

ORDINANCE 2024-1

ORDINANCE REPEALING § 164-3, § 164-4, § 164-5, § 164-9, § 164-10, § 164-11, § 164-12, § 164-13, § 164-14, § 164-15, § 164-17, § 164-20, AND § 164-23 OF CHAPTER 16 “PEACE AND GOOD ORDER” OF THE CODE OF COLTS NECK TOWNSHIP, COUNTY OF MONMOUTH, AND STATE OF NEW JERSEY

WHEREAS, over time, changes have arisen in state and federal law that impact the Code of Colts Neck Township (“Township Code”); and

WHEREAS, decisions by the New Jersey Judiciary and changes to the state’s criminal code by the New Jersey legislature have invalidated loitering ordinances such as that found in § 164-9 of the Township Code; and

WHEREAS, public intoxication ordinances such as that found in § 164-14 of the Township Code have been invalidated by the enactment of state statutes relating to the treatment of alcoholism; and

WHEREAS, review by the federal judiciary of local laws outside of New Jersey bearing significantly similar language to § 164-10 of the Township Code has led to such laws being overturned for First Amendment purposes under the United States Constitution; and

WHEREAS, decisions by the New Jersey Judiciary and changes to the state’s criminal code by the New Jersey legislature indicate local ordinances such as those found in § 164-3, § 164-4, § 164-5, § 164-11, § 164-12, § 164-13, § 164-15, § 164-17, § 164-20, and § 164-23 of the Township Code are no longer valid exercises of municipal authority; and

WHEREAS, N.J.S.A. 2C:33 of the New Jersey criminal code was enacted by the New Jersey legislature with the intention to address the disorderly conduct concerns which are at the root of § 164-3, § 164-4, § 164-5, § 164-11, § 164-12, § 164-13, § 164-15, § 164-17, § 164-20, and § 164-23 of the Township Code.

NOW THEREFORE BE IT ORDAINED, by the Council of Colts Neck Township, County of Monmouth, and State of New Jersey, as follows (additions to text indicated by underline; deletions to text indicated by ~~strikeout~~):

SECTION 1. Chapter 164 of the Code of Colts Neck Township is hereby amended as follows:

§ 164-1 Bathing or swimming in ponds, streams or lakes.

No person shall, within the limits of said township, bathe, swim or be found in a state of nudity in the waters of any pond, stream or lake located therein. In addition, no person shall bathe or swim in any pond, stream or lake located on township property.

§ 164-2 Disrobing in parked vehicles.

No person shall, within the limits of said township, disrobe in any automobile, truck or vehicle while the same is upon any parking place, street, road, avenue, park or other public place.

~~§ 164-3 Indecent, lewd pictures, books, exhibits, plays.~~

~~No person shall, within the limits of said township, sell or offer to sell any indecent or lewd picture, book or thing or exhibit, or perform any indecent, immoral or lewd play or other representation.~~

~~§ 164-4 Disorderly houses; houses of ill fame.~~

~~No person shall, within the limits of said township, keep or maintain a disorderly house or a house of ill fame or allow or permit any house, shop, store or other building or structure owned or occupied by him or her to be used as a disorderly house or house of ill fame.~~

~~§ 164-5 Structures frequented by disorderly persons.~~

~~No person shall, within the limits of said township, permit any house, shop, store or other building or structure owned or occupied by him or her to be frequented or resorted to by noisy, riotous or disorderly persons or by prostitutes, gamblers or vagrants.~~

§ 164-6 Sound-producing devices.

No person shall, within the limits of said township, operate or use any radio receiving set, phonograph, horn or other sound-producing instrument, device or apparatus in such manner that the sound thereof shall annoy any person or persons or disturb the comfort, rest or repose of any person or persons being in his, her or their place or places of abode.

§ 164-7 Unnecessary and disturbing noise.

No person shall, within the limits of said township, make or continue or cause to be made or continued, or permit, any unnecessary noise which shall disturb the comfort, rest or repose of any person or persons or annoy any person or persons being in his, her or their place or places of abode.

§ 164-8 Deposit of refuse.

No person shall, within the limits of said township, discard, deposit, throw or leave any wastepaper, tin cans, bottles, garbage, waste or refuse of any kind whatsoever upon any parking place, street, road, avenue, park or other public place or upon any lot or other premises, except in receptacles or containers provided for such purpose.

