

**BOROUGH OF CAPE MAY POINT
COUNTY OF CAPE MAY
STATE OF NEW JERSEY**

ORDINANCE NO. 05-2023

**AMENDING AND SUPPLEMENTING CHAPTER 142 “VEHICLES AND TRAFFIC”
OF THE CODE OF THE BOROUGH OF CAPE MAY POINT
TO PROHIBIT EXHIBITION DRIVING**

WHEREAS, for the past several years the Borough of Cape May Point (the “Borough”) has seen an increase in sanctioned and unsanctioned events in neighboring municipalities, including the City of Wildwood, centering around the display and operation of motor vehicles of various ages, makes and models; and

WHEREAS, along with these events, participants have engaged in “exhibition driving” which is the operation of a motor vehicle in a manner that results in excessive, abrupt acceleration or deceleration of the motor vehicle, as well as skidding, squealing, burning, or smoking of tires of the motor vehicle; and

WHEREAS, the operation of vehicles in such a manner creates a substantial risk to public safety; and

WHEREAS, this type of activity also serves no benefit to the public and Board of Commissioners seeks to prohibit exhibition driving throughout the Borough of Cape May Point.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Borough of Cape May Point as follows:

Section 1. Chapter 142 of the Borough of Cape May Point Code regarding “Vehicles and Traffic” shall be amended to include the following **NEW SECTION**:

ARTICLE V – Exhibition Driving Prohibited

§ 142-42 Exhibition Driving Prohibited.

No person shall engage in exhibition driving within the Borough of Cape May Point. “Exhibition driving” shall mean:

- A. The operation of a motor vehicle in a manner that results in:
 - 1. The excessive, abrupt acceleration or deceleration of the motor vehicle;
 - 2. The skidding, squealing, burning, or smoking of the tires of the motor vehicle;

3. The swerving or swaying of the motor vehicle from side to side while skidding;
 4. The engine of the motor vehicle producing an unreasonably loud, raucous, or disturbing noise;
 5. The grinding of the gears of the motor vehicle or the backfiring of the engine of the motor vehicle; or
 6. Any of the wheels of the motor vehicle losing contact with the ground;
 7. Participating in a race or speed contest; or
- B. The transportation of a passenger on or in an area of a motor vehicle that is not designed or intended for passenger transport such as the hood or roof.
- C. The activity described above is hereby deemed a public nuisance.

§ 142-43 Penalties

Unless another penalty is expressly provided by Title 39 of the Laws of the State of New Jersey (Motor Vehicle and Traffic Regulations) or other express provisions of New Jersey Statutes, any person violating or failing to comply with any provision of § 142-42 shall, upon conviction thereof, be liable for a penalty of not more than \$2,000, and/or provide such community service not to exceed 90 days as is deemed appropriate, and/or by imprisonment for a term not to exceed 90 days, or by such fine and/or community service and/or imprisonment, at the discretion of the Court. The continuation of such violation for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of the violation may be punished as provided above for each separate offense.

§ 142-44 Authority to Impound Vehicles

The following provisions are not dependent upon the presence of the owner or authorized user.

- A. A motor vehicle may be seized and impounded when it is determined that:
1. There is probable cause to believe the vehicle is unregistered on a public highway or public property, or quasi-public area authorized under N.J.S.A. 39:5A-1 et seq.;
 2. The vehicle's registration is suspended in accordance with N.J.S.A. 39:3-40 and the vehicle is parked on a public highway, public property, or quasipublic area authorized under N.J.S.A. 39: 5A-1 et seq.

3. The vehicle is unlawfully obstructing traffic or in a specially designated or restricted area or zone.

4. Reasonable grounds exist to believe that the vehicle is in violation of N.J.S.A. 39:4-136, which reads in pertinent part:

Any vehicle, upon a roadway, which is disabled to the extent that the operator cannot move it, or any unoccupied vehicle parked or standing in violation of this chapter shall be deemed a nuisance and a menace to the safe and proper regulation of traffic and any peace officer may provide for the removal of such vehicle.

5. The vehicle is mechanically defective and creates a threat to public safety or is a nuisance and menace to the safe and proper regulation of traffic. This includes, but is not limited to, if there are reasonable grounds to believe a vehicle is being operated in violation of § 7-58 above.

6. Removal is necessary in the interest of public safety because of fire, flood, storm, snow, or other civil emergency reasons.

7. Removal or impoundment is authorized pursuant to any other applicable law, code, or regulation.

B. Unless otherwise directed by State Law, a motor vehicle impounded under the provisions of this section shall be removed to storage space or garage and its registration certificate and registration plates seized. The registrant shall be responsible for the cost of the removal and storage of the impounded motor vehicle.

1. If the registrant fails to claim the motor vehicle and pay the reasonable costs of removal and storage by midnight of the 30th day following impoundment, along with a fine of \$50 to cover the administrative costs of the municipality wherein the violation occurred, the municipality may sell the motor vehicle at public auction. The municipality shall give notice of the sale by certified mail to the registrant of the motor vehicle and to the holder of any security interest filed with the director, and by publication in a form to be prescribed by the director by one insertion, at least five days before the date of the sale, in one or more newspapers published in this State and circulating in the municipality in which the motor vehicle has been impounded.

2. At any time prior to the sale, the registrant or other person entitled to the motor vehicle may reclaim possession of it upon payment of the

reasonable costs of removal and storage of the motor vehicle and any outstanding fines or penalties; provided, however, if the other person entitled to the motor vehicle is a lessor or the holder of a lien on the motor vehicle, he may reclaim the motor vehicle without payment. In such cases, the violator shall be liable for all outstanding costs, fines and penalties, and the municipality shall have a lien against the property and income of that violator for the total amount of those outstanding costs, fines and penalties.

3. Any proceeds obtained from the sale of a motor vehicle at public auction pursuant to paragraph (1) of this subsection in excess of the amount owed to the municipality for the reasonable costs of removal and storage of the motor vehicle and any outstanding fines or penalties shall be returned to the registrant of the vehicle.

- C. The authority to impound set forth herein is in addition to, and not to the exclusion of, the penalties set forth in § 142-43.

Section 2. All other ordinances in conflict or inconsistent with this Ordinance are hereby repealed, to the extent of such conflict or inconsistency. Should any portion of this Ordinance be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or repeal the remainder of this Ordinance.

Section 3. This ordinance shall take effect 20 days after passage and publication, according to law.