

## **Title 9**

### **PUBLIC PEACE AND WELFARE**

Chapters:

#### **9.04 Offenses Against Public Peace and Decency**

##### **9.08 Loitering**

##### **9.12 Curfew**

##### **9.16 Drug-Free School Zones Established**

##### **9.20 Sales of Motor Vehicles**

##### **9.24 Regulation of Sexually Oriented Businesses**

### **Chapter 9.04**

#### **OFFENSES AGAINST PUBLIC PEACE AND DECENCY**

Sections:

**9.04.010 Prohibited.**

**9.04.020 Penalties.**

#### **9.04.010 Prohibited.**

The following requirements are imposed and declared necessary for the general protection of the public:

- A. It is unlawful for any person or persons to dress, undress or change clothing in any motor vehicle or any other type of vehicle in the township.
- B. It is unlawful for any person or persons to commit any immoral or lewd act on any of the streets or other public places in the township.
- C. It is unlawful for any person or persons to riot, engage in fighting or threatening or violent or tumultuous behavior, create a hazardous or physically dangerous condition by any act which serves no legitimate purpose of the actor or address in unreasonably loud and offensively coarse or abusive language, in any public place or place to which the public is invited, with the purpose to offend the sensibilities of a hearer or in a reckless disregard of the probability of offending the sensibilities of a hearer.
- D. It is unlawful for any person or persons to sleep upon any of the streets or highways or other public places or in any motor vehicle or other type of vehicle upon any such place.

E. It is unlawful for any person or persons to consume intoxicating liquor on any public place or in any motor vehicle on any public place at any time with the township.

1. For the purposes of this section, a "public place" means but shall not be limited to the following: All places commonly known as being distinctively public, such as public streets, trails, highways, roads, sidewalks, public parking lots, municipal buildings, churches, parks, beaches, playgrounds and recreational areas.
2. There shall be a rebuttable presumption against each and every person charged with this offense of consumption of alcoholic beverages in a public place or a motor vehicle as set forth in this subsection, if that person is knowingly in possession of an open container which contains or recently contained an alcoholic beverage.

(Ord. 1997-6 § 1; Ord. 94-7 § 1)

#### **9.04.020 Penalties.**

Any person or persons violating any of the provisions of this chapter shall upon conviction be subject to a fine not exceeding two thousand dollars (\$2,000.00); or by imprisonment not exceeding ninety (90) days; or community service, or any combination of the above in the discretion of the court.

(Ord. 2006-06 § 1 (part); Ord. 1997-6 § 2)

### **Chapter 9.08**

#### **LOITERING**

Sections:

**9.08.010 Definitions.**

**9.08.020 Certain types of loitering prohibited.**

**9.08.030 Discretion of police officer.**

**9.08.040 Loitering by minors.**

**9.08.050 Notice of violation.**

**9.08.060 Presumption.**

**9.08.070 Penalty.**

#### **9.08.010 Definitions.**

As used in this chapter:

"Loitering" means remaining idle in essentially one location and includes the concepts of spending time idly, loafing or walking about aimlessly. It also includes the colloquial expression "hanging around."

"Public place" means any place to which the public has access, and includes any street, highway, road, alley or sidewalk. It also includes the front or the neighborhood of any store, shop, restaurant, tavern or other place of business, and public grounds, areas and parks, as well as parking lots or other vacant private property not owned by or under the control of the person charged with violating this section or, in the case of a minor, not owned or under the control of his or her parent or guardian.

"Parent" or "guardian" includes any adult person having care or custody of a minor, whether by reason

of blood relationship, the order of any court, or otherwise.  
(Ord. 81-8 § 1)

**9.08.020 Certain types of loitering prohibited.**

No person shall loiter in such a manner as to:

- A. Create or cause to be created a danger of a breach of the peace;
- B. Create or cause to be created any disturbance or annoyance to the comfort and repose of any person;
- C. Obstruct the free passage of pedestrians or vehicles;
- D. Obstruct, molest or interfere with any person lawfully in any public place as defined in Section 9.08.010. This subsection includes the making of unsolicited remarks of any offensive, disgusting or insulting nature or which are calculated to annoy or disturb the person to or in whose hearing they are made.

(Ord. 81-8 § 2)

**9.08.030 Discretion of police officer.**

Whenever any police officer shall, in the exercise of reasonable judgment, decide that the presence of any person in any public place is causing or is likely to cause any of the conditions enumerated in Section 9.08.020, he or she may, if he or she deems it necessary for the preservation of the public peace and safety, order that person to leave that place. Any person who shall refuse to leave after being ordered to do so by a police officer shall be guilty of a violation of this chapter.

(Ord. 81-8 § 3)

**9.08.040 Loitering by minors.**

No parent or guardian of a minor under the age of eighteen (18) years shall knowingly permit that minor to loiter in violation of this chapter.

