

CHAPTER III POLICE REGULATIONS

3-1 STATE OF EMERGENCY OR DISASTER.*

3-1.1 Authority of Mayor.

a. When there exists in the Borough a State of Local Disaster or Emergency which has been brought about by natural causes or by the action of any person, and such state may cause violence and injury to be inflicted upon people in the Borough and may cause damage and destruction to Borough property, both public and private, all being against the health, safety and welfare of the people of the Borough, then and in that event the Mayor shall have the authority to declare that a State of Disaster or Emergency exists, and he shall have the authority and be empowered to do the following:

1. Issue orders or proclamations regulating the hours during which persons shall be prohibited from remaining upon the public streets, ways and places in the Borough.
2. Issue orders or proclamations regulating the hours during which vehicular traffic shall be prohibited or restricted from traveling over the Borough streets.
3. Issue orders or proclamations regulating the hours during which all businesses licensed by the Borough to dispense in any way alcoholic beverages shall be closed to business.
4. Issue orders or proclamations regulating the hours during which all sales of gasoline by gasoline service stations in the Borough shall be closed to business.

b. This authority is conferred upon the Mayor by virtue of N.J.S.A. 40A:60-5.

c. In the event the Mayor of the Borough of Milltown or his designee shall declare a State of Local Disaster or Emergency to exist, he shall also be empowered to prohibit vehicular travel over the streets of the Borough of Milltown.

d. This section shall be enforced by the Police Department.

(1984 Code § 10-1; Ord. No. 889 §§ II, III)

3-1.2 Publicizing of Announcement of State of Emergency.

The Mayor, upon declaring that a State of Disaster or Emergency exists, shall advise any newspaper and radio station located in the area of the Borough and request that the announced State or Disaster of Emergency be publicized at once. (1984 Code § 10-2)

3-1.3 Actions Restricted under State of Emergency.

After the Mayor has declared that a state of disaster or emergency exists and has issued an order or proclamation, it shall be unlawful and a violation of this chapter for any person to be upon the streets, ways or places in the Borough, to drive vehicles over the streets in the Borough, to dispense alcoholic beverages or to sell gasoline at any gasoline service station during the hours prohibited by the order or proclamation unless otherwise permitted by the Borough. (1984 Code § 10-3)

3-1.4 Violations and Penalties.

Any person who violates any of the provisions of this section shall, upon conviction thereof, be liable to the penalty stated in Chapter I, Section 1-5. (Ord. No. 889 § III; New)

3-2 NOISE.

3-2.1 Definitions and Word Usage.

As used in this section, all acoustical terms and words shall have the meanings set forth in the publication of the United States of America Standards Institute, New York, New York, entitled, "Acoustical Terminology." All equipment used in making acoustical measurements shall meet or exceed the requirements set forth in the publication of the Institute entitled, "Specification for General-Purpose Sound Level Meters," and all such measurements so made shall be made in full accordance with the methods and procedures set forth in Methods for the Physical Measurements of Sound. (1984 Code § 129-1)

3-2.2 Sound Level Restrictions.

a. Unless exempted under the provisions of this section, no person shall cause to be made, directly or indirectly, by any means whatsoever, whether mechanical or not, any sound that:

1. Exceeds by the following measurements on the A-weighting scale of the sound level meter the sound levels that prevail at the same physical point of measurement when the sound in question is not being made.

- (a) Ten (10) decibels or more between the hours of 7:00 a.m. and 10:00 p.m.
- (b) Five (5) decibels or more between the hours of 10:00 p.m. and 7:00 a.m.

2. Exceeds the following measurements in the A-weighting scale of the sound level meter when measured at the physical point at which the sound in question is alleged to be objectionable.

- (a) Forty-five (45) decibels between the hours of 7:00 a.m. and 10:00 p.m.
- (b) Forty (40) decibels between the hours of 10:00 p.m. and 7:00 a.m.

3. Exceeds the following measurements made at any point within ten (10) feet of any lot line of premises from which the sound in question emanates by means of an acoustical analyzer such as an octave band analyzer or an analyzer incorporating preferred center frequencies:

Cycles per second or Hertz Sound Pressure Level

Frequency Bands	Preferred Center Frequencies	10:00 p.m. to 7:00 a.m.	7:00 a.m. to 10:00 p.m.
Under 75	63	69	74
75 to 150	125	54	59

150 to 300	240	47	52
300 to 600	500	41	46
600 to 1,200	1,000	37	42
1,200 to 2,400	2,000	34	39
2,000 to 4,800	4,000	31	36
4,800 to 9,600	8,000	28	33

b. The measurements described in paragraphs a,1 and a,2 of this subsection shall be determined by the average of not less than three (3) readings of the A-weighting scale of the sound level meter taken at intervals of not less than two (2) minutes. (1984 Code § 129-2)

3-2.3 Loud, Unnecessary and Disturbing Noises Restricted.

Unless exempted under the provisions of this section, no person shall cause to be made, directly or indirectly, any loud and unnecessary noise which disturbs, injures or endangers the health, comfort, safety or welfare of others within the Borough. (1984 Code § 129-3)

3-2.4 Enumeration of Loud, Unnecessary and Disturbing Noises.

The following specific acts are declared to be loud, disturbing and unnecessary noises in violation of this section, but such enumeration shall not be deemed to be exclusive:

a. The sound of any horn or signaling device on any automobile, motorcycle, bus, truck or other vehicle on any street or public place, except as a warning pursuant to the provisions of N.J.S.A. 39:3-69, whistle or other device operated by engine exhaust and the use of any such signaling device, when traffic is for any reason held up.

b. The use of radio or television receiving sets, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room or vehicle in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this chapter.

c. The use of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising.

d. The keeping of any animal or bird, which, by causing frequent or long continued noise, shall disturb the comfort or repose of persons residing in the vicinity.

e. The discharge into the open air of the exhaust of an internal combustion engine or a motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

f. The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening or destruction of bales, boxes, crates and containers.

g. The erection, including excavating, demolition, alteration or repair of any building, other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, except in case of urgent necessity in the interest of public health and safety and then only with a permit from the Construction Official, which permit may be granted for a period not to exceed three (3) days or less while the emergency continues and which permit may be renewed for periods of three (3) days or less while the emergency continues.

h. The use of any blower, fan or pump or engine or motor in connection therewith, including, by way of example and not by way of limitation, air-conditioning systems, compression devices and pool filter systems, if such use creates loud, penetrating or continuous noises that disturb the comfort or repose of persons residing in the vicinity.

(1984 Code § 129-4)

3-2.5 Proof of Action Sufficient Proof of Violation.

