

*Borough of Seaside Heights, NJ
Tuesday, April 16, 2019*

1. The Code

Chapter 1. General Provisions

[HISTORY: Adopted by the Borough Council of Seaside Heights as indicated in article histories. Amendments noted where applicable.]

Article I. Adoption of Code

[Adopted 12-3-1997 by Ord. No. 97-13]

§ 1-1. Adoption of Code.

Pursuant to N.J.S.A. 40:49-4, the ordinances of the Borough of Seaside Heights of a general and permanent nature adopted by the Mayor and Council of the Borough of Seaside Heights, as revised, codified and consolidated into chapters and sections by General Code Publishers Corp., and consisting of Chapters **1** through **246**, together with an Appendix, are hereby approved, adopted, ordained and enacted as the "Code of the Borough of Seaside Heights," hereinafter known and referred to as the "Code."

§ 1-2. Code supersedes prior ordinances.

This ordinance and the Code shall supersede all other general and permanent ordinances enacted prior to the enactment of this Code, except such ordinances as are hereinafter expressly saved from repeal or continued in force.

§ 1-3. When effective.

This ordinance shall take effect immediately upon passage and publication according to law.

§ 1-4. Copy of Code on file.

A copy of the Code in loose-leaf form has been filed in the office of the Borough Clerk and shall remain there for use and examination by the public until final action is taken on this ordinance; and, if this ordinance shall be adopted, such copy shall be certified to by the Clerk of the Borough of Seaside Heights by impressing thereon the Seal of the borough, as provided by law, and such certified copy shall remain on file in the office of the Clerk of the borough, to be made available to persons desiring to examine the same during all times while said Code is in effect.

§ 1-5. Amendments to Code.

Any and all additions, amendments or supplements to the Code, when passed and adopted in such form as to indicate the intent of the governing body to make them a part thereof, shall be deemed to be incorporated into such Code so that reference to the "Code of the Borough of Seaside Heights" shall be understood and intended to include such additions and amendments. Whenever such additions, amendments or supplements to the Code shall be adopted, they shall thereafter be printed and, as provided hereunder, inserted in the loose-leaf book containing said Code as amendments and supplements thereto.

§ 1-6. Publication; filing.

The Clerk of the Borough of Seaside Heights, pursuant to law, shall cause to be published, in the manner required, a copy of this Adopting Ordinance or a summary thereof in a newspaper of general circulation in the borough. Sufficient copies of the Code shall be maintained in the office of the Clerk for inspection by the public at all times during regular office hours. The enactment and publication of this Adopting Ordinance, coupled with availability of copies of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

§ 1-7. Code book to be kept up-to-date.

It shall be the duty of the Clerk or someone authorized and directed by the Clerk to keep up-to-date the certified copy of the book containing the Code required to be filed in his or her office for the use of the public. All changes in said Code and all ordinances adopted subsequent to the effective date of this codification which shall be adopted specifically as part of the Code shall, when finally adopted, be included therein by reference until such changes or new ordinances are printed as supplements to said Code book, at which time such supplements shall be inserted therein.

§ 1-8. Sale of Code book.

[Amended 4-15-1998 by Ord. No. 98-9]

Copies of this Code book may be purchased from the Borough Clerk's office upon payment of a fee of \$300. The Clerk will provide purchasers with information regarding the publisher responsible for supplementation of the Code book. Purchasers may then arrange directly with the publisher to receive periodic supplements to the Code book.

§ 1-9. Altering or tampering with Code; penalties for violation.

It shall be unlawful for anyone to improperly change or amend, by additions or deletions, any part or portion of the Code or to alter or tamper with such Code in any manner whatsoever which will cause the law of the Borough of Seaside Heights to be misrepresented thereby. Anyone violating this section or any part of this ordinance shall be subject, upon conviction, to one or more of the following: a fine of not more than \$1,000, imprisonment for not more than 90 days or a period of community service not exceeding 90 days, in the discretion of the Judge imposing the same.

§ 1-10. Severability of Code provisions.

Each section of the Code and every part of each section is an independent section or part of a section, and the holding of any section or a part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.

§ 1-11. Severability of ordinance provisions.

Each section of this ordinance is an independent section, and the holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.

§ 1-12. Repealer.

All ordinances or parts of ordinances of a general and permanent nature adopted and in force on the date of the adoption of this ordinance and not contained in the Code are hereby repealed as of the effective date of this Adopting Ordinance, except as hereinafter provided.

§ 1-13. Ordinances saved from repeal.

The adoption of this Code and the repeal of ordinances provided for in § 1-12 of this ordinance shall not affect the following ordinances, rights and obligations, which are hereby expressly saved from repeal:

- A. Any ordinance adopted subsequent to 5-21-1997.
- B. Any right or liability established, accrued or incurred under any legislative provision prior to the effective date of this ordinance or any action or proceeding brought for the enforcement of such right or liability.
- C. Any offense or act committed or done before the effective date of this ordinance in violation of any legislative provision or any penalty, punishment or forfeiture which may result therefrom.
- D. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered, prior to the effective date of this ordinance, brought pursuant to any legislative provision.
- E. Any franchise, license, right, easement or privilege heretofore granted or conferred.
- F. Any ordinance providing for the laying out, opening, altering, widening, relocating, straightening, establishing of grade, changing of name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place or any portion thereof.
- G. Any ordinance or resolution appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond or other instruments or evidence of the borough's indebtedness.
- H. Ordinances authorizing the purchase, sale, lease or transfer of property or any lawful contract, agreement or obligation.
- I. The levy or imposition of taxes, assessments or charges or the approval of the municipal budget.
- J. The dedication of property or approval of preliminary or final subdivision plats.
- K. All currently effective ordinances pertaining to the rate and manner of payment of salaries and compensation of officers and employees.
- L. Any ordinance adopting or amending the Zoning Map.

§ 1-14. Changes in previously adopted ordinances.

- A. In compiling and preparing the ordinances for adoption and revision as part of the Code pursuant to N.J.S.A. 40:49-4, certain grammatical changes and other minor changes were made in one or more of said ordinances. It is the intention of the Mayor and Council that all such changes be adopted as part of the Code as if the ordinances so changed had been previously formally amended to read as such.
- B. In addition, the changes, amendments or revisions as set forth in Schedule A attached hereto^[1] and made a part hereof are made herewith, to become effective upon the effective date of this ordinance (chapter and section number references are to the ordinances as they have been renumbered and appear in the Code).

[1] *Editor's Note: In accordance with § 1-14B, the chapters and sections which were added, amended or deleted by this ordinance are indicated throughout the Code by a footnote referring to Chapter 1, General Provisions, Art. I. During routine supplementation, footnotes indicating amendments or additions will be replaced with the following history: "Amended (added) 12-3-1997 by Ord. No. 97-13." Schedule A, which contains a complete description of all changes, is on file in the offices.*

Chapter 5. Administrative Offices

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 2-19-1997 by Ord. No. 97-1; amended in its entirety 2-20-2008 by Ord. No. 08-02. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Americans with Disabilities Act compliance — See Ch. 21.

Boards and Commissions — See Ch. 40.

Municipal Court — See Ch. 70.

Defense and indemnification — See Ch. 77.

Personnel policy — See Ch. 158.

Police Department — See Ch. 166.

Salaries and compensation — See Ch. 184.

Volunteer Fire Department — See Ch. 236.

Article I. Health and Fitness

§ 5-1. Compliance with Americans With Disabilities Act.

All employment by the Borough of Seaside Heights shall be in compliance with the Americans With Disabilities Act.

§ 5-2. Freedom from disabling defects; accommodations for disabled.

Notwithstanding any provision relating to a job position in this chapter, the following shall apply: Persons employed by the Borough of Seaside Heights in a position provided by this chapter shall possess good health and freedom from disabling physical and mental defects which impair the proper performance of the required duties or which might endanger the health and safety of oneself or others. Persons with mental or physical disabilities are eligible as long as they can perform the essential functions of the job position after reasonable accommodation is made to their known limitations. If the accommodation cannot be made because it would cause the employer undue hardship, such person may not be eligible.

Article II. Borough Administrator

§ 5-3. Office established.

There is hereby established the office of Borough Administrator, pursuant to the N.J.S.A. 40A:9-136, to administer the business affairs of the Borough of Seaside Heights and to have such powers and perform such duties as hereinafter set forth, with the exception of those required by law to be exercised by the Mayor and/or Borough Council or by another officer, board or body.

§ 5-4. Appointment; term of office.

The Borough Administrator shall be appointed by the Mayor with the advice and consent of the Borough Council. The term of office shall be at the pleasure of the governing body, subject to the provisions of state law.

§ 5-5. Powers and duties.

- A. The Borough Administrator shall perform the executive responsibility of the municipality and shall supervise all heads of departments and direct the implementation of all policies, ordinances, rules and regulations as adopted by the Borough Council.
- B. He shall recommend, implement and enforce the procedures and policies of the Borough Council for the coordination, compilation, editing and prompt dissemination and release of public information.
- C. He shall recommend to the Borough Council adoption of such measures as he may deem necessary or expedient for the health, safety and welfare of the community or for the improvement of services of the Borough and shall recommend the nature and location of public improvements authorized by the Borough Council.
- D. He shall prescribe and enforce rules and regulations for the efficient management of Borough government, subject to approval by the Borough Council and ordinances of the Borough.
- E. As a representative of the Borough Council, the Borough Administrator shall investigate all complaints in relation to matters concerning the administration of the government of the Borough and in regard to services maintained by the public utilities in the Borough and shall see that all franchises, permits and privileges granted by the Borough are faithfully observed. He shall receive and reply to all inquiries and complaints concerning Borough business, provide information and assistance and remedy, or cause to be remedied, the source of any just complaint.
- F. The Borough Administrator shall negotiate contracts for the Borough as authorized by and subject to the approval of the Borough Council. He shall ensure that all terms and conditions favorable to the Borough in any

statute or contract are faithfully kept and performed and, upon knowledge of any violation, shall call the same to the attention of the Borough Council.

- G. The Borough Administrator shall prepare and submit to the Borough Council, as of the end of the year, a complete report on the finances and administrative activities of the Borough for the preceding year.
- H. The Borough Administrator shall perform such other duties as may be required by the Borough Council, consistent with the laws of the State of New Jersey or the Borough.
- I. The Borough Administrator shall, before separation from the Borough, render a report on all activities of the Borough from the date of his last report to the date of his separation.

§ 5-6. Removal from office.

The Borough Administrator may be removed by a two-thirds vote of the Borough Council. The resolution of removal shall become effective three months after its adoption by the Borough Council. The Borough Council may provide that the resolution shall have immediate effect; provided, however, that the Borough Council shall cause to be paid to the Administrator forthwith any unpaid balance of his compensation and his compensation for the next three calendar months following adoption of the resolution.

Article III. Borough Attorney

§ 5-7. Office established; term of office.

There is hereby established the position of Borough Attorney pursuant to N.J.S.A. 40A:9-139. The Borough Attorney shall be appointed by the Mayor, with the advice and consent of the Borough Council, and shall serve a one-year term of office.

§ 5-8. Qualifications.

To be appointed to the position of Borough Attorney, an individual must be an attorney authorized to practice law in New Jersey.

Article IV. Municipal Clerk

§ 5-9. Office established.

There is hereby established the office of the Municipal Clerk for the Borough of Seaside Heights pursuant to N.J.S.A. 40A:9-133.

§ 5-10. Appointment; term of office.

The Municipal Clerk shall be appointed by the Mayor, with the advice and consent of the Borough Council, and shall serve for a term of three years as provided by N.J.S.A. 40A:9-133.

§ 5-11. Duties and qualifications.

- A. The Municipal Clerk shall serve as the Clerk of the Council, perform such functions as may be required by N.J.S.A. 40A:9-133 and other laws and shall maintain the records and minutes of the Council.
- B. To be appointed to the office of Municipal Clerk, an individual must possess a Municipal Clerk certificate pursuant to the requirements of N.J.S.A. 40A:9-133.2.

Article V. Deputy Municipal Clerk

§ 5-12. Office established.

There is hereby established the position of Deputy Municipal Clerk for the Borough of Seaside Heights pursuant to N.J.S.A. 40A:9-135.

§ 5-13. Appointment; term of office.

The Deputy Municipal Clerk shall be appointed by the Mayor, with the advice and consent of the Borough Council, and shall serve for a term of three years, commencing on January 1 of the year of appointment and ending on December 31 of the third year, or until a successor shall be appointed and qualified. A vacancy in the office of Deputy Municipal Clerk, other than due to expiration of term, shall be filled by appointment for the unexpired term.

§ 5-14. Powers and duties.

The Deputy Municipal Clerk shall have all the powers and perform all the duties of the Municipal Clerk during such times and for such specific periods when the Municipal Clerk is absent, disabled or otherwise unable to perform those duties. The Deputy Municipal Clerk shall assist the Municipal Clerk in the performance of the duties of the Municipal Clerk's office.

Article VI. Borough Engineer

§ 5-15. Office established; term of office.

There is hereby established the position of Borough Engineer pursuant to N.J.S.A. 40A:9-140. The Borough Engineer shall be appointed by the Mayor with the advice and consent of the Borough Council and shall serve a one-year term of office.

§ 5-16. Appointment.

A qualified professional engineer shall be designated and appointed Borough Engineer every year by the Borough Council.

Article VII. Chief Financial Officer

§ 5-17. Office established.

There is hereby established the office of Chief Financial Officer for the Borough of Seaside Heights pursuant to N.J.S.A. 40A:9-140.10.

§ 5-18. Appointment; term of office.

The Chief Financial Officer shall be appointed by the Mayor, with the advice and consent of the Borough Council. The Chief Financial Officer shall serve a term of office of four years, commencing on January 1 of the year of appointment and ending on December 31 of the fourth year, or until a successor shall be appointed and qualified.

§ 5-19. Qualifications.

To be appointed to the office of Chief Financial Officer, an individual must meet the qualifications established under N.J.S.A. 40A:9-140.1 et seq., as amended.

§ 5-20. Duties.

- A. The Chief Financial Officer shall be responsible for managing the finances and financial records of the municipality. The Chief Financial Officer shall:
- (1) Perform all of the duties required by state statute and set forth in the rules, regulations and guidelines established by the Division of Local Government Finances for the State of New Jersey.
 - (2) Assist in the preparation of the annual budget and ensure that the municipality complies with all requirements of the Division of Local Government Services concerning municipal finances.
- B. The Chief Financial Officer shall also be responsible to act as Central Purchasing Agent for the municipality and shall:
- (1) Have authority to prepare public advertising for bids.
 - (2) Have authority to receive bids for purchase of work material and supplies on behalf of the Borough.
 - (3) Negotiate and award contracts which do not exceed the sum required to be submitted for public bidding pursuant to the local public contracts law.
 - (4) Be responsible for the development, coordination, implementation and supervision of the complete municipal purchasing program.
 - (5) Review vouchers to ensure the availability of funds.

Article VIII. Tax Collector

§ 5-21. Office established.

There is hereby established the office of Tax Collector of the Borough of Seaside Heights pursuant to N.J.S.A. 40A:9-141.

§ 5-22. Appointment; term of office.

The Tax Collector shall be appointed by the Mayor, with the advice and consent of the Borough Council, and shall serve for a term of four years, commencing on January 1 of the year of appointment and ending on December 31 of the fourth year, or until a successor shall be appointed and qualified. A vacancy in the office of Tax Collector, other than due to expiration of term, shall be filled by appointment for the unexpired term.

§ 5-23. Qualifications.

To be appointed to the position of Tax Collector for the Borough of Seaside Heights, an individual must be certified as required pursuant to N.J.S.A. 40A:9-141 et seq.

§ 5-24. Duties.

The duties of the Tax Collector shall be as prescribed by law. The Tax Collector shall perform such other related duties as are prescribed by the Mayor and Borough Council.

Article IX. Tax Assessor

§ 5-25. Office established.

There is hereby established the office of Tax Assessor for the Borough of Seaside Heights pursuant to N.J.S.A. 40A:9-146.

§ 5-26. Appointment; term of office.

The Tax Assessor shall be appointed by the Mayor, with the advice and consent of the Borough Council, to a term of four years from the first day of July next following his appointment. Vacancies other than due to expiration of term shall be filled by appointment for the unexpired term.

§ 5-27. Qualifications.

The Tax Assessor shall hold a Tax Assessor certificate as provided for by N.J.S.A. 40A:9-148.1.

§ 5-28. Duties.

The Tax Assessor shall have the duty of assessing property for the purpose of general taxation.

Article X. Deputy Tax Assessor

§ 5-29. Office established.

There is hereby established the office of Deputy Tax Assessor for the Borough of Seaside Heights.

§ 5-30. Appointment; term of office.

The Deputy Tax Assessor shall be appointed by the Council of the Borough of Seaside Heights and shall serve a term of office of four years commencing on the first day of July next following his appointment and ending on June 30 of the fourth year as set forth in N.J.S.A. 40A:9-148.

§ 5-31. Qualifications.

To be appointed to the position of Deputy Tax Assessor for the Borough of Seaside Heights, an individual must hold a certified tax assessor's certificate from the State of New Jersey.

§ 5-32. Duties.

The duties of the Deputy Tax Assessor are to assist the Tax Assessor in assessing the real properties in the Borough of Seaside Heights in accordance with the appropriate state statutes and regulations in regard thereto. The Deputy Tax Assessor shall do all work as is required by the Borough Tax Assessor in regard to the assessing of real properties and all various other work as is required from time to time by the Tax Assessor.

Article XI. Payroll Clerk

§ 5-33. Office established.

There is hereby established the office of Payroll Clerk for the Borough of Seaside Heights.

§ 5-34. Appointment; term of office.

The Payroll Clerk shall be appointed by the Mayor, with the advice and consent of the Borough Council, and shall serve for a term of one year, commencing on January 1 of the year of appointment and ending on December 31 of that year, or until a successor or successors shall be appointed and qualified.

§ 5-35. Qualifications.

To be appointed as Payroll Clerk for the Borough of Seaside Heights, an individual must meet the following requirements. The individual must:

- A. Possess a valid New Jersey driver's license only if the operation of a vehicle, rather than employee mobility, is necessary to perform essential duties of the position.
- B. Have a knowledge of relevant rules and regulations concerning salary increments, bonuses and authorized deductions after a period of training.
- C. Have a knowledge of routine, repetitive and noncomplex tasks involved in keeping financial and/or other records of an arithmetical nature.
- D. Have a knowledge of office methods, practices, routines and equipment.
- E. Have the ability to comprehend, interpret and apply rules and regulations in accord with established procedures and policies of the unit.
- F. Have the ability to accurately prepare detailed, technical and confidential payroll forms and documents.
- G. Have the ability to make arithmetic calculations quickly and accurately by hand or machine.
- H. Have the ability to learn prescribed procedures quickly from oral and written explanations and from demonstration.
- I. Have the ability to effectively convey information to department employees on the pertinent aspects of the payroll function.
- J. Have the ability to use varied office machines, including adding machines, calculating machines and photostatic copying machines.
- K. Have the ability to maintain confidential records and files.
- L. Have the ability to learn to utilize various types of electronic and/or manual recording and information systems used by the agency, office or related units.
- M. Have the ability to read, write, speak, understand and communicate in English sufficiently to perform the duties of this position. American Sign Language or Braille may also be considered as an acceptable form of communication.

§ 5-36. Duties.

A Payroll Clerk shall, under direct supervision of a Supervising Payroll Clerk or other supervisory official, do routine clerical work involved in and relating to the review, verification, and preparation of payroll or payroll and personnel records, and do other related duties as required.

§ 5-36.1. Office of Payroll Supervisor established.

[Added 7-21-2010 by Ord. No. 10-11]

There is hereby established the office of Payroll Supervisor for the Borough of Seaside Heights.

§ 5-36.2. Appointment; term of office for Payroll Supervisor.

[Added 7-21-2010 by Ord. No. 10-11]

The Payroll Supervisor shall be appointed by the Mayor, with the advice and consent of the Borough Council, and shall serve for a term of one year, commencing on January 1 of the year of appointment and ending on December 31 of that year, or until a successor or successors shall be appointed and qualified.

§ 5-36.3. Qualifications for Payroll Supervisor.

[Added 7-21-2010 by Ord. No. 10-11]

To be appointed as Payroll Supervisor for the Borough of Seaside Heights, an individual must meet the following requirements. The individual must:

- A. Possess a valid New Jersey driver's license only if the operation of a vehicle, rather than employee mobility, is necessary to perform essential duties of the position.
- B. Have a knowledge of relevant rules and regulations concerning salary increments, bonuses and authorized deductions after a period of training.
- C. Have a knowledge of routine, repetitive and noncomplex tasks involved in keeping financial and/or other records of an arithmetical nature.
- D. Have a knowledge of office methods, practices, routines and equipment.
- E. Have the ability to comprehend, interpret and apply rules and regulations in accord with established procedures and policies of the unit.
- F. Have the ability to accurately prepare detailed, technical and confidential payroll forms and documents.
- G. Have the ability to make arithmetic calculations quickly and accurately by hand or machine.
- H. Have four years of experience in the preparation of payrolls.
- I. Have the ability to effectively convey information to department employees on the pertinent aspects of the payroll function.
- J. Have the ability to use varied office machines, including adding machines, calculating machines and photostatic copying machines.
- K. Have the ability to maintain confidential records and files.
- L. Have the ability to learn to utilize various types of electronic and/or manual recording and information systems used by the agency, office or related units.
- M. Have the ability to read, write, speak, understand and communicate in English sufficiently to perform the duties of this position. American Sign Language or Braille may also be considered as an acceptable form of communication.

§ 5-36.4. Duties of Payroll Supervisor.

[Added 7-21-2010 by Ord. No. 10-11]

A Payroll Supervisor shall, under direct supervision of a Supervising Payroll Supervisor or other supervisory official, do routine clerical work involved in and relating to the review, verification, and preparation of payroll or payroll and personnel records, and do other related duties as required.

§ 5-36.5. Office of Assistant Payroll Supervisor established.

[Added 7-21-2010 by Ord. No. 10-11]

There is hereby established the office of Assistant Payroll Supervisor for the Borough of Seaside Heights.

§ 5-36.6. Appointment; term of office for Assistant Payroll Supervisor.

[Added 7-21-2010 by Ord. No. 10-11]

The Assistant Payroll Supervisor shall be appointed by the Mayor, with the advice and consent of the Borough Council, and shall serve for a term of one year, commencing on January 1 of the year of appointment and ending on December 31 of that year, or until a successor or successors shall be appointed and qualified.

§ 5-36.7. Qualifications of Assistant Payroll Supervisor.

[Added 7-21-2010 by Ord. No. 10-11]

To be appointed as an Assistant Payroll Supervisor for the Borough of Seaside Heights, an individual must meet the following requirements. The individual must:

- A. Possess a valid New Jersey driver's license only if the operation of a vehicle, rather than employee mobility, is necessary to perform essential duties of the position.
- B. Have a knowledge of relevant rules and regulations concerning salary increments, bonuses and authorized deductions after a period of training.
- C. Have a knowledge of routine, repetitive and noncomplex tasks involved in keeping financial and/or other records of an arithmetical nature.
- D. Have a knowledge of office methods, practices, routines and equipment.
- E. Have the ability to comprehend, interpret and apply rules and regulations in accord with established procedures and policies of the unit.
- F. Have the ability to accurately prepare detailed, technical and confidential payroll forms and documents.
- G. Have the ability to make arithmetic calculations quickly and accurately by hand or machine.
- H. Have three years of experience in the preparation of payrolls.
- I. Have the ability to effectively convey information to department employees on the pertinent aspects of the payroll function.
- J. Have the ability to use varied office machines, including adding machines, calculating machines and photostatic copying machines.
- K. Have the ability to maintain confidential records and files.
- L. Have the ability to learn to utilize various types of electronic and/or manual recording and information systems used by the agency, office or related units.
- M. Have the ability to read, write, speak, understand and communicate in English sufficiently to perform the duties of this position. American Sign Language or Braille may also be considered as an acceptable form of communication.

§ 5-36.8. Duties of Assistant Payroll Supervisor.

[Added 7-21-2010 by Ord. No. 10-11]

An Assistant Supervisor shall, under direct supervision of a Supervising Payroll Supervisor or other supervisory official, do routine clerical work involved in and relating to the review, verification, and preparation of payroll or payroll and personnel records, and do other related duties as required.

Article XII. Account Clerk

§ 5-37. Office established.

There is hereby established the office of Account Clerk for the Borough of Seaside Heights.

§ 5-38. Appointment; term of office.

The Account Clerk shall be appointed by the Mayor, with the advice and consent of the Borough Council, and shall serve for a term of one year, commencing on January 1 of the year of appointment and ending on December 31 of that year, or until a successor or successors shall be appointed and qualified.

§ 5-39. Qualifications.

To be appointed as Account Clerk for the Borough of Seaside Heights, an individual must meet the following requirements. The individual must:

- A. Possess a valid New Jersey driver's license only if the operation of a vehicle, rather than employee mobility, is necessary to perform essential duties of the position.
- B. Have the knowledge of office methods, practices and equipment and of performing routine, repetitive and noncomplex tasks involved in keeping financial and/or other records of a mathematical nature.
- C. Have the knowledge of basic arithmetic functions.
- D. Have the ability to understand, remember and carry out oral and written directions.
- E. Have the ability to perform routine/repetitive tasks, compare numerical/verbal data and select appropriate information for forms.
- F. Have the ability to add, subtract, multiply, divide and find averages/percentages.
- G. Have the ability to apply arithmetic principles and to correct computational errors.
- H. Have the ability to acquire an understanding of numerical recordkeeping and data gathering and other clerical procedures used in a specific establishment.
- I. Have the ability to perform work requiring constant/close attention to clerical and numerical detail.
- J. Have the ability to utilize various types of electronic and/or manual recording and information systems used by the agency, office or related units.
- K. Have the ability to read, write, speak, understand and communicate in English sufficiently to perform the duties of this position. American Sign Language or Braille may also be considered as an acceptable form of communication.

§ 5-40. Duties.

An Account Clerk shall, under direction, perform a variety of routine, repetitive, noncomplex clerical tasks which involve computing, classifying, verifying and recording numerical data and the reconciliation of accounts, records and documents to keep sets of financial records complete, and do other related duties as required.

Article XIII. Administrative Clerk

§ 5-41. Office established.

There is hereby established the office of Administrative Clerk for the Borough of Seaside Heights.

§ 5-42. Appointment; term of office.

The Administrative Clerk shall be appointed by the Mayor, with the advice and consent of the Borough Council, and shall serve a term of one year, commencing on January 1 of the year of appointment and ending on December 31 of that year, or until a successor or successors shall be appointed and qualified.

§ 5-43. Qualifications.

To be appointed as Administrative Clerk for the Borough of Seaside Heights, an individual must possess five years of experience in clerical work.

§ 5-44. Duties.

The duties of the Administrative Clerk shall be to assist the Administrator and/or other department heads in the day-to-day operations of the Borough of Seaside Heights by doing administrative, clerical and related work.

Article XIV. Senior Clerk Typist

§ 5-45. Office established.

There is hereby established the office of Senior Clerk Typist for the Borough of Seaside Heights.

§ 5-46. Appointment; term of office.

The Senior Clerk Typist shall be appointed by the Mayor, with the advice and consent of the Borough Council, and shall serve a term of one year, commencing on January 1 of the year of appointment and ending on December 31 of that year, or until a successor or successors shall be appointed and qualified.

§ 5-47. Qualifications.

To be appointed as Senior Clerk Typist for the Borough of Seaside Heights, an individual must possess one year of experience in clerical work, including typing.

§ 5-48. Duties.

A Senior Clerk Typist shall, under supervision, perform typing and other related clerical work requiring exercise of independent judgment and working knowledge of department rules, regulations and policies, and/or have charge of the work of a small group of clerk typists, and/or have charge of the designated phase of the typing work of a department, and do other related duties as required.

Article XV. Clerk Typist

§ 5-48.1. Office established.

There is hereby established the office of Clerk Typist for the Borough of Seaside Heights.

§ 5-48.2. Appointment; term of office.

The Clerk Typist shall be appointed by the Mayor, with the advice and consent of the Borough Council, and shall serve a term of one year, commencing on January 1 of the year of appointment and ending on December 31 of that year, or until a successor or successors shall be appointed and qualified.

§ 5-48.3. Qualifications.

To be appointed to the office of Clerk Typist, an individual must possess knowledge of office methods, practices, routines and equipment. The Clerk Typist must also be familiar with office machines and have the ability to maintain records and files.

§ 5-48.4. Duties.

The Clerk Typist shall, under supervision, type and perform routine, repetitive clerical work of a clerical nature and do related work as required.

Article XVI. Clerk

§ 5-49. Office established.

There is hereby established the position of Clerk for the Borough of Seaside Heights.

§ 5-50. Appointment; term of office.

The Clerk shall be appointed by the Mayor, with the advice and consent of the Borough Council, and shall serve a term of one year, commencing on January 1 of the year of appointment and ending on December 31 of that year, or until a successor or successors shall be appointed and qualified.

§ 5-51. Qualifications.

To be appointed to the position of Clerk, an individual must meet the following requirements:

- A. Possess a driver's license, valid in New Jersey, only if the operation of a vehicle, rather than employee mobility, is necessary to perform essential duties of the position.
- B. Possess knowledge of office routines, equipment and practices.
- C. Possess the ability to make arithmetic calculations and tabulations.
- D. Possess the ability to work effectively with associates, superior officials and members of the public concerned with the work of the department.
- E. Possess the ability to sort, index, file and pull varied types of materials using an established filing system.
- F. Possess the ability to utilize various types of electronic and/or manual recording and information systems used by the department.
- G. Possess the ability to read, write, speak, understand or communicate in English sufficiently to perform the duties of this position. American Sign Language or Braille may also be considered as an acceptable form of communication.

§ 5-52. Duties.

The duties of the Clerk, under direction, shall include but not be limited to performing routine, repetitive clerical work of a varied nature, which includes a relatively small proportion of difficult tasks. The Clerk shall also perform such other related work as required.

Article XVII. Confidential Assistant

[Amended 2-15-2017 by Ord. No. 17-04]

§ 5-53. Office established.

There is hereby established the office of Confidential Assistant for the Borough of Seaside Heights.

§ 5-54. Appointment; term of office.

The Confidential Assistant shall be appointed by the Mayor, with the advice and consent of the Borough Council, and shall serve at the pleasure of the appointing authority.

§ 5-55. Qualifications.

To be appointed as Confidential Assistant an individual must meet the following requirements. The individual must:

- A. Have the ability to recognize conditions which require administrative action or attention and to perform the work necessary to carry out the required administrative action.
- B. To perform whatever duties are necessary pertaining to matters of a confidential nature between the Confidential Assistant's direct supervisor and any other elected officials, appointed officers and employees.
- C. Possess the ability to understand, remember and carry out oral and written directions.
- D. Possess the ability to perform expediting work under a variety of circumstances, to be courteous at all times and to perform the clerical work involved in this kind of position.
- E. Possess the ability to read, write, speak, understand or communicate in English sufficiently to perform the duties of the position.

§ 5-56. Duties.

A Confidential Assistant shall, under direction, have charge of and perform whatever clerical, secretarial or other duties are necessary pertaining to matters of a confidential nature between the Confidential Assistant's direct supervisor and any other elected officials, appointed officers and employees.

Article XVIII. Zoning Officer

§ 5-57. Office established.

There is hereby established the office of Zoning Officer for the Borough of Seaside Heights.

§ 5-58. Appointment; term of office.

One or more Zoning Officers shall be appointed by the Mayor, with the advice and consent of the Borough Council, and shall serve a term of one year, commencing on January 1 of the year of appointment and ending on December 31 of that year, or until a successor or successors shall be appointed and qualified.

§ 5-59. Qualifications.

To be appointed to the position of Zoning Officer, an individual must have three years of experience in the preparation and revision of building construction plans and specifications or in the full-time inspection and enforcement of zoning and/or building construction laws and regulations and must possess a driver's license valid in New Jersey.

§ 5-60. Duties.

A. The duties of the Zoning Officer shall be:

- (1) To enforce the Zoning Ordinance^[1] of the Borough of Seaside Heights.

^[1] *Editor's Note: See Ch. 246 Zoning and Land Use.*

- (2) To issue zoning permits in accordance with the Code of the Borough of Seaside Heights.
- (3) To issue flood hazard letters, in writing, when requested.
- (4) To answer all inquiries with regard to zoning.
- (5) To keep a record of all applications for permits and of all permits and certificates issued, with a notation of all special conditions involved.
- (6) To file and safely keep copies of all plans submitted.
- (7) To collect and record fees for zoning permits and flood letters.

- (8) To prepare a monthly report for the governing body summarizing all activity of the previous month concerning the duties of the Zoning Officer.
- B. The Zoning Officer shall be deemed to be the administrative officer as defined in N.J.S.A. 40:55D-3 and shall also issue certifications on behalf of the Borough of Seaside Heights, certifying whether or not a subdivision has been approved by the Land Use Board, in accordance with N.J.S.A. 40:55D-56, and, in general, shall coordinate the efforts of the Land Use Board and have such other duties or responsibilities as may, from time to time, be imposed with regard to the Land Use Board.
- C. The Zoning Officer shall conduct field inspections and special investigations to ensure compliance with various municipal ordinances, initiate and enforce rules and regulations in relation to enforcement of ordinances, initiate necessary legal action against violators of various municipal ordinances, prepare needed reports, establish and maintain the records and files and may assist in the promulgation of municipal ordinances.

Article XIX. Code Enforcement Officer

§ 5-61. Office established.

There is hereby established the office of Code Enforcement Officer for the Borough of Seaside Heights.

§ 5-62. Appointment; term of office.

One or more Code Enforcement Officers shall be appointed by the Mayor, with the advice and consent of the Borough Council, and shall serve a term of one year, commencing on January 1 of the year of appointment and ending on December 31 of that year, or until a successor or successors shall be appointed and qualified.

§ 5-63. Qualifications.

To be appointed to the position of Code Enforcement Officer, an individual must meet the following requirements. The individual must:

- A. Have the ability to make necessary inspections and investigations without giving unnecessary offense.
- B. Have the ability to take and maintain a firm and correct stand when controversial matters are considered.
- C. Have the ability to prepare clear, sound, accurate and informative reports containing findings, conclusions and recommendations.
- D. Have the ability to establish and maintain needed records and files.
- E. Have the ability to make evaluative judgments based on the application of statutory or regulatory provisions.

§ 5-64. Duties.

The duties of the Code Enforcement Officer shall be as follows:

- A. To conduct field inspections and special investigations to ensure compliance with the various municipal ordinances, enforce rules and regulations in relation to the enforcement of ordinances, prepare needed reports, assist in the establishment and maintenance of the records and files and assist in promulgation of municipal ordinances.
- B. To oversee and give direction to the Housing Inspector in the performance of the duties of the Housing Inspector and to assist the Housing Inspector in the performance of those duties when necessary.
- C. To perform such other duties as directed by the Mayor and Borough Council or the Borough Administrator.

Article XX. Housing Inspector

§ 5-65. Office established.

There is hereby established the office of Housing Inspector for the Borough of Seaside Heights.

§ 5-66. Appointment; term of office.

One or more Housing Inspectors shall be appointed by the Mayor, with the advice and consent of the Borough Council, and shall serve a term of one year, commencing on January 1 of the year of appointment and ending on December 31 of that year, or until a successor or successors shall be appointed and qualified.

§ 5-67. Qualifications.

To be appointed to the office of Housing Inspector, an individual must meet the following requirements:

- A. Possess the ability to read, write, speak, understand or communicate in the English language sufficiently to perform the duties of the office.
- B. Possess one year of experience in work that would require knowledge of buildings, structures or building repair. Successful completion of a course in principles of housing inspection may be substituted for six months of work experience.
- C. Possess considerable knowledge of the approved methods involved in preventing and eliminating blight and/or substandard housing accommodations.

§ 5-68. Duties.

The Housing Inspector is responsible for:

- A. Performing inspections involved in eliminating blight and/or substandard housing accommodations.
- B. Inspecting buildings for violations of applicable housing requirements.
- C. Maintaining the necessary records and files in regard to the performance of these duties.
- D. Performing related work as required by the Mayor and Borough Council or Borough Administrator.

Article XXI. Construction Official

§ 5-69. Position created.

There is hereby created the position of Construction Official of the Borough of Seaside Heights. This is a part-time position.

§ 5-70. Duties.

The duties of said Construction Official shall be to administer and enforce the State Uniform Construction Code pursuant to the provisions of P.L. 1975, c. 217.^[1] It is anticipated that the duties of the Construction Official will not require more than eight hours per week.

[1] *Editor's Note: See N.J.S.A. 52:27D-119 et seq.*

§ 5-71. Power to overrule subcode official.

The Construction Official shall have the power to overrule a determination of a subcode official based on an interpretation of a substantive provision of the subcode which such subcode official administers only if the

Construction Official is qualified to act, pursuant to the State Uniform Construction Code Act,^[1] as a subcode official for such subcode.

[1] *Editor's Note: See N.J.S.A. 52:27D-119 et seq.*

§ 5-72. Power to serve as subcode official.

The Construction Official may serve as a subcode official for any subcode which he is qualified to administer under the State Uniform Construction Code Act.^[1]

[1] *Editor's Note: See N.J.S.A. 52:27D-119 et seq.*

§ 5-73. Qualifications for service.

A subcode official or Municipal Engineer may serve as a Construction Official if otherwise qualified under the provisions of the State Uniform Construction Code Act.^[1]

[1] *Editor's Note: See N.J.S.A. 52:27D-119 et seq.*

§ 5-74. Term.

The Construction Official shall be appointed for a term of four years beginning on January 1 of the year of appointment.

§ 5-75. (Reserved)

Article XXII. Director of Planning

§ 5-76. Office established.

There is hereby established the position of Director of Planning of the Borough of Seaside Heights.

§ 5-77. Appointment; term of office.

The Director of Planning shall serve for a term of one year, commencing on January 1 of the year of appointment and ending on December 31 of that year, or until a successor or successors shall be appointed and qualified.

§ 5-78. Qualifications.

To be appointed to the position of Director of Planning, an individual must meet the following requirements:

- A. Possess a current and valid license as a professional planner in New Jersey issued by the State Board of Professional Planners.
- B. Possess a driver's license valid in New Jersey only if the operation of a vehicle, rather than employee mobility, is necessary to perform the essential duties of the position.
- C. Possess six years of responsible professional experience in municipal, county, regional or state planning, three of which shall have been in a supervisory capacity. A master's degree in planning from an accredited college or university may be substituted for one year of work experience.
- D. Possess the ability to use analytical methods and tools, as well as analyze, identify and evaluate planning problems, planning goals and objectives, programs and measures used to implement them.
- E. Possess the ability to express ideas orally, in writing or by means of graphics and sketches, as well as the ability to deal tactfully and diplomatically with others and function under pressures such as time limitations or intense public interest.

- F. Possess the ability to organize designated planning projects and studies and to carry these to completion.
- G. Possess the ability to prepare technically competent, feasible and realistic plans and details of plans for the further development of the economic, recreation and other resources of the state or local government.
- H. Possess the ability to provide professional advice and guidance on planning matters, as well as analyze organizational and administrative work problems.
- I. Possess the ability to talk with officials and groups and to interpret the meaning of individual planning projects.
- J. Possess the ability to prepare correspondence in the course of official duties and prepare clear, technically sound, accurate and informative planning reports, studies and surveys containing findings, conclusions and recommendations.
- K. Possess the ability to read, write, speak, understand or communicate in English sufficiently to perform the duties of this position. American Sign Language or Braille may also be considered as an acceptable form of communication.

§ 5-79. Duties.

The Director of Planning shall be responsible to the Mayor, Borough Council and Borough Administrator and will perform such duties as required by the governing body. The Director of Planning shall:

- A. Have full charge and management of the Department of Planning and of any employees in said Department, subject to civil service laws and the legislative power of the municipality. Such charge shall include the power to hire, fire, discipline and promote employees within the Department, subject to law.
- B. Be responsible for preparing a Comprehensive Development and Zoning Plan for the Borough of Seaside Heights; collect and compile data, conduct investigations and analyses of data, interpret statistical data and prepare maps and charts; and perform related work as required.
- C. Determine the proper planning objectives for the future development of the Borough and how to accomplish the objectives in terms of proper planning practices.
- D. Establish and maintain close relationship with the Seaside Heights Land Use Board and with interested public development groups to promote proper development in the Borough of Seaside Heights.
- E. Submit an annual report to the Mayor, Borough Council and Land Use Board.

Article XXIII. Program Coordinator, Special Events

[Amended 2-15-2017 by Ord. No. 17-04]

§ 5-80. Office established.

There is hereby established the position of Program Coordinator, Special Events for the Borough of Seaside Heights.

§ 5-81. Appointment; term of office.

The Program Coordinator, Special Events shall be appointed by the Mayor, with the advice and consent of the Borough Council.

§ 5-82. Qualifications.

To be appointed to the position of Program Coordinator, Special Events, an individual must meet the requirements set by the New Jersey Civil Service Commission or successor entity for such position.

§ 5-83. Duties.

The Program Coordinator, Special Events, under direction, coordinates, promotes, and supervises special event programs designed specifically for community, agency, or facility participation; promotes public relations within the community, agency or facility; may also manage the operation of the building used to hold these events, formulating plans for effective utilization of available funds, personnel, equipment, materials, and supplies; does other related duties as required.

Article XXIV. Director of Community Improvements

§ 5-84. Office established.

There is hereby established the office of Director of Community Improvements for the Borough of Seaside Heights.

§ 5-85. Appointment; term of office.

The Director of Community Improvements shall be appointed by the Mayor, with the advice and consent of the Borough Council, and shall serve for a term of one year, commencing on January 1 of the year of appointment and ending on December 31 of that year, or until a successor shall be appointed and qualified.

§ 5-86. Qualifications.

To be appointed as Director of Community Improvements for the Borough of Seaside Heights, an individual must possess five years of administrative experience in the organization, direction, planning, coordination and control of community development.

§ 5-87. Duties.

The Director of Community Improvements shall be responsible to the Mayor and Borough Council and perform such duties as the governing body may from time to time designate. The Director of Community Improvements shall:

- A. Have full charge and management of the Department of Community Improvements and of any employees in said Department, subject to civil service laws and the legislative power of the municipality. Such charge shall include the power to hire, fire, discipline and promote employees within the Department, subject to law.
- B. Direct all Department operations.
- C. The primary responsibility of the Director of Community Improvements, and the department itself, shall be the acquisition of public grants for the Borough of Seaside Heights.
- D. Lobby on behalf of the Borough of Seaside Heights to obtain any county, state or federal grants that are available for the Borough of Seaside Heights.
- E. Advise the Mayor, Borough Council and Borough Administrator of the feasibility of the acquisition of certain grants for the Borough of Seaside Heights.
- F. Schedule meetings with federal, state or county officials in order to provide the information necessary for the Borough to acquire grants from said federal, state or county entity.
- G. Provide written reports to the governing body outlining the potential for the Borough receiving any particular federal, state or county grant.