(Ord. 81-8 § 4)

**9.08.050 Notice of violation.**

Whenever any minor under the age of eighteen (18) years is charged with a violation of this chapter, his or her parent or guardian shall be notified of this fact by the police or any other person designated by him or her to give such notice.

(Ord. 81-8 § 5)

**9.08.060 Presumption.**

If at any time within the thirty (30) days following the giving of notice as provided in Section 9.08.050, the minor to whom such notice relates again violates this section, it shall be presumed in the absence of

evidence to the contrary that the minor did so with the knowledge and permission of his or her parent or guardian.  
(Ord. 81-8 § 6)

**9.08.070 Penalty.**

Any person other than a juvenile, who shall violate this chapter shall come upon conviction thereof, pay a fine not exceeding two thousand dollars (\$2,000.00) or be imprisoned in the county jail for a term not exceeding ninety (90) days, or both.

The juvenile and domestic relations court shall have exclusive jurisdiction over any juvenile who is charged with the violation of the aforementioned sections, and made within the discretion, orders disposition in accordance with N.J.S.A. 2A:4-61 or any other applicable statute covering juvenile delinquents.  
(Ord. 2006-06 § 1 (part); Ord. 81-8 § 7)

**Chapter 9.12**

**CURFEW**

Sections:

**9.12.010 Requirements.**

**9.12.020 Exemptions.**

**9.12.030 Emergency--Permission.**

**9.12.040 Parents or guardian notified.**

**9.12.050 Violation.**

**9.12.060 Penalty.**

**9.12.010 Requirements.**

It is unlawful for any minor under the age of eighteen (18) years to loiter or remain in or upon any public street, highway, sidewalk, road, playground, alley, park, vacant lot, public building, public places of amusement or places of business conducted for profit to which the public is invited or unsupervised places whether on foot or in or upon any vehicle within the township, in the county of Burlington, between the hours of 10:00 p.m., prevailing time and 6:00 a.m., prevailing time, on the following day; provided however, that the provisions of this section shall not apply to such minor when accompanied by his or her parent or parents, guardian or other adult person having custody, care or control of such minor.

(Ord. 2001-2 § 8(A); Ord. 95-8 § 1)

**9.12.020 Exemptions.**

The provisions of this chapter shall not apply to any minor under the age of eighteen (18) years during the time necessarily required for such minor to travel to his or her residence from:

- A. A place of employment at which such minor may be gainfully employed;
- B. A school or place of instruction at which such minor may be in bona fide attendance;
- C. Extracurricular school activities and other cultural, educational and social events sponsored by

religious or community based organizations.  
(Ord. 2001-2 § 8(B); Ord. 95-8 § 2)

**9.12.030 Emergency--Permission.**

Should emergency arise necessitating a minor child under the age of eighteen (18) years to be dispatched upon an errand requiring his or her presence in, on or upon a street or automobile or in any public or quasi public place as aforesaid during the curfew hours established, he or she shall have been given permission by the parent, guardian or other person having custody, care or control of such minor.  
(Ord. 95-8 § 3)

**9.12.040 Parents or guardian notified.**

Whenever any minor under the age of eighteen (18) years is charged with a violation of this section, his or her parent or guardian shall be notified of this fact by the police or any other person designated by the police to give such notice.  
(Ord. 95-8 § 4)

**9.12.050 Violation.**

The superior court, family part shall have exclusive jurisdiction over any violation of the aforementioned sections and may within its discretion order its disposition in accordance with N.J.S. 2A:4A-27, 2C:4-11 and any other applicable statute governing juveniles.  
(Ord. 95-8 § 5)

**9.12.060 Penalty.**

Any parent, legal guardian, or person having lawful custody of any child who shall wilfully permit such child to violate the terms of this chapter shall be subject to a fine not exceeding two thousand dollars (\$2,000.00), up to thirty (30) days of community service, or both.  
(Ord. 2006-06 § 1 (part); Ord. 2001-2 § 8(C); Ord. 95-8 § 6)

**Chapter 9.16**

**DRUG-FREE SCHOOL ZONES ESTABLISHED**

Sections:

- 9.16.010 Adopted.**
- 9.16.020 Applicability.**
- 9.16.030 Notification of changes.**
- 9.16.040 Copy of map.**
- 9.16.050 Requirements.**

**9.16.010 Adopted.**

In accordance with and pursuant to the authority of L. 1988, c. 44 (C. 2C:35-7), the Drug-Free School Zone Map produced on or about the fifteenth day of November, 1988, by Aviva Engineering Associates, PA, the municipal engineer, is approved and adopted as an official finding and record of the location and areas

within the municipality of property which is used for school purposes and which is owned by or leased to an elementary or secondary school or school board, and of the areas on or within one thousand (1,000) feet of such school property.