If any person who is not exempted under the provisions of this section shall cause to be made any of the noises prohibited under subsection 3-2.4 and if the noises shall be proved to be in violation of the sound levels prescribed in subsection 3-2.2, the proof shall be sufficient to prove a violation under subsection 3-2.4. (1984 Code § 129-5)

3-2.6 Exceptions.

The prohibitions contained in this section shall not apply to persons:

a. Who are engaged in the performance of any public or governmental function, such as sounding of a church or school bell or a police, fire, ambulance, air raid or like disaster warning, alert or alarm, whether such alarm is for an actual emergency purpose or for practice or drilling purposes.

b. Who are engaged in a religious, charitable, recreational, civic or political activity by means of a sound truck or other amplifying device for nonprofit purposes, provided that such persons shall first have filed with the Chief of Police an application for a permit setting forth the sponsorship, date, hours and routes of such activity and the Chief of Police shall have issued a permit after having ascertained that such activity is not in conflict in terms of hours, route, traffic volume and like factors with any other previously scheduled activity.

c. Who are engaged in any activity specifically permitted or required by any ordinance, resolution, statute or governmental regulation.

(1984 Code § 129-6; Ord. No. 2015-1417)

3-2.7 Violations and Penalties.

Any person who shall violate this section shall, upon conviction, be liable to the penalties stated in Chapter I, Section 1-5. (1984 Code § 129-7)

3-3 DISORDERLY CONDUCT.

3-3.1 Prohibited Activities.

Any person shall, within the limits of the Borough, engage in any of the following activities:

a. Engage in any practice, sport or exercise having a tendency to annoy or interfere with persons passing on the streets or sidewalks of the Borough.

b. Loiter, lounge, sleep or create a disturbance on any street, sidewalk or other public place or in or about any park, public building, school, store or other business establishment, or utter any loud and offensive or indecent language or make offensive remarks to any person passing along, in or upon any such sidewalk, street, park, school, store or other public place or business establishment.

c. Congregate with others on a sidewalk, street, park, school, store or other public place or business establishment and refuse to move when ordered by the police.

d. Obstruct, molest, hinder, annoy, frighten, threaten, insult or interfere with any other person lawfully upon the streets, parks, public places or in any automobile, bus or other public or private conveyance lawfully upon any street.

e. Be intoxicated or drunk or disorderly in any public omnibus, street, highway, thoroughfare or on any sidewalk or in any public house, home or in any boardinghouse, store, restaurant or other private, public or quasi-public place or house to the annoyance of any person.

f. Permit any house, shop, store or other building or structure owned or occupied by him or her to be used, frequented or resorted to by noisy, riotous or disorderly persons or by prostitutes, gamblers, vagrants or common mendicants.

g. Throw or discard any tin cans, paper posters, glass, metal or any hard or dangerous substance whatsoever upon any public street, sidewalk, highway or public place.

h. Commit or attempt an assault or an assault and battery either in a public or private place, or aid or assist or abet any person about to commit or attempt to commit an assault or an assault and battery.

i. Make or assist in making any riot, noise or disturbance at any house, shop, theater or other place of amusement.

j. Appear on any street or in any park or other public place or in public view in a state of nudity, or make any indecent exposure of his or her person or commit or do any lewd or indecent act or behave in a lewd or indecent manner.

k. Maliciously destroy, damage or injure any property, public or private.

l. Cause or permit to be emitted any vile, offensive, obnoxious or nauseating smoke or odor, or any smoke or odor that may be vile, offensive, obnoxious or nauseating to any of the residents of the Borough.

m. Station himself on the streets or follow pedestrians for the purpose of soliciting alms, or solicit alms on the streets without lawful authority.

n. Enter any building or trespass upon lands belonging to the Board of Education of the Borough of Milltown, or break or injure or deface such building or any part thereof or the fences or outbuildings belonging to or connected with such building or lands, or disturb the exercises of such school or molest or annoy the children attending such school or any teachers thereof.

o. Hinder or obstruct any officer in the performance of his duties, or willfully refuse or neglect to assist any officer when lawfully called upon by him so to do in the execution of any process or in the suppression of any breach of the peace or disorderly conduct or in case of any escape or when such officer is resisted in the discharge of his duty, or knowingly resist or oppose any officers or person authorized by law in serving or attempting to serve any writ, bill, order or process or when making any arrest, either with or without a warrant.

p. Intentionally enter upon or trespass upon the land or property of any person without permission to do so.

q. Invade the privacy of any person by going upon the private property of others in stealth and at night for the purpose of "peeping" through windows, doors or other openings, thereby engaging in conduct associated with what is commonly known as a "Peeping Tom."

r. Upon apprehension, be unable to give a good account of himself or be engaged in an illegal occupation and be in the Borough of Milltown for an unlawful purpose. In any prosecution under this section, the fact that the person apprehended cannot give a good account of himself or is engaged in an illegal occupation shall be prima facie evidence that he is present in the Borough for an unlawful purpose.

s. Accost or approach any person of the opposite sex unknown to such person by word, sign, or gesture attempt to speak or to become acquainted with such person against his or her will, upon a public street or other public place in this Borough, except in the transaction of legitimate business.

t. Attempt to entice or procure a person of the opposite sex to commit an unlawful act, or accost or approach any person and by work, sign or gesture suggest or invite the doing of any indecent or unnatural act.

u. Any person, while operating a motor vehicle on any street or highway in the Borough who knowingly flees or attempts to elude any police or law enforcement officer after having received any signal from such officer to bring the vehicle to a full stop is a disorderly person.

v. No person under the age of seventeen (17) years shall be permitted to be on the streets and/or public areas of the Borough after 8:00 p.m. on October 30 or 9:00 p.m. on October 31 of each year unless accompanied by a parent or guardian.

w. At intersections where traffic is directed by a Police Officer or traffic signal, no pedestrian shall enter upon or cross the highway at a point other than a crosswalk. Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

x. Where traffic is not controlled and directed either by a Police Officer or a traffic control signal, pedestrians shall cross the roadway within a crosswalk or, in the absence of a crosswalk, and where not otherwise prohibited, at right angles to the roadway. It shall be unlawful for a pedestrian to cross any highway having roadways separated by a medial barrier, except where provision is made for pedestrian crossing. On all highways where there are not sidewalks or paths provided for pedestrian use, pedestrians shall, when practicable, walk only on the extreme left side of the roadway or its shoulder facing approaching traffic. Where sidewalks are provided, it shall be unlawful for any pedestrian to walk along an upon an adjacent roadway.

