

**BOROUGH OF TINTON FALLS  
COUNTY OF MONMOUTH  
NOTICE OF PENDING ORDINANCE**

**ORDINANCE NO. 11-1330**

The ordinance published herewith was introduced and passed upon first reading at a meeting of the Borough Council of the Borough of Tinton Falls, in the County of Monmouth, State of New Jersey, held on October 18, 2011. This Ordinance will be further considered for adoption, after the public hearing is held thereon, at a meeting of the Borough Council to be held on Tuesday, November 1, 2011, located in the Tinton Falls Municipal Building, 556 Tinton Avenue, Tinton Falls, New Jersey, beginning at 7:30 o'clock P.M. During the week prior to and up to and including the date of such meeting, copies of said Ordinance and Map will be made available in the Clerk's Office to the members of the general public who shall request the same.

MAUREEN L. MURPHY, BOROUGH CLERK

**BOROUGH OF TINTON FALLS  
COUNTY OF MONMOUTH  
ORDINANCE NO. 11-1330**

**ORDINANCE ADOPTING UPDATED  
DRUG FREE SCHOOL ZONE MAP**

**WHEREAS**, the Borough of Tinton Falls adopted a Drug Free School Zone Map pursuant to N.J.S.A. 2C:35-7 that was last updated in 2003, and with significant development and changes in the law having taken place since that time, it requires an update; and

**WHEREAS**, changes to the law have expanded the scope of its applicability to zones with 500 feet of public housing facilities, parks and other public buildings pursuant to N.J.S.A. 2C:35-7.1; and

**WHEREAS**, the Borough Engineer has prepared a newly revised and updated Drug Free Zone Map to reflect current conditions on the ground and the existing law.

**NOW, THEREFORE, BE IT ORDAINED** by the Borough Council of the Borough of Tinton Falls in the County of Monmouth, State of New Jersey that Sections 3-28 and 3-28A of the General Revised Ordinances of the Borough of Tinton Falls are hereby repealed in their entirety and supplemented as follows:

**3-28 DRUG FREE SCHOOL ZONES.**

**§ 3-28.1. Adoption of Map for Drug Free Zones for Schools, Public Housing, Parks and Public Buildings.**

In accordance with and pursuant to the authority of N.J.S.A. 2C:35-7 and 2C:35-7.1 a revised and updated Drug Free Zone Map was produced in March 2011 and certified by Borough Engineer David M. Marks, P.E., C.M.E., of T&M Associates.

This updated map for the one thousand (1,000) foot drug free school zone is hereby approved and adopted as the official finding and record of the location of areas within the municipality of property which are used for school purposes, and which are 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.

This map is also hereby approved and adopted as the official finding and record of the location of areas within the municipality of property which are within five hundred (500) feet of real

property comprising a public housing authority, a public park, or a public building as defined pursuant to N.J.S.A. 2C:35-7.1.

**§ 3-28.2. Map To Constitute Official Finding and Record of Boundaries.**

The Drug Free Zone Map approved and adopted pursuant to § 3-28.1 of this ordinance shall 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, the Borough Council, with the recommendation of the Borough Engineer and the Chief of Police, adopt a new Drug Free Zone Map to reflect any revision that is necessary to the existing map to reflect locations and boundaries of school property and drug free zones.

The same Drug Free Zone Map approved and adopted pursuant to § 3-28.1 of this ordinance shall also constitute an official finding and record as to the location and boundaries of areas on or within five hundred (500) feet of real property comprising a public housing facility, public park, or a public building as defined under N.J.S.A. 2C:35-7.1 until such time, if any, the Borough Council, with the recommendation of the Borough Engineer and the Chief of Police, adopt a new Drug Free Zone Map to reflect any revision that is necessary to the existing map to reflect locations and boundaries of real property comprising a public housing facility, public park, or a public building and drug free zones within five hundred (500) feet thereof.