(Ord. 89-2 § 1)

#### **9.16.020 Applicability.**

The Drug-Free School Zone Map approved and adopted pursuant to Section 9.16.010 of this chapter shall continue to constitute an official finding and record as to the location and boundaries of areas on or within one thousand (1,000) feet of property owned by or leased to any elementary or secondary school or school board which is used for school purposes until such time, if any, that this chapter shall be amended to reflect any additions or deletions with respect to the location and boundaries of school property and drug-free school zones.

(Ord. 89-2 § 2)

#### **9.16.030 Notification of changes.**

The school board, or the chief administrative officer in the case of any private or parochial school, is directed and shall have the continuing obligation to promptly notify the municipal engineer and the municipal solicitor of any changes or contemplated changes in the location and boundaries of any property owned by or leased to any elementary or secondary school or school board and which is used for school purposes.

(Ord. 89-2 § 3)

#### **9.16.040 Copy of map.**

The clerk of the municipality is directed to receive and to keep on file the original of the map approved and adopted pursuant to Section 9.16.010 of this chapter, and to provide at a reasonable cost a true copy thereof to any person, agency or court which may from time to time request such a copy, along with a certification that such copy is a true copy of the map approved and adopted herein and kept on file. It is further directed that a true copy of such map and of this chapter shall be provided without cost to the clerk of Burlington County and to the office of the Burlington County prosecutor.

(Ord. 89-2 § 4)

#### **9.16.050 Requirements.**

The following additional matters are determined, declared, recited and stated:

- A. It is understood that the map approved and adopted pursuant to Section 9.16.010 of this chapter was prepared and is intended to be used as evidence in prosecutions arising under the criminal laws of this state, and that pursuant to state law, such map shall constitute prima facie evidence of the following:
  - 1. The location of elementary and secondary schools within the municipality;
  - 2. The boundaries of the real property which is owned by or leased to such schools or a school board;

3. That such school property is and continues to be used for school purposes; and
4. The location and boundaries of areas which are on or within one thousand (1,000) feet of such school property.

- B. All of the property depicted on the map approved and adopted herein as school property was owned by or leased to a school or school board and was being used for school purposes as of July 9, 1987, that being the effective date of L. 1988, c. 101 (C. 2C:35-7).
- C. Pursuant to the provisions of L. 1988, c. 44, a prosecutor is not precluded from introducing or relying upon any other evidence or testimony to establish a violation of the offense defined in that statute, including use of a map or diagram other than the one approved and adopted pursuant to Section 9.16.010 of this chapter. The failure of the map approved herein to depict the location and boundaries of any property which is, in fact, used for school purposes and which is owned by or leased to any elementary or secondary school or school board, whether the absence of such depiction is the result of inadvertent omission or the result of any changes in the location and boundaries of such property which have not yet been incorporated into a revised approved map, shall not be deemed to be an official finding and record that such property is not owned by or leased to a school or school board, or that such property is not used for school purposes.
- D. All of the requirements set forth in L. 1988, c. 44 concerning the preparation, approval and adoption of a Drug-Free School Zone Map have been complied with.

(Ord. 89-2 § 5)

## **Chapter 9.20**

### **SALES OF MOTOR VEHICLES**

#### **Sections:**

**9.20.010 Definitions.**

**9.20.020 Sale of motor vehicles.**

**9.20.030 Exceptions.**

**9.20.040 Signage.**

**9.20.050 Violations and penalties.**

**9.20.060 Additional remedies.**

#### **9.20.010 Definitions.**

For purposes of this chapter, the terms used herein are defined as follows:

"Motor vehicle" means any vehicle propelled otherwise than by muscular power, including but not limited to, automobiles, boats, motorcycles, trailers of all types, and tractor equipment.

"Public right-of-way" means any street, avenue, boulevard, highway, sidewalk or alley, waterway or similar place which is owned or controlled by a governmental entity.

(Ord. 2002-3 §1, 2002)

#### **9.20.020 Sales of motor vehicles.**

Unless an approval has been obtained from the appropriate agency or zoning or planning board for the conducting of business of the sale of motor vehicles, no person shall offer for sale any motor vehicle on any private property, public right-of-way or vacant land in the township of Bass River. This prohibition shall apply both to the owner of the property on which the violation is occurring as well as any owner of a motor vehicle being offered for sale in violation of this chapter.

(Ord. 2002-3 §2, 2002)

#### **9.20.030 Exceptions.**

A. Residential. The owner or resident of any property used for residential purposes may offer for sale not more than one motor vehicle at one time owned by such owner or resident on the owner's resident's property. Under no circumstances may the motor vehicle being offered for sale be located within any public right-of-way. No more than three motor vehicles shall be sold within a one year period.

B. Commercial. The owner or lessee of any property used for commercial purposes, in accordance with the zoning ordinances of the township of Bass River may offer for sale not more than one motor vehicle at any one time on the commercial property. Ownership of the motor vehicle offered for sale is limited to the property owner, lessee, or employee of the commercial business on the subject property. The motor vehicle can only be displayed for sale during the hours of 8:00 a.m. to 9:00 p.m. Under no circumstances may the motor vehicle offered for sale be located within any public right-of-way. No more than three motor vehicles shall be sold within a one year period.