Article XXV. CATV Complaint Officer

§ 5-88. Position created.

There is hereby created the position of CATV Complaint Officer of the Borough of Seaside Heights.

§ 5-89. Duties.

The duties of the said CATV Complaint Officer shall be to receive, evaluate and resolve any and all complaints concerning CATV service; ensure that the cable television company operating in the Borough of Seaside Heights complies with the provisions of the Cable TV Ordinance; take all necessary actions concerning the enforcement of the Cable TV Ordinance,^[1] including but not limited to field investigations of complaints; hold hearings concerning any alleged violation of the Cable TV Ordinance and file complaints in the court of competent jurisdiction to enforce the Cable TV Ordinance; take any and all necessary actions which are required in order to ensure the best cable television service possible to the residents of the Borough of Seaside Heights.

[1] *Editor's Note: See Ch. 49, Cable Television Franchise.*

Article XXVI. (Reserved)

Article XXVII. (Reserved)

Article XXVIII. (Reserved)

Article XXIX. (Reserved)

Article XXX. Superintendent, Public Works

§ 5-90. Office established.

There is hereby established the position of Superintendent, Public Works for the Borough of Seaside Heights.

§ 5-91. Appointment; terms of office.

The Superintendent, Public Works shall be appointed by the Mayor, with the advice and consent of the Borough Council, as an unclassified employee. The Superintendent, Public Works shall serve at the will of the governing body. A person holding the office of Superintendent of Public Works full time for five consecutive years shall have tenure of office as provided for in N.J.S.A. 40A:9-154.6.

§ 5-92. Qualifications.

To be appointed to the position of Superintendent, Public Works, an individual must meet the following requirements:

- A. Five years of supervisory experience in the construction, maintenance, and repair of streets, sewer, water, sanitation or other public works facilities or similar heavy construction or maintenance work. Satisfactory completion of college-level credits in engineering courses at an accredited college or university may be substituted for up to two years of experience on the basis of 30 semester hour credits being equivalent to one year of experience.
- B. Possess a valid New Jersey driver's license and a valid commercial driver's license (CDL) and applicable endorsements for the class and type of vehicle being operated.
- C. Knowledge of procedures used in making routine and complex repairs to water and sewer equipment and in the construction, maintenance, and repair of streets.
- D. Ability to organize assigned work.
- E. Ability to give assignments and instructions to groups and individuals.
- F. Ability to prepare reports.
- G. Ability to keep essential records and files.

- H. Ability to learn to utilize various types of electronic and/or manual recording and information systems used by the agency, office, or related units.
- I. Ability to read, write, speak, understand, and communicate in English sufficiently to perform the duties of this position. American Sign Language or Braille may also be considered as an acceptable form of communication.

§ 5-93. Duties.

The duties of the Superintendent, Public Works, under direction, shall include:

- A. Having full charge and management of the Department and of the other officers and employees in said Department, subject to civil service laws and subject to the legislative power of the municipality. Such charge shall include the power to hire, fire, discipline and promote employees within the Department of Public Works, subject to law.
- B. Direct all Department operations, the maintenance and inventory of Department equipment, the preparation and administration of the Departments budget, the monitoring of all Department purchases and all other duties that the governing body may assign.
- C. Render to the governing body such reports, recommendations, drawings or other documents as may be required, at regular stated intervals or upon special request therefor. He shall prepare and present to the governing body short- and long-range recommendations for improvements to the infrastructure of the Borough and in other areas that are within the functions and duties of his Department.
- D. Have the authority to delegate any of the duties set forth in this chapter to any other qualified employee within his Department and shall make appropriate assignments within said Department in pursuance of this duty.
- E. Make a final determination as to disciplinary action with respect to any employee in addition to final determination as to the granting of scheduled salary increases and authority to approve or disapprove the transfer of employees into or out of his Department, subject only to civil service laws and the legislative powers of the governing body.
- F. Have complete control over the internal policies, procedures, rules, regulations and organization of the Department, subject only to the applicable statutes, and shall coordinate the work of his Department with other departments of the Borough of Seaside Heights.
- G. Be directly accountable to the governing body of the Borough of Seaside Heights.
- H. Formulate, amend or modify and recommend Department policies and procedures and rules and regulations to the governing body. The governing body may then adopt the recommended policies and procedures and/or rules and regulations by resolution. Upon adoption, these policies and procedures and/or rules and regulations shall govern the management and operation of the Department.
- I. Such other duties as the governing body may from time to time designate.

Article XXXI. Assistant Superintendent of Public Works

§ 5-94. Office established.

There is hereby established the position of Assistant Superintendent of Public Works for the Borough of Seaside Heights.

§ 5-95. Appointment; term of office.

The Assistant Superintendent of Public Works shall be appointed by the Mayor, with the advice and consent of the Borough Council and shall serve a term of one year, commencing on January 1 of the year of appointment and ending on December 31 of that year, or until a successor or successors shall be appointed and qualified.

§ 5-96. Qualifications.

To be appointed to the position of Assistant Superintendent of Public Works, an individual must meet the following requirements:

- A. Five years of supervisory experience in the construction, maintenance, and repair of streets, sewer, water, sanitation or other public work facilities or similar heavy construction or maintenance work. Satisfactory completion of college level credits in engineering courses at an accredited college or university may be substituted for up to two years of experience on the basis of 30 semester hour credits being equivalent to one year of experience.
- B. Possess a valid New Jersey driver's license and a valid commercial driver's license (CDL) and applicable endorsements for the class and type of vehicle being operated.
- C. Knowledge of procedures used in making routine and complex repairs to water and sewer equipment and in the construction, maintenance, and repair of streets.
- D. Ability to organize assigned work.
- E. Ability to give assignments and instructions to groups and individuals.
- F. Ability to prepare reports.
- G. Ability to keep essential records and files.
- H. Ability to learn to utilize various types of electronic and/or manual recording and information systems used by the agency, office, or related units.
- I. Ability to read, write, speak, understand, and communicate in English sufficiently to perform the duties of this position. American Sign Language or Braille may also be considered as an acceptable form of communication.

§ 5-97. Duties.

The duties of the Assistant Superintendent of Public Works shall be to assist the Superintendent, Public Works in performing the functions and duties of his office and to perform such functions and duties as shall be prescribed by the Superintendent, Public Works.

Article XXXII. Supervisor, Public Works

[Amended 6-17-2015 by Ord. No. 15-09]

§ 5-98. Office established.

There is hereby established the office of Supervisor, Public Works in the Borough of Seaside Heights.

§ 5-99. Appointment; term of office.

The Supervisor, Public Works shall be appointed by the Mayor, with the advice and consent of the Borough Council.

§ 5-100. Qualifications.

To be appointed to the office of Supervisor, Public Works, an individual must meet the following requirements:

- A. Four years of experience in construction, maintenance, and repair of streets, sewer, water, sanitation or other public works facilities or similar heavy construction.
- B. Possession of a driver's license valid in New Jersey only if the operation of a vehicle, rather than employee mobility, is necessary to perform essential duties of the position.
- C. Possession of a valid commercial driver's license (CDL) and applicable endorsements or the class and type of vehicle being operated as necessary to perform the essential duties of the office.

- D. Possess a valid and appropriate license issued by the Department of Environmental Protection (DEP) for the operation of a sewage disposal and treatment plant and/or a public water supply system and/or a public water treatment plant as may be required.
- E. Possess wide knowledge of the procedures, materials and tools used in cleaning, maintaining and repairing street, sewer, water and sanitation facilities, sewage plant equipment and pumps and water treatment plant equipment.
- F. Possess the ability to direct subordinates, provide them with needed service and assistance when difficult and unusual problems arise, and check their work to see that proper procedures are followed and that desired objectives are achieved.
- G. Possess the ability to organize assigned work, develop effective work methods and to keep needed records and the ability to carry out agency policies and programs that apply, and to perform special assignments as given by a superior, as well as prepare reports with recommendations as appropriate.
- H. Possess the ability to read, write, speak, understand or communicate in English sufficiently to perform the duties of this office.
- I. Possess a Public Works Manager Certificate issued by the New Jersey Department of Community Affairs.

§ 5-101. Duties.

The duties of Supervisor, Public Works, under direction, shall include, but not be limited to, supervising and working with a group of employees engaged in the construction, operation, maintenance and repair of any combination of multiple public works facilities such as streets, sewer or water service, sanitation, parks, sewage or water treatment plants or other public works operations, and may be required to operate, check, service and make minor repairs to trucks and other maintenance and construction equipment. The Supervisor, Public Works shall also perform such other related work as required, such as:

- A. Supervising and performing loading, unloading, and applying of sand and street repair materials, in cutting brush and mowing grass, and in emptying refuse containers, loading refuse, and disposing of refuse; and
- B. Supervising employees engaged in installing, maintaining, and repairing water mains, pipes, valves, pumps, hydrants, and other equipment in sewage and/or water treatment plants and other related facilities; and
- C. Removing water meters, dismantling and assembling water meters, and taking water readings; and
- D. Operating, checking, servicing and making minor repairs to trucks, tractors, road graders, compressors, snow plows, ground hogs, grass cutters, and other road and street equipment; and
- E. Supervising employees engaged in installation, painting, repair, and maintenance of road and street signs and ensuring that safety precautions are taken to protect the public from injury during repair activities; and
- F. Providing instruction and guidance to employees and inspecting completed work to determine if desired objectives are achieved; and
- G. Performing special assignments, including but not limited to preparation of reports with recommendation as appropriate and learning to utilize various types of electronic and/or manual recording and information systems used by the agency, office, or related units.

Article XXXIII. Supervising Maintenance Repairer

§ 5-102. Office established.

There is hereby established the office of Supervising Maintenance Repairer in the Borough of Seaside Heights.

§ 5-103. Appointment; term of office.

The Supervising Maintenance Repairer shall be appointed by the Mayor, with the advice and consent of the Borough Council, and shall serve a term of one year, commencing on January 1 of the year of appointment and ending on December 31 of that year, or until a successor or successors shall be appointed and qualified.

§ 5-104. Qualifications.

To be appointed to the office of Supervising Maintenance Repairer, an individual must possess three years' experience in performing varied building maintenance and repair tasks and possess a driver's license valid in New Jersey, only if the operation of a vehicle, rather than employee mobility, is necessary to perform essential duties of the position. The Supervising Maintenance Repairer may be required to possess a boiler operator's license of appropriate grade and type as required by the Department of Labor.

§ 5-105. Duties.

The duties of Supervising Maintenance Repairer, under direction, shall be to supervise and work with a group of employees engaged in the performance of various maintenance and repair tasks, such as those involved in electrical work, masonry, painting, plastering, carpentry, plumbing, steam fitting, roofing and other work involved in the upkeep of buildings and other structures. The Supervising Maintenance Repairer shall also perform such other related work as required.

Article XXXIV. Maintenance Repairer

§ 5-106. Office established.

There is hereby established the office of Maintenance Repairer in the Borough of Seaside Heights.

§ 5-107. Appointment; term of office.

The Maintenance Repairer shall be appointed by the Mayor, with the advice and consent of the Borough Council, and shall serve a term of one year, commencing on January 1 of the year of appointment and ending on December 31 of that year, or until a successor or successors shall be appointed and qualified.

§ 5-108. Qualifications.

To be appointed to the office of Maintenance Repairer, an individual must possess three years' experience in performing varied building maintenance and repair tasks and possess a driver's license valid in New Jersey, only if the operation of a vehicle, rather than employee mobility, is necessary to perform essential duties of the position.

§ 5-109. Duties.

The duties of Water Repairer, under direction, shall include various maintenance and repair tasks, such as those involved in electrical work, masonry, painting, plastering, carpentry, plumbing, steam fitting, roofing and other work involved in the upkeep of buildings and other structures. The Maintenance Repairer shall also perform such other related work as required.

Article XXXV. Supervisor, Roads

§ 5-110. Office established.

There is hereby established the office of Supervisor, Roads for the Borough of Seaside Heights.

§ 5-111. Appointment; term of office.

The Supervisor, Roads shall be appointed by the Mayor, with the advice and consent of the Borough Council, and shall serve a term of one year, commencing on January 1 of the year of appointment and ending on December 31 of that year, or until a successor or successors shall be appointed and qualified.

§ 5-112. Qualifications.

To be appointed to the office of Supervisor, Roads, an individual must meet the following requirements:

- A. Possess three years' experience in the construction, maintenance and repair of roads.
- B. Possess a driver's license valid in the State of New Jersey, only if the operation of a vehicle, rather than employee mobility, is necessary to perform the essential duties of the office. The Supervisor, Roads must also possess a commercial driver's license (CDL) valid in the State of New Jersey.
- C. Possess the ability to direct subordinates, provide them with needed service and assistance when difficult and unusual problems arise and check their work to see that proper procedures are followed and that desired objectives are achieved.
- D. Possess thorough knowledge of the processes used in construction, maintenance and repair of roads.
- E. Possess the ability to prepare work schedules, organize assigned work, develop effective work methods and to keep needed records.
- F. Possess the ability to obtain, store, safeguard and use needed equipment, materials and supplies.
- G. Possess the ability to prepare and maintain time records of personnel, work accomplished, equipment and materials used and time spent on operations, as well as make recommendations to superiors concerning disciplinary measures, promotions and appointments.

§ 5-113. Duties.

The duties of Supervisor, Roads, under direction, shall include, but not be limited to, supervising and working with a group of employees engaged in the maintenance, repair, painting, resurfacing and/or construction of roads, signs and parking meters within the Borough of Seaside Heights. The Supervisor, Roads may also be required to operate, check, service and make minor repairs to trucks and other road maintenance and construction equipment. The Supervisor, Roads shall also perform such other related work as required.

Article XXXVI. Mechanic

§ 5-114. Office established.

There is hereby established the office of Mechanic for the Borough of Seaside Heights.

§ 5-115. Appointment; term of office.

The Mechanic shall be appointed by the Mayor, with the advice and consent of the Borough Council, and shall serve a term of one year, commencing on January 1 of the year of appointment and ending on December 31 of that year, or until a successor or successors shall be appointed and qualified.

§ 5-116. Qualifications.

To be appointed to the office of Mechanic, an individual must possess three years of work experience in the maintenance and repair of various types of motor vehicles and/or construction equipment, such as bulldozers, tractors, cranes, road graders, power shovels or similar equipment. Possession of a certificate showing successful completion of a vocation-educational training program in automechanics approved by the New Jersey Department of Education or possession of an automotive mechanic certificate issued by the National Institute of Automotive Service Excellence may be substituted for one year of work experience. To be appointed to the office of Mechanic, an

individual must also possess a valid New Jersey driver's license and a valid commercial driver's license (CDL) and applicable endorsements for the class and type of vehicle being operated.

§ 5-117. Duties.

The duties of Mechanic, under direction, shall include, but not be limited to, the performance of varied mechanical work involved in the repair, maintenance and servicing of motor vehicles and/or construction equipment working with various machines and hand tools common to the trade.

Article XXXVII. Mechanic's Helper

§ 5-118. Office established.

There is hereby established the office of Mechanic's Helper for the Borough of Seaside Heights.

§ 5-119. Appointment; term of office.

The Mechanic's Helper shall be appointed by the Mayor, with the advice and consent of the Borough Council, and shall serve for a term of one year, commencing on January 1 of the year of appointment and ending on December 31 of that year, or until a successor or successors shall be appointed and qualified.

§ 5-120. Qualifications.

To be appointed as Mechanic's Helper for the Borough of Seaside Heights, an individual must meet the following requirements. The individual must:

- A. Possess a valid New Jersey driver's license and a valid commercial driver's license (CDL) and applicable endorsements for the class and type of vehicle being operated.
- B. Have a knowledge of standard tools, materials, methods, practices, occupational hazards and safety precautions involved in mechanical repair work.
- C. Have the ability to use and learn the use and proper care and adjustment of common tools used in the trade.
- D. Have the ability to understand, remember and carry out oral and written directions and to learn quickly from instructions and from demonstrations.
- E. Have the ability to maintain records.
- F. Have the ability to utilize various types of electronic and/or manual recording and information systems used by the agency, office or related units.
- G. Have the ability to read, write, speak, understand and communicate in English sufficiently to perform the duties of this position. American Sign Language or Braille may also be considered as an acceptable form of communication.

§ 5-121. Duties.

A Mechanic's Helper shall, under direct supervision, assist and work closely with a mechanic involved in performing varied mechanical work in the maintenance and repair of motor vehicles and mechanized equipment and shall do other related duties as required.

Article XXXVIII. Truck Driver, Heavy

§ 5-122. Office established.

It is hereby established the office of Truck Driver, Heavy for the Borough of Seaside Heights.

§ 5-123. Appointment; terms of office.

Truck Driver, Heavy shall be appointed by the Mayor, with the advice and consent of the Borough Council, and shall serve the term of one year, commencing on January 1 of the year of appointment and ending on December 31 of that year, or until a successor or successors shall be appointed and qualified.

§ 5-124. Qualifications.

To be appointed to the office of Truck Driver, Heavy, an individual must possess one year of experience in driving a truck with tandem/dual rear axels; any gross vehicle weight rating of at least 26,000 pounds and auxiliary equipment such as a snowplow, salt spreader, power take-off, winch and lift body. To be appointed to the office of Truck Driver, Heavy, an individual must also possess a valid commercial driver's license and applicable endorsements for the class and type of vehicle being operated.

§ 5-125. Duties.

Duties of Truck Driver, Heavy, under direction, shall include, but not be limited to, driving of a truck with a gross vehicle weight rating over 26,000 pounds to transport materials, equipment or people, the collection, the loading and unloading, with and without assistance, of various types of equipment, garbage, trash, delivery of same by truck to specified destinations, the driving of a truck equipped with a dump body to transport and dump materials by pulling levers and turning crank to tilt body and dump contents and, when not engaging in driving a truck or other equipment, to perform other work such as road and landscape construction, building maintenance and repair work, groundskeeping, laboring or other unskilled work.

Article XXXIX. Equipment Operator, Public Works

§ 5-126. Office established.

There is hereby established the office of Equipment Operator, Public Works for the Borough of Seaside Heights.

§ 5-127. Appointment; term of office.

The Equipment Operator, Public Works shall be appointed by the Mayor, with the advice and consent of the Borough Council, and shall serve a term of one year, commencing on January 1 of the year of appointment and ending on December 31 of that year, or until a successor or successors shall be appointed and qualified.

§ 5-128. Qualifications.

To be appointed to the position of Equipment Operator, an individual must have one year of experience in the operation/maintenance of motorized excavating, grading, paving, earthmoving, hoisting, moving, or related construction vehicles or appropriate formal training in the operation of maintenance/construction equipment may be substituted for the indicated experience. Appointees must possess a driver's license valid in New Jersey and may also be required to possess a valid commercial driver's license (CDL) and applicable endorsements for the class and type of vehicle being operated.

§ 5-129. Duties.

The duties of the Equipment Operator shall be to, under direction, operate one or more types of gasoline- or diesel-powered equipment, perform assignments to push, pull, pile, lift, and load materials, clear brush and debris and level earth to rough specifications on simple, rolling terrain and/or level surfaces, inspect equipment daily and report unsafe conditions; service and make minor emergency repairs in garage or field; lubricate/oil equipment and do other related duties.

Article XL. Laborer

§ 5-130. Office established.

There is hereby established the office of Laborer in the Borough of Seaside Heights.

§ 5-131. Appointment; term of office.

Laborers shall be appointed by the Mayor, with the advice and consent of the Borough Council, and shall serve a term of one year, commencing on January 1 of the year of appointment and ending on December 31 of that year, or until a successor or successors shall be appointed and qualified.

§ 5-132. Qualifications.

To be appointed to the position of Laborer, an individual must possess a driver's license of the appropriate type, valid in the state of New Jersey, if the Laborer position is one in which the occasional or incidental operation of a truck is necessary.

§ 5-133. Duties.

The duties of Laborer, under direction, shall include, but not be limited to, performing various types of manual and unskilled laboring work; may drive a truck in connection with laboring work on occasion and doing related work as required.

Article XLI. Recycling Program Aide

[Amended 2-15-2017 by Ord. No. 17-04]

§ 5-134. Office established.

There is hereby established the office of Recycling Program Aide for the Borough of Seaside Heights.

§ 5-135. Appointment; term of office.

The Recycling Program Aide shall be appointed by the Mayor, with the advice and consent of the Borough Council.

§ 5-136. Qualifications.

To be appointed as Recycling Program Aide for the Borough of Seaside Heights, an individual must meet the requirements set by the New Jersey Civil Service Commission or successor entity for such position.

§ 5-137. Duties.

The Recycling Program Aide, under direction, assists in the provision of information to the public about the community recycling program and does other related duties as required.

Article XLII. (Reserved)

Article XLIII. (Reserved)

Article XLIV. Water Plant Operator

§ 5-138. Office established.

There is hereby established the office of Water Plant Operator for the Borough of Seaside Heights.

§ 5-139. Appointment; term of office.

The Water Plant Operator shall be appointed by the Mayor, with the advice and consent of the Borough Council, and shall serve a term of one year, commencing on January 1 of the year of appointment and ending on December 31 of that year, or until a successor or successors shall be appointed and qualified.

§ 5-140. Qualifications.

To be appointed to the office of Water Plant Operator, an individual must possess one year of experience in operating, adjusting, regulating, repairing and maintaining electric motors, pumps, valves and other electrical and mechanical equipment of the type used in water treatment plants, plumbing stations or filtration plants. To be appointed to the office of Water Plant Operator, an individual must also possess a valid New Jersey driver's license and a valid commercial driver's license (CDL) and applicable endorsements for the class and type of vehicle being operated.

§ 5-141. Duties.

The duties of Water Plant Operator, under direction, shall include operating, adjusting, regulating and maintaining plant machines and equipment in order to purify and clarify water for human consumption and industrial use.

Article XLV. Assistant Water Treatment Plant Operator

§ 5-142. Office established.

There is hereby established the office of Assistant Water Treatment Plant Operator in the Borough of Seaside Heights.

§ 5-143. Appointment; term of office.

The Assistant Water Treatment Plant Operator shall be appointed by the Mayor, with the advice and consent of the Borough Council, and shall serve a term of one year, commencing on January 1 of the year of appointment and ending on December 31 of that year, or until a successor or successors shall be appointed and qualified.

§ 5-144. Qualifications.

To be appointed to the office of Assistant Water Treatment Plant Operator, an individual may be required to possess a current valid license of the appropriate class to operate a public water treatment system and/or public water distribution system issued by the New Jersey Department of Environmental Protection and possess a driver's license valid in New Jersey, only if the operation of a vehicle, rather than employee mobility, is necessary to perform essential duties of the position.

§ 5-145. Duties.

The duties of Assistant Water Treatment Plant Operator, under direction, shall include on-the-job training in the operation of a water treatment plant; routine tasks, such as recording meter readings and taking water samples; routine maintenance and repair work on pumps, electric motors, valves and other mechanical equipment;

housekeeping tasks, such as cleaning and maintaining plant equipment and property; and, under direction of an experienced water treatment plant operator, adjusting, regulating and maintaining alum and lime feeders, chemical food machines, chlorinators, purification machines, water filters, flowmeters and other mechanical equipment. The Assistant Water Treatment Plant Operator will also be required to learn to utilize various types of electronic and/or manual recording and computerized information systems used by the Borough. The Assistant Water Treatment Plant Operator shall also perform such other related work as required.

Article XLVI. Water Repairer

§ 5-146. Office established.

There is hereby established the office of Water Repairer in the Borough of Seaside Heights.

§ 5-147. Appointment; term of office.

The Water Repairer shall be appointed by the Mayor, with the advice and consent of the Borough Council, and shall serve a term of one year, commencing on January 1 of the year of appointment and ending on December 31 of that year, or until a successor or successors shall be appointed and qualified.

§ 5-148. Qualifications.

To be appointed to the office of Water Repairer, an individual must possess a driver's license valid in New Jersey, only if the operation of a vehicle, rather than employee mobility, is necessary to perform the essential duties of the position; possess knowledge of proper procedures used in making routine and complex repairs to water mains, pipes and appurtenances; and possess knowledge of varied types of tools used in the maintenance and repair of water installations and proper use of these tools.

§ 5-149. Duties.

The duties of Water Repairer, under direction, shall include the installation, maintenance and repair of mains, valves, pumps, hydrants and other water service equipment. The Water Repairer shall also perform such other related work as required.

Article XLVII. Supervisor, Electric

§ 5-150. Office established.

There is hereby established the office of Supervisor, Electric for the Borough of Seaside Heights.

§ 5-151. Appointment; term of office.

The Supervisor, Electric shall be appointed by the Mayor, with the advice and consent of the Borough Council, and shall serve a term of one year, commencing on January 1 of the year of appointment and ending on December 31 of that year, or until a successor or successors shall be appointed and qualified.

§ 5-152. Qualifications.

To be appointed to the office of Supervisor, Electric, an individual must possess five years of experience in electrical work involving a variety of installation, maintenance, inspection, repair and servicing tasks. A Supervisor, Electric, must also possess a thorough knowledge of the problems, procedures and methods used in inspecting, analyzing and determining electrical work to be done, keeping needed records and giving suitable assignments and instructions. To be appointed to the office of Supervisor, Electric, an individual must also possess a valid New Jersey driver's license and a valid commercial driver's license (CDL) and applicable endorsements for the class and type of vehicle being operated.

§ 5-153. Duties.

The duties of Supervisor, Electric, under direction, shall include, but not be limited to, supervising and working with a group of electricians engaged in a variety of electrical tasks.

Article XLVIII. Lineman

§ 5-154. Office established.

There is hereby established the office of Lineman for the Borough of Seaside Heights.

§ 5-155. Appointment; term of office.

The Lineman shall be appointed by the Mayor, with the advice and consent of the Borough Council, and shall serve a term of one year, commencing on January 1 of the year of appointment and ending on December 31 of that year, or until a successor or successors shall be appointed and qualified.

§ 5-156. Qualifications.

To be appointed to the office of Lineman, an individual must meet the following requirements:

- A. Possess one year of experience in installing and repairing power lines and/or telephone or telegraph lines.
- B. Possess a valid New Jersey driver's license and a valid commercial driver's license (CDL) and applicable endorsements for the class and type of vehicle being operated.
- C. Possess considerable knowledge of the standards of construction for aerial circuits.
- D. Possess considerable knowledge of rules, regulations and standards covering the installation and maintenance of aerial and underground circuits.
- E. Possess considerable knowledge of the National Electric Safety Code concerning overhead and underground line construction.
- F. Possess considerable knowledge of loop-out branch circuits.
- G. Possess considerable knowledge of tracing out and keeping track of circuits on overhead line construction.
- H. Possess considerable knowledge of the problems and accepted safety procedures involved in installing, repairing and maintaining high-voltage lines and equipment.

§ 5-157. Duties.

The duties of Lineman, under direction, shall include, but not be limited to, performing the work involved in the inspection, installation, construction, repair, rebuilding and maintenance of electric lines and related equipment, including climbing poles when necessary.

Article XLIX. Electrician, Electric Utility

§ 5-158. Office established.

There is hereby established the office of Electrician, Electric Utility in the Borough of Seaside Heights.

§ 5-159. Appointment; term of office.

The Electrician, Electric Utility shall be appointed by the Mayor, with the advice and consent of the Borough Council, and shall serve a term of one year, commencing on January 1 of the year of appointment and ending on December 31 of that year, or until a successor or successors shall be appointed and qualified.

§ 5-160. Qualifications.

To be appointed to the office of Electrician, Electric Utility, an individual must meet the following requirements:

- A. Possess three years' experience in the installation, repair and maintenance of electric transmission and distribution equipment and circuits.
- B. Possess an electrician's license valid in the State of New Jersey.
- C. Possess thorough knowledge of electrical theory, such as power factor, transformers, series and parallel circuits, line loading, line losses and all electric or conductive properties of materials.
- D. Possess thorough knowledge of the correct procedures used in installing, repairing and maintaining electrical generators, transformers, converters, regulators, switches, circuit breakers and other electric generating, transmission and distribution equipment.
- E. Possess thorough knowledge of the safety precautions to be taken in working with high-voltage and energized circuits.
- F. Possess the ability to calculate circuit values and determine when operating limitations of equipment are exceeded, as well as the ability to plan and carry through most operations in the installation or troubleshooting and repair of high-voltage generating, controlling and distributing systems.
- G. Possess the ability to use instruments, such as insulation meters or oscillator and tone detectors to locate faults in underground cables, or to use phasing sticks or phase rotation meters to check out rotation of cables before switching into a hot circuit.
- H. Possess the ability to read and understand circuit diagrams of interconnections, such as the generators, buses, switches and circuit breakers in a powerhouse or the feeders, substations, transformers and interconnections of a primary distribution system, in order to diagnose problems in the electrical system, as well as the ability to install, repair and maintain commonly used electric power generating and distributing equipment.
- I. Possess the ability to replace and adjust mechanical contacts and tripping and time-delay intervals of circuit breakers and relays, using feeler gauges, dressing tools and timing devices, as well as the ability to determine types and sizes of wire, conduits, transformers and methods of installation and repair to assure proper and safe operation of the electric distribution system.
- J. Possess a valid New Jersey driver's license and a valid commercial driver's license (CDL) and applicable endorsements for the class and type of vehicle being operated.

§ 5-161. Duties.

The duties of Electrician, Electric Utility, under direction, shall include, but not be limited to, repairing and maintaining electric generating, transmission and distribution equipment and circuits at electric generating stations, switch yards and distribution substations. The Electrician, Electric Utility shall also perform such other related work as required.

Article L. Electrician's Helper

§ 5-162. Office established.

There is hereby established the office of Electrician's Helper for the Borough of Seaside Heights.

§ 5-163. Appointment; term of office.

The Electrician's Helper shall be appointed by the Mayor, with the advice and consent of the Borough Council, and shall serve for a term of one year, commencing on January 1 of the year of appointment and ending on December 31 of that year, or until a successor or successors shall be appointed and qualified.

§ 5-164. Qualifications.

To be appointed as Electrician's Helper for the Borough of Seaside Heights, an individual must meet the following requirements. The individual must:

- A. Possess a valid New Jersey driver's license and a valid commercial driver's license (CDL) and applicable endorsements for the class and type of vehicle being operated.
- B. Have the knowledge of the standard tools, materials, methods, practices, occupational hazards and safety precautions involved in electrical work.
- C. Have the knowledge of basic color coding and cable types used in house circuits.
- D. Have the ability to understand, remember and carry out oral and written directions.
- E. Have the ability to take safety precautions in performing work.
- F. Have the ability to obtain, store, safeguard and properly use equipment, materials and supplies.
- G. Have the ability to maintain essential records and files.
- H. Have the ability to learn to utilize various types of electronic and/or manual recording and information systems used by the agency, office or related units.
- I. Have the ability to read, write, speak, understand and communicate in English sufficiently to perform the duties of this position. American Sign Language or Braille may also be considered as an acceptable form of communication.

§ 5-165. Duties.

An Electrician's Helper shall, under direct supervision, assist an electrician and develop a working knowledge of the standard tools, materials, methods, practices, occupational hazards and safety precautions involved in electrical and general maintenance work, perform routine general electrical work such as maintenance and the less difficult tasks involved in installation, inspection, repair and servicing of electrical circuits and equipment and work with various hand-held tools and basic testing equipment common to the electrical trade. An Electrician's Helper may also be called on to do other types of general maintenance work, and shall do other related work as required.

Article LI. Compensation

§ 5-166. Compensation for all positions established.

Compensation for all positions established in the Borough Code for the Borough of Seaside Heights shall be as set forth in the Salary Ordinance of the Borough of Seaside Heights,^[1] as amended from time to time, unless otherwise provided for in the Code or by contract.

[1] *Editor's Note: See Ch. 184, Salaries and Compensation.*

Article LII. Assistant Fiscal Officer

[Added 5-18-2011 by Ord. No. 11-05]

§ 5-167. Office established.

There is hereby established the office of Assistant Fiscal Officer for the Borough of Seaside Heights. Under direction, the Assistant Fiscal Officer assists the Fiscal Officer in planning, organizing, coordinating, and directing a system for

managing financial resources of a department, autonomous agency; jurisdiction, or other government entity; does other related duties as required.

§ 5-168. Appointment; term of office.

The Assistant Fiscal Officer shall be appointed by the Council of the Borough of Seaside Heights and shall serve a term of office of four years commencing on the first day of January next following their appointment and ending on December 31 of the fourth year or until a successor shall be appointed and qualified.

§ 5-169. Qualifications.

To be appointed to the position of Assistant Finance Officer for the Borough of Seaside Heights, an individual must meet the qualifications established under N.J.S.A 40A:9-140 et seq. as amended.

§ 5-170. Duties.

The duties of the Assistant Finance Officer are to assist in the Finance Department under the direction of the Chief Financial Officer as well as perform other office duties as assigned by the Borough Administrator.

Article LIII. Director of Beach Control Operations

[Added 5-6-2015 by Ord. No. 15-06]

§ 5-171. Office established.

There is hereby established the office of Director of Beach Control Operations for the Borough of Seaside Heights.

§ 5-172. Appointment; term of office.

The Director of Beach Control Operations shall be appointed by the Mayor, with the advice and consent of the Borough Council, and shall serve for a term of one year, commencing on January 1 of the year of appointment and ending on December 31 of that year, or until a successor shall be appointed and qualified.

§ 5-173. Qualifications.

To be appointed as Director of Beach Control Operations for the Borough of Seaside Heights, an individual must possess two years of administrative experience in the organization, direction, planning, coordination and control of beach control operations.

§ 5-174. Duties.

- A. The Director of Beach Control Operations shall be responsible to the Mayor and Borough Council and perform such duties as the governing body may from time to time designate.
- B. The Director of Beach Control Operations shall:
 - (1) Have full charge and management of the Department of Beach Control Operations and of any employees in said Department, subject to civil service laws and the legislative power of the municipality. Such charge shall include the power to hire, fire, discipline and promote employees within the Department, subject to law and this Code.
 - (2) Upon request, provide written reports to the governing body regarding beach control operations and making recommendations regarding same.

Article LIV. Seasonal and Temporary Employees

[Added 6-3-2015 by Ord. No. 15-07]

§ 5-175. Appointment; duration of term.

Notwithstanding any other provision of this Code, the Borough Administrator shall be responsible for appointing all seasonal and temporary employees. Every seasonal or temporary appointment made by the Administrator shall terminate 30 days from appointment, unless and until the Borough Council ratifies the same.

Article LV. Assistant Supervising Electrician

[Added 7-1-2015 by Ord. No. 15-10]

§ 5-176. Office established.

There is hereby established the office of Assistant Supervising Electrician for the Borough of Seaside Heights.

§ 5-177. Appointment; term of office.

The Assistant Supervising Electrician shall be appointed by the Mayor, with the advice and consent of the Borough Council, and shall serve for a term of one year, commencing on January 1 of the year of appointment and ending on December 31 of that year, or until a successor shall be appointed and qualified.

§ 5-178. Qualifications.

To be appointed as Assistant Supervising Electrician for the Borough of Seaside Heights, an individual must possess four years of experience in electrical work involving a variety of installation, maintenance, inspection, repair, and servicing tasks.

§ 5-179. Duties.

- A. The Assistant Supervising Electrician shall be responsible to the Mayor and Borough Council and perform such duties as the governing body may from time to time designate.
- B. The Assistant Supervising Electrician shall:
 - (1) Repair traffic signal systems, telephone systems, power systems, electrical systems and appliances, elevators, locking systems, and alarm systems.
 - (2) Use calipers, vises, dial gauges, ohmmeters, volt meters, vacuum testers, continuity testers, and meter boxes.
 - (3) Analyze electrical problems, organize assigned work, and give assignments and instructions.
 - (4) Utilize various types of electronic and/or manual recording and information systems used by the agency, office, or related units.
 - (5) Perform such other duties as assigned by the governing body, the Director of Public Works and the Supervising Electrician.

Article LVI. Paralegal Specialist

[Added 2-15-2017 by Ord. No. 17-04]

§ 5-180. Office established.

There is hereby established the office of Paralegal Specialist for the Borough of Seaside Heights.

§ 5-181. Appointment; term of office.

The Paralegal Specialist shall be appointed by the Mayor, with the advice and consent of the Borough Council.

§ 5-182. Qualifications.

To be appointed as Paralegal Specialist for the Borough of Seaside Heights, an individual must meet the requirements set by the New Jersey Civil Service Commission or successor entity for such position.

§ 5-183. Duties.

The Paralegal Specialist, under direction, assists in the preparation of cases for legal action, conducts assigned legal research, gathers factual information, and assists in the preparation of legal documents; does other related duties.

Article LVII. Technical Assistant to the Construction Official

[Added 2-15-2017 by Ord. No. 17-04]

§ 5-184. Office established.

There is hereby established the office of Technical Assistant to the Construction Official for the Borough of Seaside Heights.

§ 5-185. Appointment; term of office.

The Technical Assistant to the Construction Official shall be appointed by the Mayor, with the advice and consent of the Borough Council.

§ 5-186. Qualifications.

To be appointed as Technical Assistant to the Construction Official for the Borough of Seaside Heights, an individual must meet the requirements set by the New Jersey Civil Service Commission or successor entity for such position.

§ 5-187. Duties.

The Technical Assistant to the Construction Official, under direction, provides technical assistance in the issuance of construction permits to ensure compliance with the provisions of the New Jersey Uniform Construction Code and model codes; does other related duties.

Article LVIII. Analyst Trainee

[Added 2-15-2017 by Ord. No. 17-04]

§ 5-188. Office established.

There is hereby established the office of Analyst Trainee for the Borough of Seaside Heights.

§ 5-189. Appointment; term of office.

The Analyst Trainee shall be appointed by the Mayor, with the advice and consent of the Borough Council.

§ 5-190. Qualifications.

To be appointed as Analyst Trainee for the Borough of Seaside Heights, an individual must meet the requirements set by the New Jersey Civil Service Commission or successor entity for such position.

§ 5-191. Duties.

The Analyst Trainee, under direction, as a trainee and productive worker, receives on-the-job training in analytic practices/procedures and their application; completes assignments which will provide practical analyst experience; does other related work.

Article LIX. Assistant Program Analyst

§ 5-192. Office established.

There is hereby established the office of Assistant Program Analyst for the Borough of Seaside Heights.

§ 5-193. Appointment; term of office.

The Assistant Program Analyst shall be appointed by the Mayor, with the advice and consent of the Borough Council.

§ 5-194. Qualifications.

To be appointed as Assistant Program Analyst for the Borough of Seaside Heights, an individual must meet the requirements set by the New Jersey Civil Service Commission or successor entity for such position.

§ 5-195. Duties.

The Assistant Program Analyst, under direction, assists in the analysis and evaluation of the effectiveness of new or modified program objectives and operations; does other related work.

Chapter 8. Adult Businesses

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 2-19-1997 by Ord. No. 97-1. Amendments noted where applicable.]

GENERAL REFERENCES

Nude dancing — See Ch. 17, Art. VIII.

Consumption of alcoholic beverages by minors — See Ch. 17, Art. II.

Identification of employees — See Ch. 17, Art. IV.

Entertainment establishments — See Ch. 86.

Display of obscene material — See Ch. 137

§ 8-1. Purpose.

The Mayor and Council of the Borough of Seaside Heights recognize the rights inherent in the United States Constitution which guarantee freedom of expression, as well as the position of the courts in protecting that freedom by invalidating any attempt by local ordinance to restrict particular uses based upon their content. However, the Mayor and Council also recognize their duty to protect the health, safety, welfare and morals of the residents and the

citizens of Seaside Heights and to establish reasonable and uniform regulations providing for the licensing of adult-oriented establishments, including, but not limited to, adult bookstores, adult motion-picture establishments, adult motion-picture theaters and adult cabarets. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually-oriented materials. Additionally, it is neither the intent nor effect of this chapter to restrict or deny access by adults to sexually-oriented materials protected by the First Amendment or to deny access by the distributors and exhibitors of sexually-oriented entertainment to their intended market.

§ 8-2. Findings.

- A. It has been demonstrated that the establishment of adult businesses in business districts which are immediately adjacent to and which serve residential neighborhoods has a deleterious effect on both the business and residential segments of the neighborhood, causing blight and a downgrading of property values. It has also been demonstrated that there is a statistically significant correlation between sex-oriented and alcohol-oriented adult entertainment businesses and high crime rates. The Borough Council is particularly persuaded and impressed by studies conducted in Minneapolis, St. Paul, Indianapolis, Phoenix and Los Angeles.
- B. The Borough Council further deems it necessary to provide for licensing and regulations of adult-oriented businesses in light of the existing problems experienced by the residents and citizens within the Borough of Seaside Heights. More specifically, recent statistics compiled through the Uniform Crime Reporting System list Seaside Heights as having the fourth highest crime rate in the State of New Jersey for the year 1993. Particularly, Seaside Heights has experienced a noticeable increase in sex-related offenses.
- C. The Borough Council further determines that it is well known that adult-oriented businesses have been and are being used by patrons of said establishments for engaging in sexual acts, including, but not limited to, intercourse, sodomy, oral copulation and masturbation, resulting in unsafe and unsanitary conditions. It is particularly well known that such conduct occurs in adult-oriented establishments which install booths with doors in which patrons can view adult-oriented movies or videotape or film or view other forms of adult entertainment.
- D. The prevalence of such conduct by patrons of adult businesses is especially disconcerting when viewed in relation to the ever-increasing number of reported cases of Acquired Immune Deficiency Syndrome (AIDS). AIDS is a sexually-transmitted disease which destroys the body's immune system, is always fatal and has no known cure. The viral agents responsible for AIDS and other sexually-transmitted diseases have all been isolated at one time or another from semen.

§ 8-3. Definitions.

For the purpose of this chapter, the following words and phrases shall mean:

ADULT BOOKSTORE

An establishment having as a substantial or significant portion of its stock-in-trade, for sale, rent, lease, inspection or viewing, books, films, video cassettes, compact disks, magazines or other periodicals which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified sexual activities, sexual conduct or specified anatomical areas, as defined below, and in conjunction therewith, having facilities for the presentation of adult entertainment, as defined below, including adult-oriented films, movies or live performances, for observation.

ADULT CABARET

A nightclub, bar, restaurant or other commercial establishment, whether or not same is licensed to sell alcoholic beverages for on premises-consumption, which regularly features:

- A. Persons who appear in a state of nudity; or
- B. Live performances which are characterized by the exposure of specified anatomical areas or by sexual conduct or by specified sexual activities; or
- C. Films, motion pictures, video cassettes, compact disks, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities, sexual conduct or specified anatomical areas.