~~§ 164-9 Loitering; improper language; interfering with passersby.~~

~~A. Definitions. As used in this article, the following terms shall have the meanings indicated:~~

~~LOITERING~~

~~Remaining idle or walking aimlessly about in essentially one location.~~

~~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.~~

~~PUBLIC PLACE~~

~~A place to which the public has access and shall include any public building and grounds, street, highway, road, alley or sidewalk. It shall also include the front or the neighborhood of a 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 chapter or, in the case of a minor, not owned or under the control of his parents or guardian.~~

~~B. Certain types of loitering prohibited. No person shall loiter in a public place in such a manner as to:~~

- ~~(1) Create or cause to be created a danger of a breach of the peace.~~
- ~~(2) Create or cause to be created any disturbance or annoyance to the comfort and repose of any person.~~
- ~~(3) Obstruct the free passage of pedestrians or vehicles.~~

~~(4) Obstruct, molest or interfere with any person lawfully in a public place. 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.~~

~~C. Throwing objects. In addition to the conduct described § 164-9B the throwing of stones, snowballs or other objects at any person or vehicle shall be deemed to be a violation of this article.~~

~~D. Failure to obey order to move. Any person violating the provisions of § 164-9 shall be ordered to move on by a police officer. Any person who fails to move on after being ordered to do so shall be guilty of a violation of this article.~~

~~E. Loitering by minors. No parent or guardian of a minor under the age of 18 years shall knowingly permit that minor to loiter in violation of this article. Whenever any minor under the age of 18 years is charged with a violation of this article, his parent or guardian shall be notified of this fact by the ranking police official or any other person designated by the Chief of Police to give such notice. If at any time within 30 days following the giving of notice the minor to whom such notice relates again violates this article, it shall be presumed in the absence of evidence to the contrary that the minor did so with the knowledge and permission of his parent or guardian.~~

~~§ 164-10 Gathering alms.~~

~~No person shall, within the limits of said township, go about from door to door or place himself or herself in any street or streets or other public place or places to beg or gather alms, except upon obtaining a written permit from the Police Department.~~

~~§ 164-11 Destruction or damage of property.~~

~~No person shall, within the limits of said township, maliciously destroy, damage or injure any property.~~

~~§ 164-12 Interfering with schools, children, teachers.~~

~~No person shall, within the limits of said township, enter the building or go upon the lands of any public school and break, injure or deface such building or any part thereof, or the fences, structures or outhouses belonging to or connected with such building or lands, and no person shall disturb the exercises of any public school or molest or give annoyance to the children attending such school, or annoy any teacher therein.~~

~~§ 164-13 Peace and quiet in public buildings.~~

~~No person shall, within the limits of said township, disturb the quiet and peace of any public library reading room or other public building.~~

~~§ 164-14 Intoxicated persons.~~

~~No person shall, within the limits of said township, be intoxicated or drunk and disorderly in any street, highway, thoroughfare or public place, or in any private house or in any hotel, boardinghouse, store, restaurant or other quasi-public place, to the annoyance of any person or persons.~~

~~§ 164-15 Interfering with township officials.~~

~~No person shall, within the limits of said township, hinder or obstruct any township officer in the performance of his or her duties; nor shall any person knowingly resist or oppose any officer 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.~~

§ 164-16 Interfering with abatement of fires or emergency medical service calls.

No person shall, within the limits of said township, during an alarm of fire, or while first aid or emergency medical personnel are in response to a medical emergency, hinder, prevent or deter by any device whatsoever any fireman, police officer, first aid or emergency medical personnel or other person from rendering lawful assistance in abating or quelling such fire, or delivering medical emergency services, or hinder or interfere with any fireman, police officer or first aid or emergency medical personnel from going to or returning from the place where any building or other property is on fire, or from which an alarm proceeds, or from providing first aid or emergency medical services; nor shall any person hinder or obstruct the passage of any fire engine, hook-and-ladder truck, hose cart or any fire apparatus or ambulance or emergency medical vehicle in going to or from the place from which an alarm of fire proceeds, or where any building or other property may be burning or any medical emergency exists.

~~§ 164-17 Interfering with streetlights, poles or fixtures.~~

~~No person shall in any way injure, destroy, break, mutilate, deface or tamper with any streetlight, pole or fixture or any part thereof in any street, highway, park or other public place within the limits of said township.~~

§ 164-18 Posting of notices, advertisements on private property.

No person shall paste, write, clip, paint, print, nail, clamp or otherwise fasten, inscribe or affix any notice, placard or advertisement against or upon any way, gate, house, store, shop, shed, fence, rock, stump, tree, shrub, bush, building or structure without the written consent of the owner or occupant of the same, except when done by a public officer in the performance of his or her duties.

§ 164-19 Posting of notices on public property.

No person shall paste, clip, paint, nail, clamp or otherwise fasten, inscribe or affix any notice, placard or advertisement upon any public building, sidewalk, fence, curbstone, wall, bulletin board, park or other public property or place within the limits of said township, except with the permission of the Police Department.