(Ord. 2002-3 §3, 2002)

#### **9.20.040 Signage.**

For sale signs on motor vehicles parked in front yards, right-of-way easements, residential streets, or upon properties used for commercial purposes shall be prohibited, except a currently registered and inspected vehicle which is parked upon such property may display one advertising it for sale provided that: (a) such sign is mounted inside the passenger compartment of the motor vehicle and does not exceed three square feet in area; and (b) the sale of such motor vehicle is an occasional sale, and not part of a trade or business.

(Ord. 2002-3 §4, 2002)

#### **9.20.050 Violations and penalties.**

Any person, firm or corporation who or which violates any provision of this chapter shall, upon conviction, be fined not more than one thousand dollars (\$1,000.00), be imprisoned for not more than ninety (90) days and/or serve a period of community service not exceeding ninety (90) days. Each day on which a violation of any provision of this chapter occurs or is repeated shall constitute a separate offense. The municipal court of the township of Bass River shall have jurisdiction to enforce the provisions of this chapter.

(Ord. 2002-3 § 5, 2002)

#### **9.20.060 Additional remedies.**

The violation of any provision of this chapter shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

(Ord. 2002-3 § 6, 2002)

## Chapter 9.24

### REGULATION OF SEXUALLY ORIENTED BUSINESSES

#### Sections:

**9.24.000 Purpose.**

**9.24.005 Findings.**

**9.24.010 Definitions.**

**9.24.020 License required.**

**9.24.030 Issuance of a license.**

**9.24.040 Fees.**

**9.24.050 Inspections.**

**9.24.060 License suspension.**

**9.24.070 License revocation.**

**9.24.080 Hearing.**

**9.24.090 Transfer of license.**

**9.24.100 Physical layout of adult-oriented establishments.**

**9.24.110 Responsibilities of operator.**

**9.24.120 Employees.**

**9.24.130 Additional regulations for adult cabarets.**

**9.24.140 Hours of operation.**

**9.24.150 Exclusions and exemptions.**

**9.24.160 Adult entertainment at commercial establishments at which alcoholic beverages are served or offered for consumption on the premises.**

**9.24.170 Retail display of obscene material.**

**9.24.180 Violations and penalties.**

#### **9.24.000 Purpose.**

The mayor and board of commissioners of the township of Bass River recognize the rights inherent in the United States Constitution which guarantee freedom of expression, as well as the position of the courts in protecting that freedom by invalidating any attempt by local ordinance to restrict particular uses based upon their content. However, the mayor and board of commissioners also recognize their duty to protect the health, safety, welfare and morals of the residents and the citizens of Bass River Township and to establish reasonable and uniform regulations providing for the licensing of adult-oriented establishments, adult motion picture theaters and adult cabarets. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually-oriented materials. Additionally, it is neither the intent nor effect of this chapter to restrict or deny access by adults to sexually-oriented materials protected by the First Amendment or to deny access by the distributors and exhibitors of sexually-oriented entertainment to their intended market.

(Ord. 2006-04 § 1 (part))

#### **9.24.005 Findings.**

A. It has been demonstrated that the establishment of adult businesses in business districts which are immediately adjacent to and which serve residential neighborhoods has a deleterious effect on both the business and residential segments of the neighborhood, causing blight and a downgrading of property values. It has also been demonstrated that there is a statistically significant correlation between sex-oriented and alcohol-oriented adult entertainment businesses and high crime rates. The board of commissioners is particularly persuaded and impressed by studies conducted in Minneapolis, St. Paul, Indianapolis, Phoenix and Los Angeles.

B. The board of commissioners further deems it necessary to provide for licensing and regulation of adult-oriented businesses in light of existing problems experienced by the residents and citizens within the township of Bass River as evidenced by the uniform crime reporting system.

C. The board of commissioners further determines that it is well known that adult-oriented businesses have been and are being used by patrons of such establishments for engaging in sexual acts, including, but not limited to, intercourse, sodomy, oral copulation and masturbation, resulting in unsafe and unsanitary conditions. It is particularly well known that such conduct occurs in adult-oriented establishments which install booths with doors in which patrons can view adult-oriented movies or videotape or film or view other forms of adult entertainment.

D. The prevalence of such conduct by patrons of adult businesses is especially disconcerting when viewed in relation to the ever-increasing number of reported cases of acquired immune deficiency syndrome (AIDS). AIDS is a sexually transmitted disease that destroys the body's immune system, is almost always fatal and has no known cure. The viral agents responsible for AIDS and other sexually transmitted diseases have all been isolated at one time or another from semen.  
(Ord. 2006-04 § 1 (part))

#### **9.24.010 Definitions.**

For the purpose of this chapter, the following words and phrases shall mean:

"Adult cabaret" means a nightclub, bar, restaurant or other commercial establishment whether or not same is licensed to sell alcoholic beverages for on-premises consumption, which regularly features:

1. Persons who appear in a state of nudity; or
2. Live performances which are characterized by the exposure of specified anatomical areas or by sexual conduct or by specified sexual activities; or
3. Films, motion pictures, video cassettes, compact disks, DVDs, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities, sexual conduct or specified anatomical areas.