ADULT ENTERTAINMENT

Any exhibition of any motion-picture, live performance, display or dance of any type which has as its dominant theme, or is distinguished or characterized by an emphasis on, any actual or simulated specified sexual activities, sexual conduct or specified anatomical areas, as defined below, or the removal of articles of clothing or appearing partially or totally nude. Adult entertainment is distinguished from conventional entertainment by the fact that access by minors to such entertainment is excluded by virtue of age under the pornography statutes of the State of New Jersey.

ADULT MINIMOTION-PICTURE THEATER

An enclosed building with a capacity of less than 50 persons used for presenting material having as its dominant theme, or distinguished or characterized by an emphasis on, matters depicting, describing or relating to specified sexual activities, sexual conduct or specified anatomical areas, as defined below, for observation by patrons therein.

ADULT MOTION-PICTURE THEATER

An enclosed building with a capacity of 50 or more persons used for presenting material having as its dominant theme, or distinguished or characterized by an emphasis on, matters depicting, describing or relating to specified sexual activities, sexual conduct or specified anatomical areas, as defined below, for observation by patrons therein.

ADULT-ORIENTED ESTABLISHMENT

Include, but is not limited to, adult bookstores, adult motion-picture theaters, adult minimotion-picture theaters or adult cabarets, and further means any premises to which public patrons or members are invited or admitted and which are physically arranged so as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purpose of viewing adult-oriented material, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, whether or not such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect.

COUNCIL

The Borough Council of the Borough of Seaside Heights, New Jersey.

NUDITY or STATE OF NUDITY

The appearance, showing or exhibition of the male or female genitals or vulva, pubic area, buttocks, anus, anal cleft or cleavage or female breast below the top of the nipple.

OPERATOR

Any person, partnership or corporation operating, conducting, maintaining or owning any adult-oriented establishment.

PERSON

An individual, proprietorship, partnership, corporation, association or other legal entity.

SEMINUDE

A state of dress in which clothing or other devices or covering covers no more than the genitals, pubic region or nipples of the female breast, as well as portions of the body covered by supporting straps or devices.

SEXUAL CONDUCT

Human masturbation, sexual intercourse or any touching of the genitals, pubic areas or buttocks of the human male or female or the breasts of the human female whether alone or between members of the same or opposite sex or an act of apparent sexual stimulation or gratification.

SPECIFIED ANATOMICAL AREAS

- A. Less than completely and opaquely covered human genitals, pubic region, buttocks or female breasts below the point immediately above the nipple; or
- B. Human male genitals in a discernibly turgid state, even if opaquely or completely covered.

SPECIFIED SEXUAL ACTIVITIES

The simulated or actual:

- A. Showing of human genitals in a state of sexual stimulation or arousal; or
- B. Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio or cunnilingus; or
- C. Fondling or erotic touching of the human genitals, pubic regions, buttocks or female breasts.

§ 8-4. License required.

- A. Except as provided in Subsection **D** below, from and after the effective date of this chapter, no adult-oriented establishment shall be operated or maintained in the Borough of Seaside Heights without first obtaining a license to operate issued by the Borough of Seaside Heights.
- B. A license may be issued only for one adult-oriented establishment located at a fixed and certain place. Any person, partnership or corporation which desires to operate more than one adult-oriented establishment must have a license for each.
- C. No license or interest in the license may be transferred to any person, partnership or corporation.
- D. All adult-oriented establishments existing at the time of the passage of this chapter must submit an application for a license within 90 days of the passage of this chapter. If an application is not received within said ninety-day period, then such existing adult-oriented establishment shall cease operations.
- E. An application for a license must be made on a form provided by the Borough Clerk. The application must be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.
- F. The applicant must be qualified according to the provision of this chapter, and the premises must be inspected and found to be in compliance with the law by the Health Department, Zoning Department, Fire Inspector and Building Official. The result of said inspections must be made available to the applicant no later than 30 days from the date of application for the license.
- G. The applicant for a license shall include upon the form provided by the Borough Clerk the following information under oath:
 - (1) Name and address, including all aliases.
 - (2) Written proof that the applicant is at least 18 years of age.
 - (3) Whether the applicant has ever had an adult-oriented establishment license revoked or suspended, the reason therefor and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation.
 - (4) Whether the applicant has been convicted of or pled guilty to a crime involving prostitution, promotion of prostitution, obscenity, sale, distribution or display of harmful material to minors, sexual performance by a child, possession of child pornography, indecency with a child, sexual assault, aggravated sexual assault, incest, solicitation of a child, public lewdness or indecent exposure, as provided and described in the New Jersey Criminal Code.
- H. The fact that an applicant possesses a valid entertainment license pursuant to Chapter **86**, Entertainment Establishments, of the Borough Code of the Borough of Seaside Heights does not exempt the applicant from the requirement of obtaining an adult business license as provided herein.

§ 8-5. Issuance of license.

- A. The Borough Council shall approve the issuance of a license by the Borough Clerk to an applicant within 30 days after receipt of an application unless the Borough Council finds one or more of the following to be true:
 - (1) An applicant is under 18 years of age or is under a legal disability.
 - (2) The applicant or an applicant's spouse is overdue in the payment to the borough of taxes, fees, fines or penalties assessed against or imposed upon him in relation to a sexually-oriented business.
 - (3) An applicant has falsely answered a question or request for information on the application form.
 - (4) An applicant or an applicant's spouse has been convicted of a violation of a provision of this chapter, other than the offense of operating an adult-oriented establishment without a license, within five years

immediately preceding this application. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or applicant's spouse.

- (5) An applicant is residing with a person who has been denied a license by the borough to operate an adult-oriented establishment within the preceding 12 months or residing with a person whose license to operate an adult-oriented establishment has been revoked within the preceding 12 months.
- (6) The premises to be used for the adult-oriented business has been denied by the Health Department, Zoning Department, Fire Official or the Building Official as not being in compliance with applicable laws and ordinances, provided that the applicant was provided the results of said inspections no later than 30 days from the date of application for the license.
- (7) The license fee required herein has not been paid.
- (8) An applicant or an applicant's spouse has been convicted of a crime or misdemeanor involving prostitution; promotion of prostitution; obscenity; sale, distribution or display of harmful material to minors; sexual performance by a child; possession of child pornography; indecency with a child; sexual assault; aggravated sexual assault; incest; solicitation of a child; public lewdness or indecent exposure, as provided and described in the New Jersey Criminal Code.^[1] The fact that the conviction is being appealed shall have no effect on the disqualification of the applicant or the applicant's spouse.

[1] *Editor's Note: See N.J.S.A. 2C:14-1 et seq., Sexual Offenses, and N.J.S.A. 2C:34-1 et seq., Public Indecency.*

- B. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date and the address of the adult-oriented establishment. The license shall be posted in a conspicuous place at or near the entrance to the adult-oriented establishment so that it may be easily read at any time.

§ 8-6. Fees.

- A. The annual fee for an adult-oriented establishment license shall be \$1,000. The fee shall accompany the application for the license.
- B. Every license issued pursuant to this chapter shall terminate at the expiration of one year from the date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the Borough Clerk upon a form provided by said Clerk and shall provide such information and data, given under oath or affirmation, as is required for an application for a new license.
- C. A license renewal fee of \$1,000 shall be submitted with the application for renewal.

§ 8-7. Inspections.

- A. An applicant or licensee shall permit representatives of the Police Department, Health Department, Fire Inspection Department, Housing Department, Building Department, Code Enforcement Department and the governing body to inspect the premises of an adult-oriented establishment, for the purpose of ensuring compliance with the law, at any time it is occupied or open for business.
- B. A person who operates an adult-oriented establishment or his agent or employee commits an offense if he or she refuses to permit a lawful inspection of the premises by any of the above representatives at any time it is occupied or open for business.

§ 8-8. License suspension.

The Borough Council shall suspend a license for a period not to exceed 30 days if it determines that a licensee or an employee of a licensee has violated the provisions of this chapter.

§ 8-9. License revocation.

- A. The Borough Council shall revoke a license for any of the following reasons:

- (1) A licensee provided false or misleading information on the initial or renewal application or material facts were omitted from said application during the application or renewal process.
 - (2) A licensee or an employee thereof has knowingly allowed possession, use or sale of controlled substances on the premises.
 - (3) A licensee or an employee thereof has knowingly allowed prostitution on the premises.
 - (4) A licensee or an employee thereof knowingly operated the adult-oriented establishment during a period of time when the licensee's license was suspended.
 - (5) Within the twelve-month license period, the licensee committed one or more of the offenses enumerated in **§ 8-5A(8)** for which a conviction has been obtained.
 - (6) The licensee or an employee thereof has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or sexual contact to occur in or on the licensed premises.
 - (7) A licensee is delinquent in payment to the borough for taxes, fees, fines or penalties related to the adult-oriented establishment.
- B. The operator or licensee whose license is revoked shall not be eligible to receive a license for one year from the date of revocation. No location or premises for which a license has been issued shall be used as an adult-oriented establishment for six months from the date of revocation of the license.

§ 8-10. Hearing.

- A. If it is determined that a valid basis for suspending or revoking a license exists, then, before revoking or suspending the license, the Mayor and Council or its duly authorized representative shall cause a formal legal complaint to be served upon the licensee in question, and said final legal complaint shall clearly state the charges brought against said licensee. This formal legal complaint may be served by personal service, certified mail or regular mail in the event that personal service is refused. If the whereabouts of the licensee is unknown and the same cannot be ascertained by the exercise of reasonable diligence, the Borough Council, or its duly authorized representative, will make an affidavit to that effect and then serve such complaint by publishing same once each week for two consecutive weeks in a newspaper printed and published in the Borough of Seaside Heights or, in the absence of such newspaper, in a newspaper printed and published in Ocean County and circulating in the Borough of Seaside Heights.
- B. The formal legal complaint shall further state the charges, and it shall contain a notice that a hearing shall be held before the Mayor and Council or its duly authorized representative at a place therein fixed not less than 10 days nor more than 30 days after the serving of said formal legal complaint, that the licensee and parties in interest shall be given the right to file an answer to the formal legal complaint and to appear in person or by their attorney and give testimony at the place and time fixed in the formal legal complaint and that the rules of evidence prevailing in the courts of law shall be controlling at the administrative hearing.

§ 8-11. Transfer of license.

A licensee shall not transfer his license to another, nor shall a licensee operate an adult-oriented establishment under the authority of a license at any place other than the address designated in the application.

§ 8-12. Physical layout of adult-oriented establishments.

Any adult-oriented establishment having available for customers, patrons or members any booth, room or cubicle for the private viewing of any adult entertainment must comply with the following requirements:

- A. Access. Each booth, room or cubicle shall be totally accessible to and from aisles and public areas of the adult-oriented establishment and shall be unobstructed by any door, lock or other control-type devices.
- B. Construction. Every booth, room or cubicle shall meet the following construction requirements:
- (1) Each booth, room or cubicle shall be separated from adjacent booths, rooms and cubicles and any nonpublic areas by a wall.

- (2) Have at least one side totally open to a public lighted aisle so that there is an unobstructed view at all times of anyone occupying same.
 - (3) All walls shall be solid and without any openings, extended from the floor to a height of not less than six feet and be light colored, nonabsorbent, smooth textured and easily cleanable.
 - (4) The floor must be light colored, nonabsorbent, smooth textured and easily cleanable.
 - (5) The lighting level of each booth, room or cubicle, when not in use, shall be a minimum of 10 footcandles at all times, as measured from the floor.
- C. Occupants. Only one individual shall occupy a booth, room or cubicle at any time. No occupant of same shall engage in any type of sexual activity, cause any bodily discharge or litter while in the booth. No individual shall damage or deface any portion of the booth.

§ 8-13. Responsibilities of operator.

- A. The owner, operator or licensee shall maintain a register of all employees, showing the name, any aliases used, home address, age, birth date, date of employment and termination and duties of each employee. The above information on each employee shall be maintained in the register on the premises for a period of three years following termination.^[1]
- [1] *Editor's Note: See also Ch. 17, Alcoholic Beverages, Art. IV.*
- B. The owner, operator or licensee shall make the register of employees available immediately for inspection by the representatives of the Borough of Seaside Heights at all reasonable times.
- C. Every act or omission by an employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the owner, operator or licensee if such act or omission occurs either with the authorization, knowledge or approval of the owner, operator or licensee or as a result of the negligent failure of the owner, operator or licensee to supervise the employee's conduct, and said owner, operator or licensee shall be punishable for such act or omission in the same manner as if the owner, operator or licensee committed the act or caused the omission.
- D. Any act or omission of any employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the owner, operator or licensee for purposes of determining whether the license of owner, operator or licensee shall be revoked, suspended or renewed.
- E. The owner, operator or licensee shall not allow any minor to loiter around or to frequent an adult-oriented establishment or to allow any minor to view adult entertainment as defined herein.
- F. The operator shall maintain the premises in a clean and sanitary manner at all times.
- G. The owner, operator or licensee shall ensure compliance of the establishment and its patrons with the provisions of this chapter.

§ 8-14. Employees.

- A. An adult-oriented establishment as defined herein shall not employ any person under the age of 18 years. A person under the age of 18 years commits an offense if he or she appears in a state of nudity in or on the premises of an adult-oriented establishment.
- B. An employee commits an offense if he or she appears in a state of nudity or knowingly allows another to appear in a state of nudity in an area of an adult entertainment establishment which can be viewed from a public right-of-way.
- C. No individual, partnership, corporation or other entity holding the license shall employ any person in or about the licensed premises who has not been issued an identification card by the Police Department of the Borough of Seaside Heights.
- (1) All persons employed in or about any licensed premises shall carry an identification card issued by the Police Department at all times while in the course of their employment and shall exhibit the same upon the request of any authorized borough official.

- (2) Any person desiring to obtain an identification card shall report to the Police Department where application forms shall be completed. The applicant shall pay a fee of \$10 for an identification card.
 - (3) The Police Department shall issue an identification card to each employee, which card shall contain the name, address and a photograph of the employee. A copy of the identification card and photograph shall be maintained on file by the Police Department.
- D. It shall be the duty of the owner, operator or licensee to ensure that all of its employees comply with the provisions of this chapter.

§ 8-15. Additional regulations for adult cabarets.

Adult cabarets shall comply with the following additional regulations:

- A. All dancing shall occur on a platform intended for that purpose which is raised at least three feet from the level of the floor.
- B. No dancing shall occur closer than 10 feet to any patron or customer.
- C. No dancer shall fondle or caress any patron, and no patron shall fondle or caress any dancer.
- D. No patron shall directly pay or give any gratuity to any dancer, and no dancer shall solicit any pay or gratuity from any patron.

§ 8-16. Hours of operation.

- A. Adult entertainment establishments may be open for business daily from 6:00 a.m. until 1:00 a.m. of the following day. Any adult entertainment establishment which is licensed to sell alcoholic beverages for on-premises consumption shall be permitted to remain open for those hours set forth in Chapter **25**, Amusement Games and Devices, of the Borough Code, provided that all adult entertainment ceases by 1:00 a.m.
- B. Adult entertainment establishments shall remain closed for business except during the hours fixed as open for business by this chapter.

§ 8-17. Violations and penalties.

- A. Any person violating or failing to comply with any other provision of this chapter shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$1,000, by imprisonment not to exceed 90 days or by community service of not more than 90 days or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.
- B. The violation of any provision of this chapter shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

§ 8-18. Exclusions and exemptions.

- A. All private schools and public schools, as defined by New Jersey statutes, located within the Borough of Seaside Heights are exempt from obtaining a license hereunder when instructing pupils in accordance with a sex education curriculum.
- B. It is a defense to prosecution under the provisions of this chapter that a person appearing in a state of nudity did so as an art class model in a private school or public school within the boundaries of the Borough of Seaside Heights.
- C. It is a defense to prosecution under the provisions of this chapter that each item of descriptive, printed, film or video material offered for sale or rental, taken as a whole, contains serious literary, artistic, political or scientific value.

Chapter 13. Alarms

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 2-19-1997 by Ord. No. 97-1. Amendments noted where applicable.]

§ 13-1. Definitions.

[Amended 8-15-2018 by Ord. No. 2018-17]

For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meanings given herein:

ALARM SYSTEM

Any device designed, when actuated, to produce or emit a sound or transmit a signal or message for the purpose of alerting others to the existence of an emergency situation requiring immediate investigation by alarm, police, fire or other agent.

BOROUGH ALARM ADMINISTRATOR

The Borough Administrator is designated as the Borough alarm administrator and shall be responsible for the enforcement of this chapter and any administrative duties regarding the regulation and control of alarm businesses, agents, and systems in the Borough. The Borough alarm administrator may delegate such responsibilities and duties under this chapter to the code enforcement officers, Fire Chief, and Assistant Fire Chief, including, but not limited to, authority to issue violations under § 13-3B.

FALSE ALARM

The activation of an alarm system by causes other than those to which the alarm system was designed or intended to respond.

FIRE DEPARTMENT

The Seaside Heights Volunteer Fire Company located within the Borough.

§ 13-2. Inspections; required information.

- A. The Borough alarm administrator or representative is authorized to, at a reasonable time and upon written or oral notice, enter any premises in the Borough to inspect the installation and/or operation of any alarm device as official business.
- B. All businesses having fire or burglar alarms must submit the names, addresses and emergency numbers of person(s) to contact, if the alarm is activated, to the Borough alarm administrator and shall update and/or amend this list monthly. This list is confidential and shall be used by the Police and/or Fire Department only when necessary to contact such named persons for official business.

§ 13-3. False alarms.

- A. The Borough alarm administrator shall keep a written record (the police event/dispatch card) of all false alarms which summon the Fire Department or Police Department to investigate.
- B. For the fourth false alarm, or any subsequent false alarm, in any calendar year, the Borough alarm administrator shall cause a summons to be issued for violation of this chapter.
- C. The Borough alarm administrator is authorized to have disconnected any alarm device which is connected to the Borough offices or the Fire Department which does not meet the requirements of this chapter or is responsible for excessive false alarms, excessive false alarms being four or more in one calendar year.
- D. Should any disconnection result due to Subsection C above, all liability shall be upon said subscriber for all losses whatsoever during the period of disconnection, and no liability shall be placed upon the Borough.
- E. In order to reconnect to the Borough offices or the Fire Department, the alarm subscriber must submit, in writing, to the Borough alarm administrator proof that all problems with the alarm have been corrected. Approval may be given on a trial basis for 60 days. A reconnection fee will be charged as set forth hereinafter.

- F. The owner, lessee or alarm business, after consulting with the Borough alarm administrator, may appeal to the Borough Council said administrator's decision concerning disconnection only under § **13-3C**.
[Amended 8-15-2018 by Ord. No. 2018-17]

§ 13-4. Violations and penalties; fees.

[Amended 8-15-2018 by Ord. No. 2018-17]

- A. A fine shall be imposed for the fourth false alarm and any subsequent false alarm in any one calendar year in accordance with the following schedule:
- (1) Fourth false alarm: The minimum fine shall be \$500, and the maximum fine shall be \$1,000.
 - (2) Fifth false alarm: The minimum fine shall be \$750, and the maximum fine shall be \$1,000.
 - (3) Sixth and subsequent false alarms: The minimum fine shall be \$1,000.
- B. Any person violating or failing to comply with any of the provisions of this chapter, upon conviction thereof, may be punishable by the fines set forth in Subsection **A**, or by community service of not more than 90 days, or a combination of both fine and community service, as determined in the discretion of the Municipal Court Judge. 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.
- C. The reconnection fee, as outlined in § **13-3E**, shall be \$250.

Chapter 17. Alcoholic Beverages

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 2-19-1997 by Ord. No. 97-1. Amendments noted where applicable.]

Article I. Licensing

§ 17-1. Number of licenses permitted outstanding at one time.

From the effective date of this chapter, the number of outstanding licenses to sell alcoholic beverages in the Borough of Seaside Heights, at retail, shall be limited as follows:

- A. Not more than 18 plenary retail consumption licenses.
- B. Not more than three plenary retail distribution licenses.
- C. Not more than three club licenses.

§ 17-2. Hours of operation.

[Amended 5-17-2000 by Ord. No. 2000-10; 12-17-2003 by Ord. No. 03-33; 3-2-2005 by Ord. No. 05-08; 4-16-2014 by Ord. No. 14-06]

- A. No patrons shall be present and no alcoholic beverages shall be sold or consumed within any establishment holding a plenary retail alcoholic beverage consumption license, plenary retail distribution license or a club license between the hours of 3:00 a.m. and 7:00 a.m. on any day of the year, except as otherwise provided in this section.
- B. On the first day of January of each year, whether same be a weekday or a Sunday, the holders of licenses for the sale of alcoholic beverages may sell such beverages throughout the entire day.

§ 17-3. Applicable restrictions.

Each and every license for the sale of any alcoholic beverage shall be issued subject to statutory provisions, to the rules and regulations of the State Commissioner of Alcoholic Beverage Control and also to any and all rules and regulations to be adopted by the governing body of this municipality. All licensed premises shall be operated and managed only by the licensee or those shareholders or partners of the licensee who are listed and qualified on the liquor license application. No management agreement which purports to convey authority to operate the licensed premises or utilize the liquor license shall be recognized by the Borough of Seaside Heights unless the agreement is approved by the Mayor and Borough Council. In connection with any such approval, all proposed managers or persons to whom authority to operate the liquor license is to be conveyed shall also qualify to operate the liquor license. Such qualification shall include a full investigation and background check on all such proposed persons.

§ 17-4. License fees.

[Amended 8-20-2003 by Ord. No. 03-22; 6-15-2005 by Ord. No. 05-15]

The license fees and transfer of license fees for the licenses in this municipality shall be and are hereby fixed as follows:

- A. Plenary retail consumption license: \$2,500.
- B. Plenary retail distribution license: \$2,500.
- C. Club license: \$150.
- D. Person-to-person transfer: \$250.
- E. Place-to-place transfer: \$250.
- F. Person-to-person and place-to-place transfer: \$500.

§ 17-5. Suspension or revocation of license; assessment of costs and expenses.

- A. Upon conviction, after hearing, of any violation of any provision of this article or any statute, rule or regulation aforesaid, any license issued or erected by this municipality may be suspended or revoked in accordance with rules and regulations heretofore or hereafter promulgated by the Commissioner of Alcoholic Beverage Control.
- B. Upon conviction, as stated above, the governing body of this municipality may also assess against the person, persons, firm, partnership or corporation so convicted the reasonable costs which the Borough has expended in preparing and presenting the case, including, but not limited to, preparing the charges, subpoena fees for witnesses, stenographer's fees and attorney's fees.

§ 17-6. Limitation on number of licenses outstanding; exceptions.

The number of plenary retail consumption licenses outstanding in this Borough at the same time shall not exceed 18; provided, however, that this shall not prevent the renewal or transfer of plenary retail consumption licenses outstanding at the time this article is adopted. No new plenary retail consumption licenses shall be granted until the number of such licenses shall be reduced by surrender, revocation or nonrenewal to less than 18, after which time the number of 18 such licenses shall not be exceeded. Nothing in this section of this article or in § 17-1B shall apply to:

- A. Any license or licenses where the licensee or licensees thereof surrendered his or her license of the same class or permitted it to expire because of his or her induction into or service in the armed forces of the United States; and
- B. Such ex-licensee shall have filed the application for a new license within one year from the completion of his or her active service in the armed forces.

§ 17-7. Positioning of loudspeakers amplifiers.

Any loudspeaker or amplifier located on the outside of a building which is used by the licensed premises must be positioned such that same faces in towards the location of the building.

§ 17-8. Requirement that doors remain closed during hours of operation.

[Added 5-21-1997 by Ord. No. 97-6]

Outer doors must remain closed during hours of operation to ensure that amplified music and crowd noise do not intrude onto the street so as to disturb the peace of neighbors and passers-by.

§ 17-9. Violations and penalties.

[Added 3-2-2005 by Ord. No. 05-08]

- A. Any person violating and failing to comply with any of the provisions of this article shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$1,250, by imprisonment not to exceed 90 days or by community service of not more than 90 days or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.
- B. If any owner, operator or licensee is found in violation of the provisions of this article, the alcoholic beverage license shall be subject to suspension or revocation in accordance with the applicable provisions of the New Jersey Alcoholic Beverage Control Act^[2] and this article.
[2] Editor's Note: See N.J.S.A. 33:1 et seq.
- C. The violation of any provision of this article shall be subject to abatement summarily by restraining order or injunction issued by a court of competent jurisdiction.

[1] Editor's Note: Former § 17-9, Statement of purpose and policy, was repealed 12-17-2003 by Ord. No. 03-33.

Article II. Consumption by Minors

§ 17-10. Purchase, acceptance or consumption by minors prohibited.

No minor shall purchase, accept or consume any alcoholic beverage in or upon any premises licensed to sell alcoholic beverages in this Borough.

§ 17-11. Exceptions to presence of minors in licensed establishments.

[Amended 12-17-2003 by Ord. No. 03-33]

It shall be unlawful for any licensee holding a plenary retail consumption license to allow, permit or suffer the entry of any person under the age of 18 on the licensed premises for any purpose other than for employment pursuant to N.J.A.C. 13:2-14.1 et seq. The foregoing shall not prohibit a person under the age of 18 from being present on a licensed premises if accompanied by a parent or guardian 21 years of age or older or if the licensed premises is a restaurant. A restaurant is defined herein as an establishment regularly and principally used for the purpose of providing meals to the public, having an adequate kitchen and dining room equipped for the preparing, cooking and serving of foods for its customers, and in which no other business, except such as incidental to such establishment, is conducted.

§ 17-12. Misrepresenting age.

No person shall misrepresent his age or the age of another person for the purpose of inducing any licensee or the licensee's employee to sell, serve or deliver any alcoholic beverage to a person under the legal age for consuming same.

§ 17-13. Presumptions regarding parent or guardian.

Any parent or guardian of a person under the legal age who accompanies such person under the legal age into a premises licensed under a plenary retail consumption license and who permits the person under the legal age to possess or consume alcoholic beverages shall be presumed to have misrepresented the age of the person under the legal age.

§ 17-14. Violations and penalties.

[Amended 3-2-2005 by Ord. No. 05-08]

- A. Any person violating and failing to comply with any of the provisions of this article shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$1,250, by imprisonment not to exceed 90 days or by community service of not more than 90 days or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.
- B. If any owner, operator or licensee is found in violation of the provisions of this article, the alcoholic beverage license shall be subject to suspension or revocation in accordance with the applicable provisions of the New Jersey Alcoholic Beverage Control Act and this article.
- C. The violation of any provision of this article shall be subject to abatement summarily by restraining order or injunction issued by a court of competent jurisdiction.

Article III. Consumption in Public Places and Motor Vehicles

§ 17-15. Purpose.

The purpose of this article is to prohibit the consumption of any and all alcoholic beverages in or upon any public place or private motor vehicle in order to protect the health, safety and welfare of the citizens of the Borough of Seaside Heights.

§ 17-15.1. Definitions.

The following terms shall having the following meanings as contained in this article:

ALCOHOLIC BEVERAGE(S)

A fluid, or a solid capable of being converted into a fluid, suitable for human consumption and having an alcoholic content of more than 1/2 of 1% by volume. The term shall include alcohol, beer, lager beer, ale, porter, naturally fermented wine, treated wine, blended wine, fortified wine, sparkling wine, distilled liquors, blended distilled liquors and any brewed, fermented or distilled liquors fit for use for beverage purposes, or any mixture of them.

MOTOR VEHICLE

Includes all vehicles propelled otherwise than by muscular power, except such vehicles as run only upon rails or tracks.

OPEN CONTAINER

Include any container containing an alcoholic beverage where the original seal thereon has been broken, whether or not any portion of the alcoholic beverage has been consumed from the container.

PUBLIC PLACE

Includes any public street, lane, roadway, avenue, sidewalk, public parking lot or place, park, playground, public school, recreation area, beach, shoreline, lake or pond, any land or building occupied by the Borough of Seaside Heights, public conveyance and any other public or quasi-public location where the public is generally admitted without restriction; provided, however, that nothing herein shall be construed to prohibit the consumption or sale of alcoholic beverages within premises licensed as plenary retail consumption or distribution or any other establishment holding a valid liquor license.

- [1] *Editor's Note: Ordinance No. 05-16, adopted 7-6-2005, provided for the renumbering of former §§ 17-16, 17-17 and 17-17.1 as §§ 17-15.1, 17-16 and 17-17, respectively.*

§ 17-16. Consumption and possession in public places and motor vehicles prohibited.

- A. No person shall consume any alcoholic beverage in or upon any public place or in any public or private motor vehicle while the same is in motion or parked in any public place.
- B. No person shall possess an open container of alcoholic beverage in any public place or in any public or private motor vehicle while the same is in motion or parked in any public place.

§ 17-17. Underage consumption and possession in public places and motor vehicles prohibited.

[Added 6-15-2005 by Ord. No. 05-15]

- A. No person under the legal age for consumption or purchase of alcoholic beverages shall possess any open or closed container of alcoholic beverage in any public place or in any public or private motor vehicle.
- B. No person under the legal age for consumption or purchase of alcoholic beverages shall consume any alcoholic beverage in or upon:
 - (1) Any public place.
 - (2) Any public or private motor vehicle.

§ 17-18. Exceptions.

[Amended 2-20-2013 by Ord. No. 13-07]

Notwithstanding the provisions contained in § 17-16, the Mayor and Council of the Borough of Seaside Heights may, by resolution duly adopted, permit the possession and consumption of alcoholic beverages in a designated park, recreation area or other public place at a designated time or times in connection with a special event, series of events or observance which has been authorized by the Mayor and Council prior thereto, and which possession or consumption of alcoholic beverages shall comply with all applicable laws, ordinances and regulations. Under no circumstances shall a liquor license granted by the Borough be issued an extension onto a public street.

§ 17-19. Violations and penalties.

[Amended 6-19-2002 by Ord. No. 2002-15; 3-2-2005 by Ord. No. 05-08]

- A. Any person violating and failing to comply with any of the provisions of this article shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$1,250, by imprisonment not to exceed 90 days or by community service of not more than 90 days or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.
- B. The violation of any provision of this article shall be subject to abatement summarily by restraining order or injunction issued by a court of competent jurisdiction.

Article IV. Identification of Employees

§ 17-20. Identification cards required.

[Amended 5-19-1999 by Ord. No. 99-14; 5-21-2003 by Ord. No. 03-12]

No individual, partnership, corporation or other entity holding any type of alcoholic beverage license shall employ any person in or about any licensed premises, except entertainers, who has not been issued an identification card by the Police Department of the Borough of Seaside Heights. All persons so employed, except for persons employed as managers, bartenders and those employees responsible for either keeping order within the establishment or

preventing minors from entering, shall report to the Police Department for identification checks. Persons employed as managers, bartenders and those employees responsible for either keeping order within the establishment or preventing minors from entering shall report to the Police Department for both fingerprint and identification checks. Fingerprint checks shall be required only for initial issuance of an identification card to an employee in a position requiring a fingerprint check.

[1] *Editor's Note: See also Ch. 8, Adult Businesses, § 8-13.*

§ 17-21. Carrying and issuance of identification cards.

- A. All persons employed in or about any licensed premises, except entertainers, shall carry an identification card issued by the Police Department at all times while in the course of their employment and shall exhibit the same visibly on their person.

[Amended 5-21-1997 by Ord. No. 97-6]

- B. Any person desiring to obtain an identification card shall report to the Police Department where application forms shall be completed and fingerprints and/or a photograph obtained. Except as otherwise specified in this subsection, the applicant shall pay a fee of \$25 to the Borough of Seaside Heights for an identification card. Applicants who are employed as managers, bartenders and those employees responsible for either keeping order within the establishment or preventing minors from entering shall pay a fee of \$50 to the Borough of Seaside Heights for an identification card and shall pay the fee set by the New Jersey State Bureau of Identification for the required fingerprint check conducted by the state police for the initial issuance of an identification card to an employee in such a position.

[Amended 12-16-1998 by Ord. No. 98-36; 5-19-1999 by Ord. No. 99-14; 5-21-2003 by Ord. No. 03-12]

- C. The Police Department shall issue an identification card to each employee, which card shall contain the name, address and a photograph of the employee. A copy of the identification card and photograph shall be maintained on file by the Police Department.

- D. It shall be the duty of any alcoholic beverage licensee to ensure that all employees comply with the provisions of this article.

- E. All identification cards issued pursuant to this section shall expire on December 31 of the year issued regardless of the month of issuance.

[Added 5-21-2003 by Ord. No. 03-12]

§ 17-22. Violations and penalties.

[Amended 3-2-2005 by Ord. No. 05-08]

- A. Any person violating and failing to comply with any of the provisions of this article shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$1,250, by imprisonment not to exceed 90 days or by community service of not more than 90 days or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.
- B. If any owner, operator or licensee is found in violation of the provisions of this article, the alcoholic beverage license shall be subject to suspension or revocation in accordance with the applicable provisions of the New Jersey Alcoholic Beverage Control Act and this article.
- C. The violation of any provision of this article shall be subject to abatement summarily by restraining order or injunction issued by a court of competent jurisdiction.

Article V. Prohibitions on Presence of Persons Under Legal Drinking Age in Licensed Establishments

[Amended 5-21-1997 by Ord. No. 97-6; 3-2-2005 by Ord. No. 05-08; 7-3-2018 by Ord. No. 2018-15^[1]]

[1] *Editor's Note: This ordinance also amended the title of this article, which was formerly "Teen Nights."*

§ 17-23. Purpose.

The purpose of this article is to protect the welfare of our teenage population by regulating their congregation upon premises licensed by the Borough pursuant to state law to dispense alcoholic beverages.

§ 17-24. Teen nights prohibited in licensed establishments.

"Teen nights," defined as scheduled dances or events held on the premises of a licensed plenary retail alcoholic beverage establishment and restricted to those patrons under the legal drinking age established by the State of New Jersey, are hereby prohibited in the Borough of Seaside Heights.

§ 17-25. Eighteen to party, 21 to drink events prohibited in licensed establishments.

Eighteen to party, 21 to drink events, except for those events set forth in § 17-26 below, are hereby prohibited in the Borough of Seaside Heights. "Eighteen to party, 21 to drink events" are defined as scheduled dances or events wherein any person under the legal drinking age is allowed to enter the premises of a licensed plenary retail alcoholic beverage establishment established by the State of New Jersey during which person under the legal drinking age and individuals of legal age to consume alcoholic beverages as established by the State of New Jersey are present and alcoholic beverages are served.

NIGHTCLUB

Any establishment, including but not limited to, lounges, taverns, bars and any other establishment that serves alcohol and/or beer and provides entertainment activities through any of the following: amplified music, whether live or programmed, dancing, table games, and/or video games. The definition also includes restaurant/bar establishments that provide entertainment as described above during any portion of its operation. Any other establishment that only occasionally hosts the above-described activities shall be subject to the provisions of this article while hosting such activities.

RESTAURANT

An establishment regularly and principally used for the purpose of providing meals to the public, having an adequate kitchen and dining room equipped for the preparing, cooking and serving of foods for its customers, and in which no other business, except such as incidental to such establishment is conducted.

§ 17-26. Exception to presence of person under legal drinking age in licensed establishments.

The provisions of this § 17-26 of shall not apply when:

- A. The person under the legal age is an employee of the license or permit holder, or performing a contracted service for the license or permit holder on the premises, and is on the premises during his or her scheduled work hours.
- B. As per § 17-11, it shall be unlawful for any licensee holding a plenary retail consumption license to allow, permit or suffer the entry of any person under the age of 18 on the licensed premises for any purpose other than for employment pursuant to N.J.A.C. 13:2-14.1 et seq. The foregoing shall not prohibit a person under the age of 18 from being present on a licensed premises if accompanied by a parent or guardian 21 years of age or older or if the licensed premises is a restaurant. A "restaurant" is defined herein as an establishment regularly and principally used for the purpose of providing meals to the public, having an adequate kitchen and dining room equipped for the preparing, cooking and serving of foods for its customers, and in which no other business, except such as incidental to such establishment, is conducted.
- C. The person under the legal age is a guest at a single, special, nonrecurring event, which is not open to the public, and for which no cover charge is assessed, including, but not limited to, a wedding reception, anniversary or birthday celebration, Bar/Bat Mitzvah or grand opening.
- D. In the case of an establishment which functions as both a nightclub and a restaurant, persons under the legal drinking age can be in the restaurant portion after 10:00 p.m. at night, and the licensee must put into effect a plan by which the restaurant section and nightclub entertainment venue sections of the establishment are clearly demarked and security is provided in such a manner that entry is not permitted into the nightclub portion by persons under the legal drinking age. Patrons of both the restaurant and nightclub sections may share the same

bathrooms, as long as the establishment strictly enforces a rule prohibiting alcoholic beverages in the bathrooms.

§ 17-26.1. Violations and penalties.

- A. Any person violating and failing to comply with any of the provisions of this article shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$1,250, by imprisonment not to exceed 90 days or by community service of not more than 90 days or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.
- B. If any owner, operator or licensee is found in violation of the provisions of this article, the alcoholic beverage license shall be subject to suspension or revocation in accordance with the applicable provisions of the New Jersey Alcoholic Beverage Control Act^[1] and this article.
[1] Editor's Note: See N.J.S.A. 33:1-1 et seq.
- C. The violation of any provision of this article shall be subject to abatement summarily by restraining order or injunction issued by a court of competent jurisdiction.

Article VI. Transfer of Liquor Licenses

§ 17-27. Purpose.

The purpose of this article is to encourage investment in the Borough of Seaside Heights and to provide for the establishment of fine restaurants. It is the determination of the Borough Council of the Borough of Seaside Heights, that there is presently an insufficient number of fine restaurants in the Borough of Seaside Heights, that Seaside Heights is a family resort town which is visited by hundreds of thousands of visitors each year and that the economy and image of the Borough of Seaside Heights would substantially benefit from the establishment of new restaurants. The Borough Council further finds that investment in new restaurants is severely impeded by the inability of the Borough of Seaside Heights to issue new plenary retail consumption licenses to potential investors of restaurant businesses, which inability to issue such new licenses is based on the extraordinary number of plenary retail consumption license currently outstanding. The Borough Council further determines that the best means to encourage investment is to place the within restriction on the issuance and transfer of plenary retail consumption licenses.

§ 17-28. Issuance and transfer of licenses.

- A. No plenary retail consumption license shall be issued for or transferred to a premises unless such premises is operated by the licensee as a restaurant. A restaurant is defined herein as an establishment regularly and principally used for the purpose of providing meals to the public, having an adequate kitchen and dining room equipped for the preparing, cooking and serving of foods for its customers and in which no other business, except such as incidental to such establishment, is conducted.
- B. The provisions of Subsection A shall not apply to the renewal of the licenses presently outstanding.

Article VII. Acquisition and Retirement of Liquor Licenses

§ 17-29. Purpose.

The Mayor and Borough Council of the Borough of Seaside Heights hereby determine that it is in the public interest to reduce the number of plenary retail consumption licenses within the Borough of Seaside Heights. It is also the finding of the governing body that the number of existing plenary retail consumption licenses exceeds one for each 2,000 of population according to the latest federal census.

§ 17-30. Acquisition and retirement authorized.

The governing body hereby authorizes the acquisition and retirement by the municipality of plenary retail consumption licenses by contracts with licensees and the appropriation of funds therefor. No such contract shall authorize payment to the licensee for transfer of the license to the municipality in an amount in excess of \$30,000. Additionally, no such contract shall result in the reduction in the number of plenary retail consumption licenses to fewer than one for each 3,000 of the municipality's population, and no license so acquired by the municipality shall be reissued to any applicant.

§ 17-31. Authorization by resolution.

Prior to entering into a contract for the acquisition and retirement of a plenary retail consumption license with a licensee, the governing body shall approve and authorize the actual contract by resolution approved by the governing body.

§ 17-32. Increase in annual license fees.

In addition to the license fees set forth in § 17-4 of this chapter, there shall be an additional annual license fee for all plenary retail consumption licenses in the Borough of Seaside Heights in the amount of \$200. This increase shall be continued in force for each license year until the total revenue derived from such additional license fees in all years shall equal the total amount expended by the Borough of Seaside Heights to acquire and retire licenses pursuant to contracts authorized by this article. If in the final year in which the additional license fee authorized by this section is in effect, the total additional revenue derived in all years from such increase shall exceed the amount expended for acquisition of license and retirement of indebtedness utilized to purchase such licenses, such excess shall be rebated pro rata to the then current licensees who paid such additional license fees or credited against the license renewal fee next payable by such licensees.

Article VIII. Nude Dancing Prohibited

[1] *Editor's Note: See also Ch. 8, Adult Businesses.*

§ 17-33. Purpose.

The purpose of this article is to prohibit certain acts of commercial exploitation of human sexuality in commercial establishments within the Borough of Seaside Heights where alcoholic beverages are served or offered for sale for consumption on the premises and to reduce the likelihood of criminal activity, moral degradation and disturbances of the peace and good order of the community which may occur when such commercial exploitation is permitted in such places. It is not the intent of the Borough Council to interfere with regulations and rules adopted by the Division of Alcoholic Beverage Control of the State of New Jersey, but rather the Borough Council has adopted this article in order to be more strict than said regulations and rules.

§ 17-34. Findings.

It is the determination of the Borough Council of the Borough of Seaside Heights that there is an increasing exploitation of human sexuality by owners, operators and licensees of commercial establishments within the Borough of Seaside Heights where alcoholic beverages are served or offered for sale or consumption on the premises. Such exploitation takes place in the form of employing or permitting persons to perform or exhibit their nude or seminude bodies to other persons as an inducement to such other persons to purchase alcoholic beverages. The direct result of such exploitations is criminal activity, moral degradation and disturbances of the peace and good order of the community. Additionally, commercial exploitation of such nude and seminude acts is adverse to the public's interest in the quality of life, tone of commerce and total community environment in the Borough of Seaside Heights.

§ 17-35. Prohibitions.

A. It shall be unlawful for any owner, operator or licensee of a commercial establishment located in the Borough of Seaside Heights at which alcoholic beverages are served or offered for sale for consumption on the premises:

- (1) To suffer or permit any female person, while on the premises of said commercial establishment, to expose to the public view with less than a full opaque covering that area of the human breast at or below the top of the

nipple.