(Ord. No. 983 § 1)

3-3.2 Enumeration not Exhaustive; Definition.

a. All other riotous, indecent or disorderly conduct, breach of the peace and vagrancy not hereinabove specifically mentioned are hereby prohibited.

b. The term "person," as used in this section shall, wherever appropriate in connection with the context, include "individual," "firm," "corporation," "partnership," "association," "company" or "organization" of any kind and shall include the plural. The masculine pronoun shall include the feminine.

(Ord. No. 983 § 2)

3-3.3 Violations and Penalties.

Any person violating or failing to comply with any of the provisions of this section shall, upon conviction, be liable to the penalty stated in Chapter I, Section 1-5. The continuation of such violation on 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. (Ord. No. 983 § 3; New)

3-4 CONSUMPTION AND POSSESSION OF ALCOHOLIC BEVERAGES IN PUBLIC PLACES.

3-4.1 Consumption Unlawful; Exception.

a. *Prohibited Activity.* It shall be unlawful for any person to consume or offer to another for consumption any alcoholic beverage in or upon any public street, sidewalk, railroad, right-of-way, parking lot which is generally open to the public, outdoor facility owned or operated by the Milltown Board of Education, park, shopping plaza or upon any place to which the public at large is generally invited.

b. *Exception.* Customers or unlicensed restaurants, as defined in N.J.S.A. 33:1-1, may be permitted by the restaurant to bring their own wine or beer. (1984 Code § 39-16; Ord. No. 605; Ord. No. 1061 § I)

3-4.2 Possession in Open Container Unlawful; Exception.

a. *Prohibited Activity.* It shall be unlawful for any person to possess any alcoholic beverage in or upon any public street, sidewalk, railroad right-of-way, parking lot which is open to the public, outdoor facility owned or operated by the Milltown Board of Education, park, shopping plaza or upon any place to which the public at large is generally invited, unless the same is contained within a sealed or closed container.

b. *Exception.* Customers of unlicensed restaurants, as defined in N.J.S.A. 33:1-1, may be permitted by the restaurant to bring their own wine or beer. (1984 Code § 39-17; Ord. No. 1061 § II)

3-4.3 Consumption in or upon Motor Vehicle or Bicycle.

No person shall consume or offer to another for consumption any alcoholic beverage in the Borough of Milltown while in or upon any motor vehicle or bicycle on any of the public streets, sidewalks, parking lots which are open, any of the roadways, passways, playgrounds, outdoor facilities owned or operated by the Milltown Board of Education, parks, shopping plazas or other thoroughfare open to general vehicular traffic in the Borough. (1984 Code § 39-18)

3-4.4 Special Permits.

The provisions of this section shall not apply to the possession or consumption of alcoholic beverages pursuant to a special permit issued by the Borough Council when the person possessing or consuming an alcoholic beverage is doing so in accordance with the terms and conditions of the permit and at the location authorized by the permit. (1984 Code § 39-19)

3-4.5 Applicability to Licensed Premises.

Nothing herein contained shall be construed to prohibit the consumption, possession or sale of alcoholic beverages on premises which are duly licensed, pursuant to a retail consumption, retail distribution, retail transit, wholesale or club license issued by the Borough Council or by the Division of Alcoholic Beverage Control of the State of New Jersey. (1984 Code § 39-20)

3-4.6 Violations and Penalties.

Any person who violates any of the provisions of this section or who fails to comply with any of the provisions contained herein shall be subject, upon conviction, to the penalties stated in Chapter I, Section 1-5. (1984 Code § 39-23; New)

3-5 LITTERING.

3-5.1 Definitions.

As used in this section:

Garbage shall mean putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

Litter shall mean all waste material which, if thrown or deposited as herein prohibited tends to create a danger to public health, safety and welfare.

Park shall mean a park, reservation, recreation center or any other area in the Borough owned and used by the Borough and devoted to active or passive recreation.

Person shall mean any person, firm, partnership, association, corporation, company or organization of any kind.

Private Premises shall mean any dwelling, house, building or other structure used either wholly or in any part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and includes any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging to or appurtenant to such dwelling house, building or other structure.

Public Place shall mean any and all streets, sidewalks, boulevard, parking areas open to the public and alleys, any and all public parks, squares, grounds, spaces and public buildings.

Refuse shall mean all putrescible and nonputrescible solid waste, except body wastes, including ashes, street cleaning, dead animals, abandoned automobiles, other abandoned personal property and solid market and industrial wastes.

Rubbish shall mean a non-putrescible solid wastes consisting of both combustible and noncombustible wastes, such as circulars, leaflets, pamphlets, wrappers, handbills, newspapers and all and any other printed material, cigarettes, cardboard, tin cans, yard clippings, leaves, wood glass and other like materials. (Ord. No. 760 § 111.1)

3-5.2 Littering in Public Places.

No person shall throw or deposit litter or garbage in or upon any street, sidewalk or other public place within the Borough except in public receptacles, in authorized private receptacles for collection or in official Borough dumps. (Ord. No. 760 § 111.2)

3-5.3 Littering in Parks.

No person shall throw or deposit litter or garbage in any park within the Borough except in public receptacles and in such a manner that the litter or garbage will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place. Where public receptacles are not provided, all such litter or garbage shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere. (Ord. No. 760 § 111.3)

3-5.4 Littering Waters.

No person shall throw or deposit litter or garbage in any fountain, pond, lake, stream bay or any other body of water in a park or elsewhere within the Borough. (Ord. No. 760 § 111.4)

3-5.5 Littering Private Property.

No person shall throw, deposit or store litter or garbage on any occupied private property within the Borough whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection and removal of same in such manner that the litter or garbage shall not be unsightly and detrimental to the surrounding neighborhood. (Ord. No. 760 § 111.5)

3-5.6 Littering Vacant Lots.

No person shall throw or deposit litter or garbage on any open or vacant private property within the Borough, whether owned by such person or not. (Ord. No. 760 § 111.6)

3-5.7 Maintenance of Private Premises.

The owner or person in control of any private property shall at all times maintain the premises free of litter or garbage; provided, however, that this section shall not prohibit the storage of litter in authorized private receptacles for collection. (Ord. No. 760 § 111.7)

3-5.8 Maintenance of Sidewalks by Merchants; Public Receptacles.

No person owning or occupying a place of business shall sweep into or deposit in any gutter, street or other public place within the Borough any waste materials, litter, garbage, or rubbish, as defined in subsection 3-5.1, but such person shall keep the sidewalk in front of his business premises free of litter. All persons operating filling stations or other mercantile establishments where commodities are sold between any curb area of the Borough and the office building or equipment from which such commodities are dispensed shall maintain at all times covered receptacles into which all waste materials, litter, garbage, and rubbish may be deposited by customers, employees or other persons. (Ord. No. 760 § 111.8)

3-5.9 Placement of Litter/Garbage in Receptacles.