"Nudity" or "state of nudity" means the appearance, showing or exhibition of the male or female genitals or vulva, pubic area, buttocks, anus, anal cleft or cleavage or female breast below the top of the nipple.

"Operator" means any person, partnership or corporation operating, conducting, maintaining or owning any adult-oriented establishment.

"Person" means an individual, proprietorship, partnership, corporation, association or other legal entity.

"Semi-nude" means a state of dress in which clothing or other devices or covering covers no more than the genitals, pubic region or nipples of the female breast, as well as portions of the body covered by supporting straps or devices.

"Sexual conduct" means human masturbation, sexual intercourse or any touching of the genitals, pubic areas or buttocks of the human male or female or the breasts of the human female whether alone or between members of the same or opposite sex or an act of apparent sexual stimulation or gratification.

"Sexually-oriented business" means:

1. A commercial establishment, which, as one of its principal business purposes, offers for sale, rental or display any of the following: books, magazines, periodicals or other printed material, or photographs, films, motion pictures, video cassettes or other visual representations which depict or describe a "specified sexual activity" or "specified anatomical areas"; or still or motion picture machines, projectors or other image-producing devices which show images to one person per machine at any one time, and where the images so displayed are characterized by the depiction of a "specified sexual activity" or "specified anatomical area"; or instruments, devices, or paraphernalia which are designed for use in connection with a "specified sexual activity"; or
2. A commercial establishment, which regularly features live performances characterized by the exposure of a "specified anatomical area" or by a "specified sexual activity," or which regularly shows films, motion pictures, video cassettes, slides, or other photographic representations which depict or describe a "specified sexual activity" or "specified anatomical area."
3. "Person" means an individual, proprietorship, partnership, corporation, association, or other legal entity.
4. "Specified anatomical area" means: (1) less than completely and opaquely covered human genitals, pubic region, buttock or female breasts below a point immediately above the top of the areola; or (2) human male genitals in a discernibly turgid state, even if covered.
5. "Specified sexual activity" means: (1) the fondling or other erotic touching of covered or uncovered human genitals, pubic region, buttock or female breast; or (2) any actual or simulated act of human masturbation, sexual intercourse or deviate sexual intercourse.

(Ord. 2006-04 § 1 (part))

#### **9.24.020 License required.**

A. Except as provided in subsection D of this section, from and after the effective date of the ordinance codified in this chapter, no adult-oriented establishment shall be operated or maintained in the township of Bass River without first obtaining a license to operate issued by the township of Bass River.

B. A license may be issued only for one adult-oriented establishment located at a fixed and certain place. Any person, partnership or corporation that desires to operate more than one adult-oriented establishment must have a license for each.

C. No license or interest in the license may be transferred to any person, partnership or corporation.

D. All adult-oriented establishments existing at the time of the passage of this chapter must submit

an application for a license within ninety (90) days of the passage of this chapter. If an application is not received within such ninety (90) day period, then such existing adult-oriented establishment shall cease operations.

E. An application for a license must be made on a form provided by the township clerk. The application must be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.

F. The applicant must be qualified according to the provisions of this chapter and the premises must be inspected and found to be in compliance with the law by the Burlington County health department, zoning office, fire inspector and building official. The result of such inspections must be made available to the applicant no later than thirty (30) days from the date of application for the license.

G. The applicant for a license shall include upon the form provided by the township clerk the following information under oath:

1. Name and address, including any and all aliases;
2. Written proof that the applicant is at least eighteen (18) years of age;
3. Whether the applicant has ever had an adult-oriented establishment license revoked or suspended, the reason for such revocation or suspension and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation.
4. Whether the applicant has been convicted of or pled guilty to a crime involving prostitution, obscenity, sale, distribution or display of harmful material to minors; sexual performance by a child; possession of child pornography; indecency with a child; sexual assault; aggravated sexual assault; incest; solicitation of a child; public lewdness or indecent exposure, as provided and described in the New Jersey Criminal Code.

H. The fact that an applicant possesses a valid mercantile license pursuant to other provisions of the township code of the township of Bass River does not exempt the applicant from the requirement of obtaining an adult business license as provided herein.  
(Ord. 2006-04 § 1 (part))

#### **9.24.030 Issuance of a license.**

A. The board of commissioners shall approve the issuance of a license by the township clerk to an applicant within sixty (60) days after receipt of an application unless the board of commissioners finds one or more of the following to be true:

1. An applicant is under eighteen (18) years of age or is under a legal disability.
2. The applicant or an applicant's spouse is overdue in the payment to Bass River Township of

taxes, or fees, fines or penalties assessed against or imposed upon him or her in relation to a sexually-oriented business.