- (2) To suffer or permit any female person, while on the premises of said commercial establishment, to employ any device or covering which is intended to give the appearance of or simulate such portions of the human female breast as described in Subsection **A(1)**.
 - (3) To suffer or permit any person, while on the premises of said commercial establishment to expose, exhibit or show to the public view with less than a full opaque covering his or her genitals or vulva, pubic area, buttocks, anus, anal cleft or cleavage.
 - (4) To suffer or permit any person, while on the premises of said commercial establishment, to employ any device or covering which is intended to give the appearance of or simulate his or her genitals or vulva, pubic area, buttocks, anus, anal cleft or cleavage.
 - (5) To suffer or permit the depiction or showing of the covered male genitals in a discernibly turgid state.
- B. It shall be unlawful for any female person while on the premises of a commercial establishment located within the Borough of Seaside Heights at which alcoholic beverages are served or offered for sale for consumption on the premises to expose to the public view with less than a full opaque covering that area of the human breast at or below the top of the nipple, or to employ any device or covering which is intended to give the appearance of or simulate such area of the human female breast as described herein.
- C. It shall be unlawful for any person while on the premises of a commercial establishment located within the Borough of Seaside Heights at which alcoholic beverages are served or offered for sale for consumption on the premises to expose to the public view with less than a full opaque covering his or her genitals or vulva, pubic area, buttocks, anus, anal cleft or cleavage or to employ any device or covering which is intended to give the appearance of or simulate his or her genitals or vulva, pubic area, buttocks, anus, anal cleft or cleavage.
- D. It shall be unlawful for any person while on the premises of a commercial establishment located within the Borough of Seaside Heights at which alcoholic beverages are served or offered for sale for consumption on the premises to depict or show in the public view the covered male genitals in a discernibly turgid state or to employ any device or covering which is intended to give the appearance of or simulate the covered male genitals in a discernibly turgid state.

§ 17-36. Violation and penalties.

[Amended 3-2-2005 by Ord. No. 05-08]

- A. Any person violating and failing to comply with any of the provisions of this article shall, upon conviction thereof, be punishable by a fine on no less than \$100 and no more than \$1,250, by imprisonment not exceed 90 days or by community service of not more than 90 days or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.
- B. If any owner, operator or licensee is found in violation of the provisions of this article, the alcoholic beverage license shall be subject to suspension or revocation in accordance with the applicable provisions of the New Jersey Alcoholic Beverage Control Act and this article.
- C. The violation of any provision of this article shall be subject to abatement summarily by restraining order or injunction issued by a court of competent jurisdiction.

Article IX. Consumption by Underage Persons on Private Property

[Added 7-19-2000 by Ord. No. 2000-14]

§ 17-37. Consumption of alcoholic beverages by underage person on private property prohibited.

It is hereby unlawful for any person under the legal age to, without legal authority, knowingly possess or knowingly consume an alcoholic beverage on private property.

§ 17-38. Violations and penalties.

- A. Any person found guilty of violating the terms of this article shall be subject to a fine of \$250 for a first offense and a fine of \$350 for any subsequent offense. In addition, the court may, upon a finding of guilty, in addition to the fine authorized for this offense, suspend or postpone for six months the driving privileges of the defendant. Upon the conviction of any person and the suspension or postponement of that person's driver's license, the court shall forward a report to the Division of Motor Vehicles stating the first and last day of the suspension or postponement period imposed by the court pursuant to this section. If a person at the time of the imposition of a sentence is less than 17 years of age, the period of license postponement, including a suspension or postponement of the privilege of operating a motorized bicycle, shall commence on the day the sentence is imposed and shall run for a period of six months after the person reaches the age of 17 years. If the defendant at the time of the imposition of the sentence has a valid driver's license issued by this state, the court shall immediately collect the license and forward it to the Division of Motor Vehicles along with the report. If for any reason the license cannot be collected, the court shall include in the report the complete name, address, date of birth, eye color and sex of the person, as well as the first and last date of the license suspension period imposed by the court.

[Amended 3-5-2003 by Ord. No. 03-07; 7-21-2004 by Ord. No. 04-09]

- B. The court shall inform the person orally and in writing that if the person is convicted of operating a motor vehicle during the period of license suspension or postponement, the person shall be subject to the penalties set forth in N.J.S.A. 39:3-40. The defendant shall be required to acknowledge receipt of the written notice in writing. Failure to receive a written notice or failure to acknowledge in writing the receipt of the written notice shall not be a defense to a subsequent charge of a violation of N.J.S.A. 39:3-40.
- C. If the person convicted under this article is not a New Jersey resident, the court shall suspend or postpone, as appropriate, the nonresident driving privilege of the person based on the age of the person and submit to the Division the required report. The court shall not collect the license of a nonresident convicted under this article. Upon receipt of a report by the court, the Division shall notify the appropriate officials in the licensing jurisdiction of the suspension or postponement.

§ 17-39. Exceptions.

- A. This article shall not prohibit an underage person from consuming or possessing an alcoholic beverage in connection with a religious observance, ceremony or rite or consuming or possessing an alcoholic beverage in the presence of and with the permission of a parent, guardian or relative who has attained the legal age to purchase and consume alcoholic beverages.
- B. This article shall not prohibit the possession of alcoholic beverages by any underaged person while actually engaged in the performance of employment by a person who was licensed under Title 33 of the revised statutes or while actively engaged in the preparation of food while enrolled in a culinary arts or hotel management program at a county vocational school or post-secondary educational institution; however, this article shall not be construed to preclude the imposition of a penalty under this section, N.J.S.A. 33:1-81 or any other section of law against a person who is convicted of unlawful alcoholic beverage activity on or at premises licensed for the sale of alcoholic beverages.

§ 17-40. Definitions.

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

GUARDIAN

A person who has qualified as a guardian of the underage person pursuant to a testamentary or court appointment.

RELATIVE

The underage person's grandparent, aunt or uncle, sibling, or any other person related by blood or affinity.

Article X. Required Security Personnel

[Added 1-16-2013 by Ord. No. 13-03; amended 3-20-2013 by Ord. No. 13-10]

§ 17-41. Employment of licensed security personnel.

The governing body of the Borough of Seaside Heights, as the issuing authority, may impose, at the time of license issuance, transfer or a condition of renewal upon certain licensed establishments, that the establishment must, at specified periods of time, employ security officers who have been licensed pursuant to the Security Officer Registration Act, "SORA," N.J.S.A. 45:19A-1 et seq.

Chapter 21. Americans With Disabilities Act Compliance

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 2-19-1997 by Ord. No. 97-1. Amendments noted where applicable.]

GENERAL REFERENCES

Administrative offices — See Ch. 5.

§ 21-1. Americans with Disabilities Act Advisory Board.

The Borough of Seaside Heights has established an Americans with Disabilities Act Advisory Board in Chapter 40, Boards and Commissions, Art. VII, of this Code.

§ 21-2. Eligibility for position; reasonable accommodation.

Persons employed by the Borough of Seaside Heights in a position provided by this chapter shall possess good health and freedom from disabling physical and mental defects which impair the proper performance of the required duties, or which might endanger the health and safety of oneself or others. Persons with mental or physical disabilities are eligible as long as they can perform the essential functions of the job position after reasonable accommodation is made to their known limitations. If the accommodation cannot be made because it would cause the employer undue hardship, such person may not be eligible.

§ 21-3. Americans with Disabilities Act Coordinator; Deputy Coordinator.

- A. The Mayor, with the advice and consent of the Borough Council, shall appoint one employee to serve as Americans with Disabilities Act (ADA) Coordinator. The ADA Coordinator shall be familiar with the requirements of the ADA and coordinate borough efforts to comply with and carry out borough responsibilities under the ADA and the rules promulgated pursuant thereto, including the investigation of complaints alleging violations of the ADA.
- B. The borough shall make the name, office address and telephone number of the ADA Coordinator available to any interested individuals.
- C. The Mayor, with the advice and consent of the Borough Council, may appoint an individual to serve as Deputy ADA Coordinator. The Deputy ADA Coordinator shall assist the ADA Coordinator and perform such duties as required by the ADA Coordinator.
- D. The ADA Coordinator shall be appointed as a member of the ADA Advisory Board as provided for in § 40-33. The Deputy ADA Coordinator shall be appointed as Alternate No. 1 of the Board as provided for in § 40-33.
- E. The term of office for the ADA Coordinator and Deputy ADA Coordinator shall be for one year, commencing on January 1 of the year of appointment and ending on December 31 of the year of appointment.

§ 21-4. Dissemination of information.

- A. The borough shall disseminate sufficient information to inform all interested persons of the rights and protections afforded by ADA and the rules promulgated pursuant thereto related to the responsibilities of the Borough of Seaside Heights. This information shall be provided in a manner consistent with the federal rules for effective communication.

- B. The borough may fulfill this requirement by publication of information in handbooks, manuals or pamphlets which describe the borough's programs and activities, by the display of posters in service centers and other public places or the broadcast of information on radio or television.

§ 21-5. Grievance procedure.

The borough shall adopt and publish the following grievance procedure which provides for the prompt and equitable resolution of complaints alleging any action that is prohibited by the ADA and the rules promulgated pursuant thereto:

- A. Grievances shall be processed promptly and expeditiously and shall be adjudicated according to the terms of the procedure provided herein.
- B. Formal grievances and appeals shall be in writing.
- C. Communications and decisions concerning formal grievances shall be in writing.
- D. A written complaint signed by the grievant shall be filed with the ADA Coordinator within 15 days after the alleged violation. The ADA Coordinator shall forward a copy of any written complaint received to the Mayor and Borough Council.
- E. The complaint shall identify the parties and contain a clear and concise statement of the facts that constitute the alleged discrimination on the basis of disability.
- F. The ADA Coordinator shall review the grievance and hold a hearing.
- G. A grievant shall be permitted a representative at all levels of the grievance procedure and may produce witnesses for the purpose of providing testimony relevant to the alleged discrimination on the basis of disability.
- H. A written determination shall be issued by the ADA Coordinator and a copy forwarded by certified mail to the grievant no later than 30 days after the date of the hearing on the complaint. A copy of said determination shall be provided to the Mayor and Borough Council.
- I. If the grievant is dissatisfied with the answer submitted by the ADA Coordinator, the grievant may appeal the answer to the ADA Advisory Board within seven days after receipt of the written answer. A hearing shall be scheduled within seven days after receipt of the grievance appeal. The hearing granted by the ADA Advisory Board will take place within 15 days after the scheduled date is submitted to the grievant.
- J. Minutes of the hearing shall be kept, or in the alternative, the hearing may be recorded.
- K. The ADA Advisory Board shall make its determination regarding the appeal within 15 days from the date of the hearing and thereafter make the appropriate written report to the Mayor and Borough Council setting forth its findings and recommendations. The Mayor and Borough Council shall review the findings and recommendations of the ADA Advisory Board and make a final determination on the appeal.
- L. The ADA Coordinator shall maintain the files and records of the borough relating to complaints filed.
- M. Failure by the grievant to process a grievance or appeal the decision of the ADA Coordinator within the specified time limit shall render the grievance as settled in favor of the borough. Failure by the borough to issue a decision within the specified time limit shall render the grievance advanced to the next level. The aforementioned time limits may, however, be extended by mutual consent of the parties.
- N. This grievance procedure shall be construed to protect the substantive rights of interested persons, to meet appropriate due process standards and to assure that the borough complied with the requirements of the ADA and the regulations adopted pursuant thereto.

§ 21-6. Self-evaluation.

- A. The ADA Advisory Board shall evaluate all borough programs and services to ensure equal opportunity and equal access.
- B. The ADA Advisory Board shall distribute the self-evaluation plan and permit comment thereon by all interested parties.

- C. The self-evaluation shall in all respects comply with the federal rules adopted pursuant to the ADA and shall be kept on file for a period of three years.

§ 21-7. Maintenance of accessible features.

- A. The borough shall maintain in proper working condition those features of facilities and equipment that are required to be accessible and usable by persons with disabilities.
- B. This section of the Borough Code shall not be interpreted to prohibit reasonable shutdown times for repairs.

§ 21-8. Employment.

- A. The hiring practices of the borough shall not discriminate against persons with disabilities.
- B. All job descriptions shall precisely and accurately describe the essential functions of the job performed by each employee.
- C. Job applications shall pertain strictly to job performance.
- D. All job interviews shall be limited to questions concerning the applicant's ability to perform the job.
- E. The interviewer shall not inquire about disabilities or conduct tests that screen out people with disabilities.
- F. Questions about the applicant's addiction to alcohol or drugs shall not be asked.
- G. The borough shall not conduct medical examinations or inquiries of job applicants prior to an offer of employment. The borough may, however, require medical examinations and/or inquiries after making an offer of employment to a job applicant and before the applicant begins employment with the borough. The borough may condition an offer of employment on the results of the medical examination or inquiry. If the borough chooses to conduct such medical examinations or inquiries, all entering employees in the same job category shall be subject to the examination or inquiry regardless of disability.
- H. Any medical information obtained from employee medical examinations and inquiries shall be maintained on separate forms and shall be treated as confidential and not kept in an employee's personnel file.
- I. Persons with mental or physical disabilities are eligible as long as they can perform the essential functions of the job after reasonable accommodation is made to their known limitations. If the accommodation cannot be made because it would cause the employer undue hardship, such person may not be eligible.

§ 21-9. Facility accessibility.

- A. The borough shall make reasonable accommodations to make its facilities accessible to and usable by individuals with disabilities. An individual shall not be excluded from participation in or be denied the benefits of the services, programs or activities of the borough due to disability.
- B. The borough shall make reasonable accommodations to its facilities as required by the ADA.
- C. The borough shall prepare a transition plan setting forth the steps necessary to complete the structural changes in all public facilities. All interested persons, including individuals with disabilities, shall be able to participate in the development of the transition plan. After completion, a copy of the transition plan shall be made available for public inspection. The transition plan shall include, at a minimum, the following:
 - (1) Identification of physical obstacles in the borough's facilities that limit the accessibility of its programs or activities to individuals with disabilities.
 - (2) Description in detail of the methods that will be used to make the facilities accessible.
 - (3) Specify the schedule for taking the steps necessary to achieve compliance.
 - (4) Indicate the official responsible for implementation of the plan.

(5) Indicate why certain borough facilities cannot be made accessible.

- D. Effective immediately, the new construction and alteration provisions of the ADA and the regulations adopted pursuant thereto shall apply to all borough construction.

§ 21-10. Communications.

- A. The borough shall take whatever steps may be necessary to ensure that communications with applicants, participants and members of the public with disabilities are as effective as communications with others.
- B. Auxiliary aids and services shall be furnished to afford individuals with disabilities an equal opportunity to participate in and enjoy the benefits of the borough's services, programs and activities.
- C. The borough shall equip emergency systems with telecommunications devices for the deaf (TDD's) and computer modems.
- D. All borough communications, including the public notices required by § 21-4 of this chapter, shall comply with the communication requirements of the ADA and the regulations adopted pursuant thereto.
- E. The borough shall place an appropriate access statement on all public communications.

Chapter 25. Amusement Games and Devices

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 2-19-1997 by Ord. No. 97-1. Amendments noted where applicable.]

GENERAL REFERENCES

Entertainment establishments — See Ch. 86.

Article I. Licensing

§ 25-1. Amusement area boundaries.

It is hereby determined, declared and found that this municipality constitutes a seashore resort with parts thereof customarily constituting an amusement or entertainment area according to the customary understanding of said terms in the community, and which said parts thereof are more particularly described as follows:

- A. All the lands located within the area bounded on the north by the borderline of Seaside Heights and Ortley Beach, Dover Township, on the south by the center line of Porter Avenue, on the east by the Atlantic Ocean and on the west by the center line of Ocean Terrace or upon a line running parallel thereto.
- B. All the lands located within the area bounded on the north by the center line of Sherman Avenue, on the south by the center line of Grant Avenue, on the east by a line running parallel to and 500 feet easterly from the high-water mark of the Atlantic Ocean and on the west by a line running parallel to the boardwalk and 500 feet westerly from the west side of said boardwalk.
- C. All of the lands located within the area of two certain lots located at the northwest corner of Ocean Terrace and Dupont Avenue, which said lots have a frontage of 40 feet on Dupont Avenue and a depth of 100 feet on Ocean Terrace.

§ 25-2. License required.

It shall be unlawful for any person firm or corporation to own or operate within this municipality any amusement game or games, as said terms are defined by said Amusement Games Licensing Law, N.J.S.A. 5:8-100 to N.J.S.A. 5:8-120, as amended and supplemented, whether said game or games are of skill or chance, or both, and whether said game or games are played and operated with or without numbers or figures, without first having obtained a license from the Mayor and Council of the Borough of Seaside Heights to do so. Said license shall be issued pursuant to and subject to the provisions of the Amusement Games Licensing Law, as amended and supplemented.

§ 25-3. Application.

Each applicant for such a license shall file with the Borough Clerk a written application in such form as prescribed by and in accordance with said Amusement Games Licensing Law, as amended and supplemented, and the rules and regulations promulgated by the Amusement Games Control Commissioner of the State of New Jersey.

§ 25-4. License fees.

The fees for the type of licenses to be issued hereunder shall be as follows, and said fees shall accompany the application for said licenses:

- A. Games permitted under Category and Certification No. 1 as defined by N.J.S.A. 5:8-100 et seq. shall be \$275.
- B. Games permitted under Category and Certification No. 2 as defined by N.J.S.A. 5:8-100 et seq. shall be \$400 for every 50 machines. An additional license is required for each additional 50 machines or fraction thereof.
- C. Games permitted under Category and Certification No. 3 as defined by N.J.S.A. 5:8-100 et seq. shall be \$200.
- D. Games permitted under Category and Certification No. 4 as defined by N.J.S.A. 5:8-100 et seq. shall be: Skillo, \$1,400; all other games, \$475.
- E. Games permitted under Category and Certification No. 5 as defined by N.J.S.A. 5:8-100 et seq. shall be \$425 for the first 15 feet; each additional five feet or fraction thereof, \$25.
- F. Games permitted under Category and Certification No. 6 as defined by N.J.S.A. 5:8-100 et seq. shall be \$150.
- G. Games permitted under Category and Certification No. 7 as defined by N.J.S.A. 5:8-100 et seq. shall be \$150.
- H. Games permitted under the Category and Certification No. 8 as defined by N.J.S.A. 5:8-100 et seq. shall be \$350.

§ 25-5. Designation of authority to control and supervise; local regulations.

- A. The Mayor and Council of the Borough of Seaside Heights shall have and exercise control and supervision over all amusement games held, operated or conducted under such licenses with all the powers authorized or granted to the governing body under the Amusement Games Licensing Law and all amendments and supplements thereto and the rules and regulations of the State Amusement Games Control Commissioner.
- B. In addition, all licensees shall specifically comply with the following local regulations:
 - (1) The price of each game must be clearly visible.
 - (2) The rules of each game must be predominantly displayed.
 - (3) Licensees giving prizes must adhere to the following regulations regarding prizes:
 - (a) The number of wins required for each prize must be clearly marked.
 - (b) Where a licensee, through signs or other notices, has indicated that one win will take any prize on the stand, there shall be no exceptions.
 - (c) Prizes which are out of stock must be so marked.
 - (d) All damaged or nonworking prizes shall be exchanged if returned within a reasonable time.
 - (e) All tickets issued by a licensee to be redeemed for a prize shall show the name and address of the stand, the year of issue and shall indicate a date when the ticket will be honored for redemption should there exist any expiration date. Absent any date specified, it shall be assumed that there is no expiration date for redemption of any given ticket.
 - (4) No licensee shall utilize any false or misleading advertising.

- (5) Each licensee shall be required to place in open view of the public in a permanent location the numerical address or stand number where the license is located. Said numerical address shall be in black numbers at least four inches high placed upon a white background.

§ 25-6. Forfeiture of license.

In the event that any licensee shall violate any of the provisions of this article or of the Amusement Games Licensing Law or the rules and regulations promulgated by the State Amusement Games Control Commissioner or the term of such license, such licensee shall, if convicted as such, in addition to suffering any other penalties which may be imposed, forfeit any license issued to said licensee under this article.

§ 25-7. Hours of business.

[Amended 12-3-1997 by Ord. No. 97-13]

The hours of business during which the licensees may conduct their business shall be as provided in Chapter **122**, § **122-15**.

§ 25-8. Speaker restrictions.

No license shall be issued for premises upon which are located speakers which emit music or any amplified sound, unless said speakers are positioned such that they are turned in towards the booth, store or premises upon which they are located. Failure of the licensee to keep the speakers turned inward shall be a violation of the provisions of this article.

Article II. Raffles and Bingo Licenses

[Amended 5-21-2008 by Ord. No. 08-08]

§ 25-9. Statutory authority; licenses authorized.

Under and subject to the terms, conditions and restrictions of this chapter; the Raffles Licensing Law (N.J.S.A. 5:8-50 et seq.); the Bingo Licensing Law (N.J.S.A. 5:8-24 et seq.); the Legalized Games of Chance Control Law (N.J.S.A. 5:8-1 et seq.); and the rules and regulations adopted and promulgated or to be adopted and promulgated hereafter by the Legalized Games of Chance Control Commission of the State of New Jersey, licenses shall be issued in this municipality to bona fide organizations or associations as described in said laws.

§ 25-10. Sunday gaming authorized.

Games of chance commonly known as "bingo" and "raffles," as provided by the laws of the State of New Jersey, N.J.S.A. 5:8-1 et seq., may be conducted in the Borough of Seaside Heights on the first day of the week commonly known and designated as "Sunday," provided that the applicant for the license to conduct such game otherwise qualifies under the provisions of the aforementioned statutes of the State of New Jersey and the rules and regulations of the Legalized Games of Chance Control Commission.

§ 25-10.1. Duties of Borough Clerk.

The Borough Clerk or Deputy Borough Clerk shall, on behalf of the municipality:

- A. File with the Legalized Games of Chance Control Commission a certified copy of this chapter within 10 days after its adoption.
- B. On or before the first day of February in each year, or at any other time or times which said Commission may determine, make report to the Commission of the number of licenses issued in this municipality under each of said licensing laws and the names and addresses of the licensees, the aggregate of the license fees collected, and the names and addresses of all persons detected for violation of each of said laws or of the rules and regulations adopted by the State Control Commission and of all persons prosecuted for such violations and the

result of each such prosecution and the penalties imposed therein during the preceding calendar year or the period for which the report is required.

- C. Pursuant to N.J.A.C. 13:47-1.1, serve as the municipal issuing authority to approve the granting of raffles and bingo licenses.

§ 25-10.2. License fee for raffles.

The license fee for raffles shall be a fee based upon prize value as follows:

- A. On-premises raffles offering prizes with a total value of \$400 or more: \$10 per raffle.
- B. Off-premises raffles: \$10 per \$1,000 in prize value offered, or any part thereof.

§ 25-10.3. License fee for bingo.

The license fee for bingo shall be \$10 for each occasion upon which any game or games are to be conducted under such license.

§ 25-10.4. Unlicensed games prohibited.

No person, organization, club, company or squad shall conduct, operate, run, participate in or attend at any unlicensed raffle or bingo game in the Borough of Seaside Heights.

§ 25-10.5. Violation of regulatory laws prohibited.

No person, organization, club, company or squad shall violate any of the terms or provisions of any one or more of the following:

- A. Bingo Licensing Law (N.J.S.A. 5:8-24 et seq.).
- B. Raffles Licensing Law (N.J.S.A. 5:8-50 et seq.).
- C. Legalized Games of Chance Control Law (N.J.S.A. 5:8-1 et seq.).
- D. N.J.A.C. 13:47-1.1 et seq.
- E. This chapter.

§ 25-10.6. Suspension or revocation of license.

A conviction hereunder after hearing shall be proper ground, as determined by the governing body, to suspend or revoke a license issued pursuant to this chapter if any has been issued and is outstanding. This provision for suspension or revocation of license by the governing body shall be available in addition to those remedies which may be initiated by the Control Commission pursuant to N.J.S.A. 5:8-30.

§ 25-11. Violations and penalties.

Any person violating or failing to comply with any of the provisions of this chapter shall, upon conviction thereof, be punishable by a fine of not more than \$2,000, by imprisonment for a term not to exceed 90 days and/or by a period of community service not to exceed 90 days, in the discretion of the Judge. 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.

Chapter 29. Animals

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 2-19-1997 by Ord. No. 97-1. Amendments noted where applicable.]

GENERAL REFERENCES

Dogs on beaches and boardwalk — See Ch. 33.

Article I. Definitions

§ 29-1. Definitions.

As used in this chapter, the following terms shall mean:

ANIMAL

Any live vertebrate creature, domestic or wild. Goldfish and Beta Fish are specifically excluded from this definition for the sole application of § 29-14, entitled, "Animals as prizes prohibited."

[Amended 8-20-2003 by Ord. No. 03-26]

ANIMAL CONTROL OFFICER

Any Seaside Heights police officer and/or any person or agency designated by the governing body as an Animal Control Officer.

ANIMAL SHELTER

Any establishment where animals are received, housed and distributed.

AT LARGE

Any animal off the premises of the person owning, keeping or harboring it where the animal is not secured or fastened to a leash or chain of six feet or less and which is held by its owner or other person capable of controlling said animal, or securely fastened to a stable stationary object.

CAT

Any member of the domestic feline species, male, female or neutered.^[1]

DOG

Any member of the domestic canine species, male, female or neutered.

DOG OF LICENSING AGE

Any dog which has attained the age of seven months or which possesses a set of permanent teeth.

NEUTERED

Rendered permanently incapable of reproduction as certified by a licensed veterinarian.

OWNER

Any person, partnership or corporation owning, keeping or harboring one or more animals. Any animal shall be deemed to be harbored if it is fed or sheltered for three consecutive days or more. When applied to proprietorship of a dog, owner shall include every person having a right of property in such dog.

PERSON

An individual, partnership, company or corporation.

[1] *Editor's Note: The definition of "cat of licensing age," which immediately followed this definition, was repealed 2-16-2005 by Ord. No. 05-05.*

Article II. Commercial Use of Animals

§ 29-2. Certain animals prohibited.

No person shall keep or permit to be kept or use for commercial purposes any cattle, swine, goats, ponies, mules and horses or any other animal that would be used for a commercial purpose on any lands or premises located within the limits of the Borough of Seaside Heights.

Article III. Control of Dogs and Other Animals

[Amended 8-20-2003 by Ord. No. 03-26; 2-16-2003 by Ord. No. 05-05]

§ 29-3. Rabies vaccination of dogs.

- A. Vaccination and license requirements. No person shall own, keep, harbor or maintain any dog over seven months of age within the borough unless such dog is vaccinated and licensed. The provisions of this section do not apply to dogs held in a room or group of rooms, cage or exhibition pen not part of a kennel wherein dogs for sale are kept or displayed, or those held by a state or federal licensed research facility or a veterinary establishment where dogs are received or kept for diagnostic, medical, surgical or other treatments or licensed animal shelters, pounds, kennels or pet shops.
- B. Vaccination. All dogs shall be vaccinated against rabies by a licensed veterinarian in accordance with the latest Compendium of Animal Rabies Vaccines and Recommendations for Immunization published by the National Association of State Public Health Veterinarians, except as provided for in § 29-3D.
- C. Vaccination certificate. A certificate of vaccination shall be issued to the owner of each animal vaccinated on a form recommended by the state.
- D. Exemptions. Any dog may be exempted from the requirement of such vaccination for a specified period of time by the local Board of Health upon presentation of a veterinarian's certificate stating that, because of an infirmity or other physical condition or regimen of therapy, the inoculation of such dog shall be deemed inadvisable.

§ 29-4. Licensing requirements.

- A. Dogs must have license number displayed. Any person who shall own, keep or harbor a dog of licensing age shall annually apply for and procure from the Borough Clerk or other official designated by the governing body to license dogs in the borough a license and official registration tag with a license number or a registration sleeve for each dog so owned, kept or harbored and shall place upon such dog a collar or other device with the license number securely fastened thereto or displayed thereon. Acceptable methods of displaying the license number shall include, but are not limited to, breakaway or elastic collars. License tags or sleeves are nontransferable.
- B. Time for applying for license. The owner of any newly acquired dog of licensing age, or of any dog which attains licensing age, shall make application for a license tag or sleeve for such dog within 10 days after such acquisition or age attainment.
- C. Dogs brought into jurisdiction.
 - (1) Licensed. Any person who shall bring or cause to be brought into this borough any dog licensed in another state for the current year and bearing a registration tag or sleeve, and shall keep same or permit same to be kept within the borough for a period of more than 90 days, shall immediately apply for a license and registration tag or sleeve for each such dog.
 - (2) Unlicensed. Any person who shall bring or cause to be brought into this borough any unlicensed dog, and shall keep same or permit same to be kept within the borough for a period of more than 10 days, shall immediately apply for a license and registration tag or sleeve for each such dog.
- D. Application, contents, preservation of information. The application shall state the breed, sex, age, color and markings of the dog for which license and registration are sought and also the name, street and post office address of the owner and the person who shall keep or harbor such dog. The information on said application and the registration number issued for the dog shall be preserved for a period of three years by the Borough Clerk or other local official designated to license dogs in the municipality.
- E. License forms and tags. License forms and official tags or sleeves shall be furnished by the municipality and shall be numbered serially and shall bear the year of issuance and the name of the municipality.
- F. Evidence of inoculation with rabies vaccine or certification of exemption; requirement for license. The Borough Clerk or other official designated by the governing body of the borough to license dogs therein shall not grant any such license and official registration tag or sleeve for any dog unless the owner thereof provides evidence that the dog to be licensed and registered has been inoculated with a rabies vaccine of a type approved by and administered in accordance with the recommendations of the United States Department of Health Human Services or has been certified exempt as provided by § 29-3D of this chapter. The rabies inoculation shall be administered by a duly licensed veterinarian or by such other veterinarian permitted by law to do the same.

- G. Fees. The registration fee for every dog of licensing age shall be \$11.00, unless the dog is spayed or neutered, in which case the fee shall be \$8. Of the above fees, the borough's portion shall be \$6.80 and the remainder of the funds shall go to the State of New Jersey as required by N.J.S.A. 4:19-15.1 et seq.
- H. Payment of fees; renewal fee; expiration; licenses from other municipalities.
 - (1) The person applying for the license and registration tag and/or sleeve shall pay the fee fixed or authorized. The fee for the renewal of the license and registration tag or sleeve shall be the same as for the original, and said license, registration tag or sleeve and renewal thereof shall expire on March 31 of the following year. The license year shall run from April 1 through March 31 of each succeeding year.
 - (2) Only one license and registration tag or sleeve shall be required in the licensing year for any dog in the borough. Valid licenses from another New Jersey municipality shall be accepted. Any valid New Jersey license tag or sleeve issued by a New Jersey municipality shall be accepted by the Borough as evidence of compliance.
- I. Proof of licensing. Proof of licensing shall be produced by any person owning, keeping, maintaining or harboring a dog upon the request of any health official, police officer, animal control officer or other authorized person.
- J. Interfering with persons performing duties under this chapter. No person shall hinder, molest or interfere with anyone authorized or empowered to perform any duty under this chapter.
- K. Disposition of fees collected.
 - (1) License fees and other moneys collected or received under the provisions of this chapter shall be forwarded to the Chief Financial Officer of the Borough and shall be placed in a special account separate from any of the other accounts of the municipality and shall be used for the following purposes only:
 - (a) Collecting, keeping and disposing of dogs liable to seizure for local prevention and control of rabies.
 - (b) Providing anti-rabies treatment under the direction of the local Board of Health for any person known or suspected to have been exposed to rabies.
 - (c) Administering the provisions of this chapter.
 - (2) Any unexpended balance remaining in such special account shall be retained until the end of the third fiscal year following and may be used for any of the purposes set forth in this section. At the end of the third fiscal year following and at the end of each fiscal year thereafter, there shall be transferred from such special account to the general funds of the municipality any amount then in such account which is in excess of the total amount paid into the special account during the last two fiscal years next preceding.
- L. Disclosure as to debarked or silenced dog.
 - (1) No Borough Clerk or other official designated by the governing body of the Borough to license dogs therein shall grant any such license and official metal registration tag for any dog unless the owner thereof, when applying for the license and registration tag, indicates whether the dog has been surgically debarked or silenced.
 - (2) The Borough Clerk or other official designated by the governing body of the Borough to license dogs therein may, upon request of any law enforcement officer or Borough Animal Control Officer, provide notice thereto of the name and address of any person indicating on a dog license application the possession of a surgically debarked or silenced dog.

§ 29-5. Control of dogs; dogs on public property prohibited.

- A. No owner shall fail to exercise proper control of his dog to prevent it from becoming a public nuisance.^[1] Excessive, continuous or untimely barking, molesting passersby, chasing vehicles, habitually attacking other domestic animals and/or trespassing upon private property shall be deemed nuisances.
 [1] *Editor's Note: See also Art. IV of this chapter.*
- B. No person shall allow any animal owned or controlled by that person to enter onto any municipally-owned or school-owned properties, including all municipal and school ball fields, tennis courts, basketball courts and playgrounds, except streets and sidewalks.

§ 29-6. Barking.

No person residing within this borough shall keep or maintain on his premises any dog or dogs which shall habitually bark in such a manner as to annoy other inhabitants of this borough by interfering with the enjoyment of their properties, interfering with their sleep or rest or otherwise annoying them in the enjoyment of their properties in a substantial manner.

§ 29-7. Confinement of female dogs.

Every female dog in heat shall be confined in a building or secure enclosure in such a manner that such female dog cannot come into contact with another dog, except for planned breeding.

§ 29-8. Violations declared nuisances.

Allowing any dog to run at large or allowing any dog to annoy other inhabitants of this borough or the violation of § 29-5, 29-6 or 29-7 is hereby declared to be a nuisance, and allowing a dog or dogs to run at large or to be insecurely confined or controlled or allowing or permitting such dog or dogs to bark habitually, as provided in said preceding sections, is hereby declared a nuisance.

§ 29-9. Dogs on beach and boardwalk prohibited.

[Amended 4-5-2017 by Ord. No. 17-09]

No person shall take, leave, keep or allow his dog or any dog in his custody to be upon the boardwalk or beach in this Borough except from October 1 of each year through the Sunday before Palm Sunday of each succeeding year.

[1] *Editor's Note: See also Ch. 33, Beaches.*

§ 29-10. Impoundment of dogs found at large.

Dogs found at large may be taken by a police officer or the Animal Control Officer, impounded in the animal shelter and there confined in the manner prescribed by N.J.S.A. 4:19-15.16. Impounded dogs shall be kept for not less than seven days unless reclaimed by their owners. If by a license or by other means the owner can be identified, the Animal Control Officer shall, immediately upon impoundment notify the owner, in writing, of the impoundment of the dog and the possible offering for adoption or destruction of same. Dogs not claimed by their owners within seven days or placed in suitable new homes may be disposed of by a method prescribed as humane and reliable by the American Veterinary Medical Association and the New Jersey Veterinary Medical Association, by the Animal Control Officer or by a representative so delegated to exercise that authority.

§ 29-11. Redemption of impounded dog.

An owner reclaiming a dog impounded under § 29-10 of this chapter or any animal impounded for whatever reason shall pay a fee of \$10, plus \$1 for each day that the dog has been impounded, to a total maximum fee of \$15. The owner may also be proceeded against for violation of this chapter. Any owner of a dog that was unlicensed at the time of seizure must produce a license and registration tag for such dog in order to reclaim same.

§ 29-12. Summons for violation.

In addition to, or in lieu of, impounding a dog found at large, the Animal Control Officer or police officer may issue to the known owner of such dog a summons for violation of this chapter.

§ 29-13. Care of animals; abandonment.

No owner shall fail to provide any animal in his control with a sufficient amount of good and wholesome food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering and humane

care and treatment. No person shall beat, cruelly ill treat, torment, overload, overwork or otherwise abuse any animal, or cause or permit any animals to combat between themselves, nor shall any owner abandon such animal.

§ 29-14. Animals as prizes prohibited.

No person shall give away any animal as a prize for or as an inducement to enter any contest, game or other competition or as an inducement to enter a place of amusement, or offer such animal as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade. Goldfish and Beta Fish are specifically excluded from this section.

§ 29-15. Animal bites.

Any animal which bites a person shall be quarantined on the premises of its owner under the supervision of the authority designated by the municipality for the period of time ordered by said authority. The animal shall be securely confined and kept from contact with any other animal or persons other than those residing in said premises during quarantine. The designated authority may require, at its discretion, special confinement and order the animal surrendered to the animal shelter or veterinary hospital at the owner's expense.

§ 29-16. Rabid animals.

No police officer or other person shall kill or cause to be killed any animal suspected of being rabid, except after the animal has been placed in quarantine and the diagnosis of rabies is made by a licensed veterinarian. If a veterinarian diagnoses a quarantined animal with rabies, then the animal shall be destroyed in a manner causing as little pain as possible in accordance with state law, and the head of such animal sent to a laboratory for pathological examination and confirmation of the diagnosis.

§ 29-17. Power of Animal Control Officer.

The Animal Control Officer shall have police powers in the enforcement of this chapter, and no person shall interfere with, hinder, molest or abuse any Animal Control Officer in the exercise of such powers.

Article IV. Nuisances Committed by Dogs

§ 29-18. Purpose.

The purpose of this article is to protect the health, safety and welfare of all of those frequenting this municipality. It is further the purpose of this article to prevent the needless health hazards caused by dog feces upon public and private properties.

§ 29-19. Nuisances prohibited.

No person owning, harboring, keeping or in charge of any dog shall cause, suffer or allow such dog to soil, defile, defecate on or commit any nuisance on any common thoroughfare, sidewalk, passageway, bypath, play area, park or any place where people congregate or walk, or upon any public property whatsoever, or upon any private property without the permission of the owner of said property. The restriction in this section shall not apply to that portion of the street lying between the curblines, which shall be used to curb such dog under the following conditions:

- A. The person who so curbs such dog shall immediately remove all feces deposited by such dog by any sanitary method approved by the local health authority.
- B. The feces removed from the aforementioned designated area shall be disposed of by the person owning, harboring, keeping or in charge of any dog curbed in accordance with the provisions of this article in a sanitary manner approved by the local health authority.
- C. Whenever any dog is present upon any public property whatsoever, including streets and sidewalks, or upon any private property without permission of the property owner, the person owning, harboring, keeping or in charge or

control of such dog shall be in possession of a sanitary bag or other sanitary utensil the design of which permits the removal and disposal of dog feces in a sanitary manner approved by the local health authority.

Article V. Control and Prohibition of Certain Animals

§ 29-20. Keeping of certain animals prohibited.

- A. The keeping of any animals commonly designated as "wild animals," such as a lions, tigers, primates, bears or any other similar animals or members of the dog or cat family usually living in a wild state, are prohibited from being kept or housed within the Borough of Seaside Heights.
- B. Horses and any animals commonly referred to as "livestock," such as a cows, sheep, pigs, goats or others, are prohibited from being kept or housed within the Borough of Seaside Heights.

§ 29-21. Keeping of certain animals restricted.

Animals such as crocodiles, alligators or any such poisonous or dangerous mammals or reptiles may be kept or housed within the Borough of Seaside Heights, provided that said animals are maintained and/or confined in tanks, cases or other appropriate receptacles within the confines of the main structure located on the premises of the owner of said animal. Otherwise, the harboring of the animals set forth in this section is strictly prohibited.

Article VI. Wildlife Feeding

[Added 12-19-2007 by Ord. No. 07-11^[1]]

[1] *Editor's Note: This ordinance also redesignated former Art. VI. Penalties, as Art. VII.*

§ 29-22. Purpose.

The purpose of this article is to prohibit the feeding of unconfined wildlife in any public park or on any other property owned or operated by the Borough of Seaside Heights, so as to protect public health, safety and welfare, and to prescribe penalties for failure to comply.

§ 29-23. Definitions.

For the purpose of this article, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this article clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future; words used in the plural number include the singular number; and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

FEED

To give, place, expose, deposit, distribute or scatter any edible material with the intention of feeding, attracting or enticing wildlife. Feeding does not include baiting in the legal taking of fish and/or game.

PERSON

Any individual, corporation, company, partnership, firm, association, or political subdivision of this state subject to municipal jurisdiction.

WILDLIFE

All animals that are neither human nor domesticated.

§ 29-24. Prohibited conduct.

[Amended 4-4-2012 by Ord. No. 2012-5]

No person shall feed, in any public park or on any other property owned or operated by the Borough of Seaside Heights, any wildlife, excluding confined wildlife (for example, wildlife confined in zoos, parks or rehabilitation centers,

or unconfined wildlife at environmental education centers). Neither this article nor any other provision of the Code of the Borough of Seaside Heights shall be construed as to prohibit the feeding of feral cat colonies on private property in accordance with Article **VIII** of this chapter.

§ 29-25. Enforcement.

This article shall be enforced by the State of New Jersey and/or the Code Enforcement Officers of the Borough of Seaside Heights. Any person found to be in violation of this article shall be ordered to cease the feeding immediately and shall be subject to the violations and penalties set forth in Article **VII** of this Chapter.

Article VII. Penalties

[Amended 2-16-2005 by Ord. No. 05-05; 12-19-2007 by Ord. No. 07-11]

§ 29-26. Violations and penalties.

- A. Any person violating or failing to comply with any other provision of this chapter shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$2,000, by imprisonment not to exceed 90 days or by community service of not more than 90 days, or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.
- B. The violation of any provision of this chapter shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

Article VIII. Cats

[Added 7-20-2016 by Ord. No. 16-11^[1]]

[1] *Editor's Note: This ordinance also repealed former Art. VIII, Management of Feral Cats, adopted 4-4-2012 by Ord. No. 12-05.*

§ 29-27. Definitions.

Notwithstanding anything to the contrary in this chapter, this article is intended to govern all matters which relate to the management of domesticated cats and feral cats. For the purposes of this article, the following terms shall have the meanings set forth in this section. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular, words in the singular number include the plural, and words in the male gender include the female gender.

ABANDONED

An owner or caregiver has forsaken a domesticated cat entirely, or has neglected or refused to provide care and support to the cat.

ANIMAL CONTROL OFFICER

Any person employed or appointed by the Borough of Seaside Heights who is authorized to investigate violations of laws and regulations concerning animals, and to issue citations in accordance with New Jersey law and this Code.

ANIMAL COORDINATOR

The person or organization designated annually by the Animal Control Officer or, in cases where a contract will be executed, appointed annually by the Mayor with the advice and consent of Borough Council, to maintain records of feral cats, to recommend caregivers and to do such duties as specified in this chapter.

CAREGIVER

A volunteer, uncompensated person who agrees to serve to facilitate the TNR program within the Borough, including the provision of food, water or suitable shelter or to otherwise care for a cat or cats, in accordance with this chapter and any rules and regulations that may be established by the Borough Administrator and Animal

Control Officer. A caregiver shall not be deemed an employee of the Borough and shall hold such volunteer position at the pleasure of the Borough Administrator or Animal Control Officer and may be removed from or precluded from holding such volunteer position in the sole discretion of the Borough Administrator or Animal Control Officer in light of concerns regarding public health, animal safety and sensitivity to the rights of residents, property owners and visitors.

CAT

Any member of the domestic feline species: male, female or altered.

CAT OF LICENSING AGE

Any cat which has attained the age of six months, or which possesses a set of permanent teeth.

CATTERY

Any room or group of rooms, cage or exhibition pen, not part of kennel, wherein cats for sale are kept or displayed.

DOMESTICATED CAT

A cat that is socialized to humans and is appropriate as a companion for humans.

EARMARKED

A tagged, notched or tipped left ear as performed by a licensed veterinarian.