Persons placing litter, garbage, refuse, or rubbish in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any streets, sidewalks or other public place. (Ord. No. 760 § 111.9)

3-5.10 Tampering with Receptacles or Removing Contents.

It shall be unlawful for any person to tamper with or to take or remove any of the contents from any public or private receptacle containing garbage, refuse, rubbish, junk or any other waste material which has been placed or deposited along any public highway, street, lane or alleyway for collection by the Borough or any of its agents or servants, and any person who violates the purpose and intent of this section shall be subject to the penalties set forth and established in subsection 3-5.20.

3-5.11 Sweeping Litter into Gutters.

No person shall sweep into or deposit in any gutter, street or other public place within the Borough the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter. (Ord. No. 760 § 111.11)

3-5.12 Trucks Depositing Litter.

No person shall drive or move any truck or other vehicle within the Borough unless such vehicle is so constructed or loaded as to prevent any load or contents of litter from being blown or deposited upon any street, alley or other public place. Nor shall any person drive or move any vehicle or truck within the Borough, the wheels or tires of which carry or deposit in any street, alley or other public place any mud, dirt, sticky substance or foreign matter of any kind. (Ord. No. 760 § 111.12)

3-5.13 Throwing Litter from Vehicles.

No person while a driver or passenger in a vehicle shall throw or deposit litter upon any street or other public place within the Borough. (Ord. No. 760 § 111.13)

3-5.14 Throwing Litter from Aircraft.

No person in an aircraft shall throw out, drop or deposit within the Borough any litter, handbill or any other object. (Ord. No. 760 § 111.14)

3-5.15 Handbills and Other Material.

a. *Distribution in Public Places.* No person shall throw or deposit any commercial or noncommercial handbill, newspaper, paper, periodical, magazine, circular, card or pamphlet in or upon any sidewalk, street or other public place within the Borough, nor shall any person hand out or distribute or sell any commercial handbill, newspaper, paper, periodical, magazine, circular, card or pamphlet in any public place, provided, however, that it shall not be unlawful on any sidewalk, street or other public place within the Borough for any person to hand out or distribute, without charge to the receiver thereof, any noncommercial handbill, newspaper, paper, periodical, magazine, circular, card or pamphlet to any person willing to accept it.

b. Distribution at Private Premises; Exemptions.

1. No person shall throw, deposit or distribute any commercial or noncommercial handbill, newspaper, paper, periodical, magazine, circular, card or pamphlet in or upon private premises which are inhabited except by handling or transmitting any such material directly to the owner, occupant or other person then present in or upon such private premises; provided, however, that in case of inhabited private premises which are not posted as provided in this section, such person, unless requested by anyone upon such premises not to do so, shall have the authority to place or deposit any such handbill, newspaper, paper, periodical, magazine, circular, card or pamphlet in or upon such inhabited private premises if such material is placed or deposited securely to prevent it from being blown or drifted about such premises or sidewalks, streets or other public places, and except that mailboxes may not be used when so prohibited by Federal Postal Law or regulations.

2. The provisions of this section shall not apply to the distribution of mail by the United States.
(Ord. No. 760 §§ 111.15, 111.16)

3-5.16 Depositing at Vacant Premises Prohibited.

No person shall throw or deposit any commercial or noncommercial handbill, newspaper, paper, periodical, magazine, circular, card or pamphlet in or upon any private premises which are temporarily or continuously uninhabited or vacant. (Ord. No. 760 § 111.17)

3-5.17 Placement on Vehicles Prohibited.

No person shall throw or deposit any commercial or noncommercial handbill, newspaper, paper, periodical, magazine, circular, card or pamphlet in or upon any vehicle; provided, however, that it shall not be unlawful in any public place for a person to hand out or distribute without charge to the receiver thereof, a noncommercial handbill, newspaper, paper, periodical, magazine, circular, card or pamphlet to any occupant of a vehicle who is willing to accept it. (Ord. No. 760 § 111.18)

3-5.18 Distribution Prohibited Where Posted.

a. No person shall throw, deposit or distribute any commercial or noncommercial handbill, newspaper, paper, periodical, magazine, circular, card or pamphlet

upon any private premises if requested by anyone thereon not to do so or if there is placed on such premises in a conspicuous position near the entrance thereof a sign bearing the words "No Trespassing," "No Peddlers or Agents," "No Advertisement" or any similar notice indicating in any manner that the occupants of such premises do not desire to be molested or have their right of privacy disturbed or to have any such material left upon such premises.

b. *Do Not Drop List.*

1. There is hereby established a Do Not Drop List of residents of the Borough of Milltown.

2. Residents who wish to have the Borough assist them in limiting the place of delivery of unsolicited circulars may do so by completing a form, to be established by the Municipal Clerk's Office and returning said form to the Municipal Clerk's Office.

3. The Municipal Clerk's Office shall advise the distributors of unsolicited circulars that the resident does not wish to receive the unsolicited circular unless it is placed within ten (10) feet of the front entrance of the resident's home (the "Permitted Drop Zone") by posting the list on the Borough's website and providing copies upon written request.

4. It shall be unlawful for any person or organization to deliver unsolicited circulars outside of the Permitted Drop Zone to any resident on the "Do Not Drop List."

(Ord. No. 760 § 111.19; Ord. No. 07-1259 § 111.19 [B])

3-5.19 Posting on Public Property Restricted.

No person shall post or affix any notice, poster or other paper or device, calculated to attract the attention of the public, to any shade tree or upon any public structure or building, except as may be authorized by the owners thereof or required by law. (Ord. No. 760 § 111.20)

3-5.20 Penalties.

Any person violating or failing to comply with any of the provisions of this section shall, upon conviction, be liable to the penalty stated in Chapter I, Section 1-5. Each violation shall be considered a separate offense. (Ord. No. 760 § 111.21)

3-6 LOITERING.

3-6.1 Definitions.

As used in this section:

Loitering shall mean remaining idle in essentially one (1) location and shall include the concepts of spending time idly, loafing or walking about aimlessly and shall also include the colloquial expression "hanging around."

Parent or Guardian shall mean and include any adult person having care or custody of a minor, whether by reason of blood relationship, the order of any court or otherwise.

Public Place shall mean any place to which the public has access and shall include any street, highway, road, alley, boardwalk or sidewalk. It shall also include the front or the neighborhood of any store, shop, restaurant, tavern or other place of business and public grounds, areas, parks and marinas, 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 parent or guardian.

(1984 Code § 116-1)

3-6.2 Loitering Restricted.

No person shall loiter in a public place 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 subsection 3-6.1. This subsection shall include the making of unsolicited remarks of an offensive, disgusting or insulting nature or which are calculated to annoy or disturb the person to whom or in whose hearing they are made.

