

ORDINANCE NO. 2022-09

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE BOROUGH OF LAKEHURST, COUNTY OF OCEAN, STATE OF NEW JERSEY ADOPTING A CODE CONTAINING THE CODIFIED ORDINANCES OF THE BOROUGH OF LAKEHURST

WHEREAS, the Borough Council of the Borough of Lakehurst 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 codification known as the "Code of the Borough of Lakehurst, 2021."

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Lakehurst, in the County of Ocean, New Jersey, and it is hereby enacted and ordained by the authority of same as follows:

Section 1. The ordinances of the Borough of Lakehurst in the County of Ocean, New Jersey, of a general and permanent nature, as codified, Chapters 1 to 25, are hereby ordained as the "Code of the Borough of Lakehurst, 2021."

Section 2. All of the provisions of the "Code of the Borough of Lakehurst, 2021," shall be in force and in effect on and after the effective date of this ordinance.

Section 3. All ordinances or parts of ordinances of a general and permanent nature adopted and in force on February 4, 2021, which are inconsistent with the ordinances in the "Code of the Borough of Lakehurst, 2021," are hereby repealed to the extent of such inconsistency as of the effective date of this ordinance.

In compiling and preparing the ordinances for adoption and revision as part of the Code pursuant to N.J.S.A. 40:49-4, certain grammatical changes and other changes were made in one or more of said ordinances. It is the intention of the Mayor and Council that all such changes be adopted as part of the Code as if the ordinances so changed had been previously formally amended to read as such.

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;

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 Code;

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 Code 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 Code 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 of the Borough when such ordinance requires final approval by the Commissioner of the New Jersey Department of Transportation, and said provisions shall not take effect until finally approved by the Commissioners as aforesaid;

l. Any ordinances adopted by the Board of Health of the Borough of Lakehurst;

m. Any ordinances of the Borough Council adopted upon final passage after the 4th day of February, 2021.

Section 5. The effects of the proposed changes contained in the Code are listed below and the Code includes the following chapters:

Chapter 1 General Provisions. Section 1-1, Short Title, provides the official title of the Code. Section 1-2, Definitions, provides definitions. Section 1-3, Construction, provides the rules for use of tense, gender and time. Section 1-4, Divisions of the Code, provides the major divisions of the Code.

Section 1-5, General Penalty, contains the penalty provisions as provided by N.J.S.A.

40:49-5. The general penalty clause is applicable to the entire Code or any other ordinance adopted by the Borough Council. Subsection 1-5.1 eliminates the need to restate the maximum penalty clause each time a new regulatory ordinance is adopted. Subsection 1-5.2, Minimum Penalty, permits the Borough Council to establish a minimum penalty which may be a fine that does not exceed one hundred (\$100.00) dollars. Subsection 1-5.3 permits the Court to fix the penalty for violations.

Subsection 1-5.4, Additional Fine for Repeat Offenders, provides that additional fines may be imposed on any person who is convicted of the same violation within one (1) year of the date of conviction of the previous violation. Subsection 1-5.5, Default of Payment of Fine, provides that any person who defaults on payment of a fine may be imprisoned in the County Jail or be required to perform community service.

Subsection 1-5.6 contains penalties for violations of housing or zoning codes and provides that if the Borough imposes a fine greater than one thousand two hundred fifty (\$1,250.00) dollars for violations of a housing or zoning code, a thirty (30) day period shall be allowed for the owner to cure or abate the condition.

Subsection 1-5.7, Separate Violations, states that when provided by ordinance, each and every day a violation exists shall constitute a separate violation. Subsection 1-5.8, Application, states that the Judge of the Municipal Court has the discretion to assign the penalty for a particular violation, or no penalty.

Throughout the Code many of the penalty provisions have been revised or inserted to refer to Section 1-5, General Penalty, wherever appropriate.

Section 1-6, Severability, provides that if any section of the Code is declared unconstitutional, the remaining sections of the Code shall remain in full force and effect.

Section 1-7, Continuation of Prior Ordinances, provides that the provisions of the Code, so far as they are in substance the same as those ordinances existing on the effective date of this Code, shall be considered as continuations thereof and not as new enactments.