FERAL CAT

Any cat that is not licensed in accordance with this chapter and is free roaming as part of an identifiable colony of such cats, which may consist of several cats or a single cat. Typically, a feral cat is a cat that is not socialized to humans and is not appropriate as a companion for humans.

FERAL CAT COLONY

A group of cats that congregates, more or less, together as a unit. Although not every cat in a colony may be feral, any nonferal cats that congregate with a colony shall be deemed to be a part of it.

FREE-ROAMING CAT

A cat that is regularly off the property of the owner and is not under the physical control and restraint of the owner.

NEUTERED

Rendered permanently incapable of reproduction as certified by a licensed veterinarian.

NUISANCE

Includes, but not be limited to, the following:

- A. Disturbing the peace by habitually or continually howling, crying, caterwauling, or screaming by a cat or cats;
- B. Spraying or leaving feces unburied or buried on private property by a cat or cats without permission of the owner of the property;
- C. Fighting by a cat or cats;
- D. The desecration or soiling of personal and/or real property by a cat or cats without permission of the owner of the property;
- E. Endangering the life or health of other animals or persons;
- F. Interfering with the rights of citizens, other than their owners, to enjoyment of life or property;
- G. Damaging the property of anyone other than their owner's property;
- H. Entering the property of anyone other than their owner's property;
- I. Killing or maiming domestic animals or wildlife;
- J. Fouling the air with odor and thereby causing unreasonable annoyance or discomfort to neighbors or others near to the premises where the cat or cats are kept or harbored;
- K. Causing unsanitary conditions in enclosures or surroundings where the cat or cats are kept or harbored;

- L. Becoming offensive or dangerous to the public health, welfare or safety by virtue of the number and/or types of cats maintained in light of the nature and the size of the property on which they are maintained.

OWNER

When applied to the proprietorship of a cat, shall include any person, firm, corporation, partnership, association, trust, estate, or any other legal entity having a right of property (or custody) in such cat and every person who has such cat in his/her keeping, or who harbors or maintains a cat or knowingly permits a cat to remain on or about any premises occupied by that person. A caregiver, however, shall not be considered an owner.

RESCUE GROUP

A for-profit or not-for-profit entity or a collaboration of individuals with at least one of its purposes being the adoption or placement of cats in homes with humans to serve as companion animals.

SUITABLE SHELTER

Shelter that provides protection from rain, sun, and other elements that is adequate to protect the health of the cat.

ZOONOTIC DISEASE

Those diseases transmittable to humans from animals, including parasitic, bacterial, fungal and viral diseases.

§ 29-28. Responsibilities of owners of domesticated cats.

A. Domesticated cats, generally. Owners of domesticated cats shall:

- (1) Provide appropriate and adequate food, water and suitable shelter for their cats, pursuant to N.J.S.A. 4:22-26;
- (2) Exercise reasonable care to guard against the cat creating a nuisance;
- (3) Not permit a sexually intact (not spayed or neutered) domesticated cat to roam unsupervised or off-leash; and
- (4) Not abandon a domesticated cat, pursuant to N.J.S.A. 4:22-26.

B. Provisions relating to rabies vaccination of cats.

- (1) Vaccination and license requirements. No person shall own, keep, harbor or maintain any cat over six months of age which possesses a permanent set of teeth within the Borough of Seaside Heights unless such cat is vaccinated and licensed. The provisions of this section do not apply to cats held in a cattery, or those held by a state or federal licensed research facility, or a veterinary establishment where cats are received or kept for diagnostic, medical, surgical or other treatments, or licensed animal shelters, pounds, kennels or a pet shop.
- (2) Vaccination. All cats shall be vaccinated against rabies by a licensed veterinarian in accordance with the latest Compendium of Animal Rabies Vaccines and Recommendations for Immunization published by the National Association of State Public Health Veterinarians, except as provided for in Subsection **B(4)** below.
- (3) Vaccination certificate. A certificate of vaccination shall be issued to the owner of each animal vaccinated on a form recommended by the state.
- (4) Exemptions. Any cat may be exempted from the requirements of such vaccination for a specified period of time by the Animal Control Officer, upon presentation of a veterinarian's certificate stating that because of an infirmity or other physical condition, or regimen of therapy, the inoculation of such cat shall be deemed inadvisable.

C. Licensing requirements.

- (1) Domesticated cats must have a license number displayed. Any person who shall own, keep or harbor a cat of licensing age shall annually apply for and procure from the Borough Clerk of the Borough of Seaside Heights a license and official registration tag with license number, or a registration sleeve for each cat so owned, kept or harbored, and shall place upon such cat a collar or other device with the license number securely fastened or displayed thereto. Acceptable methods of displaying the license number shall include, but are not limited to, breakaway or elastic collars. License tags or sleeves are not transferable.

- (2) Time for applying for license. The owner of any newly acquired cat of licensing age, or of any cat which attains licensing age, shall make application for license tag or sleeve for such cat within 10 days after such acquisition or age attainment. This requirement will not apply to a nonresident keeping a cat within the Borough of Seaside Heights for no longer than 15 days.
- (3) Cats brought into jurisdiction.
 - (a) Any person who shall bring, or cause to be brought, into this Borough any cat licensed in another state for the current year, and bearing a registration tag or sleeve and shall keep the same or permit the same to be kept within the Borough of Seaside Heights for a period of more than 30 days shall immediately apply for a license and registration tag or sleeve for each such cat.
 - (b) Any person who shall bring or cause to be brought into this Borough any unlicensed cat and shall keep same or permit same to be kept within the Borough of Seaside Heights for a period of more than 10 days shall immediately apply for a license and registration tag or sleeve for each such cat.
- (4) Application; contents; preservation of information. The application shall state the breed, sex, age, color and markings of the cat for which license and registration are sought, and whether it is of a long- or short-haired variety; also the name, e-mail, street and post office address of the owner and the person who shall keep or harbor such cat. The information on said application and the registration number issued for the cat shall be preserved for a period of three years by the Borough Clerk.
- (5) License forms and tags. License forms and official tags or sleeves shall be furnished by the municipality and shall be numbered serially and shall bear the year of issuance and the name of the municipality.
- (6) Evidence of inoculation with rabies vaccine or certification of exemption; requirement for license. The Borough Clerk shall not grant any such license and official registration tag or sleeve for any cat, unless the owner thereof provides evidence that the cat to be licensed and registered has been inoculated with a rabies vaccine of a type approved by and administered in accordance with the recommendations of the United States Department of Agriculture and the United States Department of Human Services, or has been certified exempt by the Animal Control Officer as provided for in this article. The rabies inoculation shall be administered by a duly licensed veterinarian, or by such other veterinarian permitted by law to do the same.
- (7) License fee schedule. A license shall be issued after payment of a fee of \$30 for each unneutered/unspayed cat and \$8 for each neutered/spayed cat. A late fee of \$5 will also be imposed for any licenses issued after January 31.
- (8) Fees; renewals; expiration date of license.
 - (a) The person applying for the license and registration tag and/or sleeve shall pay the fee fixed or authorized. The fee for the renewal of the license and registration tag or sleeve shall be the same as for the original, and said license, registration tag or sleeve and renewal thereof shall expire on January 31 in the following year.
 - (b) Only one license and registration tag or sleeve shall be required in the licensing year for any cat in this Borough.
- (9) Loss of license. If a license tag or sleeve has been misplaced or lost, the Borough Clerk may issue a duplicate license and/or registration sleeve for that particular cat at a fee of \$5.
- (10) Proof of licensing. Proof of licensing shall be produced by any person owning, keeping, maintaining or harboring a cat upon the request of any health official, police officer, animal control officer or other authorized person.
- (11) Interfering with persons performing duties under this article. No person shall hinder, molest or interfere with anyone authorized or empowered to perform any duty under this article; to do so shall be a violation of this article and shall subject the violator to the penalties as provided in this chapter.
- (12) Disposition of fees collected. License fees and other monies collected or received under the provisions of this article shall be forwarded to the Chief Financial Officer of the Borough and shall be placed in a special account separate from any of the other accounts of the municipality and shall be used for the following purposes only: collecting, keeping and disposing of cats liable to seizure; for local prevention and control of rabies; providing anti-rabies treatment under the direction of the Animal Control Officer for any person known or suspected to have been exposed to rabies; and for administering the provisions of this article, including provisions regarding support of feral cat colonies.

§ 29-29. Impoundment and disposition of domesticated cats.

- A. The Animal Control Officer or any other person appointed for the purpose shall take into custody and impound or cause to be taken into custody and impounded:
- (1) Any cat running at large in this municipality.
 - (2) Any cat off the premises of the owner or the person keeping or harboring said cat without a current registration tag on its collar and not controlled by a leash as provided in this article.
 - (3) Any female cat in season off the premises of the owner or of the person keeping or harboring said cat.
 - (4) Any cat or other animal which is reasonably suspected to be rabid.
 - (5) Any cat or other animal off the premises of the owner reported to or observed by the Animal Control Officer to be ill, injured or creating a threat to public health, safety or welfare or otherwise interfering with the enjoyment of property.
- B. When any cat so seized has been detained for seven days after notice, when notice can be given, or has been detained for seven days after seizure, when notice cannot be given, in accordance with the laws of the State of New Jersey, and if the owner or person keeping or harboring said cat has not claimed said cat and paid all expenses incurred by reason of its seizure and detention, and if the cat shall be unlicensed at the time of seizure and the owner or person keeping or harboring said cat has not produced a license and registration tag for said cat, the Animal Control Officer or other designated authority may cause the cat to be offered for adoption or humanely euthanized in the event adoption is not possible.

§ 29-30. Feral cat colonies.

- A. Feral cat colonies in general.
- (1) Feral cat colonies shall be permitted, and caregivers shall be entitled to maintain them in accordance with the terms and conditions of this article.
- B. Restriction on feral cat colony location.
- (1) No feral cat colonies shall be located in the following zoning districts:
 - (a) Resort Recreational District.
 - (b) Resort Recreational District A.
 - (c) Retail Business District on the west side of Ocean Terrace between Hiering Avenue and Porter Avenue.
 - (d) Retail Business District on the east and west sides of the Boulevard between Hiering Avenue and Porter Avenue.
 - (e) Public District, including the oceanfront and bayfront.
 - (2) Neither feral cats nor feral cat colonies shall be maintained by any caregiver on property owned or controlled by the Borough of Seaside Heights located within the boundaries of the Borough of Seaside Heights. This shall not preclude the Borough of Seaside Heights from operating an animal sanctuary and feral cat colonies on land owned or controlled by the Borough that is located within the boundaries of a different municipality.
- C. In the areas set forth in Subsection **B** above, the Animal Control Officer shall effectuate the capture of all feral cats and stray cats and transport same to a suitable animal sanctuary in New Jersey or out of state, or the Ocean County Animal Shelter if an animal sanctuary is unavailable or unwilling to accept the feral cats or stray cats.
- D. Approved cat colonies existing on or before July 20, 2016, in one of the above zones (other than the Resort Recreational District and Resort Recreational District A) will be permitted to remain at that location until such time as the caregiver no longer resides at the property or otherwise discontinues caring for the colony.
- [Added 8-17-2016 by Ord. No. 16-12]

§ 29-31. Registration of feral cat colonies.

- A. Except as provided in this chapter, it shall be unlawful for any person to maintain a feral cat colony by providing food, water, or other forms of sustenance and care, unless such person is a resident of the Borough of Seaside Heights, and has been designated as, and is currently appointed, a caregiver by the Animal Control Officer.
- B. Borough residents desiring to provide food, water and other forms of sustenance and care to feral cats in Seaside Heights shall annually apply to the Animal Control Officer to be designated as a caregiver, and every person so designated shall comply with the provisions of this article throughout his or her term of appointment.
- C. The Animal Control Officer may only grant approval of a caregiver if:
 - (1) A waiver of liability and indemnification agreement has been executed by the colony caregiver, on a form approved by the Borough, which shall be filed with the Borough Administrator; and
 - (2) The caregiver has successfully completed the certification and training program conducted by the New Jersey Animal Rights Alliance, or other certified instructor.
 - (3) The owner of private property upon which the proposed feral cat colony will be located has granted written permission for the feral cat colony.
 - (4) Adjacent property owners have approved the feral cat colony in writing.
- D. After appointment as a caregiver, the caregiver must meet with the Animal Coordinator, who will serve as a clearinghouse for information on current caregivers, education for new caregivers, and assistance for persons found in violation of this chapter.

§ 29-32. Role of Animal Coordinator.

- A. The Animal Coordinator shall:
 - (1) Help to resolve any complaints over the conduct of a colony caregiver or of cats within a colony;
 - (2) Maintain records provided by colony caregivers on the size and location of the colonies, as well as the vaccination and spay/neuter records of cats in the caregiver's colony;
 - (3) Report biannually to the Animal Control Officer and Borough Administrator, on July 1 and January 1 of every year, the following information regarding the previous six months of monitoring:
 - (a) Number of known colonies in the Borough;
 - (b) Total number of cats in colonies;
 - (c) Number of cats and kittens spayed and neutered pursuant to the TNR program;
 - (d) Number of cats and kittens placed in permanent homes;
 - (e) Advise caregivers of the names of the licensed veterinarians under contract with the Borough to perform those veterinarian services required by this article;
 - (f) Obtain from caregivers the invoice of the veterinarian contracted by the Borough to perform veterinarian services required by this article and present the invoice to the Borough Chief Financial Officer for payment; and
 - (g) Provide caregivers prior approval for veterinarian services required under this article.

§ 29-33. Enforcement; responsibilities of caregivers.

- A. Caregivers of feral cat colonies shall implement proper management and sterilization practices, as well as seek the assistance of the Animal Control Officer and/or Animal Coordinator as follows:
 - (1) Provide:

- (a) Written permission from the property owner on whose property the feral cat colony will be located or cared for;
 - (b) Evidence of reasonable efforts made to obtain the support for the feral cat colony from all adjacent property owners; and
 - (c) A good faith estimate of the number of feral cats and kittens residing in the colony at the time a caregiver's designation is applied for.
- (2) Assume personal responsibility and make arrangements for feeding and providing emergency veterinarian treatment as needed to their feral cat or feral cat colony on a regular basis throughout the year, including weekends, holidays, and at such times as the caregiver is unable, for any reason, to provide such care.
 - (3) Provide for the regular and frequent trapping of not less than one time per month, through the use of humane box traps, of feral cats and kittens over the age of six weeks who have not been spayed or neutered, vaccinated, and marked as provided herein. The trapped feral cats shall be spayed or neutered, vaccinated for rabies, and marked by having their ears tipped by a veterinarian professionally licensed by the State of New Jersey. It is also recommended, but not required, that all trapped feral cats be vaccinated by the veterinarian for distemper and implanted with a microchip for identification purposes.
 - (4) Make every attempt to remove kittens from the colony between the age of one week and 16 weeks for domestication and placement with a person who is willing to be the owner of same.
 - (5) If possible, have all trapped feral cats and kittens tested for feline leukemia and feline immunodeficiency virus and any other infectious disease as mandated by law; and to have those which test positive for same humanely euthanized or assure that any feral cat or kitten known to have an infectious disease is not released to the outdoors.
 - (6) Sterilize (spay/neuter) all adult cats that can be captured.
 - (7) Vaccinate, as required by law, all cats that can be captured against rabies (three-year vaccine).
 - (8) Maintain, on an individual cat basis, documentation of all vaccinations, inoculations, medical procedures and sustenance provided to feral cats under their care and, upon request, to provide such documentation to the Animal Control Officer or Animal Coordinator.
 - (9) Authorize veterinarians attending to feral cats or kittens under their care to release copies of all medical records with regard to such feral cats to the Animal Control Officer or Animal Coordinator.
 - (10) Maintain protection for the feral cats and kittens sufficient to shield them from adverse weather conditions, and maintain the surrounding area free and clear of garbage, trash and debris.
 - (11) Notify the Animal Control Officer or Animal Coordinator of the introduction of any new cats to the feral cat colony.
 - (12) Ensure that a feral cat colony for which a person has been designated a caregiver does not exceed 10 cats unless reasonably authorized by the Animal Control Officer, giving consideration to the size, shape, locations and ability to maintain the feral cat colony on the property.
 - (13) Use due consideration to avoid the harming of rare, threatened or endangered species under the Endangered and Nongame Species Conservation Act, N.J.S.A. 23:2A-1 et seq.
 - (14) Observe the colony cats at least twice per week and keep a record of any illnesses or unusual behavior noticed in any colony cats; and
 - (15) Take reasonable steps to prevent colony cats from creating a nuisance on properties not owned by or under the control of the caregiver.
- B. In the event a caregiver is found by the Animal Control Officer to have violated any provision of this article, or failed to comply with any of its provisions, the Animal Control Officer may require the caregiver to cease, desist and rectify his or her violation, or terminate his or her designation as a caregiver, depending on the severity of the violation. If abatement of the violation is appropriate, the caregiver shall be issued a notice of noncompliance specifying that the caregiver has 48 hours within which to provide a written response to the Animal Control Officer specifying the steps to be taken by the caregiver to come into compliance with the provisions of this article within a ten-day period. The Animal Control Officer may grant one twenty-day extension if the caregiver

demonstrates a good faith effort to comply and the Animal Control Officer feels that compliance may be achieved within the twenty-day extension period. The caregiver shall make an action report to the Animal Control Officer at the end of the compliance period or when compliance is achieved, whichever occurs first. If the Animal Control Officer determines that the violation is sufficiently serious to warrant termination of the caregiver designation, a notice of such termination shall be provided to that person.

- C. If compliance with the provisions of this chapter are not achieved as provided in Subsection **B** above, or if termination as a caregiver is otherwise warranted, the Animal Control Officer shall cause a notice of termination to be either personally delivered to the caregiver or mailed to the caregiver by certified mail, return receipt requested, at the address provided by the caregiver on his or her current application for such designation. Compliance with this subsection by personal delivery shall be effective upon delivery; compliance with this subsection by mailing shall be effective on the day first delivered to the recipient's address. Termination of designation as a caregiver by the Animal Control Officer may be appealed to the Borough Administrator by such person by providing notice of the appeal in writing stating the basis for the appeal within 10 calendar days of delivery of the notice of termination as required in this subsection. The Borough Administrator's decision shall be made in light of concerns regarding public health, animal safety and sensitivity to the rights of residents, property owners and visitors and effective and efficient program administration and shall be final and binding.
- D. The provisions of this section do not grant to caregivers any authority to enter upon the property of others without the property owner's permission.

§ 29-34. Earmarking.

Earmarking will be used on feral cats in order to be identified as a spayed or neutered and vaccinated member of a managed colony.

§ 29-35. Investigation and disposition of feral cats by Animal Control Officer.

- A. In the event the Animal Control Officer becomes aware, either through a complaint or personal observation, of a feral cat or feral cat colony, he shall make a reasonable attempt to determine if a suspected feral cat or feral cat colony has a caregiver who will comply with this chapter. If, after making such an attempt, no caregiver is identified or is willing to comply with the provisions of this chapter, the Animal Control Officer shall take all necessary action to obtain permission from the property owner(s) to enter upon the property to capture and remove the feral cats, and to dispose of the captured cats in accordance with the provisions of this chapter.
- B. The Animal Control Officer shall make a good faith effort to contact animal sanctuaries in New Jersey and out of state for the purpose of making arrangements to deliver feral cats and stray cats who do not have a caregiver. In the event that no animal sanctuary is available or willing to accept the cats, the Animal Control Officer may deliver the cats to the Ocean County Animal Control Shelter.
- C. The Animal Control Officer has the right to seize or remove cats from a colony that have not been vaccinated against rabies and which are demonstrating signs of the disease.
- D. The Animal Control Officer has the right to seize or remove a cat from a colony that is creating a nuisance, as defined above, when the caregiver has been given time to remove the nuisance but failed to do so.
- E. The Animal Control Officer has the right to seize or remove a colony of cats when the caregiver regularly fails to comply with the requirements of this chapter and the Animal Coordinator has not been able to obtain a replacement or substitute caregiver.
- F. The Animal Control Officer has the right to seize or remove cats from a colony if it is determined that there is a public health threat, including, but not limited to, zoonotic diseases, feline HIV or leukemia.
- G. The Animal Control Officer and police officers may investigate any nuisance complaint.

§ 29-36. Funding.

- A. The Borough may establish a fund or budget line item, as permitted by law, or otherwise provide services to offset the costs of trapping, neutering, and vaccinating captured feral cats that can be returned to an appropriate,

controlled, protected and registered colony site. Caregivers for such colonies, whether one or several animals, may be aided by the Borough in providing traps for the capture of the cat, transportation to a spay/neuter facility and offsetting costs, to the extent that funding is available.

- B. Any donated funds collected shall be given to the Chief Financial Officer and placed in a trust dedicated to the fulfillment of the TNR program, as allowed under applicable laws.

§ 29-37. Adoption of rules.

The Borough Administrator and Animal Control Officer shall have the authority to adopt further rules and regulations applicable to the TNR program to the extent that the same are consistent with and do not modify the provisions of this article.

§ 29-38. Violations and penalties.

Any person who violates any one or more provisions of this chapter shall be subject to a fine of not more than \$500 for each separate offense and/or confinement in the Ocean County jail for a period of not more than 90 days. In the case of a continuing violation or violations, a fine of not more than \$500 may be assessed for each day that said violation or violations are not corrected. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

§ 29-39. Study and review.

Not later than December 31, 2018, the Borough of Seaside Heights shall study the effectiveness of the TNR program and review the continuance of this chapter.

Chapter 33. Boardwalk and Beaches

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 2-19-1997 by Ord. No. 97-1. Amendments noted where applicable.]

GENERAL REFERENCES

Animals — See Ch. **29**.

Vehicles on beaches — See Ch. **227**.

§ 33-1. Establishment of oceanfront resort area.

There is hereby established a place of resort for public health, recreation, bathing and entertainment, including construction and maintenance of boardwalk, bathing and recreational facilities, safeguards and equipment in this Borough at the oceanfront, upon all of the lands owned by this municipality or leased by it fronting upon the Atlantic Ocean.

§ 33-2. Maintenance by Borough.

Said place of resort for public health, recreation, bathing and entertainment shall be maintained by the Borough of Seaside Heights.

§ 33-3. Safeguards, equipment and facilities.

The municipality shall acquire, construct, use and maintain such safeguards, equipment and facilities as shall be necessary in the proper establishment and maintenance of said place of resort for public health, recreation, bathing and entertainment. The municipality shall have the right and authority to purchase, rent or otherwise acquire lifeboats, ropes, poles and other safeguards, recreational facilities and equipment for the recreation, protection and safeguard of human beings at said place of resort, while bathing or otherwise, at said place of resort.

§ 33-4. Lifeguards and other seasonal employees.

[Amended 5-19-1999 by Ord. No. 99-15]

The municipality shall employ such lifeguard or lifeguards and other seasonal employees as may be required for the proper supervision of public bathing at designated public beaches within the Borough of Seaside Heights.

§ 33-5. Policing.

The municipality shall have the right to police said place of resort and to hire, engage and pay such police officers as shall be necessary for the proper policing of said place of resort.

§ 33-6. Protection, construction and maintenance.

The municipality shall have the right to:

- A. Protect said place of resort and the lands thereof from erosion, encroachment and damage by sea, or otherwise.
- B. Construct and maintain public boardwalks and walks and approaches thereto.

§ 33-7. Fee for use.

[Amended 2-4-1998 by Ord. No. 98-5; 12-15-1999 by Ord. No. 99-34; 3-1-2000 by Ord. No. 2000-5; 3-2-2005 by Ord. No. 05-09; 4-19-2006 by Ord. No. 06-05; 12-2-2009 by Ord. No. 09-11; 2-6-2013 by Ord. No. 13-05; 7-16-2014 by Ord. No. 14-15; 1-20-2016 by Ord. No. 16-04; 2-15-2017 by Ord. No. 17-02; 12-6-2017 by Ord. No. 17-20]

In order to provide funds to improve, maintain and police the said place of resort and to protect the same from erosion, encroachment and damage by sea, or otherwise, and to provide facilities and safeguards for public bathing and recreation, including the employment of lifeguards, the following reasonable fees shall be charged to the person using said lands and bathing facilities for access to the beach and bathing and recreational facilities, provided that such fees shall not be charged or collected from children under the age of 12 years, nor from active and retired military personnel and their dependents upon presentation of proper identification confirming such status:

- A. During normal bathing season: \$8 per day per person during the usual bathing season from May 15 to September 15.
- B. The Borough Administrator, by resolution adopted annually by the Borough Council, may be authorized to develop and approve promotions consisting of free or discounted daily, weekly, and season beach badges, including, but not limited to, the Lakewood Blue Claws free daily beach pass promotion (approximately 200,000 beach pass awards); Mom and Me Day; Dad and Me Day; Bring a Friend to the Beach Day; Val Pak mailer promotion; AAA magazine promotion; radio promotions; social media promotions; and prizes that are part of nonprofit organization fundraisers (e.g., gift basket prizes). Likewise, the Borough Council reserves the right to waive or reduce the beach fees for certain days in the event the Borough is successful in obtaining sponsorship for those days. In the event the governing body is successful in obtaining the necessary sponsorship for a beach day or days, the Borough shall designate the beach day or days by resolution.
- C. Individuals desiring to purchase a weekly beach badge running from Saturday through Friday of any given week shall be required to pay a fee of \$35 per week.
- D. Individuals desiring to purchase a season beach badge shall be required to pay a fee of \$45 per season if said badge is purchased on or before May 15. If the season beach badge is purchased after May 15, the price shall be \$60 per season.
- E. Individuals desiring to purchase a weekly beach badge, season beach badge, or senior beach badge, shall make application to the Borough of Seaside Heights on a form approved by the Borough Administrator.
- F. No person may purchase more than five weekly beach badges per week and five season beach badges per season.
- G. All daily wristbands, weekly beach badges, season beach badges, and senior beach badges shall be for the exclusive use of the registrant or purchaser and shall not be assigned, transferred, loaned, given, sold, rented, or leased to any other person.
- H. Nothing in Subsection G above shall prevent the use of any weekly beach badge or season beach badge, excluding senior beach badges, by the registrant's or purchaser's immediate family. "Immediate family" is

defined as the registrant's or purchaser's spouse, child, brother, sister, mother, father, grandparent, grandchild, son-in-law, and daughter-in-law.

- I. Senior citizen season beach badge fee. Any person 65 years of age or older shall be entitled to purchase a season beach badge for a fee of \$10 upon presentation of a copy of a birth certificate, or other valid proof of age, together with a photo identification. Any "lifetime" or "VIP" senior beach badge issued by the Borough of Seaside Heights prior to December 31, 2015, shall remain in full force and effect.
- J. Beach badges shall not be resold, bartered, or redeemed for cash.
- K. The counterfeiting, copying, duplication or other reproduction of any daily wristband, weekly beach badge, or season beach badge issued by the Borough by anyone other than the Borough or its authorized representatives is hereby prohibited.
- L. Each daily, weekly, and season beach badge constitutes a license to use the beach, which license may be revoked by the Borough Administrator or his designee in the event that the licensee misuses the beach badge or otherwise violates any section of this chapter.
- M. The Borough shall not be responsible for misplaced, lost, stolen, and forgotten beach wristbands and badges, including, but not limited to, "lifetime" and "VIP" senior beach badges.

§ 33-8. Prohibited acts.

[Amended 3-2-2005 by Ord. No. 05-09]

Unless permitted in a designated area of the beach as authorized by the governing body, in which case signs shall be posted in public view to advise the general public of the acts which are permitted in said designated area, no person shall do any of the following things at or upon the place of resort for public health, recreation, bathing and entertainment:

- A. Throw, drop, discard or leave any wastepaper, garbage or other refuse on the beach or in the water or anywhere which is not a designated trash or recycling receptacle; or in any way litter, make unsightly, damage, destroy or disfigure the said beach or any public or private property thereat.
- B. Sell, peddle or hawk any food, drink or confections upon the public beach.
- C. Noise:
[Amended 5-17-2017 by Ord. No. 17-14]
 - (1) Bring onto the beach or Boardwalk Promenade amplified music of any kind without having been issued a permit. Boom boxes, speakers, speaker systems, radios, and other amplification devices are not permitted on the beach;
 - (2) Make any loud noise, sound or music to the annoyance of any other person; or
 - (3) Use loud or obscene language.
- D. Play ball or any other game, ride or operate a surfboard or engage in any activity which will endanger another person or interfere with the enjoyment of the quiet use of the beach or public boardwalk or said place of public resort by another person or do anything which shall endanger the life, health or safety of oneself or any other person.
- E. Take any intoxicating liquor upon any public beach or public boardwalk.
- F. Take or permit his or her dog to be or go upon the beach or in the water at a public bathing beach or upon the public boardwalk except from October 1 of each year through the Sunday before Palm Sunday of each succeeding year.^[1]
[Amended 4-5-2017 by Ord. No. 17-08]
[1] Editor's Note: See also Ch. 29, Animals.
- G. Go into or remain in the water at any beach when:
 - (1) It is unsafe to do so. This prohibition shall include swimming out from the beach so far that it is unsafe.
 - (2) Directed by a public lifeguard to come from said water.

- (3) Intoxicated.
- H. Molest or disturb any person in the peaceful enjoyment of said beach, boardwalk or bathing facilities.
- I. Go out in the water at a bathing beach:
- (1) Farther than directed by a public lifeguard.
 - (2) In violation of a reasonable order of a lifeguard when the safety of the bather is or may be endangered by going in the water.
- J. Refuse or neglect to obey the orders and directions of a public lifeguard as to time, place and distances for bathing, or interfere with or obstruct a police officer or lifeguard in the performance of his or her duty. Nor shall any person fail to obey the order of the captain of the lifeguards or, in his or her absence, the second-in-command of the beach patrol ordering the lowering of beach umbrellas when wind conditions require the same. Additionally, this shall apply to the captain's order to remove surf rafts from the ocean when conditions have been determined to require the same.
- K. Operate a privately owned motor vehicle on the public boardwalk at any time.
- L. Operate a privately owned beach buggy or other motor vehicle on a beach during times and hours when the beach is opened for bathers, which shall be during times when lifeguards are on duty.
- M. Enter or attempt to enter upon the public beach without having purchased a current and valid beach badge from the Borough of Seaside Heights. Upon request of any lifeguard, beach attendant, police officer or other Borough officer or employee, an individual on the public beach shall present his or her beach badge as proof that he or she entered upon the beach in a legal manner. Failure to produce a current and valid beach badge shall be grounds for removal from the public beach and the issuance of a complaint for violation of this section.
- N. Build or maintain bonfires or fires on the beach.
- O. Pursuant to N.J.S.A. 40:48-1 and 40:48-2, the smoking and/or burning of a lighted cigar, cigarette or pipe, including any handheld electronic device which vaporizes a liquid (e.g., e-cigarettes, e-cigs, electronic nicotine delivery systems, electronic non-nicotine delivery systems, personal vaporizers, PVs), or any other matter or substance which contains tobacco, is prohibited in those beachfront areas of the Borough as are designated, from time to time, by resolution of the governing body and posted by signs clearly identifying the area within which such activity is prohibited.
- [Added 7-2-2008 by Ord. No. 08-12; amended 4-19-2017 by Ord. No. 17-11^[2]
- ^[2] *Editor's Note: This ordinance also changed the title of this chapter from "Beaches" to "Boardwalk and Beaches."*
- P. Restrictions on the use of umbrellas and other fixtures on the beach.
- [Added 4-19-2017 by Ord. No. 17-11; amended 5-17-2017 by Ord. No. 17-14]
- (1) Umbrellas with a collapsible circular shade no greater than eight feet in diameter stretched over hinged ribs radiating from a center pole no greater than seven feet six inches in height, and without grounding lines, ropes, or sides are permitted on the beach.
 - (2) Devices designed or used to shade infants and small children, also known as "baby tents," no larger than 36 inches high by 36 inches wide by 36 inches deep, are permitted on the beach. Guests with infants and small children who wish to use a small sport-brella style beach shade device, one which does not exceed nine feet, may be directed to set up on the west side of the beach near the Boardwalk Promenade so that the device does not block the view of other guests.
 - (3) Canopy style sun shades 12 feet by 12 feet and less without side walls or screens are permitted on the beach westward of a line parallel to the back edge of the lifeguard stands. Canopy-style sun shades shall be placed no less than 15 feet apart from another canopy.
 - (4) Guests who wish to use a small sport-brella style beach shade device, one which does not exceed nine feet, may be directed to set up on the west side of the beach near the Boardwalk Promenade so that the device does not block the view of other guests.
 - (5) Umbrellas, baby tents, canopies, and small sport-brella beach shade devices shall be secured such that uncontrolled movement of the device is restricted. Baby tents, canopies, and small sport-brella beach shade devices when secured with fasteners, stakes, weights, or the like shall not endanger beach patrons.

Anchoring lines, tethers, or the like shall not extend beyond the perimeter of the baby tent, canopy, or sport-brella.

- (6) No person shall locate an umbrella, baby tent, canopy, or small sport-brella beach shade device in an area obscuring a lifeguard's view of the ocean or in an area impeding a lifeguard's egress from a lifeguard stand, as determined by a lifeguard.
- (7) Umbrellas, baby tents, canopies, and sport-brellas shall be removed from the beach daily.
- (8) Excluding umbrellas, baby tents, canopies, and small sport-brella beach shade devices described above in this section, other shading devices including, without limitation, tents, tarps, canopies larger than 12 feet by 12 feet, canopies with side walls and screens, cabanas, pavilions, temporary restroom facilities, and similar devices, or any materials mounted on supports are prohibited except in connection with an approved special event or ceremony.
- (9) Ganged shade devices of any type (i.e., shade devices that are physically attached to each other) and the use of tie outs for shade devices are prohibited.

Q. Certain devices and equipment prohibited. Except in the course of an approved special event or ceremony:
[Added 4-19-2017 by Ord. No. 17-11]

- (1) No person shall bring onto the beach serving trays, warming trays, pots, pans, or devices utilized for the preparation or storage of food.
- (2) No person shall bring onto the beach tables or stands or boards or other devices positioned to function as a table.
- (3) No person shall bring onto the beach a cooler, barrel, or tub that exceeds 24 inches in length and/or has a capacity greater than 36 quarts.

R. No person shall feed on the beach or boardwalk any wild animals including, without limitation, seagulls, cats, dogs and foxes.
[Added 4-19-2017 by Ord. No. 17-11]

§ 33-9. Operating season and hours.

[Amended 5-19-1999 by Ord. No. 99-15; 4-19-2017 by Ord. No. 17-11; 5-17-2017 by Ord. No. 17-14]

- A. Unless determined otherwise by a resolution of the Borough Council, the general operating season shall commence on the Friday of Memorial Day weekend and continue through Labor Day. During the operating season all persons using the oceanfront and the ocean waters adjacent thereto during operating hours shall obtain and display an appropriate season beach badge, weekly beach badge, senior beach badge, or daily wristband.
- B. Friday, Saturday, Sunday and holidays: A beach badge/wristband is required to enter or remain on the beach from 9:00 a.m. to 9:00 p.m. However, the cashier booths may close at 6:00 p.m. and lifeguards may leave the beach at 7:00 p.m. notwithstanding that a beach badge/wristband will be required to enter or remain on the beach until 9:00 p.m. Monday to Thursday: A beach badge/wristband is required to enter or remain on the beach from 9:00 a.m. to 4:00 p.m.
- C. Bayfront and oceanfront bathing is permitted only when lifeguards are on duty regardless of operating hours. No person shall enter the bay or ocean when lifeguards are not on duty.
- D. All persons are restricted from remaining on the oceanfront beaches after 10:00 p.m. except during approved special events and ceremonies. Individuals actively engaged in fishing may be upon any municipal beach at any time between the applicable beach closing hour and 5:00 a.m. of any day.
- E. The public boardwalk shall be closed for public use and no person shall remain on the public boardwalk during the hours after 3:00 a.m. and before 6:00 a.m.

§ 33-9.1. Boardwalk shower pedestal facilities regulations.

[Added 5-2-2018 by Ord. No. 2018-04]

The Borough provides cold shower pedestals so that beachgoers may wash off sand after they exit the beach. The following regulations are established for use of the shower pedestals in the interest of the public health, safety and welfare:

- A. Shower use is limited to three minutes per person.
- B. The use of shampoo and/or soap of any kind is prohibited.
- C. All children under the age of 12 must be accompanied by an adult.
- D. Bathing suits or other suitable attire must be worn by adults and children of all ages while using the shower.
- E. Disrobing in the shower is prohibited.
- F. Spitting, spouting water, or blowing the nose in the showers is prohibited.
- G. Discharging of bodily wastes, including but not limited to, urine and fecal matter is prohibited.
- H. Use of the shower by individuals with open lesions or wounds or active diarrhea is prohibited.

§ 33-10. Enforcement.

The provisions of this chapter shall be enforced by the Police Department for the Borough of Seaside Heights, Special Police Officers, Lifeguards and Beach Attendants. It is the specific intention of the governing body of the Borough of Seaside Heights that lifeguards and beach attendants be authorized to write summonses for violations of the provisions of Chapter **33** and, in particular, § **33-8**, entitled "Prohibited acts."

§ 33-11. Violations and penalties.

[Amended 3-2-2005 by Ord. No. 05-09]

- A. Any person violating or failing to comply with any of the provisions of this chapter shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$1,250, by imprisonment not to exceed 90 days or by community service of not more than 90 days or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.
- B. The violation of any provision of this chapter shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

Chapter 36. Bicycles and Skateboards

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 2-19-1997 by Ord. No. 97-1. Amendments noted where applicable.]

§ 36-1. Definitions.

[Amended 2-7-2001 by Ord. No. 2001-3; 7-18-2012 by Ord. No. 12-08; 6-19-2013 by Ord. No. 13-13]
For the purpose of this chapter, the terms used herein are defined as follows:

BICYCLE

A device having wheels which is chain-driven and propelled by means of physical effort of the person riding it.

ROLLER BLADES

A shoe with a narrow row of wheels attached to its sole, used to glide or move along a smooth flat surface.

ROLLER SKATE

A shoe, or a metal frame that can be fitted to the sole of a shoe, with wheels attached for skating over a flat surface.

SCOOTER

A narrow board mounted on wheels with a raised handlebar for steering.

SKATEBOARD

A narrow board about two feet long mounted on roller skate wheels.

STILTS

A pair of long, slender poles each equipped with a raised footrest to enable the user to walk elevated above the ground.

§ 36-2. Determination of safety.

All persons operating a bicycle on any street or public highway or upon the boardwalk within the Borough of Seaside Heights shall determine that said bicycle has no mechanical defects which would render the bicycle unsafe to operate. A bicycle shall be conclusively presumed unsafe to operate if not maintained and equipped in accordance with the provisions of N.J.S.A. 39:4-10 et seq.

§ 36-3. Requirements for operation; helmet requirement.

[Amended 2-7-2001 by Ord. No. 2001-3; 4-19-2006 by Ord. No. 06-06]

All persons operating all modes of transportation covered in § 36-1 upon roadways or other public highways shall comply with the requirements of N.J.S.A. 39:4-10 as to the operation of said mode of transportation. All persons under 17 years of age shall be required to wear helmets as provided and as specified by N.J.S.A. 39:4-10.1 et seq.

§ 36-4. Regulation of use on boardwalk.

[Amended 2-7-2001 by Ord. No. 2001-3; 4-19-2006 by Ord. No. 06-06; 6-19-2013 by Ord. No. 13-13; 5-20-2015 by Ord. No. 15-08]

All persons shall be allowed to operate bicycles, roller blades, roller skates, skateboards or scooters on the boardwalk within the Borough, subject to the following exceptions:

- A. During the period from April 1 to October 31 of each year, bicycles, roller blades, roller skates or scooters may be operated on the boardwalk on weekends (Saturdays and Sundays and holiday Mondays) only between the hours of 6:00 a.m. and 12:00 p.m.
- B. During the period from June 15 to Labor Day of each year, bicycles, roller blades, roller skates or scooters may be operated on the boardwalk on weekdays, not including holiday Mondays, only between the hours of 6:00 a.m. and 1:00 p.m.
- C. Skateboards may not be operated on the boardwalk at any time.

§ 36-5. Bicycles for rent, hire or loan; helmet requirement.

All persons who shall rent, hire or loan bicycles shall cause such vehicles to be maintained in a safe condition and comply with all applicable provisions of N.J.S.A. 39:4-10 et seq.. Said persons shall instruct the persons using said bicycles as to the regulations provided for by this chapter as to the operation, or they shall be subject to the penalties provided by this chapter. Persons regularly engaged in the business of renting bicycles shall comply with all provisions of N.J.S.A. 39:4-10.3 regarding helmets.

§ 36-6. Bicycle and skateboard use.

[Added 7-18-2012 by Ord. No. 12-08^[1]]

- A. No person shall operate or cause to be operated, within the Borough of Seaside Heights, a bicycle or skateboard in a reckless or hazardous fashion, in a manner that causes damage to private property or in a style creating

interference with pedestrian or vehicular traffic.

- B. No person operating a bicycle or skateboard shall hold onto a motor vehicle or bicycle while such motor vehicle or bicycle is in motion.
- C. All persons operating a bicycle or skateboard in the Borough of Seaside Heights must abide by the provisions of N.J.S.A. 39:4-10-11, which statute is hereby incorporated into this chapter by reference.

[1] *Editor's Note: This ordinance also redesignated former § 36-6 as § 36-7.*

§ 36-7. Violations and penalties.

Any person, firm or corporation violating any of the provisions of this chapter shall be subject to the following penalties:

- A. Any person under 18 years of age who violates any provision of this chapter shall be subject to discipline by the authority having jurisdiction over juvenile matters.
- B. Any person 18 years of age or older violating or failing to comply with any of the provisions of this chapter shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$1,000, by imprisonment not to exceed 90 days or by community service of not more than 90 days or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.
- C. The violation of any provision of this chapter shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.
- D. In the event an individual using a bicycle or skateboard is under the age of 18 years at the time that said individual violates any of the provisions of this chapter, said bicycle and/or skateboard shall be held by the Borough of Seaside Heights Police Department until claimed by the parent or guardian of the minor found in possession of said bicycle and/or skateboard.
[Added 7-18-2012 by Ord. No. 12-08]

Chapter 40. Boards and Commissions

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 2-19-1997 by Ord. No. 97-1. Amendments noted where applicable.]

Article I. Recreation Development Advisory Board

§ 40-1. Establishment.

There is hereby established a Recreation Development Advisory Board for the Borough of Seaside Heights.

§ 40-2. Membership; designation of Chairperson.

The Recreation Development Advisory Board shall consist of five members, appointed by the Mayor with the advice and consent of the Borough Council. The members of the Recreation Development Advisory Board shall designate one of its members as Chairperson of the Board.

§ 40-3. Terms; vacancies.

The initial terms of office for three of the members appointed to the Board shall be for one year and the initial terms for the remaining two members shall be for a term of two years. Thereafter all members shall hold office for the full term of three years. A vacancy on the Board occurring otherwise than by expiration of a term shall be filled for the unexpired term by the Mayor with the advice and consent of the Borough Council.