(1984 Code § 116-2)

3-6.3 Refusal to Obey Order 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 subsection 3-6.2, he may, if he deems it necessary for the preservation of the public peace and safety, order that person to leave that place. Any person shall refuse to leave after being ordered to do so by a Police Officer shall be guilty of a violation of this section. (1984 Code § 116-3)

3-6.4 Loitering by Minors.

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

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

c. If, at any time within thirty(30) days following the giving of notice as provided in paragraph b., 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 this parent or guardian.

(1984 Code § 116-4; Ord. No. 2015-1417)

3-6.5 Violations and Penalties.

Any person who violates any of the provisions of this section shall, upon conviction, be liable to the penalty stated in Chapter I, Section 1-5. (1984 Code § 116-5; New)

3-7 ABANDONED VEHICLES.

3-7.1 Definitions.

As used in this section:

Person shall mean any person, firm, partnership, association, corporation, company or organization of any kind.

Property shall mean any real property within the Borough which is not a street or highway.

Street or Highway shall mean the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

Vehicle shall mean a machine propelled by power, other than human power, designed to travel along the ground by use of wheels, treads, runners or slides and transport persons or property or pull machinery and shall include, without limitation, automobiles, trucks, trailers, motorcycles, tractors, buggies and wagons.

(1984 Code § 178-1)

3-7.2 Abandonment and Leaving Vehicles.

a. No person shall abandon any vehicle within the Borough and no person shall leave any vehicle at any place within the Borough for such time and under such circumstances as to cause such vehicle to reasonably appear to have been abandoned.

b. No person shall leave any partially dismantled, nonoperating, wrecked or junked vehicle on any street or highway within the Borough.

(1984 Code § 178-2)

3-7.3 Nonoperative or Discarded Vehicles Left Out-of-Doors.

No person in charge or control of any property within the Borough, whether as owner, tenant, occupant, lessee or otherwise, shall allow any partially dismantled, nonoperating, wrecked, junked or discarded vehicles to remain on such property longer than thirty (30) days, and no person shall leave any such vehicle on any property within the Borough for a longer time than thirty (30) days, except that this section shall not apply with regard to a vehicle in an enclosed building, a vehicle on the premises of a business enterprises operated in a lawful place and manner, when necessary to the operation of such business enterprise, or a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the Borough. (1984 Code § 178-3)

3-7.4 Impoundment.

a. The Chief of Police, or any member of the Police Department designated by him, is hereby authorized to remove or have removed any vehicle left at any place within the Borough which reasonably appears to be in violation of this section or lost, stolen or unclaimed. Such vehicle shall be impounded until lawfully claimed or disposed of in accordance with applicable Statutes.

b. The Chief of Police, or any member of the Police Department acting for him, shall notify the registered and legal owner in writing by personal service or by certified mail, at the last known address of the owner, of the removal of such vehicle and the reason for the same and the location of the vehicle.

c. Such vehicle shall be retained and impounded until the owner, or his duly authorized agent, shall have paid the cost of such taking and removal, together with a garage charge as designate by resolution of the Borough Council for each and every day such vehicle is retained and impounded.

(1984 Code § 178-4; Ord. No. 627; Ord. No. 2015-1417)

3-7.5 Nonoperative Vehicles Kept for Repair on Premises.

a. No person in charge or control of any property within the Borough, whether as owner, tenant, occupant, lessee or otherwise, shall allow any partially dismantled, nonoperating, wrecked, junked or discarded vehicle to remain on the property longer than forty-eight (48) hours; and no person shall leave any such vehicle on any property within the Borough for a longer time than forty-eight (48) hours; except that this section shall not apply to a vehicle in an enclosed building.

b. Vehicles on the premises of an existing business enterprise operated in a lawful place and manner, when necessary to it's operation for the purpose of a vehicle service station, motor vehicle or auto body repair garage, shall be limited to the number of vehicles kept and/or stored overnight, out-of-doors on the premises as follows:

1. No more than six (6) vehicles shall be permitted to be kept and/or stored overnight in an out-of-doors unfenced area at any one (1) time, except that vehicles without current motor vehicle registration, partially dismantled vehicles and vehicles with exterior damage will not be permitted to be kept and/or stored in an unfenced area at any time.

2. A vehicle on the premises for a period in excess of the ten (10) days permitted in paragraph b,1 above, a vehicle without current motor vehicle registration, partially dismantled vehicles and vehicles with exterior damage may be stored on the premises for a period not to exceed ninety (90) days only when kept and/or stored in an area on the premises completely surrounded by a fence. The fence shall be at least six (6) feet in height, provided with a gate or gates and aisles for ingress and egress. The fence is to be of a type that will obscure the view through the fence.

3. Each vehicle received where out-of-doors, overnight storage is contemplated shall be logged as to the date received and identification of the vehicle. A service tag on each vehicle containing such information shall satisfy this requirement.

(1984 Code § 178-5; Ord. No. 606)

3-7.6 Violations and Penalties.

Any person who violates any of the provisions of this section shall, upon conviction, be liable to the penalty stated in Chapter I, Section 1-5. (1984 Code § 178-6; New)

3-8—3-12 RESERVED.

3-13 DISPLAY OF OBSCENE MATERIAL.

3-13.1 Regulations for Sale or Display.

No person who operates a store, newsstand, booth, concession, or similar business with unimpeded access for persons under eighteen (18) years of age or who is in business of making sales of periodicals or other publications at retail containing pictures, drawings or photographs, shall display or permit to be displayed at his business premises any obscene material at a height of less than five (5) feet or without a blinder or other covering placed or printed on the material displayed. The public display of the obscene material shall constitute presumptive evidence that the retailer knowingly made or permitted this display. (Ord. No. 722 § 1)

3-13.2 Definition.

For the purpose of this section, "obscene material" shall mean any description, narrative account, display or depiction of sexual activity or anatomical area contained in, or consisting of, a picture or other representation, publication, sound recording, live performance or film, which by means of posing, composition, format, or animated

sensual details:

- a. Depict or describe in a patently offensive way, ultimate sexual acts, normal or perverted, actual or simulated, masturbation, excretory functions, or lewd exhibition of genitals.
 - b. Lacks serious literary, artistic, political, or scientific value when taken as a whole.
 - c. Is a part of a work, which to the average person applying contemporary community standards, has dominant theme taken as a whole, which appeals to the prurient interest.
- (Ord. No. 722 § 1)

3-13.3 Violations.

Any person who violates the provisions of this section shall be charged with a petty disorderly persons offense. (Ord. No. 722 § 2)

3-14 SMOKING IN GOVERNMENT BUILDINGS.