3. An applicant has falsely answered a question or request for information on the application form.
4. An applicant or an applicant's spouse has been convicted of a violation of a provision of this chapter, other than the offense of operating an adult-oriented establishment without a license, within five years immediately preceding the application. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or applicant's spouse.
5. An applicant is residing with a person who has been denied a license by the township to operate an adult-oriented establishment within the preceding twelve (12) months or residing with a person whose license to operate an adult-oriented establishment has been revoked within the preceding twelve (12) months.
6. The premises to be used for the adult-oriented business has been denied by the Burlington County health department, zoning office, fire official or the building official as not being in compliance with applicable laws and ordinances, provided that the applicant was provided the results of such inspections no later than thirty (30) days from the date of application for the license.
7. The license fee required herein has not been paid.
8. An applicant or an applicant's spouse has been convicted of a crime or misdemeanor involving prostitution, promotion of prostitution; obscenity, sale, distribution or display of harmful material to minors; sexual performance by a child; possession of child pornography; indecency with a child; sexual assault; aggravated sexual assault; incest; solicitation of a child; public lewdness or indecent exposure, as provided and described in the New Jersey Criminal Code. The fact that the conviction is being appealed shall have no effect on the disqualification of the applicant or the applicant's spouse.

B. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date and the address of the adult-oriented establishment. The license shall be posted in a conspicuous place at or near the entrance to the adult-oriented establishment so that it may be easily read at any time.

(Ord. 2006-04 § 1 (part))

#### **9.24.040 Fees.**

A. The initial fee for an adult-oriented establishment license shall be two thousand five hundred dollars (\$2,500.00) in addition to any other applicable fees. The fee shall accompany the application for the license.

B. Every license issued pursuant to this chapter shall terminate at the expiration of one year from the date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the township clerk upon a form

provided by such township clerk and shall provide such information and data, given under oath or affirmation, as is required for an application for a new license.

C. A license renewal fee of one thousand dollars (\$1,000.00) shall be submitted with the application for renewal.  
(Ord. 2006-04 § 1 (part))

#### **9.24.050 Inspections.**

A. An applicant or licensee shall permit representatives of the police department, Burlington County health department, office of the fire inspector, zoning office, construction office, code enforcement office, office of the township administrator, and the board of commissioners to inspect the premises of an adult-oriented establishment, for the purpose of ensuring compliance with the law, at any time it is occupied or open for business.

B. A person who operates an adult-oriented establishment or his or her agents or employees commit an offense if he or she refuses to permit a lawful inspection of the premises by any of the above representatives at any time it is occupied or open for business.  
(Ord. 2006-04 § 1 (part))

#### **9.24.060 License suspension.**

The township committee may suspend a license for a period not to exceed thirty (30) days if it determines that a licensee or an agent or employee of a licensee has violated any of the provisions of this chapter.  
(Ord. 2006-04 § 1 (part))

#### **9.24.070 License revocation.**

- A. The board of commissioners may revoke a license for any of the following reasons:
1. A licensee provided false or misleading information on the initial or renewal application or material facts were omitted from such application during the application or renewal process.
  2. A licensee or an agent or employee thereof has knowingly allowed possession, use or sale of controlled substances on the premises.
  3. A licensee or an agent or employee thereof has knowingly allowed prostitution on the premises.
  4. A licensee or an agent or employee thereof knowingly operated the adult-oriented establishment during a period of time when the licensee's license was suspended.
  5. Within the twelve (12) month license period, the licensee committed one or more of the offenses enumerated in other parts of this chapter (Sections 9.24.020 and 9.24.030 of this chapter) for which a conviction has been obtained.

6. The licensee or an agent or employee thereof has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or sexual contact to occur in or on the licensed premises.
7. A licensee is delinquent in payment to Bass River Township for taxes, or fees, fines or penalties related to the adult-oriented establishment.

B. The operator or licensee whose license is revoked shall not be eligible to receive a license for one year from the date of revocation. No location or premises for which a license has been issued shall be used as an adult-oriented establishment for six months from the date of revocation of the license.  
(Ord. 2006-04 § 1 (part))

#### **9.24.080 Hearing.**

A. If it is determined that a valid basis for suspending or revoking a license exists, then, before revoking or suspending the license, the township administrator shall cause a formal legal complaint to be served upon the licensee in question, and such formal legal complaint shall clearly state the charges brought against such licensee. This formal legal complaint may be served by personal service, certified mail or regular mail in the event that personal service is refused. If the whereabouts of the licensee is unknown and the same cannot be ascertained by the exercise of reasonable diligence, the township administrator shall make an affidavit to that effect and then serve such complaint by publishing same once each week for two consecutive weeks in at least one official newspaper annually designated by the board of commissioners.