§ 40-4. Functions and duties.

The Recreation Development Advisory Board shall:

- A. Formulate such recommendations to the Borough Council concerning the development of recreation programs for residents of all ages.
- B. Review the requirements of the recreation program and advise the Borough Council on the need for equipment, services and building space for recreation.
- C. Make such individual studies and reports as may be requested by the Mayor or Borough Council.
- D. Formulate a three-year plan for the development and expansion of recreation services, parks and playgrounds within the Borough.

Article II. Local Assistance Board

§ 40-5. Establishment.

There is hereby established a Local Assistance Board pursuant to N.J.S.A. 44:8-115.

§ 40-6. Membership; compensation; terms.

- A. The Local Assistance Board shall consist of three members, who shall be appointed by the Mayor, with the advice and consent of the Borough Council. Members of the Local Assistance Board shall serve without compensation, but shall be allowed their necessary and actual expenses.
- B. At least one of the members of the Local Assistance Board shall be a woman. The term of one member of the Local Assistance Board shall be for one year, and such member may be appointed from among the membership of the governing body. The terms of the remaining members of the Local Assistance Board shall be two years each, provided that appointments shall be made so that the terms are expiring in alternate years.
- C. The term of each member of the Local Assistance Board shall begin on the first day of January, and each member shall continue in office until his or her successor shall be appointed and shall qualify. Any vacancies which occur before the expiration of a term of office shall be filled only for the unexpired term.

§ 40-7. Organization; Director.

The Local Assistance Board shall organize and select a Chairperson and Secretary, and shall appoint a Director of Welfare who shall be the first executive and administrative officer of the Board. The Director of Welfare shall hold office for a term of five years from the date of his or her appointment and shall be paid such salary as may be fixed by such Board, subject to the approval of the Borough Council.

§ 40-8. Duties of Director.

The Director of Welfare shall have the following duties:

- A. To supervise, by periodic investigation, every person receiving public assistance, such investigation to be made by visitation at least once a month.
- B. To reconsider, from month to month, the amount and nature of public assistance given and alter, amend or suspend the same when the circumstances so require.
- C. To devise ways and means for bringing persons unable to maintain themselves to self-support or to the support of any other person or agency able and willing so to do.
- D. To keep full and complete records or such investigations, supervision, assistance and rehabilitation and of all certifications of persons for employment or benefits and cancellations thereof in such manner and form as

required by the Commissioner of the Department of Human Services.

- E. To bring about appropriate action for commitment to any state or county institution when the best interest of the needy person would be so deserved.

§ 40-9. Burial expenses.

The Local Assistance Board is authorized to provide burial expenses for Borough residents who die without insurance or adequate funds for burial. Burial expenses can be made on behalf of Borough residents who are welfare clients, as well as those who are poor but not on any public assistance program. The allowance for burial expenses shall not exceed the expenses allowed by the Department of Human Services as set forth in N.J.A.C. 10:85-4.8(a)2.

§ 40-10. Powers.

The Local Assistance Board shall have the powers and perform the duties prescribed by general law and ordinance, and shall appoint a Director of Welfare pursuant to the state law.

Article III. Municipal Alliance Committee

§ 40-11. Establishment.

There is hereby established a Municipal Alliance Committee for the Borough of Seaside Heights.

§ 40-12. Membership; officers.

- A. The Municipal Alliance Committee shall consist of nine members and all other members shall be alternates. Members of the Municipal Alliance Committee shall be appointed by the Mayor, with the advice and consent of the Borough Council of the Borough of Seaside Heights.
- B. The members of the Municipal Alliance Committee, where practical, shall consist of at least one individual from the following categories: the Chief of Police; the President of the School Board; the Superintendent of Schools; a student assistance coordinator; a representative of the Parent-Teacher Association; a representative of the local bargaining unit for teachers; a representative of the Chamber of Commerce; a representative of the local court system; representatives of local civic associations; a representative of local religious groups; individuals who have been impacted by alcoholism and/or drug abuse, including individuals who have been directly affected by their own or family member's abuse or addictions; representatives of labor unions; representatives of media; private citizens with interest or experience in issues concerning alcohol or drug abuse; and/or representatives of public and private organizations involved in treatment of alcohol and drug-related problems.
- C. The members of the Municipal Alliance Committee shall designate one of their members as Chairperson of the Committee to serve for a term of one year commencing on January 1 of that year and ending on December 31 of the same year. Members of the Municipal Alliance Committee shall elect such other officers from amongst their committee as they deem appropriate. Any individual designated as an officer of the Municipal Alliance Committee shall serve for a term of one year commencing on January 1 of that year and ending on December 31 of the same year.
- D. The Mayor and Borough Council may employ or appoint such individual or individuals as they deem necessary to assist the Municipal Alliance Committee in fulfilling its duties and obligations. The Mayor and Borough Council and the Borough Administrator shall have full control over said appointed or employed individual, including the right to take disciplinary action including termination of employment.

§ 40-13. Term of office; vacancies.

- A. The term of office for all members of the Municipal Alliance Committee shall be one year. This term of office shall be considered to commence as of January 1 of that year and terminate on December 31 of the same year.

- B. A vacancy on the Municipal Alliance Committee occurring other than by expiration of a term shall be filled for the unexpired term by appointment of the Mayor, with the advice and consent of the Borough Council.

§ 40-14. Powers and duties.

The Municipal Alliance Committee shall:

- A. Organize and coordinate efforts involving schools, law enforcement, business groups and other community organizations for the purpose of reducing alcoholism and drug abuse.
- B. In cooperation with the local school districts, develop comprehensive and effective alcoholism and drug abuse education programs in grades kindergarten through twelve.
- C. In cooperation with local school districts, develop procedures for the intervention, treatment and discipline of students abusing alcohol or drugs.
- D. Develop comprehensive alcoholism and drug abuse education and support an outreach effort for parents in the community.
- E. Develop comprehensive alcoholism and drug abuse community awareness program.
- F. Make such individual studies and reports and initiate alcoholism and drug abuse programs as may be requested by the Mayor and Borough Council.

Article IV. Board of Health

§ 40-15. Establishment.

There is hereby created and established a Board of Health for the Borough of Seaside Heights, pursuant to the provisions of the Revised Statutes of the State of New Jersey, N.J.S.A. 26:3-3.

§ 40-16. Members; terms of office.

The Board of Health of the Borough of Seaside Heights, County of Ocean and State of New Jersey, shall be composed of seven members, to be appointed by the Mayor of the Borough of Seaside Heights with the advice and consent of the Borough Council. Members of the Board of Health shall be appointed for three year terms arranged so that the terms of no more than three members expires in any year.

§ 40-17. Compensation.

The members of the Board of Health of the Borough of Seaside Heights shall receive no compensation for their services as members of the Board.

§ 40-18. Rights, powers and duties.

Said Borough Board of Health shall have all the rights, powers and duties as are conferred upon local boards of health by the Revised Statutes of the State of New Jersey.

§ 40-19. Election of officers.

The Borough Board of Health, at its organizational meeting to be held on or about July 1 of each year, shall elect and choose:

- A. A Chairperson of the Board of Health, who shall serve for a period of one year and until a successor is chosen and qualified.

- B. A Secretary of the Board of Health, who shall serve for a period of one year and until a successor is chosen and qualified.
- C. Such officers as may be deemed necessary by the Borough Board of Health.

Article V. Emergency Management Council

§ 40-20. Establishment; membership.

There is hereby established an Emergency Management Council to be composed of not more than 15 members who shall be appointed by the Mayor with the advice and consent of the Borough Council, and shall hold office at the will and pleasure of the Mayor. The Emergency Management Coordinator shall be a member.

§ 40-21. Powers and duties.

- A. The Emergency Management Council shall assist the municipality in establishing the various local volunteer agencies needed to meet the requirements of all local civil defense and emergency management operations in accordance with the rules and regulations established by the Governor of the State of New Jersey.
- B. The Emergency Management Council is authorized, within the limits of appropriations, to establish an adequate organization to assist in supervising and coordinating the civil defense and emergency management operations of the local municipality.

Article VI. Insurance Fund Commission

§ 40-22. Establishment of Insurance Fund.

There is hereby established an insurance fund for the Borough of Seaside Heights. The insurance fund is created pursuant to and for the purposes set forth in N.J.S.A. 40A:10-6.

§ 40-23. Establishment of Insurance Fund Commission.

There is hereby established a Seaside Heights Insurance Fund Commission, which shall be an official agency of the Borough of Seaside Heights.

§ 40-24. Membership; designation of Chairperson.

The Insurance Fund Commission shall consist of three officials of the Borough of Seaside Heights to serve as Insurance Fund Commissioners. Members of the governing body may be appointed as Insurance Fund Commissioners. The Insurance Fund Commissioners shall organize and select one person to serve as Chairperson of the Insurance Fund Commissioners for a one-year term. The Insurance Fund Commissioners shall serve without compensation.

§ 40-25. Terms; vacancies.

Insurance Fund Commissioners shall be appointed for two years or for the remainder of their term of office as officials of the municipality, whichever shall be less, and until their successors have been duly appointed and qualified. Vacancies in the office of Insurance Fund Commissioner caused by any reason other than the expiration of term as an official shall be filled for the unexpired term.

§ 40-26. Functions and duties of Commissioners.

- A. The Insurance Fund Commissioners shall have those powers and authorities set forth in N.J.S.A. 40A:10-10.

- B. The Insurance Fund Commissioners shall appoint an individual to serve as Secretary to the Insurance Fund Commission. The Secretary shall serve at the pleasure of the Commission and receive such salary as is authorized by the governing body.

Article VII. Tourist Development Commission

§ 40-27. Establishment.

There is hereby established a Seaside Heights Tourist Development Commission, which shall be an official agency of the Borough of Seaside Heights.

§ 40-28. Membership.

The Commission shall consist of five members, who shall be appointed by resolution of the Borough Council. One member shall be a designated representative of the Mayor and Council, who shall advise the governing body of the work of the Commission and who shall serve at the Mayor and Council's pleasure. The remaining four members of the Commission shall be appointed in the same manner but shall be individuals upon whom the additional assessment or licensing fees hereinafter established shall be imposed. The term of said remaining four members of the Commission shall be for two years, except that of the members first appointed, two shall be appointed for terms of one year and two for terms of two years. If any vacancy occurs on the Commission other than by expiration of term, it shall be filled for the unexpired term in the same manner as the original appointment. No members of the Commission shall be compensated for the performance of their Commission duties.

§ 40-29. Assessment of fees; creation of Tourist Development Fund.

[Amended 5-21-1997 by Ord. No. 97-612-17-2003 by Ord. No. 03-37]

There shall be an additional fee assessment against all licenses issued under Chapter **122** of the Code of the Borough of Seaside Heights, against all alcoholic beverage licenses issued pursuant to N.J.S.A. 33:1-19 and against all amusement games licenses issued pursuant to N.J.S.A. 5:8-100 et seq. Said fee shall be payable to the Borough of Seaside Heights and shall be in the amount of 50% of the current license fee up to a maximum of \$200. The Borough shall create a fund from the revenues collected under this chapter and that fund shall be held by the Seaside Heights Tourist Development Commission.

§ 40-30. Disbursements from Fund.

The Seaside Heights Tourist Development Commission shall have the exclusive authority to disburse all of the revenues allocated to the Tourist Development Fund herein established. It shall spend moneys from the Fund in a manner it deems advisable for the purpose of publicizing and otherwise promoting the Borough of Seaside Heights in order to attract tourism; however, at least 50% of the revenues from the Fund shall be disbursed for advertising outside the municipality to attract tourists into the municipality, which is deemed to be a public purpose.

§ 40-31. Records to be kept; reports.

The Seaside Heights Tourist Development Commission shall keep records of its meetings, activities and expenditures. At any time upon request of the governing body and in no event less than once annually, the Commission shall make a report based on its records. The governing body shall examine the report to determine whether all disbursements from the Fund have been made for the purpose hereinabove stated. If the governing body shall determine that disbursements were not made pursuant to the stated purpose of the act, it may, by resolution stating the reasons therefor, remove any and all members of the Commission.

Article VIII. Americans with Disabilities Act Advisory Board

§ 40-32. Americans with Disabilities Act Advisory Board.

There is hereby established an Americans with Disabilities Act Advisory Board for the Borough of Seaside Heights.

§ 40-33. Employment by the Borough in accordance with American with Disabilities Act.

Persons employed by the Borough of Seaside Heights in a position provided by this chapter shall possess good health and freedom from disabling physical and mental defects which impair the proper performance of the required duties, or which might endanger the health and safety of oneself or others. Persons with mental or physical disabilities are eligible as long as they can perform the essential functions of the job position after reasonable accommodation is made to their known limitations. If the accommodation cannot be made because it would cause the employer undue hardship, such person may not be eligible.

§ 40-34. Membership; designation of Chairperson; alternates.

The Americans with Disabilities Act Advisory Board shall consist of five regular members and two alternate members, designated as "Alternate No. 1" and "Alternate No. 2," appointed by the Mayor with the advice and consent of the Borough Council. The ADA Coordinator shall be appointed as a regular member of the ADA Advisory Board and shall be the Chairperson of the Board as provided for in § 21-3D. The Deputy ADA Coordinator shall be appointed as "Alternate No. 1" to said Board as provided for in § 21-3D.

§ 40-35. Terms of office; vacancies; alternates' participation.

- A. All appointments to the Americans with Disabilities Act Advisory Board shall be for a term of one year, commencing January 1st of the year of appointment and ending on December 31st of the year of appointment. A vacancy on the Board occurring otherwise than by expiration of term shall be filled for the unexpired term by the Mayor, with the advice and consent of the Borough Council.
- B. An alternate member may participate in discussions of the proceedings, but may not vote except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote first.

§ 40-36. Powers and duties.

The Americans with Disabilities Act Advisory Board shall:

- A. Review the application of the Americans with Disabilities Act to the Borough of Seaside Heights, its buildings, facilities and programs to ensure that the Borough of Seaside Heights complies with the requirements of the Americans with Disabilities Act.
- B. Make recommendations to the Mayor and Borough Council concerning the implementation of compliance with the Americans with Disabilities Act as it applies to Borough buildings, facilities and programs.
- C. Make such individual studies and reports as may be requested by the Mayor and Borough Council.
- D. Hear appeals and make the appropriate report to the Mayor and Borough Council regarding its findings and recommendations.

§ 40-37. Appointment.

[Added 5-21-1997 by Ord. No. 97-6]

The Board of Health is hereby appointed to the Americans with Disabilities Act Advisory Board.

Article IX. Redevelopment Agency

[Added 9-20-2000 by Ord. No. 2000-19]

§ 40-38. Establishment.

Pursuant to the provisions of N.J.S.A. 40A:12A-1 et seq., a local redevelopment agency is hereby created and shall be known as the "Seaside Heights Redevelopment Agency."

§ 40-39. Membership; terms; vacancies.

- A. The Redevelopment Agency shall consist of seven Commissioners and shall be appointed by the governing body by resolution.
- B. All original appointments to the Redevelopment Agency and all subsequent appointments shall be made in accordance with the requirements of N.J.S.A. 40A:12A-11. All future appointments shall be for terms of five years.
- C. No more than two Commissioners shall be officers or employees of the Borough.
- D. No more than two of the Commissioners shall be members of the governing body. A Commissioner who is a member of the governing body shall serve for a term of one year. The terms of the other Commissioners shall then be appointed to staggered terms in accordance with N.J.S.A. 40A:12A-11.
- E. Any vacancy occurring in the office of Commissioner, from any cause, shall be filled in the same manner as the original appointment, but for the unexpired term.
- F. A certificate of the appointment or reappointment of each Commissioner shall be filed with the Borough Clerk.
- G. A Commissioner shall receive no compensation for his services, but shall be entitled, upon receipt of prior approval of the governing body, to reimbursement for actual expenses necessarily incurred in the discharge of the duties of Commissioner, including traveling expenses.

§ 40-40. Designation of Chairperson.

The Redevelopment Agency shall select a Chairman and a Vice Chairman among the Commissioners and may, with the prior approval of the governing body, employ an Executive Director who shall be its Secretary.

§ 40-41. Interest in project.

- A. No Commissioner or employee of the Redevelopment Agency shall acquire an interest, direct or indirect, in a redevelopment project or in any property included or planned to be included in a project. No Commissioner or employee of the Redevelopment Agency shall have an interest, direct or indirect, in any contract or proposed contract for materials and services to be furnished or used in connection with the project.
- B. If any Commissioner or employee of the Redevelopment Agency owns or controls an interest, direct or indirect, in any property included or planned to be included in a project, that individual shall immediately disclose the same in writing to the Redevelopment Agency. The disclosure shall be entered upon the minutes of the Agency.
- C. Failure to disclose such an interest shall constitute misconduct in office.
- D. A Commissioner or employee required by this section to make a disclosure shall not participate in any action by the Agency affecting the property with respect to which the disclosure is required.

§ 40-42. Removal of Commissioner.

For inefficiency or neglect of duty or misconduct in office, a Commissioner may be removed by the Borough. A Commissioner may be removed only after he has been given a copy of the charges at least 10 days prior to a hearing and has had the opportunity to be heard in person or by counsel. In the event of the removal of a Commissioner, a record of the proceedings, together with the charges and findings thereon, shall be filed in the office of the Borough Clerk.

§ 40-43. Executive Director.

- A. The Redevelopment Agency may employ an Executive Director who shall have attained a degree from an accredited four-year college or university in public administration, social science or other appropriate program and shall have at least five years' experience in public administration, public finance, realty or similar professional employment. A master's degree in an appropriate program may substitute for two years of that experience.
- B. The Executive Director shall serve at the pleasure of the Commissioners and may be relieved of his duties only after 120 days' notice. The Executive Director shall assign and supervise employees in the performance of their duties. The Executive Director shall be in the unclassified service of civil service and all other employees shall be in the classified service of civil service, except as may be otherwise provided by Title 11A.

§ 40-44. Powers.

- A. Upon the adoption of a redevelopment plan,^[1] pursuant to N.J.S.A. 40A:12A-7, the Redevelopment Agency may proceed with the clearance, replanning, development and redevelopment of the area designated in that plan.
[1] Editor's Note: Ordinance No. 2002-28, adopted 12-18-2002, provided for the adoption of a redevelopment plan prepared pursuant to the direction of the governing body in Res. No. 99-337 as recommended by the Planning Board and Redevelopment Agency.
- B. In order to carry out and effectuate the purposes of N.J.S.A. 40A:12A-1 et seq. and the terms of the redevelopment plan, the Redevelopment Agency may:
 - (1) As authorized by resolution of the governing body, undertake redevelopment projects and, for this purpose, issue bonds in accordance with the provision of N.J.S.A. 40A:12A-29.
 - (2) As authorized by resolution of the governing body, acquire property pursuant to N.J.S.A. 40A:12A-22i.
 - (3) As authorized by resolution of the governing body, acquire by condemnation any land or building which is necessary for the redevelopment project pursuant to the provisions of the Eminent Domain Act of 1971 (N.J.S.A. 20:3-1 et seq.).
 - (4) Clear any area owned or acquired and install, construct or reconstruct streets, facilities, utilities and site improvements essential to the preparation of sites for use in accordance with the redevelopment plan.
 - (5) As authorized by resolution of the governing body, prepare or arrange by contract for the provision of professional services and the preparation of plans by registered architects, licensed professional engineers or planners or other consultants for the carrying out of the redevelopment projects.
 - (6) As authorized by resolution of the governing body, arrange or contract with public agencies or redevelopers for the planning, replanning, construction or undertaking of any project or redevelopment work or any part thereof; negotiate and collect revenue from a redeveloper to defray the costs of the Redevelopment Agency, including, where applicable, the costs incurred in conjunction with bonds, notes or other obligations issued by the Redevelopment Agency and to secure payment of such revenue; as part of any such arrangement or contract, provide for extension of credit or making of loans to redevelopers to finance any project or redevelopment work, or upon a finding that the project or redevelopment work would not be undertaken but for the provision of financial assistance, or would not be undertaken in its intended scope without the provision of financial assistance, provided as part of an arrangement or contract for capital grants to redevelopers; and arrange or contract with public agencies or redevelopers for the opening, grading or closing of streets, roads, roadways, alleys or other places or for the furnishing of facilities or for the acquisition by such Agency of property options or property rights or for the furnishing of property or services in connection with a redevelopment area.
 - (7) As authorized by resolution of the governing body, lease or convey property or improvements to any other party pursuant to this article, without public bidding and at such prices and upon such terms as it deems reasonable, provided that the lease or conveyance is made in conjunction with a redevelopment plan, notwithstanding the provisions of any law, rule or regulation to the contrary.
 - (8) Enter upon any building or property in any redevelopment area in order to conduct investigations or make surveys, sounding or test borings necessary to carry out the purposes of this article.
 - (9) As authorized by resolution of the governing body, arrange or contract with a public agency for the relocation of residents, industry or commerce displaced from a redevelopment area.

(10) Make, consistent with the development plan:

- (a) Plans for carrying out a program of voluntary repair and rehabilitation of buildings and improvements.
- (b) Plans for the enforcement of laws, codes and regulations relating to the use and occupancy of buildings and improvements and to the compulsory repair, rehabilitation, demolition or removal of buildings and improvements.

(11) Request that the Land Use Board recommend and the governing body designate particular areas as being in need of redevelopment or rehabilitation and make recommendations for the redevelopment or rehabilitation of such areas.

(12) Study the recommendations of the Land Use Board or governing body for the redevelopment of the area.

(13) Publish and disseminate information concerning any redevelopment area plan or project.

(14) Do all things necessary or convenient to carry out its powers, except that any activity requiring the expenditure of public funds must receive prior approval of the governing body.

Chapter 43. Boats

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 2-19-1997 by Ord. No. 97-1. Amendments noted where applicable.]

Article I. Speed Restrictions in Certain Areas

§ 43-1. Establishment of slow-speed, no-wake zone.

The Borough of Seaside Heights hereby establishes a slow-speed, no-wake zone within all of the territorial waters of the Borough of Seaside Heights located at the bayfront between Hamilton Avenue and Hirling Avenue. This chapter shall only be in effect when the area is clearly marked by appropriate buoys, markers or signs.

§ 43-2. Regulation of speed required.

The speed of any boat or watercraft shall at all times be regulated so as to avoid danger or injury to any persons in the water or to watercraft and its occupants, whether floating, moored, anchored or underway, or to piers, wharfs, bulkheads, docks or other waterfront construction, either directly by the effect of wash or wave raised by such boat or watercraft through its speed or otherwise.

§ 43-3. Violations and penalties.

- A. Any person violating or failing to comply with any other provision of this article shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$1,000, by imprisonment not to exceed 90 days or by community service of not more than 90 days or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.
- B. The violation of any provision of this article shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

Article II. Boat Ramp and Launching Regulations

§ 43-4. Purpose.

The governing body of the Borough of Seaside Heights deems necessary the adoption of the within ordinance in order to protect the health and welfare of its residents and citizens from the nuisance-like conditions created by jet-

skis launched from the borough's bayfront beach and boat ramp areas.

§ 43-5. Definitions.

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

PERSONAL WATERCRAFT

Shall be defined as a power vessel which:

- A. Is designed to be operated by a person or persons, sitting, standing or kneeling;
- B. Uses an internal combustion engine to power a water jet pump which propels the vessel through the water; and
- C. Uses an internal combustion engine that does not have the ability to reverse the pump's thrust so as to allow the vessel to be operated in reverse or have the ability to disengage the pump so as to prevent the vessel from making headway.

§ 43-6. Launching from beaches prohibited.

It shall be a violation of this chapter for anyone to launch a motorized boat, vessel, motorized watercraft, jet-ski or personal watercraft from any bay or ocean beach within the Borough of Seaside Heights.

§ 43-7. Permitted launching area.

Launching a boat or watercraft (with the exception of a personal watercraft commonly known as a "jet-ski" as provided by § 43-8 of this chapter) shall be allowed on the bayfront boat launching area located in the vicinity of Sherman Avenue. Personal watercraft or jet-skis shall be allowed to be launched from the south pier bay beach area of the borough.

§ 43-8. Additional prohibitions for personal watercraft.

The borough hereby prohibits launching of personal watercraft from the boat launching facilities located at the foot of Sherman Avenue. This prohibition shall be in addition to the restrictions on personal watercraft operation provided by N.J.S.A. 12:7-63 et seq. which the Borough of Seaside Heights adopts in its entirety.

§ 43-9. Exceptions.

The provisions established by this chapter shall not apply to borough-sanctioned special events.

§ 43-10. Violations and penalties.

- A. Any person violating or failing to comply with any other provision of this article shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$1,000, by imprisonment not to exceed 90 days or by community service of not more than 90 days or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.
- B. The violation of any provision of this article shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

Article III. Commercial Cruise Boats Utilization of Public Dock Facilities

§ 43-11. Utilization of public dock facilities permitted.

- A. Commercial cruise boats are permitted use of certain public dock facilities owned by the Borough of Seaside Heights upon complying with the provisions of this Article III of Chapter 43, set forth herein.
- B. The owner of the commercial cruise boat shall obtain a mercantile license from the Borough of Seaside Heights which shall be issued upon the submission of the information set forth herein, as well as the payment of the mercantile license fee set forth in Chapter 122. In order to obtain a mercantile license, the owner shall submit the following information:
- (1) Name and boat registration number for each boat that may utilize the borough-owned dock facilities;
 - (2) Proof of insurance with the borough being named as co-insured. The amount of the insurance coverage shall be as set forth in the rules and regulations for use of borough dock facilities as adopted by the Borough Council;
 - (3) Execution of a hold harmless and indemnification agreement, whereby the owner of the cruise boat service would hold the borough harmless and indemnify the borough in regard to any and all claims as a result of the utilization of the borough-owned dock facilities by the cruise boat service. The indemnification shall cover the borough, not only for any liability it incurs as a result of the use of the dock facilities by the cruise boat service, but also shall indemnify the borough for any and all attorney's fees, costs and expenses incurred in the defense of any claim against the borough as a result of the use of the borough dock facilities by the commercial cruise boat operation;
 - (4) Certification by the owner of the commercial cruise boat service that all boats designated in the application as being used in the cruise boat service are in full compliance with all federal, state and local laws and regulations concerning the utilization of the particular boat for a cruise boat or jitney service.

§ 43-12. Adoption of rules and regulations for use of borough dock facilities.

The Borough Council shall adopt rules and regulations concerning the use of borough dock facilities by commercial cruise boat services. The rules and regulations shall be adopted by resolution of the Borough Council and can be amended from time to time by resolution of the Borough Council.

Chapter 47. Body Piercing, Regulation of

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 2-19-1997 by Ord. No. 97-1; amended in its entirety 12-20-2000 by Ord. No. 2000-26. Subsequent amendments noted where applicable.]

§ 47-1. Licensing by and compliance with Ocean County Board of Health.

No person, firm, corporation or other entity shall conduct the business of body piercing in the Borough of Seaside Heights unless said person, firm, corporation or other entity shall have obtained a license to do so from the Ocean County Board of Health and is in and remains in compliance with all regulations promulgated by the Ocean County Board of Health.

§ 47-2. Authorization required for minors.

It shall be a violation for anyone to pierce any body part of an individual under 18 years of age without authorization signed by his or her parent or legal guardian and witnessed by the operator. The body piercing establishment shall provide such authorization form and shall attach thereto a copy of the authorizing parent's or legal guardian's driver's license or county identification card. The operator shall be responsible for maintaining the original consent form, copies of all consent information and the minor's original application, filled out in compliance with § 47-4, for a period of two years beyond the minor's 18th birthday.

§ 47-3. Application required; maintenance of records.

Each person wishing to be pierced must fill out an application provided by the establishment which shall include the name, date of birth, address, telephone number, health history, including known allergies and currently prescribed medications, and signature of the patron, as well as the date, location(s) of the piercing(s) and name of the operator. A copy of a driver's license or county identification card verifying the age of the applicant shall be attached to the application. Applicants under the age of 21 must provide photo identification. Such records shall be maintained by the body piercing establishment and shall be available for examination by the local health authority or its authorized representative. Such records shall be maintained by the body piercing establishment for a period of not less than three years.

§ 47-4. Violations and penalties.

- A. Any person violating or failing to comply with any other provision of this chapter shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$1,000, by imprisonment not to exceed 90 days or by community service of not more than 90 days or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.
- B. The violation of any provision of this chapter shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

Chapter 49. Cable Television Franchise

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 12-18-2013 by Ord. No. 13-30.^[1] Amendments noted where applicable.]

GENERAL REFERENCES

Utilities — See Ch. 219.

Zoning and land use — See Ch. 246.

[1] *Editor's Note: This ordinance also superseded former Ch. 49, Cable Television Franchise, adopted 10-15-1997 by Ord. No. 97-10, as amended.*

§ 49-1. Definitions.

For the purpose of this chapter, the terms defined above^[1] shall have the meanings there indicated, and the following additional terms shall have the following meanings:

ACT or CABLE TELEVISION ACT

That statute of the State of New Jersey relating to cable television, known as the "Cable Television Act," N.J.S.A. 48:5A-1 et seq.

APPLICATION

Cablevision's application for renewal of municipal consent, which application is on file in the Borough Clerk's office and is incorporated herein by reference and made a part hereof, except as modified, changed, limited or altered by this chapter.

BOARD

The Board of Public Utilities of the State of New Jersey or its successor agency.

BOROUGH

The governing body of the Borough of Seaside Heights in the County of Ocean and the State of New Jersey.

COMPANY

Cablevision of Monmouth, LLC (Cablevision), the grantee of rights under this chapter.

FCC

The Federal Communications Commission.

FEDERAL ACT

That federal statute relating to cable communications, commonly known as the "Cable Communications Policy Act of 1984," 47 U.S.C. § 521 et seq., and the "Telecommunications Act of 1996," or as those statutes may be amended.

FEDERAL REGULATIONS

Those federal regulations relating to cable television services, 47 CFR 76.1 et seq. (and, to the extent applicable, any other federal rules and regulations relating to cable television, including but not limited to, those described in 47 CFR 76.3), or as such regulations may be amended.

STANDARD INSTALLATION

The installation of drop cable to a customer's premises where the distance from the point of entry into the building being served is less than 150 feet from the active cable television system plant.

STATE

The State of New Jersey.

STATE REGULATIONS

Those regulations of the State of New Jersey Board of Public Utilities relating to cable television, N.J.A.C. 14:17-1.1 et seq., and N.J.A.C. 14:18-1 et seq., or as such regulations may be amended.

[1] *Editor's Note: The terms referred to can be found in the preceding clauses of Ord. No. 13-30, which is on file in the Borough offices.*

§ 49-2. Findings.

A public hearing concerning the consent herein granted to Cablevision was held after proper public notice pursuant to the terms and conditions of the Act. Said hearing having been held and fully open to the public, and the municipality having received all comments regarding the qualifications of Cablevision to receive this consent, the Borough hereby finds Cablevision possesses the necessary legal, technical, character, financial and other qualifications to support municipal consent, and that Cablevision's operating and construction arrangements are adequate and feasible.

§ 49-3. Grant of franchise.

The Borough hereby grants to Cablevision its nonexclusive consent to place in, upon, along, across, above, over, and under its highways, streets, alleys, sidewalks, public ways, and public places in the municipality poles, wires, cables, and fixtures necessary for the maintenance and operation in the Borough of a cable television system or other communications facility, and for the provision of any communication service over such facilities. Operation and construction, pursuant to said consent, is conditioned upon prior approval of the Board of Public Utilities.

§ 49-4. Duration of franchise.

This consent granted herein shall be nonexclusive and shall be for a term of 15 years from the date of issuance of a certificate of approval by the Board.

§ 49-5. Expiration and subsequent renewal.

If Cablevision seeks successive consent, it shall, prior to the expiration of this consent, apply for a municipal consent and certificate of approval in accordance with N.J.S.A. 48:5A-16, and applicable state and federal rules and regulations. In accordance with N.J.S.A. 48:5A-25.1, both the Borough and Cablevision shall be bound by the terms of this municipal consent until such time as Cablevision converts the municipal consent (and any certificate of approval) into a system-wide franchise.

§ 49-6. Franchise territory.

The consent granted under this chapter to Cablevision shall apply to the entirety of the Borough and any property hereafter annexed.

§ 49-7. Service area.

Cablevision shall be required to proffer video programming service along any public right-of-way to any person's residence within the portion of the franchise territory, as described in the application for municipal consent, at Cablevision's schedule of rates for standard and nonstandard installation.

§ 49-8. Extension of service.

Commercial entities will be proffered service in accordance with the company's line extension policy as identified in the application.

§ 49-9. Franchise fee.

Pursuant to the terms and conditions of the Cable Television Act, Cablevision shall pay to the Borough, as an annual franchise fee, a sum equal to 2% of the actual gross revenues received from all recurring charges in the nature of subscription fees paid by subscribers for its cable television reception services in the Borough. In the event applicable law hereinafter permits a larger franchise fee to be collected, but does not fix the amount thereof, the Borough and Cablevision shall negotiate in good faith with respect to the amount thereof; provided, however, that nothing herein shall be construed to permit the Borough to require payment of a franchise fee by Cablevision that is higher than the fee paid by all other cable television service providers offering service in the municipality.

§ 49-10. Free service.

- A. Cablevision shall, upon written request, provide free of charge, one standard installation and monthly cable television reception service to all state or locally accredited public schools and all municipal public libraries, as well as municipal buildings located within the Borough.
- B. Upon written request from the Borough, the Company shall provide to state and locally accredited elementary and secondary schools and municipal public libraries in the Borough, without charge, the following: one standard installation per school or library; one cable modem per installation; and basic cable modem service for the term of this chapter for each installation. This offer shall be subject to the terms, conditions and use policies of the Company, as those policies may exist from time to time.
- C. Upon written request from the Borough, the Company shall provide to one municipally owned facility, without charge, the following: one standard installation; one cable modem per installation; and basic cable modem service for the term of this chapter for each installation. This offer shall be subject to the terms, conditions and use policies of the Company as those policies may exist from time to time.

§ 49-11. Construction and system requirements.

Cablevision shall perform construction and installation of its plant and facilities in accordance with applicable state and federal law. The Company shall be subject to the following additional construction requirements with respect to the installation of its cable plant and facilities in the Borough:

- A. In the event that the Company or its agents shall disturb any pavement, street surfaces, sidewalks, driveways or other surfaces, the Company shall, at its sole expense, restore and replace such disturbances in as good a condition as existed prior to the commencement of said work.
- B. If at any time during the period of this consent, the municipality shall alter or change the grade of any street, alley or other way or place, the Company, upon reasonable notice by the Borough, shall remove or relocate its equipment at its own expense.
- C. Upon request of a person holding a building or moving permit issued by the Borough, the Company shall temporarily move or remove appropriate parts of its facilities so as to permit the moving or erection of buildings or for the performance of other work. The expense of any such temporary removal or relocation shall be paid in advance to the Company by the person requesting the same. In such cases, the Company shall be given not less than 14 days' prior written notice in order to arrange for the changes required.

- D. During the exercise of its rights and privileges under this consent, the Company shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks and public places of the Borough so as to prevent the branches of such trees from coming in contact with the wires, cables, conduits and fixtures of the Company. Such trimming shall be only to the extent necessary to maintain proper clearance for the Company's facilities.

§ 49-12. Technical and customer service standards.

Cablevision shall comply with the technical and customer service standards established for the cable industry under applicable federal and state laws, rules and regulations.

§ 49-13. Local office or agent.

Cablevision shall establish and maintain during the entire term of this consent a local area business office or agent for the purpose of receiving, investigating and resolving complaints regarding the quality of service, equipment malfunctions and similar matters. Said office shall be open daily during normal business hours, and in no event less than 9:00 a.m. to 5:00 p.m., Monday through Friday, with the exception of holidays.

§ 49-14. Designation of complaint officer.

The Office of Cable Television is hereby designated as the complaint officer for the Borough pursuant to the provisions of N.J.S.A. 48:5A-26. All complaints shall be reviewed and processed in accordance with N.J.A.C. 14:17-6.5.

§ 49-15. Liability insurance.

Cablevision agrees to maintain and keep in force and effect, at its sole cost, at all times during the term of this consent, sufficient liability insurance naming the Borough as an additional insured and insuring against loss by any such claim, suit, judgment, execution or demand in the minimum amounts of \$500,000 for bodily injury or death to one person and \$1,000,000 for bodily injury or death resulting from any one accident or occurrence stemming from or arising out of the Company's exercise of its rights hereunder.

§ 49-16. Performance bond.

Cablevision shall obtain and maintain, at its sole cost and expense, during the entire term of this agreement, a bond to the municipality in the amount of \$25,000. Such bond shall be to insure the faithful performance of its obligations as provided in this franchise.

§ 49-17. Rates.

- A. The rates of the Company for cable television service shall be subject to regulation to the extent permitted by federal and state law.
- B. Cablevision shall implement a senior citizen discount in the amount of 10% off the monthly broadcast basic level of cable television service rate to any person 62 years of age or older, who subscribes to cable television services provided by the Company, subject to the following:
- (1) Such discount shall only be available to eligible senior citizens who do not share the subscription with more than one person in the same household who is less than 62 years of age; and
 - (2) In accordance with N.J.S.A. 48:5A-11.2, subscribers seeking eligibility for the discount must meet the income and residence requirements of the Pharmaceutical Assistance to the Aged and Disabled Program pursuant to N.J.S.A. 30:4D-21; and
 - (3) The senior discount herein relates only to the broadcast basic level of cable television service, and shall not apply to any additional service, feature, or equipment offered by the Company, including any premium channel services and pay-per-view services; and

- (4) Senior citizens who subscribe to a level of cable television service beyond expanded basic service, including any premium or per-channel a la carte service, shall not be eligible for the discount; and
- (5) The Company shall have no further obligation to provide the senior discount herein in the event that the Company converts the municipal consent granted herein to a system-wide franchise in accordance with N.J.S.A. 48:5A-25.1; or upon Board approval of a certification that another cable television service provider offering services to residents of the Township files, in accordance with N.J.S.A. 48:5A-30(d), is capable of serving 60% or more of the households within the Township. In the event the Company does cease providing a senior discount pursuant to this provision, it shall comply with all notice requirements of applicable law.

§ 49-18. Emergency uses.

Cablevision shall be required to have the capability to override the audio portion of the system in order to permit the broadcasting of emergency messages by the Borough pursuant to state and federal requirements. The Company shall in no way be held liable for any injury suffered by the Borough or any other person, during an emergency, if for any reason the municipality is unable to make full use of the cable television system as contemplated herein. The Borough shall utilize the state-approved procedures for such emergency uses.

§ 49-19. Equitable terms.

- A. In the event that the service of another multichannel video program provider not subject to the Borough's regulatory authority within the Borough creates a significant competitive disadvantage to Cablevision, the Company shall have the right to request from the Borough lawful amendments to its franchise that relieve it of burdens which create the unfair competitive situation. Should the Company seek such amendments to its franchise, the parties agree to negotiate in good faith appropriate changes to the franchise in order to relieve the Company of such competitive disadvantages. If the parties can reach an agreement on such terms, the Borough agrees to support the Company's petition to the Board for modification of the consent in accordance with N.J.S.A. 48:5A-47 and N.J.A.C. 14:17-6.7.
- B. If the parties are unable to reach an agreement on appropriate amendments to the franchise, the Borough acknowledges that the Company shall have the right to petition the Board directly for such amendments in accordance with N.J.S.A. 48:5A-47 and N.J.A.C. 14:17-6.7; provided, however, the Borough shall be under no obligation to support Cablevision's request for such relief from the Board.
- C. In any subsequent municipal consent, Borough shall require, at a minimum, the same terms and conditions of any other provider of multichannel video programming subject to the Borough's regulatory authority as those contained in the instant consent. In the event such subsequent consent does not contain the same terms and conditions as the instant consent, Borough agrees to support the Company's petition to the Board for modification of the consent in accordance with N.J.S.A. 48:5A-47 and N.J.A.C. 14:17-6.7 to relieve the Company of competitive disadvantages identified in the Company's petition.

§ 49-20. Removal of facilities.

Upon expiration, termination or revocation of this chapter, Cablevision, at its sole cost and expense and upon direction of the Board, shall remove the cables and appurtenant devices constructed or maintained in connection with the cable services authorized herein, unless Cablevision, its affiliated entities or assignees should, within six months after such expiration, termination or revocation obtain certification from the FCC to operate an open video system or any other federal or state certification to provide telecommunications.

§ 49-21. Public, educational, and governmental access.

- A. Cablevision shall continue to make available noncommercial public, educational and governmental (PEG) access services available to the residents of the Borough as described in the application for municipal consent. All Cablevision support for PEG access shall be for the exclusive benefit of Cablevision's subscribers.
- B. The Borough agrees that Cablevision shall retain the right to use the PEG access channel, or portion thereof, for non-PEG access programming, during times when the Borough is not utilizing the channel for purposes of providing PEG access programming. In the event that the Company uses said PEG access channel for the

presentation of such other programming, the PEG programming shall remain the priority use and the Company's rights with respect to using the channel for non-PEG programming shall be subordinate to the Borough's provision of PEG access programming on such channel.

- C. Cablevision shall have discretion to determine the format and method of transmission of the PEG access programming provided for in this section.
- D. Cablevision shall construct and maintain a fiber access return line at the Borough Building, 901 Boulevard, for use by the Borough in the production of noncommercial educational and governmental access programming on the cable system.
- E. Cablevision shall provide the Borough with a one-time PEG grant of up to \$8,500, payable as follows: an initial grant payment of \$1,304 within 60 days of the issuance of the certificate of approval by the Board of Public Utilities (the initial grant); and a grant of \$514, provided in annual installments, upon written request by the Borough (the annual grant). Each annual grant installment shall be payable to the Borough within 90 days from receipt of the Borough's written request. Cablevision shall not be obligated to make any additional payments beyond year 15 of the franchise term.
[Amended 4-1-2015 by Res. No. 2015-125]
- F. The Borough agrees that the initial grant and the annual grant provided pursuant to Subsection **E** shall be used for the exclusive support of PEG access programming, such as the purchase and/or rental of PEG access equipment and facilities. On request, the Borough shall provide Cablevision with a certification of compliance with this subsection.
- G. The Company shall have no further obligation to provide any PEG grant payments due and payable after the date upon which the Company converts the municipal consent granted herein to a system-wide franchise in accordance with N.J.S.A. 48:5A-25.1.

§ 49-22. Incorporation of application.

All of the commitments contained in the application and any amendment thereto submitted, in writing, to the Borough by the Company except as modified herein, are binding upon Cablevision as terms and conditions of this consent. The application and any other written amendments thereto submitted by Cablevision in connection with this consent are incorporated in this chapter by reference and made a part hereof, except as specifically modified, changed, limited, or altered by this chapter, or to the extent that they conflict with state or federal law.