~~§ 164-20 Interfering with fire hydrants.~~

~~No person shall open, injure, destroy, deface, mutilate, break or tamper with any fire hydrant in any public street or public place within the limits of said township, except members of the Township Fire Department actually engaged in the performance of their duties.~~

§ 164-21 Discharging paintball or other guns.

No person shall, within the limits of the township, on any public property, including but not limited to public parks, playgrounds, open space, recreation facilities or any other public facility, discharge or set off any air guns, pellet guns or paintball guns or any other instrument which propels projectiles.

§ 164-22 All-terrain vehicles, snowmobiles and dirt bikes.

The use or operation by any person of all-terrain vehicles, snowmobiles and dirt bikes on township-owned property is strictly prohibited at all times.

~~§ 164-23 Other disorderly acts.~~

~~Riotous conduct, indecent conduct, breaches of the peace, vagrancy, and prostitution not hereinbefore mentioned are hereby prohibited within the limits of said township.~~

§ 164-24 Word usage, definitions.

A. The term "person" and the term "persons," as used in this article, shall, wherever appropriate, in connection with the context, include "corporation" and "corporations," respectively.

B. As used in this chapter, the following terms shall have the meanings indicated:

ALL-TERRAIN VEHICLE A motor vehicle, designed to travel over any terrain, of a type possessing between three and six rubber tires and powered by a gasoline engine.

DIRT BIKE A motor-powered vehicle possessing two or more tires, designed to travel over any terrain and capable of travelling off of paved roads, whether or not such vehicle is subject to registration with the Department of Motor Vehicles.

SNOWMOBILE A motor vehicle, designed primarily to travel over ice or snow, of a type which uses sled-type runners, skis, an endless belt tread, cleats or any combination of these or other similar means of contact with the surface upon which it is operated, but does not include any farm tractor, highway or other construction equipment or any military vehicle.

§ 164-25 Disposition of fines.

All fines imposed and collected under and by virtue of this article shall be paid into the treasury of said township.

§ 164-26 Violations and penalties.

A violation of any provision of this article shall be punishable as provided in § 1-9 of this Code.

Article II Nuisances

§ 164-27 Acts declared nuisances.

The following acts, among others, are declared to be a nuisance in violation of this article:

A. Construction. The operation of any equipment used in commercial construction, repair, alteration or demolition work on buildings, structures, streets or appurtenances thereto in residential or commercial land use zones on weekdays between the hours of 7:00 p.m. and 7:00 a.m. the following day, or between 7:00 p.m. Saturday night and 7:00 a.m. Monday morning and on legal holidays, except in the case of urgent necessity in the interest of public health and safety and then only with permission from the Township Council.

B. Landscaping equipment. The operation of power mowers and power tools used in landscaping outdoors between the hours of 8:00 p.m. and 8:00 a.m. the following day.

C. Loading operations. Loading, unloading, opening or otherwise handling boxes, crates, containers, garbage cans, recycling containers or similar objects between the hours of 7:00 p.m. and 7:00 a.m. the following day.

D. Refuse-compacting vehicles. Operating or permitting the operation of any motor vehicle which can compact refuse and which creates, during the compacting cycle, a disturbing noise between 7:00 p.m. and 7:00 a.m. the following day.

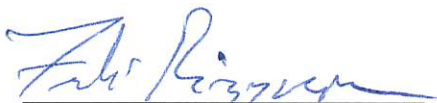
E. Solid waste/recycling collection. The collection of solid waste or recyclable materials between the hours of 7:00 p.m. and 7:00 a.m. the following day.

SECTION 2. All ordinances or parts of ordinances which are inconsistent with the provisions of this ordinance are, to the extent of such inconsistency, hereby repealed. All portions of the ordinance not modified herein remain in full force and effect.

SECTION 3. Should any section, clause, sentence, phrase or provision of this ordinance be declared unconstitutional or otherwise invalid by a court of competent jurisdiction, such decision shall not affect the remaining portions of this ordinance.

SECTION 4. This ordinance shall take effect upon final passage, adoption and publication in the manner prescribed by law.

I, Trina Lindsey, hereby certify the Ordinance foregoing to be a true copy of an Ordinance introduced by the Township Committee of Colts Neck Township on the 10th day of January. A public hearing will be held on January 31, 2024, 7:00 p.m. Town Hall, 1 Veterans Way.


Frank Rizzuto, Mayor


Trina Lindsey, Municipal Clerk

RECORD OF VOTE										
	First Reading					Second Reading				
	January 10, 2024					January 31, 2024				
	M S	Yes	No	NV	Ab	M S	Yes	No	NV	Ab
Mayor Rizzuto		X					X			
Deputy Mayor Buss		X				S	X			
Viola		X					X			
Bartolomeo	S	X					X			
Fitzpatrick	M	X				M	X			
M - Moved	S - Seconded	X - indicates vote			NV - Not Voting		Ab - Absent			