Section 1-8, Maintenance of Code, provides that the Borough Clerk shall maintain a copy of the Code and that the Code shall be received in all courts of this State as evidence of the ordinances of the Borough.

Section 1-9, Additions and Amendments to the Code, provides that ordinances when adopted shall be considered a part of the "Code of the Borough of Lakehurst, 2021," and the ordinances shall be printed and provided as supplements to the Code.

Section 1-10, Code Supplementation, provides that the Borough Council may arrange for the procedures for the supplementation of the Code.

Section 1-11, Altering or Tampering with the Code, prohibits altering or tampering with the Code.

Chapter 2 Administration: This Chapter contains the administrative ordinances of the Borough relating to the Mayor, Borough Council, meetings, officers and employees, boards, committees, agencies and commissions, municipal court, police department, fire department, department of public works, first aid, and administrative policies and procedures

Chapter 3 Police Regulations: This Chapter contains curfew for minors, malicious damage by minors and parental responsibility, abandoned and disabled motor vehicles, drug-free school zones, littering, quality of life violations, storage of utility trailers; travel trailers, boats and campers, and provides penalties for violations.

Chapter 4 General Licensing: This Chapter regulates mercantile licenses, retail food establishment, laundromats, fire and burglar alarms, jewelry, gems and precious metal dealers, secondhand dealers and thrift stores, bingo, games of chance, licenses and application fees, charitable solicitation on roadways, massage establishments, and peddling and soliciting. Junk yards are prohibited.

Chapter 5 Animal Control: Chapter 5 contains the licensing and control of dogs, control and impounding of cats, animal regulations, wildlife feeding, backyard chickens and enforcement by the Animal Control Officer. Potentially dangerous dogs and vicious dogs have been revised to contain provisions provided by statute.

Chapter 6 Alcoholic Beverage Control: This Chapter has been constructed according to the format recommended by the State of New Jersey Division of Alcoholic Beverage Control.

This Chapter provides for licensing and regulation of licensed alcoholic beverage establishments, serving and consumption of alcoholic beverages by persons under the legal age, and provides for the revocation or suspension of licenses for violations. Registration of employees with the Police Department has been removed with the adoption of the Code.

Chapter 7 Traffic: The Borough traffic ordinances have been prepared with language and in a format recommended by the New Jersey Department of Transportation.

Authority for the closing of any street shall be with the Chief of Police. Preconstruction meetings shall be with the Police Department.

This Chapter also includes soliciting contributions in roadways and regulation of low speed vehicles on Borough roadways.

Chapter 8 Towing: This Chapter contains establishes the license requirements and regulation of towing contractors and employees. The Chief of Police is responsible for enforcement.

Chapter 9 Reserved

Chapter 10 Parks, Lakes and Recreation Areas: This Chapter provides regulations for use of the Lake Horicon Area and use regulations and rental of the Lakehurst Community Center for private purposes.

Chapter 11 Municipal Liens: This Chapter provides for reimbursement to the Borough of expenses to abate hazardous and dangerous conditions, not limited to abandonment of dwellings or property and failure of the owner or responsible party, firm or corporation to address the hazard after notice of violation.

Chapter 12 Building Regulations: This Chapter establishes the Uniform Construction Code Enforcing Agency, provides waivers for construction fees and appeals. Manchester Township serves as the enforcing agency under an Interlocal Service Agreement.

Chapter 13 Housing and Property Maintenance: This Chapter adopts the 1998 International Property Maintenance Code and amendments relating to penalties; brush and hedge cutting near roadways and intersections; designates enforcement of the Property Maintenance Code by the Code Enforcement Officer, Housing Inspector and Police Department. This Chapter includes renting of dwelling units and requires landlord registration and license; transfer of property which requires a certificate of occupancy; mailboxes and directories; driveways; parking for handicapped residents; hotel and motel room occupancy tax.

Chapter 14 Reserved

Chapter 15 Fire Prevention: This Chapter provides for local enforcement of the Uniform Fire Code by the Bureau of Fire Prevention, amendments to the Fire Code, fire zones and pumping stations.