§ 49-23. Consistency with applicable laws.

This consent shall be construed in a manner consistent with all applicable federal, state and local laws, as such laws, rules and regulations may be amended from time to time.

§ 49-24. Separability.

If any section, subsection, sentence, clause, phrase, or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portion thereof.

§ 49-25. Notice.

Notices required under this chapter shall be in writing and shall be mailed, first class, postage prepaid, to the addresses below. Either party may change the place where notice is to be given by providing such change, in writing, at least 30 days prior to the time such change becomes effective. The time to respond to notices under this chapter shall run from receipt of such written notice.

Notices to the Company shall be mailed to:

Cablevision Systems Corporation
111 Stewart Avenue
Bethpage, NY 11714
Attention: Vice President for Government/Public Affairs, New Jersey

With a copy to:

Cablevision of Monmouth
1111 Stewart Avenue
Bethpage, NY 11714
Attention: Legal Department

Notices to the Borough shall be mailed to:

Borough of Seaside Heights
901 Boulevard
Seaside Heights, New Jersey 08751
Attention: Borough Administrator

§ 49-26. When effective; Board of Public Utilities approval.

This chapter shall take effect upon issuance of a certificate of approval as issued by the Board of Public Utilities that incorporates the material terms of this chapter. Nothing herein shall alter the right of the Company to seek modification of this chapter in accordance with N.J.S.A. 48:5A-47 and N.J.A.C. 14:17-6.7.

Chapter 51. Car Raffle License Locations

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 2-19-1997 by Ord. No. 97-1. Amendments noted where applicable.]

§ 51-1. Number of boardwalk car raffle locations.

The Borough Council of the Borough of Seaside Heights does hereby authorize no more than five boardwalk car raffle license locations along the oceanfront boardwalk owned by the Borough of Seaside Heights. A maximum of five locations are being authorized due to the fact that five locations currently exist for car raffle locations.

§ 51-2. Conditions on lease of car raffle locations.

[Amended 4-16-2003 by Ord. No. 03-11]

The lease of boardwalk car raffle locations is limited to a nonprofit corporation or association for a public purpose. In order to qualify to lease a boardwalk car raffle location, a corporation or association must comply with all the requirements set forth in N.J.S.A. 40A:12-14. In addition, the nonprofit corporation or association must have its primary office, headquarters or meeting place in the Borough of Seaside Heights. A public safety corporation or association, such as a volunteer first-aid service, is exempt from maintaining its primary office, headquarters or meeting place in the Borough of Seaside Heights providing Seaside Heights is serviced by the organization 12 months per year and the Borough of Seaside Heights appropriates funds to the organization in its yearly budget. In the event the number of qualifying corporations or associations seeking a boardwalk car raffle location exceeds the number of locations available for lease, the governing body shall, within its sole judgment and discretion, determine which nonprofit corporations or associations provide the greatest benefit to the residents of the Borough of Seaside Heights, and such corporation or association shall be provided with the lease for the available boardwalk car raffle location, subject to the provisions of this chapter and N.J.S.A. 40A:12-14.

§ 51-3. Compliance with lease terms required.

Any nonprofit corporation or association which is granted a boardwalk car raffle location by the governing body shall enter into a lease agreement with the Borough of Seaside Heights and shall fully comply with all terms and conditions as set forth in said lease agreement. Failure of the nonprofit corporation or association to comply with the lease terms and conditions can result in the termination of the lease agreement by the Borough Council of the Borough of Seaside Heights and revocation of the boardwalk car raffle location assigned to that organization.

§ 51-4. Ordinance authorizing lease required.

[Amended 4-16-2003 by Ord. No. 03-11]

In order to award a nonprofit corporation or association a boardwalk car raffle location, the governing body shall enact an ordinance in accordance with the requirements of N.J.S.A. 40A:12-14(c), and the nonprofit corporation or association will be required to execute a lease agreement with the Borough of Seaside Heights.

§ 51-5. List of boardwalk car raffle locations.

The Borough Clerk for the Borough of Seaside Heights shall keep on file a list of all boardwalk car raffle locations authorized by the governing body of the Borough of Seaside Heights, together with the name, address and telephone number of the nonprofit corporation or association having exclusive use of that location.

§ 51-6. Insurance required.

Any nonprofit corporation or association leasing a boardwalk car raffle location from the Borough of Seaside Heights shall be required to provide the Borough of Seaside Heights with an insurance certificate naming the Borough of Seaside Heights as co-insured in an amount authorized by the governing body of the Borough of Seaside Heights.

§ 51-7. Maintenance of structure; services.

The nonprofit corporation or association leasing a boardwalk car raffle location from the Borough of Seaside Heights shall be responsible to erect and maintain a three-sided enclosure of sufficient size to accommodate the automobile being raffled by said organization. The nonprofit corporation or association shall be responsible to maintain the structure in a clean, presentable condition and shall maintain the same free from any graffiti. The nonprofit corporation or association shall also be responsible to provide telephone service to the boardwalk car raffle location.

§ 51-8. Hours of operation; display of automobile.

From July 1 until Labor Day of each year, the automobile being raffled by the nonprofit corporation or association shall be located on the leased premises from 12:00 noon until 11:00 p.m., Monday through Sunday, unless inclement weather shall prohibit the display of the automobile by the nonprofit corporation or association. At all times during which the automobile being raffled is displayed by the nonprofit corporation or association at the boardwalk car raffle location, a representative of the nonprofit corporation or association shall be present. At no time shall the displayed automobile be left unattended by the nonprofit corporation or association.

§ 51-9. Community service project.

The nonprofit corporation or association shall be responsible to conduct one community service project each year in consideration for the use of the boardwalk car raffle location as provided for in the lease agreement. The community service project shall be set forth on the nonprofit corporation's or association's raffle permit application and shall state the nature of the project and the time, place and date thereof. The governing body of the Borough of Seaside Heights must approve and authorize the community service project proposed by the nonprofit corporation or association. The community service project shall be completed by the nonprofit corporation or association by the end of the calendar year.

§ 51-10. Alterations to structure; advertising signs.

- A. Alterations. No alterations or modifications can be made to the car raffle structure without the prior written authorization of the governing body of the Borough of Seaside Heights.
- B. Signs. The signs designating the organization sponsoring the raffle shall be no larger than 18 inches high by the width of the car raffle stand. A sign identifying the car dealer who provided the car for the raffle shall be no larger than two feet by eight feet. No other signs shall be displayed by the lessee. No other signs shall be displayed by the lessee, unless an approved alternative prize is offered for raffle, in which case, a sign no larger than two feet by eight feet shall be permitted to identify the approved alternative prize offered for raffle.
[Amended 4-16-2003 by Ord. No. 03-11]

§ 51-11. Alternative raffle prize as authorized by the governing body.

[Added 4-16-2003 by Ord. No. 03-11^[1]]

Notwithstanding the title of this chapter, any corporation or association which is granted a boardwalk car raffle location pursuant to a lease agreement executed pursuant to the provisions of this chapter and N.J.S.A. 40A:12-14 et seq. may, upon approval of the governing body, offer for raffle an alternative prize to that of an automobile. If an alternative prize is authorized to be raffled by such corporation or association, all provisions of this chapter applicable to automobiles shall apply to said alternative prize unless otherwise specified. Authorization of an alternative prize shall be at the discretion of the governing body. Any corporation or association offering a prize other than an automobile for raffle without prior approval of the governing body or not in compliance with any provision of this chapter shall be in violation of this chapter and subject to § 51-12 license revocation.

[1] *Editor's Note: This ordinance also provided for the renumbering of former § 51-11 as § 51-12.*

§ 51-12. Revocation of license.

Any violation or failure to comply with a provision of this chapter may result in a revocation of the license for the location being utilized pursuant to this chapter.

Chapter 55. Certificates of Occupancy

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Zoning — See Ch. 246.

Article I. General Provisions

[Adopted 2-19-1997 by Ord. No. 97-1]

§ 55-1. Purpose.

This article is adopted in order to protect the health, safety and welfare of those purchasing dwelling units or commercial structures within the Borough of Seaside Heights, County of Ocean, State of New Jersey.

§ 55-2. Certificate required.

[Amended 12-3-1997 by Ord. No. 97-13; 8-2-2000 by Ord. No. 2000-18; 12-20-2006 by Ord. No. 06-17; 12-17-2008 by Ord. No. 08-22]

- A. No residential property may be sold until the owner of the property to be sold obtains a certificate issued by the Code Enforcement Officer, verifying that the property is in compliance with current applicable smoke detector requirements. No such property may be occupied until the issuance of a certificate of occupancy by the Code Enforcement Officer, verifying that the property is in compliance with all applicable zoning and property maintenance laws of this Borough, site plans, building permits and Tax Assessor records. Following initial occupancy, such properties must be inspected for and receive updated certificates of occupancy in accordance with §§ 55-6, 55-7 and 55-8 of this chapter.
- B. No commercial property may be sold until the owner of the property to be sold obtains a certificate issued by the Code Enforcement Officer, verifying that the property is in compliance with current applicable smoke detector requirements. No such property may be occupied until a certificate of occupancy has been issued by the Code Enforcement Officer, verifying that the property is in compliance with all applicable zoning and property maintenance laws of this Borough, site plans, building permits and Tax Assessor records. Following initial occupancy, such properties must be inspected for and receive updated certificates of occupancy in accordance with §§ 55-6, 55-7 and 55-8 of this chapter.

§ 55-2.1. Sticker required.

[Added 2-16-2005 by Ord. No. 05-04]

For every property or structure for which a certificate of occupancy is issued pursuant to this article, two stickers shall also be issued by the Code Enforcement Officer for the property or structure. The owner of the property or structure shall be responsible for placing one sticker on the front door of the property or structure facing outside, and the other sticker on the front door facing into the premises. No property or structure for which said stickers have been issued shall be occupied unless and until said stickers have been properly placed. Failure to properly adhere both of the stickers on the door as described herein shall be a violation of this article.

§ 55-3. Definitions; inspection fees; limitations on nontransient rentals; violations.

[Amended 12-3-1997 by Ord. No. 97-13; 2-16-2000 by Ord. No. 2000-4; 2-19-2003 by Ord. No. 03-04; 6-18-2003 by Ord. No. 03-17; 12-20-2006 by Ord. No. 06-17; 12-17-2008 by Ord. No. 08-22; 3-3-2010 by Ord. No. 10-04]

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

DWELLING, SINGLE-FAMILY

A detached residential structure designed to provide living facilities, including kitchen, for one family only.

DWELLING UNIT

(1) APARTMENT UNIT

A dwelling unit which includes living space, sleeping space, storage space, a kitchen and at least one full bathroom.

(2) HOTEL OR MOTEL UNIT

A temporary dwelling unit for transient use, having limited or no storage space and at least one full bathroom.

(3) ROOMING HOUSE UNIT

A dwelling unit that consists of only one room, having a common bath, living and cooking facilities shared by multiple units.

HOTEL or MOTEL

Any building containing any combination of temporary dwelling units.

ROOMING HOUSE

Any combination of rooming house units in a building in which all units may all be used for nontransient rentals at any given time.

TRANSIENT RENTAL

A rental for 90 days or less to a person having a permanent residence elsewhere.

B. Inspection fees.

[Amended 4-16-2014 by Ord. No. 14-07]

(1) All buildings, structures and dwelling units, other than hotel or motel units thereof, that are leased on a nontransient basis shall be inspected by the Code Official prior to every initial occupancy or change of occupancy and shall, under no circumstances, be inspected less than biennially for issuance of an updated certificate of occupancy. All buildings, structures and dwelling units thereof that are leased on a transient basis shall be inspected by the Code Official annually. Hotel or motel dwelling units shall have no more than one rental inspection pursuant to this chapter annually, regardless of whether such units are used for transient or nontransient use.

(2) The inspection fee for any given property shall be:

(a) Business/commercial property inspection: \$200.

(b) Single-family dwelling/apartments, per unit: \$100.

(c) Hotel/rooming house rooms, per unit: \$50.

C. Limitations on nontransient rentals. No motel or hotel shall allow nontransient rentals to exceed the following percentages of total units:

[Amended 4-16-2014 by Ord. No. 14-07]

- (1) From January 1, 2010, through December 31, 2010: 30% of the total dwelling units in the hotel or motel.
 - (2) From January 1, 2011, through December 31, 2011: 25% of the total dwelling units in the hotel or motel.
 - (3) From January 1, 2012, forward: 20% of the total dwelling units in the hotel or motel.
- D. Violations. Any person violating or failing to comply with any of the provision of this article shall, upon conviction thereof, be punishable by a fine of no less than \$1,000 and no more than \$2,000, by imprisonment not to exceed 90 days or by community service of not more than 90 days, or any combination of fine, imprisonment and community service as determined in the discretion of the Municipal Court Judge. 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.

§ 55-4. Violations and penalties.

- A. Any person violating or failing to comply with any other provision of this article shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$1,250, by imprisonment not to exceed 90 days or by community service of not more than 90 days or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.
[Amended 2-16-2005 by Ord. No. 05-04]
- B. The violation of any provision of this article shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.
- C. For any violation of this article, the person responsible for obtaining the transfer certificate of occupancy shall be deemed to be the seller of the subject property, unless otherwise provided by law or contract.

Article II. Rental Property

[Adopted 2-18-2015 by Ord. No. 15-02^[1]]

[1] *Editor's Note: This ordinance also repealed former Art. II, Rental Property, adopted 2-16-2000 by Ord. No. 2000-4, as amended.*

§ 55-5. Registration requirements.

In accordance with N.J.S.A. 40:48-2.53, whenever an owner of real properties situated within the Borough does not reside at his property in the case of residential premises, or does not operate a business at the property in the case of commercial property, that owner must register with the Clerk of the Borough.

- A. The owner shall register on a form provided by the Borough Clerk's office. When any property is rented or leased, registration is required when any unit is rented or leased, regardless of the residency of the owner on the rented or leased property. The registration required by this section shall be completed at the time of the annual mercantile licensing application for properties operated in a manner requiring a mercantile license.
- B. In accordance with N.J.S.A. 40:48-2.53, the Clerk of the Borough may forward a copy of any registration made pursuant to this article to the Clerk of the county.
- C. When applicable, an owner of real property must also comply with the provisions of Chapter 122, Mercantile Licenses.

§ 55-6. Registration forms.

In accordance with N.J.S.A. 46:8-28, all rental units shall be registered and licensed as provided herein.

- A. Every owner shall file with the Code Official or his designee a registration form or other forms developed by the Borough for each rental unit contained within a building or structure, which shall include the following information:

- (1) The name, address and telephone number of the owner or owners of the premises and the record owner or owners of the rental business, if not the same persons, shall be provided. In the case of a partnership, the names and addresses of all general partners shall be provided, together with the telephone numbers for each individual partner, indicating where such individual may be reached both during day and evening hours, which telephone numbers shall include cell phone numbers. If the record owner is a corporation, the name and address of the registered agent and corporate officers of said corporation shall be provided, together with the telephone number for each such individual, indicating where such individual may be reached both during day and evening hours, which shall include providing the cell phone numbers of each such individual. All registration addresses shall be physical addresses; post office boxes alone are insufficient.
 - (2) If the address of the owner of record is not located in the County of Ocean, the name, address and telephone number of a person who resides in the County of Ocean who is authorized to accept notices from a tenant and to issue receipts therefor and to accept service of process on behalf of the owner of record.
 - (3) The name, address and telephone number of the managing agent of the premises, if any.
 - (4) The name, address and telephone number of the superintendent, janitor, custodian or other individual employed by the owner of record or managing agent to provide regular maintenance service, if any.
 - (5) The name, address and telephone number and cellular telephone number of an individual representative of the owner of record or managing agent who may be reached or contacted at any time in the event of an emergency affecting the premises or any unit of dwelling space therein, including such emergencies as the failure of any essential service or system, and who has the authority to make emergency decisions concerning the building and any repair thereto or expenditure in connection therewith.
 - (6) As to each rental unit, a specification of the exact number of sleeping rooms contained in the rental unit and the exact number of sleeping accommodations contained in each of the sleeping rooms, identifying each sleeping room specifically by number and location within the apartment or dwelling and by the square footage thereof.
 - (7) As to each rental unit, the maximum number of occupants as established by the New Jersey State Housing Code.
 - (8) Name, address and telephone number of any and all rental agencies with the authority to lease or otherwise permit occupancy of the subject premises.
 - (9) Number of occupants or tenants occupying the rental unit.
 - (10) Whether or not the landlord has conducted a tenant screening for each new tenant and authorized adult household member.
 - (11) Such other information as may be prescribed by the Borough on the appropriate form or otherwise by ordinance or resolution.
- B. In addition to the registration information set forth above, every owner shall file with the Borough Clerk, and provide a copy to each individual tenant by separate forms, the name, age and rental unit address of each occupant or tenant 18 years or older occupying a rental unit, and a floor plan of the rental unit. These forms shall be filed with the Borough Clerk and shall not be available for public inspection.

§ 55-7. Inspections; schedule.

- A. Nontransient rental inspections. All buildings, structures and dwelling units, other than hotel or motel units thereof, that are leased on a nontransient basis shall be inspected by the Code Official prior to every initial occupancy or change of occupancy and shall, under no circumstances, be inspected less than annually for issuance of an updated certificate of occupancy. Hotel or motel dwelling units shall have no more than one rental inspection pursuant to this chapter annually, regardless of whether such units are used for transient or nontransient use.
- B. Transient rental inspections. All buildings, structures and dwelling units thereof that are leased on a transient basis shall be inspected by the Code Official annually. Such inspections shall be in accordance with the schedule set forth below to the extent possible and practicable for issuance of an updated certificate of occupancy. The schedule shall serve as a guide for both property owners and the Code Enforcement Officer and

shall not serve as the basis for refusal of entry to a given property to a Code Enforcement Officer, nor shall the schedule serve as a basis for request of a refund of any fee paid pursuant to this chapter.

- (1) Multifamily properties and single-family nontransient rental properties (including condominium units being offered as rentals) shall be inspected during the months of January, February or December or upon change of tenant.
- (2) Multifamily properties and single-family transient rental properties (including condominium units being offered as rentals) shall be inspected during the months of April and May.
- (3) Motel and hotel properties shall be inspected during the months of March, April, May, June and July.

§ 55-8. Obligation of owner.

In order to ensure that a timely inspection may be made, the owner of rental property shall be responsible for providing written notification to the Code Enforcement Officer advising that a premises is being leased, or offered for lease, on a nontransient basis. At the time of rental of such property, the owner or his representative shall be responsible for providing written notification to the Code Official of the identity and number of tenants occupying such premises.

§ 55-9. Issuance of certificate of occupancy.

Upon completion of the inspection of the premises and same being determined by the Code Official to comply with all applicable Borough ordinances and state statutes, a rental certificate of occupancy shall be issued.

- A. A copy of the certificate shall be posted by the owner or representative in each separate leased or rented unit. No nontransient tenant shall occupy any building, structure or any units thereof until a rental certificate of occupancy has been issued.
- B. The inspection fee shall be the same as set forth in § 55-3, and the aforesaid fee shall be paid to the Code Official prior to any inspection being made hereunder.

§ 55-10. Sticker required.

For every premises or unit leased or rented for which a certificate of occupancy is issued pursuant to this article, two stickers shall also be issued by the Code Enforcement Officer for the property or structure. The owner of the property or structure shall be responsible for placing one sticker on the front door of the premises or unit facing outside, and the other sticker on the front door facing into the premises. No premises or unit for which said stickers have been issued shall be occupied unless and until said stickers have been properly placed. Failure to properly adhere both of the stickers on the door as described herein shall be a violation of this article.

§ 55-11. Availability of registration forms for public inspection.

The Code Enforcement Official or his designee shall index and file the registration form and make it reasonably available for public inspection, with the exception of the tenant registration form required in § 55-6B, which shall be confidential.

§ 55-12. Amended registration forms.

Every person required to file a registration form pursuant to this chapter shall file an amended registration form within 20 days of any change in the information required to be included thereon. No fee shall be required for the filing of an amendment, with the exception of a change in ownership of the premises.

§ 55-13. Exceeding maximum number of occupants prohibited.

- A. It shall be unlawful and a violation of this chapter for an owner, permittee, lessor or registered tenant of any registered dwelling to allow a number of people greater than the maximum number of occupants listed on the

registration form. It shall also be a violation of this chapter for the owner, permittee, lessor or registered tenant to lease a dwelling unit to a number or group of tenants which exceeds the total number of sleeping accommodations which has been set forth in the permit for which application was made under this chapter. It shall also be unlawful for an owner, permittee, lessor or registered tenant to allow a number of people greater than the maximum number of people permitted to occupy the decks or porches of a dwelling unit.

- B. The police officers of the Seaside Heights Police Department or the Code Enforcement Official are authorized to issue a summons for a violation of this chapter to any owner, permittee, lessor or registered tenant found to be in violation of any of the provision of this chapter.

§ 55-14. Access for inspection.

- A. Within 10 days of the receipt of a complaint alleging a reported violation of this chapter, an inspection officer shall conduct an inspection as provided for below.
- B. The inspection officers are hereby authorized to make inspections to determine the condition of rental facilities, rental units, hotels and rooming houses in order that they may promote the purposes of this chapter to safeguard the health, safety and welfare of the occupants of rental facilities, rental units, hotels and rooming houses and of the general public. For the purposes of making such inspections, the inspecting officers are hereby authorized to enter, examine and survey rental facilities, rental units, hotels and rooming/boarding houses after giving 48 hours' notice, unless there is an emergency requiring immediate access. The owner or occupant of every rental facility, rental unit, hotels and rooming/boarding house shall give the inspecting officer free access to the rental facility, rental unit, hotel or rooming house at all reasonable times for the purpose of such inspections, examinations and surveys, including inspections of the registration forms and other forms required to be supplied to each tenant.
- C. Every occupant shall give the owner of the rental facility, rental unit and rooming house access to any part of such rental facility, rental unit, hotel and rooming house after giving 48 hours' notice, unless there is an emergency requiring immediate access, for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this chapter or any lawful order issued pursuant thereto.

§ 55-15. Occupant standards.

- A. Only those occupants whose names are on file with the Borough Clerk as provided in this chapter may reside in the licensed premises. It shall be unlawful for any other person to reside in said premises, and this provision may be enforced against the landlord, tenant, or other person residing in said premises.
- B. No rental facility shall be conducted in a manner which shall result in any unreasonable disturbance or disruption to the surrounding properties and property owners or the public in general, such that it shall constitute a nuisance as defined in the ordinances of the Borough of Seaside Heights.
- C. The maintenance of all rental facilities and the conduct engaged in upon the premises by occupants and their guests shall at all times be in full compliance with all applicable ordinances and regulations of the Borough of Seaside Heights and state and federal laws.
- D. Any landlord, tenant, or other person violating the provisions of this section shall be subject to the penalty provisions of this chapter.

§ 55-16. Revocation of license; procedure.

- A. Grounds. In addition to any other penalty prescribed herein, an owner may be subject to the revocation or suspension of the rental license issued hereunder for the entire licensed property upon the occurrence of one or more of the following:
 - (1) Conviction of a violation of this chapter in the Municipal Court or other court of competent jurisdiction.
 - (2) Determination of a violation of this chapter at a hearing held pursuant to Subsection **B** herein.
 - (3) Permitting the rental unit to be occupied by more than the maximum number of occupants as defined herein.

- (4) Maintaining the rental unit or units or the property on which the rental unit is located in a dangerous condition likely to result in injury to persons or property as set forth in § 122-17 of the Code of the Borough of Seaside Heights.
- (5) A rental license issued under this chapter shall be suspended and considered revoked if taxes or other assessments are delinquent for three consecutive quarters. Upon payment of such delinquent taxes or assessments, the license or permit shall be restored, upon new inspections for occupancy taking place.

B. Procedure; written complaint; notice; hearing.

- (1) A complaint seeking the revocation or suspension of a license may be filed by one or more of the following: the Chief of Police or Code Enforcement Official. Such complaint shall be in writing and shall be filed with the Code Enforcement Official or his designee. The complaint shall be specific and shall be sufficient to appraise the licensee of the charges so as to allow the licensee the opportunity to present a defense. The individuals filing the complaint may do so on the basis of information and belief and need not rely on personal information.
- (2) Upon the filing of such written complaint, the Code Enforcement Official or his designee shall immediately inform the Borough Council, and a date for a hearing shall be scheduled which shall not be sooner than 10 days nor more than 30 days thereafter. The Code Enforcement Official or his designee shall forward a copy of the complaint and a notice as to the date of the hearing to the licensee and the managing agent, if any, at the address indicated on the rental registration form. All such correspondence shall be sent by certified mail, return receipt requested. Service upon the managing agent shall be sufficient.
- (3) The hearing required by this section shall be held before the Borough Council unless, in its discretion, the Borough Council determines that the matter should be heard by a hearing officer who shall be appointed by the Borough Council. If the matter is referred to a hearing officer, such officer shall transmit his finding of fact and conclusions of law to the Borough Council within 10 days of the conclusion of the hearing. The Borough Council shall be bound thereby. In the event that the matter is not referred to a hearing officer and is heard by the Borough Council, the Borough Council shall render a decision within 10 days of the conclusion of the hearing. Following the hearing, a decision shall be rendered dismissing the complaint, revoking or suspending the rental license, or determining that the license shall not be renewed or reissued for one or more subsequent rental license terms.
- (4) A recording shall be made of the hearing. All witnesses shall be sworn prior to testifying. The strict rules of evidence shall not apply and the evidential rules and burden of proof shall be that which generally controls administrative hearings.
- (5) The Borough Attorney or a special prosecutor appointed by the Borough Council shall appear and prosecute on behalf of the complainant in all hearings conducted pursuant to this section.

C. Defenses. It shall be a defense to any proceeding for the revocation, suspension, or other disciplinary action involving the rental license by a demonstration that the owner has abated the conditions or circumstances giving rise to the revocation proceeding, including, but not limited to, the institution of legal action against the tenant(s), occupant(s) or guest(s) for the recovery of the premises, eviction of the tenant(s) or otherwise, and has submitted proof of adequate tenant screening in accordance with this chapter.

§ 55-17. Violations and penalties.

- A. Any person violating or failing to comply with any other provision of this article shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$1,250, by imprisonment not to exceed 90 days, or by community service of not more than 90 days, or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.
- B. The violation of any provision of this article shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

Chapter 59. Checks, Returned

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 2-19-1997 by Ord. No. 97-1. Amendments noted where applicable.]

§ 59-1. Imposition of service charge; tender of future payments.

A service charge in the amount of \$20 shall be imposed on any taxes, fees or other charges due to the Borough of Seaside Heights where a check or draft has been submitted to the borough toward the payment of such taxes, fees or other charges, and such check or draft is returned for insufficient funds. The Borough Council may authorize the appropriate municipal officer to demand that future payments be tendered in cash or by certified or cashier's check on any account where a check tendered for payment on such account is returned for insufficient funds. In addition, the service charge aforesaid may be collected in any manner authorized by N.J.S.A. 40:5-18.

§ 59-2. Amount of service charge.

It is hereby determined that the amount of such service charge is equal to the approximate amount of the borough's administrative or other related costs where a check or draft has been returned for insufficient funds.

Chapter 63. Communications Facilities Franchise

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 5-19-1999 by Ord. No. 99-13. Amendments noted where applicable.]

§ 63-1. Statutory authority; permitted acts.

Pursuant to the provisions of N.J.S.A 48:17-10, N.J.S.A, 48:17-11, and N.J.S.A. 48:17-12, permission and consent is hereby granted to Bell Atlantic-New Jersey, Inc., (the "company"), its successors and assigns, to install, operate, inspect, maintain, repair, replace and remove its communications facilities and other transmission or process equipment, including underground facilities, such as conduits, manholes, cables, wires and all other facilities appurtenant thereto, and aboveground facilities, such as cables, wires, antennas, poles, posts, supports, guys, pedestals, cable termination and distribution cabinets and all other facilities appurtenant thereto, in, through, upon, along, over, under and across all of the various public streets and ways, which include the roads, avenues, right-of-way, sidewalks, highways, bridges, waterways and other public places, and parts thereof, throughout their entire length and to effect the necessary street openings and lateral connections to curb poles, property lines and other facilities in the Borough of Seaside Heights (the "borough") for said company's local and through lines and other communications facilities in connection with the transaction of its business. In the event that any public street or way where the company has facilities is vacated by the borough, the borough agrees to reserve unto said company the rights granted the company by the present ordinance.

§ 63-2. Location of poles and posts.

All poles, posts, pedestals, cabinets or other facilities shall be located and placed back of the curblines where shown on the official map(s) of the borough; the poles and posts, however, shall be located within 18 inches of the face of such curbline or as may otherwise be mutually agreed by both parties or at the points or places now occupied by the poles, posts, pedestals, cabinets or other facilities of the company, its successors and assigns, and where there are no curblines, at other convenient points or places in, upon, along, adjacent or across the public streets and ways as may be mutually agreed upon between the parties.

§ 63-3. Burying of equipment.

The company may bury its local and through communications facilities, such as cables, conduit, manholes and associated equipment, fixtures, process equipment and appurtenances, within the right-of-way of the various public streets and ways and at such locations as shall be mutually agreed upon by the parties for said company's local and through lines and communications facilities. Underground conduits and associated facilities, as aforementioned, shall be placed at least 18 inches below the surface of said public streets and ways, and with the exception of lateral branches to curb poles and property lines and other facilities, the same shall generally not be constructed more than 10 feet from the curbline, unless obstructions make it necessary to deviate from such course or unless the parties mutually agree to another location. Manholes shall be located at such points along the line of underground conduits

as may be necessary or convenient for placing, maintaining and operating the facilities, as aforementioned, which the company may from time to time use in connection with its underground conduit system, and shall be so constructed as to conform to the cross-sectional and longitudinal grade of the surface so as not to interfere with the safety or convenience of persons or vehicles.

§ 63-4. Notice and permits required; restoration.

Before proceeding with any new construction or relocation work in an area covered by this ordinance, the company shall give prior notice in writing thereof to the borough, through its designated representative, of its intention to perform such work. The company shall obtain such street opening or excavation permits as may be lawfully required by any applicable ordinances regulating such openings or excavations. Any such area affected by the company in constructing its facilities shall be restored to as good condition as it was before the commencement of work thereon. No public streets or ways shall be encumbered for a period longer than shall be reasonable to execute the work.

§ 63-5. Indemnification of borough.

The company agrees to indemnify and save harmless the borough from and against all claims and liabilities resulting from any injury or damage to the person or property of any person, firm or corporation caused by or arising out of road conditions resulting from any negligent or faulty excavations, installation or maintenance connected with the work or equipment of said company and not attributable to the fault or negligence of the borough, except that if such injury or damage shall be caused by the joint or concurring negligence or fault of the company and the borough, the same shall be borne by them to the extent of their respective fault or negligence.

§ 63-6. Relocation of curblines and facilities.

Whenever a curbline shall be established on streets where one does not now exist or where an established curbline shall be relocated in order to widen an existing street in conjunction with road construction being performed by the borough, the company shall change the location of its aboveground facilities covered by this ordinance in accordance with applicable law, so that the same shall be back of, and adjacent to, the new curbline, so long as the borough has acted in accordance with applicable law and with reasonable care in establishing the new curbline and providing notice thereof.

§ 63-7. Joint use of poles, posts, etc.

Any company or corporation having legal authority to place its facilities in the public streets and ways of the borough may jointly use the company's poles, posts, pedestals or other structures for all lawful purposes, provided the company consents to such use, on terms and conditions acceptable to the company and not inconsistent with the provisions of the present ordinance.

§ 63-8. Borough use of poles, notice and indemnification.

The company shall provide space, to the extent available, on its poles, so long as said poles are occupied by the company, and space, to the extent available, in its main conduits existing on the date of passage of this ordinance, but not exceeding one duct of standard size, for the sole benefit of the borough during the pendency of this ordinance. Such space shall be provided for the exclusive use of the borough which use shall be limited to accommodating the wires or electrical conductors required for one-way signal control in connection with municipal police patrol, fire alarm signal control and traffic signal control systems only but for no other uses or purposes, either alone or in conjunction therewith, nor for circuits for the supply of electrical energy for traffic or other signals nor for wires, conductors, cable or the equivalent which provide a means of transmitting any signal to a private, commercial or residential location and which is normally provided by a nongovernmental supplier; provided, further, that no such use or attachment by the borough shall interfere with the plant or facilities of or the use thereof by the company. All costs or expenses incurred by the company in connection therewith shall be paid by the borough. It shall be the obligation of the borough to attach its wires to the poles or place its electric conductors in the conduits or manholes of the company, provided that before proceeding with said work, either by itself or by a person, firm or corporation engaged to perform such work, the borough shall give the company 30 days prior notice in writing. All such work shall be performed under the supervision of said company. The borough will indemnify and save harmless the company from and against all claims, liabilities or demands arising in any manner in connection with the borough's

wires or facilities or their installation, maintenance, operation or removal, or the borough's use or enjoyment of the company's plant or facilities provided under this section.

§ 63-9. Control of streets by county, state.

If any or all of the said streets or ways are later taken over by the County of Ocean or the State of New Jersey, such county or state shall have such rights and privileges and be subject to the same terms, conditions and limitations of use as apply herein to the borough; provided, however, that satisfactory prior arrangements as may be necessary are made with the borough and the company for the full protection of the respective interest of each.

§ 63-10. Defined terms.

The term "borough" as used in this ordinance shall be held to apply to and include any form of municipality or government into which the borough or any part thereof may at any time hereafter be changed, annexed or merged.

§ 63-11. Scope of consent; prior ordinances superseded.

The permission and consent hereby granted shall apply to and cover all communications facilities of the company existing at any time and related structures, process equipment, and appurtenances heretofore or hereafter erected, constructed, reconstructed, removed, located, relocated, replaced, maintained, repaired or operated by the company, its predecessors, successors, or assigns within the borough. This ordinance shall cancel and supersede all prior consent ordinances between the borough and the company regarding the subject matter hereof.

§ 63-12. Maintenance of property.

The company shall maintain its property within the borough and shall comply with applicable law for the provision of safe, adequate and proper service at just and reasonable rates and safeguard the public interest in continuous and uninterrupted service within the borough.

§ 63-13. Severability; construal of provisions.

In the event that any provision herein shall for any reason be illegal or unenforceable under applicable law, such illegality or unenforceability shall not affect any other provisions of this ordinance, and this ordinance shall be construed as if such illegal or unenforceable provision(s) had never been contained herein.

§ 63-14. Advertising expenses; notice; when effective.

The company shall pay the expenses incurred for advertising required in connection with the passage of this ordinance, after the date of its first reading, within 30 days after the company has received a bill for said advertising from the publisher. Following final passage of this ordinance, the Borough Clerk shall provide the company with written notice thereof by certified mail. As provided by applicable law, this ordinance, and any subsequent amendments, shall not become effective until acceptance thereof by the company and approval thereof by the Board of Public Utility Commissioners.

Chapter 65.1. Contracts

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights as indicated in article histories. Amendments noted where applicable.]

Article I. Limitation of Award

[Adopted 4-6-2016 by Ord. No. 16-07^[1]]

- [1] *Editor's Note: Section 3 of this ordinance also set forth that the monetary thresholds of provided in the definition of "business entity" and in § 65.1-2C are to be increased effective March 1 of each calendar year by the percentage increase in the prior calendar year of the consumer price index for all urban consumers for the New York-Northern New*

Jersey-Long Island or Philadelphia region, rounded to the nearest \$10. In addition, the ordinance stated that the Borough Clerk shall, no later than April 1 of each calendar year, prepare and publish the revised thresholds on the official municipal website and in an official municipal newspaper.

§ 65.1-1. Definitions.

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

BUSINESS ENTITY

A business entity whose contributions are regulated by this article means:

- A. An individual including the individual's spouse, and any child/children;
- B. A firm; corporation; professional corporation; partnership; limited liability company; organization; association; and any other manner and kind of business entity;
- C. Any person who owns 10% or more of the equity or ownership or income interests in a person or entity as defined in Subsections **A** and **B** above and their spouses and child/children;
- D. All partners or officers of such an entity, in the aggregate, and their spouses and child/children;
- E. Any person, subcontractor, subsidiary, corporation, firm, partnership, limited liability company, organization or association who has received or infeasibly acquired the right to receive, from a person described in Subsection **A** above, more than \$100,000 in compensation or income of any kind (including, by way of illustration, and not limitation: wages, salaries, sums paid to independent contractors, benefits, dividends, profit-sharing, pension contributions, deferred contributions, stock, stock options or gifts), in any twelve-month period prior to the award of, or during the term of, a contract subject to this article; and
- F. All persons who are an affiliate of a business entity as defined in Subsections **A**, **B** and **E** above, as such term is used in 11 U.S.C. § 101(2).

CAMPAIGN COMMITTEE

A. Means:

- (1) Every candidate for Borough of Seaside Heights elective municipal office;
- (2) Every candidate committee established by or for the benefit of a candidate for Borough of Seaside Heights elective municipal office;
- (3) Every joint candidate committee established in whole or in part by or for the benefit of a candidate for Borough of Seaside Heights elective municipal office;
- (4) Every political party committee of the Borough of Seaside Heights;
- (5) Every political party committee of the County of Ocean; and
- (6) Every political committee, continuing political committee, or other form of association or organization that regularly engages in the support of candidates for the Borough of Seaside Heights municipal or County of Ocean elective offices or Borough of Seaside Heights municipal or County of Ocean political parties or political party committees.

B. The terms in the foregoing definition have the meaning prescribed in N.J.A.C. 19:25-1.7.

CONTRACT FOR PROFESSIONAL OR EXTRAORDINARY SERVICES

All contracts for "professional services" and "extraordinary unspecifiable services" as such term is used in N.J.S.A. 40A:11-5.

CONTRIBUTION

Has the meaning prescribed in N.J.A.C. 19:25-1.7. By way of illustration, and not limitation, this definition includes pledges, loans, and in-kind contributions.

§ 65.1-2. Prohibition on awarding public contracts to certain contributors.

- A. To the extent that it is not inconsistent with state or federal law, the Borough of Seaside Heights and any of its departments, instrumentalities or purchasing agents shall not enter into any agreement or otherwise contract to procure professional services, as such term is defined at N.J.S.A. 40A:11-2(6) and used at N.J.S.A. 40A:11-5(1)(a)(i), and/or banking, insurance or other consulting service (hereinafter professional services), nor extraordinary unspecified services, as such term is defined at N.J.S.A. 40A:11-2(7) and used at N.J.S.A. 40A:11-5(1)(a)(ii), and/or media, public relations, lobbying, parking garage management or other consulting and/or management service (hereinafter extraordinary unspecified services) from any business entity if such business entity has solicited or made any contribution to 1) a candidate, candidate committee or joint candidates committee of any candidate for elective municipal office in Borough of Seaside Heights or a holder of public office having ultimate responsibility for the award of a contract, or 2) to any Borough of Seaside Heights or County of Ocean political committee or political party committee, or 3) to any continuing political committee or political action committee that regularly engages in the support of Borough of Seaside Heights municipal or County of Ocean elections and/or Borough of Seaside Heights municipal or County of Ocean candidates, candidate committees, joint candidate committees, political committees, political parties, political party committees, (hereinafter PAC), in excess of the thresholds specified in Subsection G within one calendar year immediately preceding the date of the contract or agreement.
- B. No business entity who submits a proposal for, enters into negotiations for, or agrees to any contract or agreement with the Borough of Seaside Heights or any of its departments or instrumentalities, for the rendition of professional services or extraordinary unspecified services shall knowingly solicit or make any contribution, to 1) a candidate, candidate committee or joint candidates committee of any candidate for elective municipal office in the Borough of Seaside Heights, or a holder of public office having ultimate responsibility for the award of a contract, or 2) to any Borough of Seaside Heights or County of Ocean political committee or political party committee, or 3) any PAC between the time of first communication between that business entity and the municipality regarding a specific agreement for professional services or extraordinary unspecified services, and the later of the termination of negotiations or rejection of any proposal, or the completion of the performance or specified time period of that contract or agreement.
- C. Monetary thresholds.
- (1) The monetary thresholds of this article are:
- (a) A maximum of \$300 per calendar year each for any purpose to any candidate or candidate committee for Mayor or governing body, or \$500 per calendar year to any joint candidates committee for Mayor or governing body, or \$300 per calendar year to a political committee or political party committee of the Borough of Seaside Heights;
- (b) Five hundred dollars maximum per calendar year to a County of Ocean political committee or political party committee; and
- (c) Five hundred dollars maximum per calendar year to any PAC.
- (2) However, for each business entity party to a contract for professional or extraordinary unspecified services as defined in Subsection A, or engaged in negotiations for a contract defined in Subsection A, when such business entity's contribution is aggregated with all "persons" defined in § 65.1-1, Definitions, above, by virtue of their affiliation to that business entity party, a maximum of \$2,500 to all Borough of Seaside Heights candidates, candidate committees, joint candidate committees, and holders of public office having ultimate responsibility for the award of a contract, all Borough of Seaside Heights or County of Ocean political committees and political party committees as described herein combined, without violating Subsection A of this section.
- D. For purposes of this section, the office that is considered to have ultimate responsibility for the award of the contract shall be:
- (1) The Borough of Seaside Heights Mayor or governing body, if the contract requires approval or appropriation from the Mayor or governing body, or
- (2) The Mayor of the Borough of Seaside Heights, if the contract requires approval of the Mayor, or if a public officer who is responsible for the award of a contract is appointed by the Mayor.
- E. Rules regarding subcontractors. No person may be awarded a subcontract to perform under a contract subject to this article, if the subcontractor would be disqualified by Subsection A from receiving the contract at the time that the subcontract is awarded. Nor may any person who would be disqualified by Subsection A from receiving the contract perform substantially all of obligations described in a contract for professional or extraordinary services that is subject to this article.

§ 65.1-3. Contributions made prior to effective date.

No contribution or solicitation of contributions made prior to the effective date of this article shall be deemed to give rise to a violation of this article.

§ 65.1-4. Contract renewal.

No contract subject to this article may be renewed, extended, or materially modified unless the resulting renewal, extension, or modification would be allowable under the provisions of this article if it were an initial contract.

§ 65.1-5. Contribution statement by business entity.

- A. Prior to awarding any contract or agreement to procure professional services or extraordinary unspecified services from any business entity, the Borough of Seaside Heights or its purchasing agents and departments, as the case may be, shall receive a sworn statement from said business entity which is the intended recipient of said contract that he/she/it has not made a contribution in violation of § 65.1-2 of this article. The Borough of Seaside Heights, its purchasing agents and departments shall be responsible for informing the Borough Council that the aforementioned sworn statement has been received and that the business entity is not in violation of this article, prior to awarding the contract or agreement.
- B. A business entity shall have a continuing duty to report to the Borough of Seaside Heights any contributions that constitute a violation of this article that are made during the negotiation, proposal process or the duration of a contract. The Borough of Seaside Heights, its purchasing agents and departments shall be responsible for informing the governing body within 10 business days after receipt of said report from the business entity, or at the next Borough Council meeting following receipt of said report from the business entity, or whichever comes first.
- C. The certification required under this section shall be made prior to entry into the contract or agreement with the Borough of Seaside Heights, or prior to the provision of services or goods, as the case may be, and shall be in addition to any other certifications that may be required by any other provision of law.

