

CITY OF ABSECON

ORDINANCE 12-2024

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF ABSECON, CHAPTER 230 THEREOF TITLED LOITERING AND GRAFFITI

BE IT ORDAINED by the MAYOR AND CITY COUNCIL, the governing body of the City of Absecon, that Chapter 230 of the Revised General Ordinances of the City of Absecon be and is hereby replaced in its entirety and amended as follows:

SECTION 1:

§ 254-1 Preemption.

- A. N.J.S.A. 2C:33-2(2)b makes it unlawful for a person to loiter in a public place with the purpose of unlawfully obtaining or distributing a controlled dangerous substance or controlled substance analog.
- B. N.J.S.A. 2C:14-4 it unlawful for a person if, in a public place, and with purpose to offend the sensibilities of a hearer or in reckless disregard of the probability of so doing, he or she addresses unreasonably loud and offensively coarse or abusive language, given the circumstances of the person present and the setting of the utterance, to any person present.
- C. N.J.S.A. 2C:34-1 makes it unlawful for a person to procure an inmate for a house of prostitution or place in a house of prostitution for one who would be an inmate, or for an actor enters into or remains in a house of prostitution for the purpose of engaging in sexual activity with a child under the age of 18.
- D. N.J.S.A. 2C:33-12 makes it unlawful for a person to knowingly or recklessly create or maintain a condition which endangers the safety or health of a considerable number of persons, or knowingly conduct or maintain any premises, place or resort where persons gather for purposes of engaging in unlawful conduct, or knowingly conduct or maintain any premises, place or resort as a house of prostitution or as a place where obscene material, as defined in N.J.S. 2C:34-2 and N.J.S. 2C:34-3, is sold, photographed, manufactured, exhibited or otherwise prepared or shown, in violation of N.J.S. 2C:34-2, N.J.S. 2C:34-3, and N.J.S. 2C:34-4.
- E. The governing body of the City of Absecon finds and declares that the municipal regulations contained herein are not preempted by state law based on the following:
 - 1) The municipal regulations do not conflict with state law, either because of conflicting policies or operational effect;
 - 2) N.J.S.A. 2C:1-5d expresses an intent that the New Jersey Code of Criminal Justice is to be exclusive in the field, but that section alone does not preempt these regulations;
 - 3) The subject matter does not reflect the need for uniformity;

- 4) The state scheme is not so comprehensive or pervasive that it precludes the coexistence of municipal regulations; and
- 5) The municipal regulations do not stand as an obstacle to the accomplishment and execution of the full purposes and objectives of the State Legislature.

§ 230-2 Findings and Purpose.

- A. It is the responsibility of local government to adopt regulations designed to promote the public health, safety and welfare. Such authority has been delegated to municipalities by the Legislature of the State of New Jersey.
- B. The governing body of the City of Absecon finds and declares that the loitering of groups of people or gangs in public places with the purpose of engaging in criminal activity or unlawful conduct is a significant problem which threatens the public health, safety and welfare.
- C. The purpose of these regulations is to deter or reduce criminal activity and unlawful conduct and to maintain a quality of life within the community which reassures citizens that they are safe and secure in public places.

§ 230-3 Definitions.

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

ATHLETIC EVENT

To include, for example, sporting contests such as baseball, basketball, field hockey, football, lacrosse, rowing, soccer, softball, tennis and track and field.

CULTURAL EVENT

To include, for example, artistic and intellectual events such as concerts, dance recitals, lectures, movies, plays, and artistic displays.

LOITERING

To prowl, remain or wander in one location, including sifting in or out of a motor vehicle.

PUBLIC PLACE

Any place to which the public has access, including but not limited to any alley, boardwalk, bridge, driveway, park, parking lot, plaza, public library, public street, sidewalk or transportation facility, or the doorways and entrance ways to any building which front on any of the aforesaid places, or a motor vehicle in or on any such place.

PURPOSE

A person is presumed to intend the reasonable and natural consequences of their actions. A person manifests the purpose to engage in unlawful conduct when a reasonable person would conclude that such an intent exists from an observation of the person's actions, conduct, demeanor and speech under the attendant circumstances.

RECREATIONAL EVENT

To include, for example, bicycle race, five-mile run, walkathon, and athletic activities available to the public at large.

SOCIAL EVENT

To include, for example, baby contests, air show, boat show, car show, dance, festival, Mardi gras and parade.

§ 230-4 Certain types of loitering prohibited.

- A. It is unlawful for a person to loiter in a public place with the purpose of interfering with or obstructing the free flow of pedestrian traffic or vehicular traffic.
- B. It is unlawful for a person to loiter in a public place with the purpose of engaging in an altercation with another person.
- C. It is unlawful for a person to loiter in a public place with the purpose of creating a disturbance or otherwise interfering with a school activity, such as an athletic event, cultural event, educational activity or a social event.
- D. It is unlawful for a person to loiter in a public place with the purpose of creating a disturbance or otherwise interfering with a public event, such as an athletic event, cultural event, recreational event, or a social event.
- E. It is unlawful for a person to loiter on private property that is customarily used for a commercial purpose by the public with the purpose of interfering with or obstructing the free flow of pedestrian traffic or vehicular traffic seeking the use of the commercial enterprise.
- F. Where five or more persons are participating in a course of unlawful conduct, as defined herein, a law enforcement officer engaged in executing or enforcing the law may order the participants and others in the immediate vicinity to disperse. Any person who fails, neglects, or refuses to obey this order commits a violation of these regulations.

§ 230-5 Graffiti.

No person shall write, print or place with ink, paint or chalk or other substances or otherwise mark, scratch, carve or etch graffiti on real or personal property of another, whether said personal or real property shall be publicly or privately owned, unless the owner of said property shall have, prior to the writing, printing or placing of graffiti, specifically consented to the same.

§ 230-6 Violation and Penalties.

A person found guilty of an offense under this article shall be subject to a fine up to and including \$2,000, or community service up to and including thirty (30) days or imprisonment up to and including ninety (90) days, in the discretion of the Municipal Court.

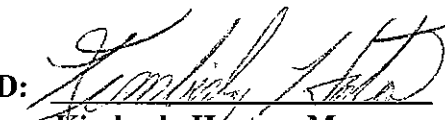
SECTION 2: Any other Ordinances in conflict or inconsistent with this Ordinance are hereby repealed, to the extent of such conflict or inconsistency.

SECTION 3: Should any section, paragraph, sentence or clause or phrase of this Ordinance be declared unconstitutional or invalid for any reason, the remaining portions of this Ordinance shall not be affected thereby and shall remain in full force and effect and to this end the provisions of this Ordinance are hereby declared to be severable.

SECTION 4: This Ordinance shall become effective immediately upon final passage and publication, according to law.

DATED: April 18th, 2024

SIGNED:


Kimberly Horton, Mayor

ATTEST:


Carie A. Crone, RMC, Municipal Clerk

Passed on first reading at a regular meeting of the Municipal Council held on April 4th, 2024.
Laid over and advertised for public hearing and final adoption on April 18th, 2024. Notice is
hereby given that the foregoing Ordinance was approved for final adoption by the Municipal
Council of the City of Absecon at a regular meeting held on April 18th, 2024.