B. The formal legal complaint shall further state the charges, and it shall contain a notice that a hearing shall be held before the mayor and board of commissioners or its duly authorized representative at a place therein fixed not less than ten (10) days nor more than thirty (30) days after the serving of such formal legal complaint, that the licensee and parties in interest shall be given the right to file an answer to the formal legal complaint and to appear in person or go their attorney and give testimony at the place and time fixed in the formal legal complaint and that the rules of evidence prevailing in the courts of law shall not be controlling at the administrative hearing.  
(Ord. 2006-04 § 1 (part))

#### **9.24.090 Transfer of license.**

A licensee shall not transfer his or her license to another person, partnership or corporation, nor shall a licensee operate an adult-oriented establishment under the authority of a license at any place other than the address designated in the application.  
(Ord. 2006-04 § 1 (part))

#### **9.24.100 Physical layout of adult-oriented establishments.**

Any adult-oriented establishment having available for customers, patrons or members any booth, room or cubicle for the private viewing of any adult entertainment must comply with the following requirements:

- A. Access. Each booth, room or cubicle shall be totally accessible to and from aisles and public areas of the adult-oriented establishment and shall be unobstructed by any door, lock or other

control-type devices.

- B. Construction. Every booth, room or cubicle shall meet the following construction requirements in addition to those requirements imposed by the construction code.
1. Each booth, room or cubicle shall be separated from adjacent booths, rooms and cubicles and any nonpublic areas by a wall.
  2. Have at least one side totally open to a public lighted aisle so that there is an unobstructed view at all times of anyone occupying same.
  3. All walls shall be solid and without any openings, extended from the floor to a height of not less than six feet and be light colored, nonabsorbent, smooth textured and easily cleanable.
  4. The floor must be light colored, nonabsorbent, smooth textured and easily cleanable.
  5. The lighting level of each booth, room or cubicle, when not in use, shall be a minimum of ten (10) foot candles at all times, as measured from the floor.
- C. Occupants. Only one individual shall occupy a booth, room or cubicle at any time. No occupant of same shall engage in any type of sexual activity, cause any bodily discharge or litter while in the booth. No individual shall damage or deface any portion of the booth.

(Ord. 2006-04 § 1 (part))

#### **9.24.110 Responsibilities of operator.**

- A. The owner, operator or licensee shall maintain a register of all agents and employees, showing the name, any aliases used, home address, age, birth date, date of employment and termination and duties of each agent and employee. The above information on each agent and employee shall be maintained in the register on the premises for a period of three years following termination.
- B. The owner, operator or licensee shall make the register of agents and employees available immediately for inspection by the representatives of the township of Bass River at all reasonable times.
- C. Every act or omission by an agent or employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the owner, operator or licensee if such act or omission occurs either with the authorization, knowledge or approval of the owner, operator or licensee as a result of the negligent failure of the owner, operator or licensee to supervise the agent's or employee's conduct, and such owner, operator or licensee shall be punishable for such act or omission in the same manner as if the owner, operator or licensee committed the act or caused the omission.
- D. Any act or omission of any agent or employee constituting a violation of the provision of this chapter shall be deemed the act or omission of the owner, operator or licensee for purposes of determining whether the license of the owner, operator or licensee shall be revoked, suspended or renewed.

E. The owner, operator or licensee shall not allow any minor to loiter around or to frequent an adult-oriented establishment or to allow any minor to view adult entertainment as defined herein.

F. The operator shall maintain the premises in a clean and sanitary manner at all times.

G. The owner, operator or licensee shall ensure compliance of the establishment and its patrons with the provisions of this chapter.  
(Ord. 2006-04 § 1 (part))

#### **9.24.120 Employees.**

A. An adult-oriented establishment as defined herein shall not employ any person under the age of eighteen (18) years. A person under the age of eighteen (18) years commits an offense if he or she appears in a state of nudity in or on the premises of an adult-oriented establishment.

B. An agent or employee commits an offense if he or she appears in a state of nudity or knowingly allows another person to appear in a state of nudity in an area of an adult entertainment establishment which can be viewed from a public right-of-way.

C. No individual, partnership, corporation or other entity holding the license shall employ any person in or about the licensed premises who has not been issued an identification card by the township of Bass River.

1. All persons employed in or about any licensed premises shall carry an identification card issued by the township of Bass River at all times while in the course of their employment and shall exhibit the same upon the request of any authorized Bass River Township official.
2. Any person desiring to obtain an identification card shall report to the township administrator where application forms shall be completed. The applicant shall pay a fee of ten dollars (\$10.00) for an identification card.
3. The township administrator shall issue an identification card to each employee, which card shall contain the name, address and a photograph of the employee. A copy of the identification card and photograph shall be maintained on file by the township administrator.

D. It shall be the duty of the owner, operator or licensee to ensure that all of its employees comply with the provisions of this chapter.  
(Ord. 2006-04 § 1 (part))

#### **9.24.130 Additional regulations for adult cabarets.**

Adult cabarets shall comply with the following additional regulations:

- A. All dancing shall occur on a platform intended for that purpose which is raised at least three feet from the level of the floor.

