

**ORDINANCE NO. 2015 - 4**

**TOWNSHIP OF DOWNE**

**AN ORDINANCE FOR ACCESS RESTRICTIONS SEEKING TO PROTECT AND PRESERVE HORSESHOE CRAB SANCTUARY AREAS BETWEEN MAY 7<sup>th</sup> AND JUNE 7<sup>th</sup> OF EACH YEAR**

**BE IT ORDAINED** by the Township Committee of the Township of Downe, County of Cumberland and State of New Jersey as follows:

**Section 1.1 Declaration and Purpose**

A. Effective protection of horseshoe crab spawning areas are of interest to the Downe Township Committee for purposes of protection of the unique resource of the Delaware Bay Estuary. The Township Committee is inured with jurisdiction to protect from damage to the natural resources providing horseshoe crab habitat situate within Downe Township and the Downe Township Committee finds that the Township has a vital interest in the maintenance and protection of the horseshoe crab sanctuary areas and the Township Committee further finds that the Township has a concern in the preservation and protection from damage or destruction of horseshoe crab spawning areas.

B. Beach areas which provide spawning areas for horseshoe crabs are dynamic in nature and therefore not capable of rigid delineation or form stabilization. It is known that beach areas migrate as a result of natural forces.

C. It is the purpose of this Chapter to define an area so affected within the horseshoe crab sanctuary area and to establish regulations to assure the continued health and effectiveness of the Downe Township horseshoe crab sanctuary area for the protection of this natural resource.

D. This Ordinance does not attempt to define and regular all parameters of beach areas within Downe Township nor does it seek to ordain the function and management of the areas, but rather seeks to regulate the aspect of access to a beach area within the horseshoe crab sanctuary area within the Township.

E. This Ordinance is declared to be an exercise of police power in the interest of the safety and welfare for the protection of the natural resource of the Township.

**Section 1.2 Definitions**

For purposes of this Ordinance, the following terms shall have the meanings given herein:

**Beach Area** – That area between the mean high water line of the Delaware Bay as established by the United States Coast and Geodetic Survey and the seaward edge of the dune hereinafter defined.

**Beaches**

(a) Gently sloping unvegetated areas of sand or other unconsolidated materials that extend landward from the mean high water line to either:

(1) **Setback Line** – That line parallel to the dune reference line and located shoreward therefrom by the set back distances variously specified by the Township.

(2) **Vegetation Line** – That line connecting the most seaward naturally occurring perennial plants with other such plants.

**Horseshoe Crab Sanctuary Restricted Area** – That one-half (½) mile of public beach measured from the mouth of Oyster Creek situate in southern Fortescue in Downe Township, County of Cumberland and State of New Jersey and extending approximately one-half (½) mile north along the public fishing beach up to the first residence on the beach side of Jersey Avenue.

**Section 1.3 Access to Horseshoe Crab Sanctuary Area**

Public access to the horseshoe crab sanctuary area as described herein is prohibited between May 7<sup>th</sup> and June 7<sup>th</sup> each year for the horseshoe crab spawning season. Under no circumstances during the timeframe of May 7<sup>th</sup> to June 7<sup>th</sup> of each year shall members of the public access, cross or trespass on for any activity whatsoever the beach area defined within this Ordinance known and being the restricted area of the Downe Township horseshoe crab sanctuary area.

**Section 1.4 Enforcement**

Code Enforcement and in all events the Township Committee shall enforce the affirmative duty of all to comply with the terms of this Ordinance.

**Section 1.5 Administration**

A copy of this Ordinance shall be furnished to all on request and shall be made available at the Township Building for no charge. Compliance with this Section shall not be a jurisdictional prerequisite in any enforcement proceeding.

## **Section 1.6 Violations and Penalties**

For each and every violation of this Ordinance, the trespasser or violator shall be subject to a penalty and shall be punishable by one or more of the following:

(1) Imprisonment in the County jail for a term not exceeding 10 days; or by a fine not exceeding \$250.00;

(2) It is contemplated that as to specific damages to dune areas related to specific actions of parties are noted, it is appropriate that parties be sentenced to the cost of rejuvenating and repairing the damaged horseshoe crab sanctuary area in the event of a violation of this Ordinance in addition to any penalties therefore.

**Section One. Repealer.** All former Ordinances of the Township of Downe which are in conflict with the provisions contained in this Ordinance are hereby repealed upon the adoption of this Ordinance.

**Section Two. Severability.** If any part or parts of this Ordinance are held to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance.

**Section Three.** This Ordinance shall take effect after final approval and publication as required by law.

## **NOTICE**

**PLEASE TAKE NOTICE** that the above Ordinance was passed on first reading by the Township Committee of the Township of Downe on April 6, 2015. A Public Hearing and second reading for final adoption of same will be held on May 4, 2015 at 7:00 p.m. at the Municipal Complex located at 288 Main Street, Newport, New Jersey 08345.



Constance S. Garton, Clerk