**§ 3-28.3. Notification of Changes in Boundaries.**

The school board, or chief administrative officer in the case of any private or parochial school, Borough Administrator, or Public Housing Facility executive director and/or administrator, as the case may be, is hereby directed and shall have the continuing obligation to promptly notify the Borough Engineer, Chief of Police and Director of Law of any changes, or contemplated changes, in the location and boundaries of any property owned or leased by their school(s), the Borough, or Public Housing Facility, as applicable.

**§ 3-28.4. Filing and Availability of the Map.**

The Borough Clerk is hereby directed to receive and keep on file the original certified Drug Free Zone Map approved and adopted pursuant to § 3-28.1 of this ordinance and to provide at a reasonable cost, or as defined pursuant to the Open Public Records Act, a true copy thereof to any person, agency or court which may, from time to time, request such a copy, along with a certification that such copy is a true copy of the map approved and adopted herein and kept on file. It is hereby further directed that a true copy of such map and of this article shall be provided without cost to the County Clerk, the Office of the Monmouth County Prosecutor, the Municipal Prosecutor, and Borough's Police Department.

**§ 3-28.5. Value of Map As Evidence.**

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

A. It is understood that the Drug Free Zone Map approved and adopted pursuant to § 3-28.1 of this ordinance was prepared and is intended to be used as evidence in prosecutions arising under the criminal law of this state, and that, pursuant to state law, such map shall constitute prima facie evidence of the following:

- (1) The location of and secondary schools with the municipality;
- (2) The boundaries of 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;
  - (4) The location and boundaries of areas which are on or within one thousand (1,000) feet of such school property;
  - (5) The location of Public Housing Facilities, Public Parks and Public Buildings within the municipality as defined by N.J.S.A. 2C:35-7.1;
  - (6) The boundaries of real property which is owned by or leased or used as Public Housing Facilities, Public Parks and Public Buildings; and
  - (7) The location and boundaries of areas, which are on or within five hundred (500) feet of Public Housing Facilities, Public Parks and Public Buildings.
- B. Except as is otherwise expressly noted on the face of the approved and adopted map, 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 at the time of certification of the Drug Free Zone Map approved and adopted pursuant to § 3-28.1 of this ordinance.
- C. Except as is otherwise expressly noted on the face of the approved and adopted map, all of the property depicted on the map approved and adopted herein as Public Housing Facilities, Public Parks and Public Buildings were owned by, or leased to a state, county or local government or agency or instrumentality thereof at the time of certification of the Drug Free Zone Map approved and adopted pursuant to § 3-28.1 of this ordinance.
- D. Pursuant to the provisions of N.J.S.A. 2C:35-7 and N.J.S.A. 2C:35-7.1, a prosecutor is not precluded from introducing or relying upon any other evidence or testimony to establish a violation of the offense defined in the statute, including the use of a map or diagram other than the one approved and adopted pursuant to § 3-28.1 of this ordinance. The failure of the map approved herein to depict the location and boundaries of any property which is, in fact, used for school purposes and which is owned by or leased to any elementary or secondary school or school board, or meeting the definitions of a Public Housing Facility, Public Park or Public Building, whether the absence of such depiction is the result of inadvertent omission or the result of any changes in the location and boundaries of such property which have not yet been incorporated into a revised approved map, shall not be deemed to be an official finding and record that such properties are not owned, leased or used by the entities or for the purposes described.
- E. All the provisions set forth in N.J.S.A. 2C:35-7 and N.J.S.A. 2C:35-7.1 concerning the preparation, approval and adoption of a Drug Free Zone Map have been complied with.

#### **§ 3-28.6. Severability Clause.**

If any section, subsection, sentence, clause or phrase of this ordinance is for any reasons held to be unconstitutional, invalid, or unenforceable by a court of competent jurisdiction, such decision shall not affect the remaining portions of this ordinance.

#### **§ 3-28.7. Repealer.**

All other ordinances in conflict or inconsistent with this ordinance are hereby repealed, to the extent of such conflict or inconsistency.

**§ 3-28.8. Effective Date.**

This ordinance shall become effective upon final adoption in accordance with law.