3-14.1 Definitions.

As used in this chapter:

Government Buildings shall mean and include the Municipal Building located at 39 Washington Avenue, Milltown, New Jersey, and used for the official business of the Borough of Milltown.

Milltown Public Library shall mean the building located on West Church Street and known as The Milltown Public Library.

Senior Citizen Center shall mean the building located on Violet Terrace in the Borough of Milltown known as the Milltown Senior Citizens Center.

Smoking shall mean the burning of a lit cigar, cigarette, pipe of any other matter or substance which contains tobacco.
(Ord. No. 914 § 2)

3-14.2 Prohibited Acts.

Smoking is prohibited in all areas within government buildings at all times. (Ord. No. 914 § 3; Ord. No. 1052)

3-14.3 Posting of Restrictions.

- a. "No Smoking" signs shall be conspicuously posted at all governmental buildings.
- b. No person shall remove, deface or conceal any sign required or erected by or under the authority of this section.

(Ord. No. 914 § 4)

3-14.4 Violations and Penalties.

Any person violating any provision of this chapter shall, upon conviction, be subject to a maximum fine of not more than twenty-five (\$25.00) dollars. (Ord. No. 914 § 5)

3-15 SALE OF CIGARETTES.

3-15.1 Findings.

The State of New Jersey has banned the sale or furnishing of cigarettes or tobacco in any form to minors pursuant to N.J.S.A. 2A:170-51.1 et seq. The Mayor and Borough Council have had difficulty in preventing the sale of cigarettes to minors. The Borough is authorized to enact ordinances under its police power not contrary to the laws of this State or the United States as it may deem necessary and proper for the protection of persons and for the preservation of the public health, safety and welfare of the municipality and its inhabitants. (Ord. No. 913, Preamble)

3-15.2 Prohibition of Tobacco Sales to Minors.

- a. It shall be unlawful to sell tobacco to a person under eighteen (18) years of age.
- b. The following six (6) inch by eight (8) inch sign shall be posted in a conspicuous place near each cash register in all retail establishments which sell tobacco products:

SALE OF TOBACCO PRODUCTS TO MINORS UNDER THE AGE OF 18 IS PROHIBITED BY LAW. Legal proof of age must be shown. A person who sells or offers to sell a tobacco product to a person under eighteen (18) years of age may be prosecuted in accordance with State and local ordinances.
(Ord. No. 913 § 2)

3-15.3 Identification Required.

It shall be unlawful for a tobacco retailer to sell or permit to be sold tobacco to any individual without requesting and examining identification from the purchaser positively establishing the purchaser's age as eighteen (18) years or greater, unless the seller has some other conclusive basis for determining the buyer is over the age of eighteen (18) years. (Ord. No. 913 § 3)

3-15.4 Self-Service Displays Prohibited.

All self-service cigarette displays are made unlawful by the terms of this section and shall be removed within thirty (30) days from the effective date of this section.*
(Ord. No. 913 § 4)

3-15.5 Cigarette Vending Machines.

a. *Unattended Machines Prohibited.* No cigarette vending machines shall be placed on any premises, public or private, within the Borough unless the owner or lessee of such a machine provides, in writing, to the Borough for each individual cigarette vending machines the names and business addresses of a person or persons who shall serve as attendant and deputy attendant for that machine. More than one (1) attendant and/or deputy attendant may be appointed in reference to a single cigarette vending machine, provided that the owner or lessee states the time periods when each of two (2) or more attendants and/or deputy attendants for a single cigarette vending machine shall be the attendant or deputy attendant on duty and thus responsible for compliance with this section.

- b. *Responsibilities of Attendant.* The attendant and, in his stead, the deputy attendant shall be responsible for the penalties and fees which may, upon

conviction of this section. Nothing in this section shall prohibit the employer of an attendant from paying penalties imposed by this section, but payment by the employer shall not be required.

c. *Qualifications and Duties of Attendant.* The attendant shall:

1. Be at least eighteen (18) years of age or more, as certified by the Borough Health Officer by birth certificate or driver's license only.
 2. Be responsible for placing and maintaining the cigarette vending machine at a site not more than fifty (50) feet from his normal place of transacting business which shall include but not be limited to a cash register, check-out counter, bar or place for the consumption or sale of liquor, desk, office, bathroom or lounge area.
 3. Have a clear unobstructed line of sight between his normal place of transacting business and the location of the cigarette vending machine.
 4. Be responsible to make those cigarette vending machines for which he is responsible inoperable during any time when the public has access to these machines but for any reason the attendant or deputy attendants are not available to attend the machines.
 5. Be an employee or agent of the firm, corporation, partnership or entity having possessory interest, including but not limited to leaseholds, in the premises where the cigarette vending machine is located.
 6. Be deemed to be in violation of this section if he permits a person who is seventeen (17) years of age or less to purchase a product from a cigarette vending machine.
- (Ord. No. 913 § 5)

3-15.6 Enforcement.

Any person, firm, or corporation who shall violate any of the provisions of this section shall, upon conviction, be punished by a fine of not less than fifty (\$50.00) dollars not more than two hundred fifty (\$250.00) dollars and each violation of any of the provisions of this section and each day the same is violated shall be deemed and taken to be a separate and distinct offense. (Ord. No. 913 § 6)

3-16 NONPRESCRIPTION DRUGS.

3-16.1 Legislative Findings.

The Mayor and Council find that certain preparations or medicines containing ethyl alcohol, antihistamines, dextro-methorphan, phenobarbital or its salts, ephedrine or its salts or belladonna or any of its alkaloids, all of which are herein termed "nonprescription drugs," or any combination thereof are or may be dangerous or injurious to the health of purchasers, particularly minors, so as to require the regulation of nonprescription drugs. (1984 Code 65-1)

3-16.2 Open-Counter Sale Prohibited.

No person shall offer for sale any preparation or medicine containing ethyl alcohol, antihistamines, dextro-methorphan, phenobarbital or its salts, ephedrine or its salts or belladonna or any of its alkaloids, all of which are nonprescription drugs, on an open-counter or self-service purchase. (1984 Code 65-2)

3-16.3 Sale to Minors; Possible Defenses against Prosecution.

No person shall sell to any person under the age of eighteen (18) years any preparation or medicine containing more than two (2%) percent alcohol by volume or any of the drugs specified in subsection 3-16.1 provided, however, that the establishment of the following facts by the person making the sale shall constitute a defense for any prosecution therefor:

- a. The minor falsely represented in writing that he was eighteen (18) years of age or over.
 - b. The appearance of the minor was such that an ordinary prudent person or agent would believe him to be eighteen (18) years of age or over.
 - c. The sale was made in good faith relying upon such written representation and appearance and reasonable belief that the minor was actually eighteen (18) years of age or over.
- (1984 Code 65-3)

3-16.4 Violations and Penalties.