- B. No dancing shall occur closer than ten (10) feet to any patron or customer.
- C. No dancer shall fondle or caress any patron, and no patron shall fondle or caress any dancer.
- D. No patron shall directly pay or give any gratuity to any dancer, and no dancer shall solicit any pay or gratuity from any patron.

(Ord. 2006-04 § 1 (part))

#### **9.24.140 Hours of operation.**

A. Adult entertainment establishments may be open for business daily from 10:00 a.m. until 11:00 p.m.

B. Adult entertainment establishments shall remain closed for business except during the hours fixed as open for business by this chapter.

(Ord. 2006-04 § 1 (part))

#### **9.24.150 Exclusions and exemptions.**

A. All private schools and public schools as defined by New Jersey statutes, located within the township of Bass River are exempt from obtaining a license hereunder when instructing pupils in accordance with a sex education curriculum.

B. It is a defense to prosecution under the provisions of this chapter that a person appearing in a state of nudity did so as an art class model in a private school or public school within the boundaries of the township of Bass River.

C. It is a defense to prosecution under the provisions of this chapter that each item of descriptive, printed, film or video material offered for sale or rental, taken as a whole, contains serious literary, artistic, political or scientific value.

(Ord. 2006-04 § 1 (part))

#### **9.24.160 Adult entertainment at commercial establishments at which alcoholic beverages are served or offered for consumption on the premises.**

A. It is unlawful for any owner, operator or licensee of a commercial establishment located in the township of Bass River, at which alcoholic beverages are served or offered for sale for consumption on the premises.

1. To suffer or permit any female person, while on the premises of such commercial establishment, to expose to the public view with less than a full opaque covering that area of the human breast at or below the top of the nipple;
2. To suffer or permit any female person, while on the premises of such commercial establishment, to employ any device or covering which is intended to give the appearance of or simulate such portions of the human female breast as described in subsection (A)(1) of this section;

3. To suffer or permit any person, while on the premises of such commercial establishment, to expose, exhibit or show to the public view with less than a full opaque covering his or her genitals or vulva, pubic area, buttocks, anus, anal cleft or cleavage;
4. To suffer or permit any person, while on the premises of such commercial establishment, to employ any device or covering which is intended to give the appearance of or simulate his or her genitals or vulva, pubic area, buttocks, anus, anal cleft or cleavage;
5. To suffer or permit the depiction or showing of the covered male genitalia in a discernibly turgid state.

B. It is unlawful for any female person, while on the premises of a commercial establishment located in the township of Bass River at which alcoholic beverages are served or offered for sale for consumption on the premises, to expose to the public view with less than a full opaque covering that area of the human breast at or below the top of the nipple, or to employ any device or covering which is intended to give the appearance of or simulate such portions of the human female breast as described herein.

C. It is unlawful for any person, while on the premises of a commercial establishment located in the township of Bass River at which alcoholic beverages are served or offered for sale for consumption on the premises, to expose, exhibit or show to the public or offered for sale for consumption on the premises, to expose, exhibit or show to the public view with less than a full opaque covering his or her genitals or vulva, pubic area, buttocks, anus, anal cleft or cleavage, or to employ any device or covering which is intended to give the appearance of or simulate his or her genitals or vulva, pubic area, buttocks, anus, anal cleft or cleavage.

D. It is unlawful for any person, while on the premises of a commercial establishment located in the township of Bass River at which alcoholic beverages are served or offered for sale for consumption on the premises, to depict or show in the public view the covered male genitalia in a discernibly turgid state, or to employ any device or covering which is intended to give the appearance of or simulate the covered male genitalia in a discernibly turgid state.

(Ord. 2006-04 § 1 (part))

#### **9.24.170 Retail display of obscene material.**

It shall be a petty disorderly persons offense for a retailer as defined in N.J.S.A. 2C:34-3.1 to display or permit to be displayed at his or her business premises, any obscene material as defined in N.J.S.A. 2C:34-3, at a height of less than five feet or without a blinder or other covering placed or printed on the front of the material displayed. The public display of the obscene material shall constitute presumptive evidence that the retailer knowingly made or permitted the display.

(Ord. 2006-04 § 1 (part))

#### **9.24.180 Violations and penalties.**

A. Any person violating or failing to comply with any provisions of this chapter shall, upon conviction thereof, be punishable by a fine of no less than two hundred dollars (\$200.00) and no more than two thousand dollars (\$2,000.00), by imprisonment not to exceed ninety (90) days or by community service of not

more than ninety (90) days or any combination of fine, imprisonment and community service, as determined in the discretion of the municipal court judge. The continuation of such violation for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of the violation may be punished as provided above for each separate offense.

B. The violations of any provision of this chapter inconsistent herewith are repealed.  
(Ord. 2006-04 § 1 (part))