Chapter 16 Sewer and Water, Storm Sewer System: This Chapter provides the regulations pertaining to water service and sewer service, establishes the charges and rates for the sale, distribution and use of water and sewer facilities, establishes the municipal stormwater system MS-4 regulations, enumerates prohibited acts, authorizes a contract with the Ocean County Sewerage Authority and includes water emergencies. Subsection 16-1.7 revised to indicate that curb stops shall be opened or closed by an authorized employee of the Department of Public Works.

Chapter 17 Solid Waste Management: This Chapter contains the regulations for refuse and garbage, recycling, yard waste, construction debris and litter control.

Chapters 18 Mobile Homes and Mobile Home Parks: This Chapter contains definitions, license requirements for a mobile home park, regulations, inspections and fees, municipal service (pad) fee, compliance, penalties, and enforcement.

Chapters 19 Streets and Sidewalks: This Chapter prohibits objects or projections in streets or rights-of-way; provides for street opening permits, inspection fees and bonds; establishes a moratorium period of three (3) years on street opening permits after resurfacing or other construction; provides Borough authority to acquire rights-of-way for streets and sidewalks.

Chapter 20 Military Housing Areas: This Chapter addresses the Ground Lease of designated military/government housing and relates to zoning, tax exemption and services provided by the Borough.

Chapter 21 Reserved

Chapter 22 Reserved

Chapter 23 Flood Damage Prevention: This Chapter includes the flood hazard and flood damage prevention regulations applicable to the areas of special flood hazard. The Zoning Officer is designated to administer the provisions of this Chapter.

Chapter 24 Reserved

Chapter 25 Land Development: This Chapter contains the Land Development ordinances as adopted by the Borough. The Zoning Map dated 10-18-17 prepared by Remington, Vernick and Vena is made a part of this Chapter.

Throughout the 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 Code either because they have been expressly or implied repealed by later ordinances, are obsolete or no longer apply in the Borough of Lakehurst.

Section 6. A copy of the "Code of the Borough of Lakehurst, 2021," in the County of Ocean and State of New Jersey, has been filed in the office of the Borough Clerk of the Borough of Lakehurst and shall remain there for the use and examination by the public until final action is taken on this ordinance; and if this ordinance shall be adopted, such copy shall be certified by the Borough Clerk of the Borough of Lakehurst by impressing thereon the seal of the Borough of Lakehurst, as provided by law, and such certified copy shall remain on file in the office of the Borough Clerk of the Borough of Lakehurst to be made available to persons desiring to examine the same during all times while the Code is in effect.

Section 7. Amendments to the Code. Any and all additions, amendments and supplements to the Code 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 Code so that reference to the "Code of the Borough of Lakehurst, 2021," shall be understood and intended to include such

additions and amendments. Whenever such additions, amendments and supplements to the Code shall be adopted, they shall thereafter be printed and, as provided hereunder, inserted in the book containing the Code as amended and supplemented thereto.

Section 8. It shall be the duty of the Borough Clerk or someone authorized and directed by the Clerk to keep up-to-date the certified copy of the book containing the "Code of the Borough of Lakehurst, 2021," required to be filed in his office for the use of the public. All changes in the Code and all ordinances adopted subsequent to the effective date of this codification shall be adopted specifically as part of the Code 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 Borough Clerk of the Borough of Lakehurst, 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 Lakehurst. Sufficient copies of the "Code of the Borough of Lakehurst, 2021," shall be maintained in the office of the Borough 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 Code for inspection by the public shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

Section 10. Copies of the book containing the "Code of the Borough of Lakehurst, 2021," shall be available for purchase. The Borough Council may arrange the procedures for the periodic supplementation thereof.

Section 11. Each section of the "Code of the Borough of Lakehurst, 2021," and every part of each section is an independent section or part of a section and the holding of any section or part thereof deemed 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. When effective. This ordinance shall take effect immediately upon final passage and publication in accordance with law.

Introduced: June 2, 2022

Adopted: July 21, 2022

Mayor

Borough Clerk