Any person who violates any of the provisions of this section shall, upon conviction, be liable to the penalty stated in Chapter I, Section 1-5. (1984 Code 65-4)

3-17 DRUG-FREE SCHOOL ZONES.

3-17.1 Map Adopted.

In accordance with the pursuant to the authority of N.J.S.A. 2C:35-7, the Drug-Free School Zone Map produced on or about December, 1987 by John H. Allgair, P.C.L.S. Municipal Engineer, is hereby approved and adopted as an official finding and record of the location and areas within the Borough of property which is used for school purposes and which is owned by or leased to any elementary or secondary school or school board, and of the areas on or within one thousand (1,000) feet of such school property. (Ord. No. 749 § 1)

3-17.2 Boundaries.

The Drug-Free School Zone Map approved and adopted pursuant to this section 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 section 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. No. 749 § 2)

3-17.3 Change in Boundaries.

The School Board, or the Chief Administrative Officer in the case of any private or parochial school, is hereby directed and shall have the continuing obligation to promptly notify the Municipal Engineer and the Municipal Attorney 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. No. 749 § 3)

3-17.4 Copies on File.

The Municipal Clerk is hereby directed to receive and to keep on file the original of the map approved and adopted pursuant to subsection 3-17.1, and to provide at a reasonable cost a true copy thereof to any person, agency or court which may 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 hereby further directed that a true copy of such map and of this section shall be provided without cost to the

3-17.5 Recital of Facts.

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

- a. It is understood that the map approved and adopted pursuant to subsection 3-17.1 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 N.J.S.A. 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 subsection 3-17.1. The failure of the map approved herein to depict the location and boundaries of any property 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 findings 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 compiled with.
(Ord. No. 749 § 5)

3-18 HOURS OF OPERATION OF AUTOMOBILE SERVICE STATIONS.

3-18.1 Purpose.

It shall be the purpose of this section to reduce the opportunity for robbery, theft, assaults and other criminal activity that occur at all-night filling stations, and also to ensure the peace, quiet and comfort of neighborhoods abutting residential and commercial zones in the Borough by eliminating traffic, lights, noise and activity during the hours of 12:00 midnight to 6:00 a.m. prevailing time, and further to otherwise protect the peace, safety and welfare of the residents of the Borough. (Ord. No. 756 § 2)

3-18.2 Definitions.

As used in this section:

Automobile Service Station or Gasoline Station shall mean any building or place of business where gasoline, fuel, oil and grease, batteries, tires or automobile accessories are supplied and dispensed directly to members of the public in automobiles, or where minor repair service is rendered to automobiles.
(Ord. No. 756 § 3)

3-18.3 Prohibition.

No automobile service or gasoline station shall open or engage in business operations involving the sale or dispensing of fuel, oil, goods or services of any nature during the hours of 12:00 midnight to 6:00 a.m. the following morning in the Borough of Milltown excluding herefrom any towing service(s) rendered pursuant to request of the Milltown Police Department. (Ord. No. 756 § 4)

3-18.4 Penalties.

Any persons, firm or corporation who shall violate any of the provisions of this section shall, upon conviction, be liable to the penalty stated in Chapter I, Section 1-5. Each day upon which any such violation shall occur shall be deemed a separate offense. (Ord. No. 756 § 5)

3-19 BICYCLES, SKATEBOARDS, SCOOTERS AND ROLLER SKATES.

3-19.1 Definitions.

As used in this section:

Motorized Scooter shall mean a scooter that is propelled by a small motor located on the vehicle.

Roller Skates shall mean a pair of devices worn on the feet with a set of wheels attached, regardless of the number or placement of those wheels, and used to glide or propel the user over the ground.

Scooter shall mean a vehicle that typically has two (2) or more wheels with a low footboard between them, is steered by a handle bar, and is used to glide or propel the user across the ground.

Skateboard shall mean a vehicle that typically has two (2) or more wheels attached to a low footboard and is used to glide or propel the user across the ground.
(Ord. No. 1089-00 § 1)

3-19.2 Helmet Requirement.

No person under the age of fourteen (14) may operate or ride on a motorized scooter, roller skates, scooter or skateboard unless that person is wearing a properly fitted and fastened helmet which meets the standards of the American National Standards Institute (ANSI Z90.4 bicycle helmet standard) or the Snell Memorial Foundation's 1990 Standard for Protective Headgear for use in Bicycling. (Ord. No. 1089-00 § 2)

3-19.3 Miscellaneous Regulations.

a. Every person operating any motorized scooter, roller skates, scooter or skateboard upon a roadway shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction; provided, however, that any person may move to the left under any of the following situations:

1. To make a left turn from a left-turn lane or pocket;

2. To avoid debris, drains or other hazardous conditions that make it impracticable to ride at the right side of the roadway;

3. To pass a slower moving vehicle;

4. To occupy any available lane when traveling at the same speed as other traffic.

5. To travel no more than two (2) abreast when traffic is not impeded.

b. Persons operating any motorized scooters, roller skates, scooters or skateboards upon a roadway may travel no more than two (2) abreast when traffic is not impeded, but otherwise shall ride in single file, except on paths or parts of roadways set aside for the exclusive use of bicycles, roller skates or skateboards.
(Ord. No. 1089-00 § 3)

3-19.4 Violations and Penalties.*

a. A person who violates subsection 3-19.2 by failing to wear an approved helmet shall be warned of the violation by the enforcing official. The parent or legal guardian of the violator may be fined a maximum of twenty-five (\$25.00) dollars for a first offense and a maximum of one hundred (\$100.00) dollars for a subsequent offense. The penalties provided under the provisions of this subsection for failing to wear an approved helmet may be waived if the parent or legal guardian of the violator presents suitable proof that an approved helmet or appropriate personal protection equipment has been purchased since the violation occurred. All moneys collected as fines under this section shall be deposited in the "Bicycle and Skating Safety Fund," pursuant to N.J.S.A. 39:4-10.2.

b. Any person violating subsection 3-19.3 shall, upon conviction, shall be fined a minimum of fifty (\$50.00) dollars and a maximum of two hundred fifty (\$250.00) dollars per offense, as determined in the discretion of the Judge of the Municipal Court.
(Ord. No. 1089-00 § 4)

3-19.5 Bicycles, Skateboards, Scooters and Rollerskates Prohibited on Certain Property; Penalty.

a. *Joyce Kilmer School.* No person shall operate or cause to be operated any rollerskates, rollerblades, scooters, skateboards or bicycles upon the sidewalks, curbs, school steps, parking area or any paved area of the Board of Education property located at West Church Street, commonly known as Joyce Kilmer School within the Borough of Milltown.

b. *Penalty.* Any person violating the provisions of this subsection shall, upon conviction, be punished by a fine not to exceed five hundred (\$500.00) dollars.
(Ord. No. 01-1101)

3-20 PROHIBITING THE USE OF ANY MOTORBOAT, BOAT OR MOTORIZED VEHICLE ON LAWRENCE BROOK.*

3-20.1 Findings.

