing beach on the beachfront, giving access to the waters of the Atlantic Ocean in the Borough.
- (Ord. No. 90-14 § 1)

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19-4.4 Exceptions. Exceptions may be made only by formal Resolution of the governing body of the Borough of Surf City. (Ord. 90-14 § 1)

19-4.5 Penalties. The general penalty provision found in Chapter I, Section 1-5, of this Code shall govern violations of the launching prohibitions. (Ord. No. 90-14 § 1)

19-5 MOORING OF BOATS TO BOROUGH-OWNED BULKHEADS PROHIBITED.

19-5.1 Permanent or Semi-Permanent Obstructions Prohibited. It shall be unlawful for any person to moor or cause to be moored any boat or vessel of any kind, sort or description to a Borough owned breakwater, bulkhead or the bulkhead or lands situated on Shore Avenue between North 1st Street and North 3rd Street except for the purposes of the immediate loading or unloading of passengers; provided, however, in cases of emergency, the boat may be moored for a period of up to two (2) consecutive hours. (Ord. No. 89-8 § 1; Ord. No. 03-06 § I)

19-5.2 Rebuttable Presumption. There shall be a rebuttable presumption that any boat or vessel moored in contravention of subsection 19-5.1 was created by the owner of the vessel or boat. (Ord. No. 89-8 § 1)

19-5.3 Two (2) Hour Limitation for Mooring. Any boat or vessel moored longer than two (2) hours to the Borough owned bulkhead may be ordered to be towed by the Surf City Police or their designee, or the State Police, and it shall be the responsibility of the owner of the vessel or boat to pay all charges including but not limited to towing or storage charges prior to the release of the boat or vessel. (Ord. No. 89-8 § 1)

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- b. The children's playground located at the area known as the Richard A. Zachariae Recreational Area. Specifically the children's playground located at the northwest corner of So. 1st Street and Barnegat Avenue also known as Lots 1, 2 and 5 in Block 96 being one hundred (100') feet by two hundred (200') feet in overall size and a forty (40') foot by two hundred (200') foot portion located on the southerly side of Lot 3 in Block 96.
(Ord. No. 01-12 § I)

19-7.3 Enforcement. Enforcement shall be through police or citizen complaint. (Ord. No. 01-12 § I)

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19-5.4 Borough-Owned Boat Ramp and Launching Area Exempted. The provisions of this section shall not pertain to the boat ramp owned by the Borough or the launching area at Division Avenue. (Ord. No. 89-8 § 1)

19-6 RICHARD A. ZACHARIAE RECREATIONAL AREA, DIVISION AVENUE.

19-6.1 Permitted Use of Facilities.

- a. The tennis courts are to be used solely for the playing of tennis by persons wearing rubber soled tennis shoes. No other sport, recreation or use shall be permitted.
- b. The basketball courts shall be used solely for the playing of basketball by persons wearing rubber soled shoes. No other sport, recreation or use shall be permitted.
(Ord. No. 95-18)

19-7 SMOKING PROHIBITION.

19-7.1 Statutory Authority; Purpose. N.J.S.A. 40:48-1 and 40:48-2 provide the authority for enactment of a municipal ordinance prohibiting the smoking or carrying of lighted tobacco products. This section is created inasmuch as the areas below named are primarily used by children. (Ord. No. 01-12 § I)

19-7.2 Restricted Areas. The carrying or smoking of lighted tobacco products is prohibited in the following public places which shall be designated by adequate notice conspicuously posted:

- a. The entire bay bathing beach located between 15th and 17th Streets on Barnegat Avenue.