The Lawrence Brook runs through the Borough of Milltown; and serves as a secondary source of potable water for the City of New Brunswick Water Utility. The City of New Brunswick Water Utility is the sole supplier of water to the Borough of Milltown; and the Borough Council believes that it is important to protect all sources of potable water. (Ord. No. 06-1232, Preamble)

3-20.2 Purpose.

The use of any boat that is equipped with a gas or diesel powered engine or containers used to store fuel for such engines is prohibited on any waterway within the Borough so as to protect public health, safety and welfare, and to prescribe penalties for failure to comply. (Ord. No. 06-1232 § I)

3-20.3 Definitions.

As used in this section:

Containers shall mean any type of container that is or has been used for the storage of gasoline, diesel fuel or any other type of fuel used to operate an engine.

Motorboat, Boat, Conveyance shall mean any vehicle used in a body of water whether to convey people or not.

Person shall mean any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.
(Ord. No. 06-1232 § II)

3-20.4 Prohibited Conduct.

a. No person shall use or operate or permit to be used or operated upon any waterway within the Borough any motorboat or boat or conveyance equipped with a gas or diesel powered engine.

b. No person shall use or operate or permit to be used or operated upon any waterway within the Borough any motorboat or boat or conveyance that has containers on board that are or were used for the storage of fuel used to operate a gas or diesel engine.
(Ord. No. 06-1232 § III)

3-20.5 Enforcement.

a. This section shall be enforced by the Milltown Police Department and/or the Code Enforcement Officer.

b. Any person found to be in violation of this section shall be ordered to remove the boat or conveyance immediately from the waterway.
(Ord. No. 06-1232 § IV)

3-20.6 Violations and Penalties.

Any person(s) who is found to be in violation of the provisions of this section shall be subject, upon conviction, to the penalty stated in Chapter I, Section 1-5.
(Ord. No. 06-1232 § V; New)

3-21 POSSESSION AND CONSUMPTION OF ALCOHOLIC BEVERAGES BY PERSONS UNDER LEGAL AGE PROHIBITED ON PRIVATE PROPERTY.

3-21.1 Definitions.

The following definitions shall apply:

Guardian shall mean a person who has qualified as a guardian of the underaged person pursuant to testamentary or court appointment.

Relative shall mean an underaged person's grandparent, aunt or uncle, sibling or any other person related by blood or by affinity.

3-21.2 Prohibition.

It is hereby unlawful for any person under the legal age to, without legal authority, knowingly possess or knowingly consume an alcoholic beverage on private property within the Borough. (Ord. No. 08-1278 § I)

3-21.3 Violations and Penalties.

Any person found guilty of violating the terms of this section may be subject to the following penalties:

- a. *First Offense.* Twenty-four (24) hours of community service;
- b. *Second Offense.* Forty (40) hours of community service and one hundred (\$100.00) dollar fine;
- c. *Third Offense and Subsequent Offenses.* Eighty (80) hours of community service, a five hundred (\$500.00) dollar fine, and suspension or postponement for three (3) months of the driving privileges of the violator, in accordance with and in the manner provided in P.L. 2000, Chapter 33.

If a person at the time of the imposition of such sentence for a third or subsequent offense is less than seventeen (17) years of age, the period of license postponement, including a suspension or postponement of the privilege of operating a motorized bicycle, shall commence on the day the sentence is imposed and shall run for a period of six (6) months after the person reaches the age of seventeen (17) years. If a person at the time of the imposition of such sentence under this section has a valid driver's license issued by this State, the court shall immediately collect the license and forward same to the State Motor Vehicle Commission along with the Certified Disposition Sheet. (Ord. No. 08-1278 § I)

3-21.4 Exceptions.

a. This section shall not prohibit an underage person from consuming or possessing an alcoholic beverage in connection with a religious observance, ceremony, or rite or consuming or possessing an alcoholic beverage in the presence of and with the permission of a parent, guardian or relative who has attained the legal age to purchase and consume alcoholic beverages.

b. This section shall not prohibit the possession of alcoholic beverages by any person under the legal age while such person is lawfully engaged in the performance of employment by a person who is licensed under Title 33 of the New Jersey Revised Statutes, or while actively engaged in the preparation of food while enrolled in a culinary arts or hotel management program at a County vocational school or post-secondary educational institution; however this section shall not be construed to preclude the imposition of a penalty under this section, N.J.S.A. 33: 1-81, or under any other section of existing ordinance or law against a person who is convicted of unlawful alcoholic beverage activity on or at premises licensed for the sale of alcoholic beverages.

(Ord. No. 08-1278 § I)

3-22 DISCHARGING OF FIREARMS.

3-22.1 Purpose.

This section is enacted as a measure to safeguard the residents of the Borough of Milltown and to protect their property. (Ord. No. 10-1322; Ord. No. 11-1323)

3-22.2 Discharge Prohibited.

No person or persons shall at any time fire or discharge or cause to be fired or discharged any pistol, shotgun, rifle or other firearm within the limits of the Borough of Milltown. (Ord. No. 10-1322; Ord. No. 11-1323)

3-22.3 Exceptions.

a. Nothing in this section shall prohibit the use of firearms by police officers in the discharge of their duties or the use of firearms for the protection of life, person or property or where otherwise allowed by law.

b. The discharging of firearms for ceremonial purposes, such as, but not limited to, parades, flag retirement ceremonies, funerals, where permission was granted by the Chief of Police or appropriated committee formed for 4th of July parade in the Borough of Milltown.

(Ord. No. 10-1322; Ord. No. 11-1323)

3-22.4 Violations and Penalties.

Any person(s) who is found to be in violation of the provisions of this section shall be subject, upon conviction, to the penalty stated in Chapter I, Section 1-5. (Ord. No. 10-1322; Ord. No. 11-1323)

***Editor's Note:** See Chapter II, Section 2-48 for Office of Emergency Management. See also, Chapter VII, subsection 7-7.2, Parking Prohibited During State of Emergency.

***Editor's Note:** This section was adopted by ordinance No. 913 on October 11, 1994.

***Editor's Note:** For additional violations and penalties, see subsection 3-19.5 herein.

***Editor's Note:** See also Chapter XIV, Parks and Recreation Areas.