§ 65.1-6. Return of excess contributions.

A business entity that is a party to a contract for professional services or extraordinary unspecified services may cure a violation of § 65.1-2 of this article, if, within 30 days after the date on which the applicable ELEC report is published, said business entity notifies the municipality in writing and seeks and receives reimbursement of the contribution from the recipient of such contribution.

§ 65.1-7. Exemptions.

The contribution limitations prior to entering into a contract in § 65.1-2A do not apply to contracts which are awarded to the lowest responsible bidder after public advertising for bids and bidding therefor within the meaning of N.J.S.A. 40A:11-4, or are awarded in the case of emergency under N.J.S.A. 40A:11-6. There is no exemption for contracts awarded pursuant to a fair and open process under N.J.S.A. 19:44A-20 et seq.

§ 65.1-8. Penalty.

- A. It shall be a material breach of the terms of a Borough of Seaside Heights agreement or contract for professional services or extraordinary unspecified services when a business entity that is a party to such agreement or contract has:
 - (1) Made or solicited a contribution in violation of this article;
 - (2) Knowingly concealed or misrepresented a contribution given or received;
 - (3) Made or solicited contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution;

- (4) Made or solicited any contribution on the condition or with the agreement that it will be recontributed to a candidate, candidate committee or joint candidates committee of any candidate for elective municipal office in Borough of Seaside Heights, or a holder of public office having ultimate responsibility for the award of a contract, or any Borough of Seaside Heights or County of Ocean political committee or political party committee, or any PAC;
 - (5) Engaged or employed a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any contribution, which if made or solicited by the professional business entity itself, would subject that entity to the restrictions of this article;
 - (6) Funded contributions made by third parties, including consultants, attorneys, family members, and employees;
 - (7) Engaged in any exchange of contributions to circumvent the intent of this article; or
 - (8) Directly or indirectly, through or by any other person or means, done any act which if done directly would subject that entity to the restrictions of this article.
- B. Furthermore, any business entity that violates Subsection **A(1)** through **(8)** shall be disqualified from eligibility for future Borough of Seaside Heights contracts for a period of four calendar years from the date of the violation.
- C. Any person who knowingly, purposely, or recklessly violates any provision of this article, or who conspires with another person to violate any provision of this article, or who, with the purpose of promoting or facilitating a violation of this article, solicits another person to commit it, or aids or agrees, or attempts to aid another person in planning or committing it, shall be subject to punishment including fines and/or imprisonment as fixed by law for violations of the ordinances of the Borough of Seaside Heights.

§ 65.1-9. Citizens private right of action.

In addition to any rights that were heretofore available or which may hereafter be available to citizens, taxpayers, or associations, to challenge violations of this article, every person aggrieved by a violation of the article, or any taxpayer or resident of the Borough of Seaside Heights has the right, consistent with the Rules of Court, to file charges in a court of competent jurisdiction, and/or to pursue a civil action for a violation of this article in a court of competent jurisdiction, and to seek and obtain declaratory, injunctive, or other legal or equitable relief, including but not limited to, attorneys fees and costs, arising from or related to a violation of this article.

Chapter 66. Construction Equipment, Hours of Operation

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 2-19-1997 by Ord. No. 97-1. Amendments noted where applicable.]

§ 66-1. Purpose.

The purpose of this chapter is to regulate the hours of construction in order to protect the health, welfare and safety of the residents and visitors to the Borough of Seaside Heights.

§ 66-2. Summer season hours of operation.

[Amended 12-20-2006 by Ord. No. 06-23]

From the Saturday of Memorial Day weekend through the Monday of Labor Day weekend during each season, the operating or causing to be operated of any equipment used in commercial or residential construction, repair or alteration or demolition, including, but not limited to, the operating of or permitting to be operated any hammer, power saw, sander, drill, grinder or like equipment is hereby prohibited except during the hours of 9:00 a.m. and 5:00 p.m. on Saturday, Sunday and legal holidays and during the hours of 8:00 a.m. to 6:00 p.m. Monday through Friday.

§ 66-3. Non-summer season hours of operation.

[Amended 12-20-2006 by Ord. No. 06-23]

From the Tuesday following Labor Day weekend through the Friday of Memorial Day weekend, the operating or causing to be operated of any equipment used in commercial or residential construction, repair or alteration or demolition, including, but not limited to, the operating or permitting to be operated of any hammer, power saw, sander, drill, grinder or like equipment is hereby prohibited except during the hours of 7:00 a.m. to 6:00 p.m.

§ 66-4. Enforcement.

The Construction Code Official, the Building Subcode Official and their duly authorized representatives, as well as the Seaside Heights Police Department and Code Enforcement Officer, are hereby authorized to enforce the provisions of this chapter.

§ 66-5. Violations and penalties.

[Amended 12-20-2006 by Ord. No. 06-23]

- A. Any person violating or failing to comply with any other provision of this article shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$2,000 by imprisonment not to exceed 90 days or by community service of not more than 90 days or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.
- B. The violation of any provision of this chapter shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

Chapter 68. Construction Inspection Fees

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 3-17-1999 by Ord. No. 99-10; amended in its entirety 10-15-2008 by Ord. No. 08-15. Amendments noted where applicable.]

GENERAL REFERENCES

Certificates of occupancy — See Ch. 55.

§ 68-1. Adoption of regulations.

The regulations for the New Jersey Uniform Construction Code, as promulgated by the Commissioner of the New Jersey Department of Community Affairs pursuant to the authority of the State Uniform Construction Code Act,^[1] together with any subsequent amendments, changes or supplements thereto, is hereby adopted in and for the Borough of Seaside Heights.

[1] *Editor's Note: See N.J.S.A. 52:27D-119 et seq.*

§ 68-2. Enforcing agency.

The State Uniform Construction Code shall be enforced by the Construction Official, Building Subcode Official, the Plumbing Subcode Official and Fire Subcode Official for the Borough of Seaside Heights and such Electrical Subcode Official as designated by resolution of the governing body of the Borough of Seaside Heights.

§ 68-3. Fee schedule.

[Amended 12-16-2009 by Ord. No. 09-14; 8-21-2013 by Ord. No. 13-22]

- A. The following fee schedule is hereby adopted and established for the following construction and subcode fees:
 - (1) Building subcode fees.
 - (a) New construction. Fees for new construction shall be based upon the volume of the structure. Volume shall be computed in accordance with N.J.A.C. 5:23-2.28. Use groups and types of construction are as classified and defined in Articles 3 and 4 of the building subcode.

[1] New residential construction.

[a] Per cubic foot of volume: \$0.030.

[2] Other use groups.

[a] Use Groups A-1, A-2, A-3, A-4, F-1, F-2, S-1 and S-2: \$0.020.

[b] Structures on farms, including commercial farm buildings under N.J.A.C. 5:23-3.2(d): \$0.010.

[c] Maximum fee for structures on farms shall be \$1,000.

[d] Minimum fee: \$50.

- (b) Renovations, alterations and repairs and site construction associated with premanufactured construction; fee based on estimated cost of the work. To determine estimated cost, the applicant shall submit to the Construction Official such cost data as may be available, produced by the homeowner, the architect or engineer of record, or by a recognized estimating firm, or by the contractor. A bona fide contractor's bid, if available, shall be submitted. The Construction Official shall make the final decision regarding estimated cost.

Estimated Cost of Work**Fee**

\$1 to \$2,000

\$50

\$2,001 to \$50,000

\$25 per \$1,000

\$50,001 to \$100,000

Add \$21 per \$1,000 of estimated cost above \$50,000

Over \$100,000

Add \$19 per \$1,000 of estimated cost above \$100,00

- (c) Additions. Fees shall be computed on the same basis as for new construction for the added portion.

- (d) Combination renovations and additions. Fees shall be computed separately in accordance with §§ **68-3A(1)(a)** and **(b)**.

- (e) Temporary structures. The fee for temporary structures, towers, fences greater than six feet in height, open decks not attached to a principal or accessory structure and similar structures for which volume cannot be computed shall be \$50.

- (f) The fee for roofing or siding in R-3 and R-4 uses shall be \$50.

- (g) Pools.

[1] Aboveground: \$50.

[2] In-ground: \$195.

[3] Commercial: \$300.

- (h) Bulkheads, docks, wharves and piers. The fees shall be computed as an alteration.

(2) Plumbing subcode fees.

- (a) Fixtures and appliances. The fee per fixture, piece of equipment, vent or appliance connected to the plumbing system and for each appliance connected to the gas or oil piping system shall be \$8, except as provided for in § **68-3A(2)(b)**.

- (b) Special devices. The fee per device for grease traps, oil separators, water-cooled air-conditioning units, refrigeration units, utility service connections, backflow preventers, steam boilers, hot-water boilers (excluding those for domestic water heating), gas piping, gas service entrances, active solar systems, sewer pumps, interceptors and fuel oil piping shall be \$50.

- (c) Minimum plumbing subcode fee shall be \$50.

(3) Fire protection subcode fees.

- (a) The fee for sprinklers, standpipes, detectors (smoke and heat), preengineered suppression systems, gas- and oil-fired appliances not connected to the plumbing system, kitchen exhaust systems, incinerators and crematoriums shall be as follows:

- [1] For one to 20 heads: \$100.
- [2] For 21 to 100 heads: \$160.
- [3] For 101 to 200 heads: \$260.
- [4] For 201 to 400 heads: \$700.
- [5] For 401 to 1,000 heads: \$1,000.
- [6] For over 1,000 heads: \$1,500.

- (b) Standpipe, each: \$300.

- (c) Independent preengineered systems, each: \$150.

- (d) Gas- or oil-fired appliance not connected to the plumbing system, each: \$60.

- (e) Commercial kitchen exhaust system, each: \$60.

- (f) Incinerator, each: \$425.

- (g) Crematorium, each: \$500.

- (h) For one to 12 detectors, the fee shall be \$50; for any number of detectors above 12, the fee shall be \$20 for each increment of 25 or less.

- (i) Minimum fee: \$50.

(4) Electric subcode fees.

- (a) The fees for outlets (including lighting, wall switches, fluorescent fixtures, convenience receptacles or similar fixtures, and motors or devices of less than one horsepower or one kilowatt) shall be as follows:

Number of Devices	Fee
Outlets 1 to 50	\$70
Each additional 25	\$10

- (b) The fees for service panels shall be as follows:

Number of Amps	Fee
9 to 200	\$50
201 to 1,000	\$92
More than 1,001	\$500

- (c) The fees for transformers or generators shall be as follows:

Number of Kilowatts	Fee
1 to 10	\$10
11 to 45	\$50
46 to 112.5	\$92
More than 112.5	\$500

- (d) The fees for motors, except those in plug-in appliances, shall be counted, including control equipment, generators, transformers and all heating, cooking or other devices consuming or generating electric current, and shall be as follows:

Number of Horsepower	Fee
----------------------	-----

Number of Horsepower	Fee
1 to 10	\$10
11 to 50	\$50
51 to 100	\$92
More than 100	\$500

- (e) The fee for swimming pools shall be as follows:
- [1] In-ground: \$150.
 - [2] Aboveground: \$50.
- (f) The fee for each of the following items shall be \$10:
- [1] Electric heater.
 - [2] Dishwasher.
 - [3] Hot tubs/Jacuzzi.
 - [4] Electric dryer.
 - [5] Range.
 - [6] Oven.
 - [7] Surface units.
 - [8] Heat pump.
 - [9] Gas/oil heaters.
 - [10] Hot water heater.
 - [11] Commercial exhaust fans.
- (g) The fee for annual electric inspection of all public swimming pools shall be \$100 prior to May 15 of each calendar year and \$125 for the remainder of the calendar year. The fee for reinspections shall be \$50.
- (h) The minimum electric subcode fee shall be \$50.
- (5) Mechanical subcode fees.
- [Added 5-16-2018 by Ord. No. 2018-11^[1]]
- (a) Appliances/special devices. The fee per appliance/special device for water heaters, fuel oil piping connections, gas piping connections, steam boiler, hot-water boiler, hot-air furnace, oil tank, LPG tank, fireplace, generator or air conditioner/condenser: \$50.
 - (b) Minimum mechanical subcode fee shall be \$50, when applicable.
- [1] *Editor's Note: This ordinance also provided for the renumbering of former Subsection A(5) as Subsection A(6).*
- (6) Fees applicable to § 68-3A(1) through (5) above.
- [Amended 4-16-2014 by Ord. No. 14-08; 5-16-2018 by Ord. No. 2018-11]
- (a) Plan review fee: 20% of the amount to be charged for a new construction permit.
 - (b) Basic construction fee: the sum of the parts computed on the basis of the volume or cost of construction, the number of plumbing fixtures and equipment, the number of electrical fixtures and devices and the number of sprinklers, standpipes and detectors (smoke and heat) at the unit rates provided herein, plus any special fees.
 - (c) Certificates and other permits.

- [1] Demolition or removal permit.
 - [a] Structures less than 5,000 square feet in area and less than 30 feet in height (Use Group R-3) and for structures on farms, including commercial farm buildings under N.J.A.C. 5:23-3.2(d): \$46.
 - [b] All other use groups: \$85.
 - [2] Sign permit. Permit fee to construct a sign shall be in the amount of \$1 per square foot surface area of the sign, computed on one side only for double-faced signs.
 - [3] Certificate of occupancy: residential: \$50; commercial: \$150.
 - [4] Certificate of occupancy granted pursuant to a change of use group: \$150, as follows:
 - [a] To building: \$60.
 - [b] To plumbing: \$30.
 - [c] To fire: \$30.
 - [d] To electrical: \$30.
 - [5] Certificate of continued occupancy: \$100, as follows:
 - [a] To building: \$40.
 - [b] To plumbing: \$20.
 - [c] To fire: \$20.
 - [d] To electrical: \$20.
 - [6] The fee for elevator devices, where applicable, shall be in accordance with N.J.A.C. 5:23-12.6.
 - [7] Reinstatement of lapsed permit per subcode: \$35.
 - [8] Cross connections and backflow preventers that are subject to testing and require reinspection for each device when they are tested: \$40.
 - [9] Annual permits.
 - [a] Construction permits shall be charged annually. This fee shall be a flat fee based upon the number of maintenance workers who are employed by the facility and who are primarily engaged in work that is governed by a subcode. Managers, engineers and clericals shall not be considered maintenance workers for the purposes of establishing the annual construction permit fee.
 - [b] Annual permits may be issued for building, fire protection, electrical and plumbing. Fees shall be as follows:
 - [i] For one to 25 workers, including foremen: \$667 per worker; each additional worker over 25: \$150 per worker.
 - [ii] Prior to issuance of an annual permit, a training registration fee of \$140 per subcode shall be submitted by the applicant. Checks shall be made payable to Treasurer, State of New Jersey.
 - [10] Change of contractor: \$50.
- B. A schedule of the instruction and subcode fees established by this chapter shall be posted in the office of the Construction Official and shall be made available to the public.

§ 68-4. Fences.

- A. The construction of any fence shall require a permit issued by the Zoning Officer. The fee for the permit shall be \$35.
- B. The Zoning Officer may require the permit applicant to submit a sketch or survey.
- C. All fence construction shall conform to the provisions of § ~~246-44B~~.

§ 68-5. Enforcement.

[Added 3-17-2010 by Ord. No. 10-06; amended 12-18-2013 by Ord. No. 13-29]

Pursuant to the Uniform Fire Safety Act (P.L. 1983, c. 383),^[1] the New Jersey Uniform Fire Code shall be enforced within the Borough of Seaside Heights by the State of New Jersey Division of Fire Safety, except for inspection of non-life hazard uses, which inspections shall be performed by the Bureau of Fire Prevention.

[1] *Editor's Note: See N.J.S.A. 52:27D-192 et seq.*

§ 68-6. Designation of enforcing agency.

[Added 3-17-2010 by Ord. No. 10-06; amended 12-18-2013 by Ord. No. 13-29]

The local enforcing agency shall be the Bureau of Fire Prevention, which is under the jurisdiction and control of the Borough of Seaside Heights. Any references within the Code of the Borough of Seaside Heights to the Fire Official, Fire Inspector or Fire Inspection Department shall mean the Bureau of Fire Prevention.

§ 68-7. Duties of enforcing agency.

[Added 3-17-2010 by Ord. No. 10-06; amended 12-18-2013 by Ord. No. 13-29]

The local enforcing agency shall enforce the Uniform Fire Safety Act and the codes and regulations adopted pursuant thereto in all buildings, structures and premises within the Borough of Seaside Heights, other than owner-occupied one- and two-family dwellings, and shall faithfully comply with the requirements of the Uniform Fire Safety Act and the Uniform Fire Code.

§ 68-8. Inspections of life-hazard uses.

[Added 3-17-2010 by Ord. No. 10-06; amended 12-18-2013 by Ord. No. 13-29]

The State of New Jersey Division of Fire Safety shall carry out the periodic inspections of life-hazard uses required by the Uniform Fire Code.

§ 68-9. Inspections and fees.

[Added 3-17-2010 by Ord. No. 10-06; amended 3-2-2011 by Ord. No. 11-04; 12-18-2013 by Ord. No. 13-29]

Inspections and fees required for life-hazard uses shall be conducted and charged by the State of New Jersey Division of Fire Safety, pursuant to the Uniform Fire Safety Act and the regulations of the Department of Community Affairs. Inspection schedules and fees for those uses not defined as life-hazard uses pursuant to the Uniform Fire Safety Act are incorporated within the Borough's certificate of occupancy requirements and regulations.

§ 68-9.1. Additional required inspections.

[Added 3-2-2011 by Ord. No. 11-04]

For the purpose of this chapter all uses shall be defined pursuant to the current edition of the latest N.J. State-adopted edition of the International Building Code and the New Jersey Uniform Fire Code.

- A. For nonresidential uses not subject to certificate of occupancy inspections, inspection fees for an annual permit shall be as follows:

Square Footage Total Gross	Required Fee
0 to 1,000	\$40
1,001 to 2,000	\$50

Square Footage Total Gross**Required Fee**

2,001 to 2,500

\$55

2,501 to 3,500

\$60

3,501 to 4,500

\$65

4,501 to 5,000

\$70

5,001 to 6,000

\$75

6,001 to 7,000

\$80

7,001 to 7,500

\$85

7,501 to 8,000

\$110

8,001 to 9,000

\$125

9,001 to 10,000

\$135

10,001 to 11,000

\$155

11,001 to 12,000

\$180

Buildings over 12,000 square feet

Additional fee of \$10 per 1,000 square feet

- B. All open burning within the boundaries of the Borough of Seaside Heights is prohibited in accordance with this section and the Code of the Borough of Seaside Heights, except as permitted by a special event permit as approved by the governing body. Prior to the conducting of any such approved open burning, an annual permit must be obtained from the Fire Safety Bureau for any and all recreational fires in accordance with the requirements under the State Uniform Fire Code and the General Forest Fire Act (N.J.S.A. 13:9-44.1 et seq.). The fee for a small recreational fire permit shall be \$42.
- C. All erection of tents, canopies, or any tensioned membrane structure, greater than 900 square feet total and more than 30 feet in any dimension less than 16,800 square feet or contains platforms or bleachers 11 feet or less in height within the boundaries of the Borough of Seaside Heights is prohibited in accordance with this section and the Code of the Borough of Seaside Heights, except as permitted by a special event permit as approved by the governing body. An annual permit for such activity must also be obtained in accordance with the State Uniform Fire Code from the Fire Safety Bureau at a fee of \$42.
- D. The storage or discharging of fireworks within the boundaries of the Borough of Seaside Heights is prohibited in accordance with this section and the Code of the Borough of Seaside Heights, except as permitted by a special event permit as approved by the governing body. An annual permit for such activity must also be obtained in accordance with the State Uniform Fire Code from the Fire Safety Bureau at a fee of \$331.

§ 68-10. Fire Official; inspectors and employees.

[Added 3-17-2010 by Ord. No. 10-06]

- A. Appointment of Fire Official. The governing body of the Borough of Seaside Heights shall appoint the Fire Official, who shall serve as the chief administrative and inspection official for said agency.
- B. Inspectors and employees. The governing body of the Borough of Seaside Heights shall appoint such other inspectors and other employees as are deemed necessary.

§ 68-11. Appeals.

[Added 3-17-2010 by Ord. No. 10-06]

Any owner or operator of a building or property affected by the provisions issued pursuant to the Uniform Fire Code, who shall disagree with the determination of the Bureau of Fire Safety and/or its designated agents shall have the right of appeal in accordance with N.J.A.C. 5:70-2.19, entitled "Appeals."

§ 68-12. Violations and penalties.

[Added 3-17-2010 by Ord. No. 10-06]

All penalties as indicated in the New Jersey Administrative Code, Title 5, Chapters 18 and 18B, (Uniform Fire Code) shall be adopted for the purpose of enforcing this article, except those penalties imposed as provided by the Code of

the Borough of Seaside Heights for violations of the Borough Code not included within the Uniform Fire Code or authorized by the Uniform Fire Safety Act. Failure to register non-life-hazard uses or to pay the appropriate fees for registration concerning non-life-hazard uses, as defined in § 68-8, shall result in the imposition of penalties pursuant to the code.

Chapter 69. Construction Zone

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Construction inspection fees — See Ch. 68.

Zoning and land use — See Ch. 246.

Article I. Privacy Fencing

[Adopted 12-18-2013 by Ord. No. 13-28]

§ 69-1. Purpose.

The purpose of this article is to promote the public health, safety and welfare by requiring the installation of privacy fencing around abandoned construction sites within the Borough of Seaside Heights.

§ 69-2. Definitions.

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

PRIVACY FENCE

Sight-obscuring fence of opaque material having qualities as to constitute a visual barrier from neighboring properties or public rights-of-way. Privacy fences required under this article shall be no less than eight feet in height.

SIGHT-OBSCURING

Opaque or having such qualities as to constitute a visual barrier to persons outside the perimeter of the sight-obscuring object.

SUBSTANTIAL ABANDONMENT

The cessation of construction activity for a period of at least 30 days.

§ 69-3. Privacy fence required.

- A. A sight-obscuring privacy fence of at least eight feet in height and constructed of a solid material is required completely surrounding any construction project which has been substantially abandoned for a period of at least 30 days.
- B. The sight-obscuring privacy fence must be constructed in a professional and workmanlike manner and kept in good repair and be made of traditional fencing materials such as wood, plastic or vinyl, masonry, brick, stone, cinder block. The privacy fence must be fully opaque. If any open fencing material is used, it must be backed by a solid material. Under no circumstances will plywood, non-fencing-quality plastic material or paper be permitted as a backing material.
- C. The construction of any fence shall require a permit issued by the Zoning Officer. The fee for the permit shall be as set forth in § 68-4.

§ 69-4. Designation of Public Officer.

The Construction Code Official and the Code Enforcement Officer are hereby designated as the Public Officer(s) authorized to enforce the provisions of this article.

§ 69-5. Violations and penalties.

Any person violating or failing to comply with any other provision of this article shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$1,000, by imprisonment not to exceed 90 days or by community service of not more than 90 days, or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.

Chapter 70. Court, Municipal

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 2-19-1997 by Ord. No. 97-1. Amendments noted where applicable.]

Article I. General Provisions

§ 70-1. Established.

A Municipal Court for the Borough of Seaside Heights, in the County of Ocean, is hereby established pursuant to the provisions of Chapter 264 in the Laws of 1948, which has since been replaced by N.J.S.A. 2B:12-1 et seq.

§ 70-2. Name.

The name of the Municipal Court shall be the Municipal Court of Seaside Heights.

§ 70-3. Seal.

The Municipal Court shall have a seal which shall bear the impress of the name of the Court.

§ 70-4. Functions, powers and duties.

Said Municipal Court and the Municipal Judge thereof shall have, possess and exercise all the functions, powers and duties by the provisions of N.J.S.A. 2B:12-1 et seq., as amended and supplemented, or by other law.

§ 70-5. Jurisdiction; specified offenses; waiver of jury trial and indictment.

A Municipal Court of a single municipality shall have jurisdiction over cases arising within the territory of that municipality. Territory of a municipality includes any premises or property located partly in and partly outside of the municipality. If a Municipal Court Judge is serving as an acting Judge in any other Municipal Court in the county, he or she may also hear matters arising out of that other Court while sitting in the Court where he or she holds a regular appointment.

A. A Municipal Court has jurisdiction over the following cases within the territorial jurisdiction of the Court:

- (1) Violations of municipal ordinances.
- (2) Violations of the motor vehicle and traffic laws.
- (3) Disorderly persons offenses, petty disorderly persons offenses and other nonindictable offenses except where exclusive jurisdiction is given to the Superior Court.
- (4) Violations of the Fish and Game Laws.
- (5) Proceedings to collect a penalty where jurisdiction is granted by statute.
- (6) Any other proceedings where jurisdiction is granted by statute.

- B. Where the person charged waives indictment and trial by jury in writing and the County Prosecutor consents in writing, a Municipal Court has jurisdiction for those crimes specified in N.J.S.A. 2B:12-17 which occurs in territorial jurisdiction of the Court.

§ 70-6. Bond or insurance.

Before assuming the duties of office, a Judge or Administrator of the Municipal Court of Seaside Heights, or person employed by the Municipal Court of Seaside Heights who handles money in the scope of that employment, shall be covered by a bond or insurance against loss or misappropriation of funds payable to the Borough of Seaside Heights, county and state, in an amount and with terms set by the Borough of Seaside Heights.

§ 70-7. Holding of Court.

The Municipal Court shall be held at the Borough Hall. The Municipal Judge shall sit at such times as the business of the Court may require, subject to the rules applicable to municipal courts.

Article II. Judge of the Municipal Court

§ 70-8. Office established.

There is hereby established the office of Municipal Court Judge of the Municipal Court of the Borough of Seaside Heights.

§ 70-9. Appointment; term of office.

The Municipal Court Judge shall be appointed by the Mayor, with the advice and consent of the Borough Council. Said Municipal Court Judge shall serve for a term of three years from the date of appointment, or until his successor is appointed and qualified. Any appointment to fill a vacancy not caused by the expiration of term shall be filled by appointment for the unexpired term only.

§ 70-10. Qualifications.

The Municipal Court Judge shall be an attorney-at-law of New Jersey, admitted to practice for not less than five years.

§ 70-11. Duties.

The Municipal Court Judge shall have all the powers and duties as prescribed by N.J.S.A. 2B:12-1 et seq.

Article III. Municipal Court Administrator

§ 70-12. Office established.

There is hereby established the office of Municipal Court Administrator of the Municipal Court of the Borough of Seaside Heights.

§ 70-13. Appointment; term of office.

The Court Administrator shall be appointed by the Mayor, with the advice and consent of the Borough Council. Said Court Administrator shall serve for a term of three years from the date of appointment, commencing January 17 of the year of appointment and ending December 31 of the third year, or until a successor is appointed and qualified. A

vacancy in the office of Court Administrator, other than due to expiration of term, shall be filled by appointment for the unexpired term.

§ 70-14. Certification.

A person shall be certified as a Municipal Court Administrator if he satisfies the requirements of N.J.S.A. 2B:12-1.

§ 70-15. Duties.

Under direction, in a Municipal Court, the Municipal Court Administrator shall supervise and/or perform the specialized clerical work requiring a thorough knowledge of the laws, ordinances, rules, regulations and procedures relating to the operations of the Municipal Court. The Municipal Court Administrator may also serve as the Violations Clerk and do other related work as prescribed by law, by the rules applicable to municipal courts and by the Municipal Court Judge.

Article IV. Deputy Court Administrator

§ 70-16. Office established.

There is hereby established the office of Deputy Court Administrator of the Municipal Court of the Borough of Seaside Heights.

§ 70-17. Appointment; term of office.

The Deputy Court Administrator shall be appointed by the Mayor, with the advice and consent of the Borough Council. Said Deputy Court Administrator shall serve for a term of three years from the date of appointment, commencing January 17 of the year of appointment and ending December 31 of the third year, or until a successor is appointed and qualified. A vacancy in the office of Deputy Court Administrator, other than due to expiration of term, shall be filled by appointment for the unexpired term.

§ 70-18. Qualifications.

To be appointed to the office of Deputy Court Administrator, an individual must have one year of experience in work related to the administrative operation of a court, law enforcement agency, law office or government agency, including the preparation and/or processing of legal documents.

§ 70-19. Duties; hours.

The Deputy Court Administrator's hours are hereby set at 40 hours per week. It shall be the duty of the Deputy Court Administrator to perform the same duties as the Municipal Court Administrator in said Administrator's absence. Additionally, the duties of the Deputy Court Administrator shall be as follows:

- A. Assist the Municipal Court Administrator in performing the functions and duties of that office;
- B. Perform such functions and duties as shall be prescribed for said Deputy Court Administrator by law, the rules applicable to municipal courts, and by the Municipal Court Judge;
- C. Perform all related work as required by the Municipal Court Administrator.

Article V. Municipal Prosecutor

§ 70-20. Office established.

There is hereby established the office of Municipal Prosecutor for the Borough of Seaside Heights.

§ 70-21. Appointment; term of office.

The Municipal Prosecutor shall be appointed by the Mayor with the advice and consent of the Borough Council. The Municipal Prosecutor shall be appointed for a term of one year.

§ 70-22. Qualifications.

The Municipal Prosecutor shall be an attorney-at-law of New Jersey but need not be a resident of the borough. In lieu of appointing an individual attorney, the Mayor, with the advice and consent of the Borough Council, may appoint a firm of attorneys, all members of which shall be attorneys at law of New Jersey.

§ 70-23. Duties.

Pursuant to N.J.S.A. 2B:12-27, the Municipal Prosecutor shall appear in the Municipal Court on behalf of the State of New Jersey or the Borough of Seaside Heights in any case therein pending, upon the request of the Municipal Judge, the Chief of Police or directive of the Mayor or Council. He shall exercise the powers and duties assigned to such office by the statutes and court rules of the State of New Jersey.

§ 70-24. Vesting of power.

The Municipal Prosecutor shall be vested with the necessary power to perform such duties as set forth herein.

Article VI. Assistant Municipal Prosecutor

§ 70-25. Office established.

There is hereby established the office of Assistant Municipal Prosecutor for the Borough of Seaside Heights.

§ 70-26. Appointment; term of office.

The Assistant Municipal Prosecutor shall be appointed by the Mayor with the advice and consent of the Borough Council for a period of one year.

§ 70-27. Qualifications.

To be appointed to the office of Assistant Municipal Prosecutor, an individual must be an attorney-at-law of the State of New Jersey in good standing.

§ 70-28. Duties.

The Assistant Municipal Prosecutor shall perform the following duties:

- A. In the absence of the Municipal Prosecutor, perform the duties of the Municipal Prosecutor by prosecuting the municipal court cases in the Municipal Court of the Borough of Seaside Heights; and
- B. Prosecute cases on behalf of the State of New Jersey and Borough of Seaside Heights in the Seaside Heights Municipal Court when the Municipal Prosecutor is on vacation, is unavailable to prosecute the cases or is precluded from prosecuting the cases due to a conflict of interest.

Article VII. Public Defender

§ 70-29. Office established.

There is hereby established the office of Public Defender for the Borough of Seaside Heights for the defense of indigent defendants charged with offenses involving serious fines, drivers license revocations and incarceration.

§ 70-30. Appointment; term of office.

The Public Defender shall be appointed by the Mayor with the advice and consent of the Borough Council for a period of one year.

§ 70-31. Qualifications.

The Public Defender shall be an attorney at law of New Jersey in good standing.

§ 70-32. Duties.

The Public Defender shall interview all indigent defendants qualifying for assistance as hereinafter defined and defend the same in the Municipal Court in the borough only, and not in any other court.

§ 70-33. Indigent defined.

The definition of indigent shall be the same as utilized by the Office of the Public Defender of the State of New Jersey for those cases handled by the Ocean County Office thereof.

§ 70-34. Assignment by Judge.

The Municipal Court Judge may direct the Public Defender to defend indigents in matters other than those designated herein upon his finding that the nature of the offense, the defendant or the penalty would result in unusual harm or prejudice to the defendant if not afforded representation by the Public Defender.

§ 70-35. Public Defender application fee.

[Amended 3-18-1998 by Ord. No. 98-8]

Pursuant to N.J.S.A. 2B:12-28b,^[1] the Borough of Seaside Heights shall require any person applying for representation by the Municipal Public Defender to pay an application fee of not more than \$200. The Municipal Court may waive any required application fee, in whole or in part, if the Court determines in its discretion that the application fee represents an unreasonable burden on the person seeking representation.

[1] *Editor's Note: N.J.S.A. 2B:12-28b was repealed by P.L. 1997, c. 256. See now N.J.S.A. 2B:24-17a.*

Article VIII. Violations Clerk

[Added 12-19-2007 by Ord. No. 07-12]

§ 70-36. Office established.

There is hereby established the office of Violations Clerk for the Borough of Seaside Heights.

§ 70-37. Appointment; term of office.

The Violations Clerk shall be appointed by the Mayor, with the advice and consent of the Borough Council, and shall serve for a term of one year, commencing on January 1 of the year of appointment and ending on December 31 of that year, or until a successor or successors shall be appointed and qualified.

§ 70-38. Qualifications.

To be appointed as Violations Clerk for the Borough of Seaside Heights, an individual must meet the following requirements. The individual must:

- A. Possess a valid New Jersey driver's license only if the operation of a vehicle, rather than employee mobility, is necessary to perform essential duties of the position.
- B. Have a knowledge of office methods, practices and equipment.
- C. Have a knowledge of performing tasks involved in the keeping of records.
- D. Possess the ability to organize assigned work.
- E. Possess the ability to develop effective work methods.
- F. Possess the ability to give assignments and instructions to individuals and groups.
- G. Possess the ability to supervise the maintenance of essential records and files.
- H. Possess the ability to add, subtract, multiply and divide decimals.
- I. Possess the ability to learn to utilize various types of electronic and/or manual recording and information systems used by the agency, office or related units.
- J. Possess the ability to read, write, speak, understand and communicate in English sufficiently to perform the duties of this position. American Sign Language or Braille may also be considered as an acceptable form of communication.
- K. Possess good health and freedom from disabling physical and mental defects which would impair the proper performance of the required duties or which might endanger the health or safety of himself or others. Persons with mental or physical disabilities are eligible as long as they can perform the essential functions of the job after reasonable accommodation is made to their known limitations. If the accommodation cannot be made because it would cause the employer undue hardship, such persons may not be eligible.

§ 70-39. Duties.

A Violations Clerk shall, under direction, have charge of and perform the most difficult and responsible work involved in collecting fees for traffic violations in Municipal Court, and shall do other related duties as required.

Chapter 72. Curfew, Juvenile

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 12-20-2006 by Ord. No. 06-22. Amendments noted where applicable.]

GENERAL REFERENCES

Bicycles and skateboards — See Ch. **36**.

Drug-Free Park and Recreation Zone — See Ch. **80**.

Drug Free School Zone Map — See Ch. **82**.

Parental responsibility for juveniles — See Ch. **142**.

§ 72-1. Statement of purpose.

The Borough of Seaside Heights defines and declares that the purpose of this chapter is to protect and preserve the health, safety and welfare of the residents of the Borough, including its children and property, by setting a seasonal curfew on all children under 17 years of age during that period when the Borough's police force is reduced and many Borough businesses are not in operation.

§ 72-2. Definitions.

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

CULTURAL, EDUCATIONAL, AND SOCIAL EVENTS SPONSORED BY A RELIGIOUS OR COMMUNITY-BASED ORGANIZATION

Activities sponsored by a religious or community-based organization. In no case shall this phrase include travel on the streets which is not directly related to such activity or to the juvenile's attendance of same.

ERRANDS INVOLVING MEDICAL EMERGENCIES

An action by a juvenile requiring the juvenile to obtain medical assistance or supplies necessary to prevent or treat serious injury to the juvenile or another person.

EXTRACURRICULAR SCHOOL ACTIVITIES

Activities taking place between the hours of 10:00 p.m. and 5:00 a.m. which are either held at, or sponsored by, a school or conducted in the company of school personnel. In no case shall this phrase include travel on the streets which is not directly related to the extracurricular school activity or to the juvenile's attendance of same.

GUARDIAN

Any person, other than a parent, to whom legal custody of the juvenile has been given by court order, or who presents written proof that he or she, at the relevant moment, has been given responsibility for the care and welfare of the juvenile by the juvenile's parent.

JUVENILE

Any individual who is under the age of 17 years.

PUBLIC PLACE

Any place to which the public has access, including, but not limited to, a public street, road, thoroughfare, sidewalk, bridge, alley, plaza, park, recreation or shopping area, public transportation facility, vehicle used for public transportation, parking lot, beach, boardwalk or any other public building, structure or area.

RELIGIOUS OR COMMUNITY-BASED ORGANIZATION

An incorporated or unincorporated organization organized and operated for any of the following purposes: charitable, religious, educational, scientific, literary or the fostering of sports, music, artistic or theatrical skills.

§ 72-3. Unaccompanied juveniles in public places prohibited at certain times.

- A. No juvenile under 17 years of age shall be permitted on any public street or in any public place between the hours of 10:00 p.m. and 5:00 a.m. during the period beginning October 15 and continuing through and ending on March 15 of each year, unless accompanied by the juvenile's parent or guardian, or unless engaged in, or traveling to or from a business or occupation which the laws of this state, including, but not limited to, N.J.S.A 34:2-21.2, authorize a juvenile to perform.
- B. It shall be unlawful for any parent or guardian to allow an unaccompanied juvenile to be on any public street or in any public place between the hours prohibited by this chapter. The parent or guardian of the juvenile shall be notified by the local police of any charge made against the juvenile for a violation of the provisions of this chapter. Any parent or guardian who knowingly allows a juvenile in his or her legal custody to be in, on or about any public street or other public place between the hours of 10:00 p.m. and 5:00 a.m., except as specified in § 72-4, shall be in violation of this chapter.

§ 72-4. Exceptions.

A juvenile shall be permitted to engage in errands involving medical emergencies and, if carrying written permission from a parent or guardian, to attend extracurricular school activities, and cultural, educational, and social events sponsored by a religious or community-based organization during the hours otherwise prohibited by this chapter.

§ 72-5. Enforcement.

The provisions of this chapter shall be specifically enforced as they are set forth in this chapter by the local police department. The enforcing officer shall have no discretion as to the enforcement of this chapter.

§ 72-6. Violations and penalties.

Any juvenile or any parent or guardian of a juvenile violating or failing to comply with any of the provisions of this chapter shall be required to perform community service for not to exceed 90 days and may be subject to a fine of up to \$1,000. If both a juvenile and the juvenile's parent or guardian violate the provisions of this chapter, they shall be required to perform community service together. Such community service shall not exceed 90 days.

Chapter 73. Custom Garment Fabrication Business

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 2-19-1997 by Ord. No. 97-1. Amendments noted where applicable.]

§ 73-1. Definitions.

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

BASE RETAIL PRICE

The price for which a garment may be purchased without any addition of a customizing process.

CUSTOM FABRICATED GARMENT

Any garment that, at the request of a customer, is fabricated to meet the customer's demands.

CUSTOM GARMENT FABRICATION

A process where a plain, unadorned garment, such as a shirt, sweatshirt, sweater, jacket or other garment, is processed through a heat-transfer, screen printing or other similar process to add adornments, such as lettering, designs, artwork or similar artistic or commercial designs to add to its value to a buyer.

FULL PURCHASE PRICE

The maximum price for which a garment may be sold, which shall be inclusive of all charges, services, taxes (if any) and fees.

POINT OF SALE

The location at which a purchase for goods is consummated, being a cash register, or where orders for garments are taken.

RETAIL BUSINESS

A business that sells products to a single customer normally in what is traditionally known as a retail business outlet.

§ 73-2. Findings of fact.

The Borough of Seaside Heights has received many complaints from its residents and visitors about unethical business practices of individuals engaging in the sale of custom fabricated garments. The Mayor and Council of the Borough of Seaside Heights finds that it is in the public interest to adequately regulate such businesses to ensure the public safety and health against unethical business practices.

§ 73-3. Licensing.

- A. Any retail business that engages in the business of custom garment fabrication shall obtain a mercantile license in accordance with Chapter **122** of the Code of the Borough of Seaside Heights.
- B. No retail business in the city shall operate a custom garment fabrication business except in accordance with this chapter.
- C. The application for said license must include all pertinent information about the business required of any other business in the borough, in addition to which the following information must be provided by the applicant:
 - (1) The name of the proprietor of the business.
 - (2) The local and permanent address and telephone number of the proprietor.

- (3) The name, local address and telephone number of the manager of the business, if different from the proprietor.
 - (4) A copy of the New Jersey sales tax certificate.
 - (5) The Federal employer identification number or social security number of the proprietor if an unincorporated business.
 - (6) If the proprietor is not an American citizen, proof of citizenship and permission to work in the United States.
- D. Any person or corporation receiving a license under this section must operate the business in accordance with its provisions. Conviction of any violation of its provision may result in revocation of said license to do business.

§ 73-4. Conditions for sale of custom fabricated garments.

Any business operating under the conditions of this chapter shall operate in accordance with the following:

- A. Price marking of garments. A price must be shown for each garment posted separately in accordance with the following:
- (1) Display type:
 - (a) Individually: a tag attached to or immediately adjacent to the garment with its price (as defined below) exposed to plain view in numerals clearly marked at least two inches tall.
 - (b) Rack: If composed of identical or identically priced garments, each individual rack holding the garment must have the price marked on a sign on the rack, in exposed plain view of the buyer, on a sign at least six by six inches with numerals clearly printed at least three inches tall.
 - (c) Shelf: For each individual pile of garments on a shelf and composed of identical or identically priced garments, the price must be posted on or above the shelf in exposed plain view of the buyer and a sign or other identifying device at least six by six inches with numerals clearly printed at least three inches tall. One such sign or marking may be used to identify no more than two identical piles of such garments.
 - (d) Horizontal rod: If identical or identically priced garments, the price must be exposed in plain view of the buyer and a sign or other identifying device at least six by six inches with numerals clearly printed at least three inches tall on the rod, located at a minimum of every four feet along the rod.
 - (e) Mixed goods: In any type of shelf, rack, rod or similar display, where differently priced or different garments are displayed, each garment displayed shall be priced individually with a tag attached to the garment at the collar, sleeve, base or other commonly found area, exposed in plain view. The tag shall be at least three-fourths by one inch or 0.75 square inches in area, with the price shown in ink in clear numerals at least 1/4 inch high.
 - (2) The price to be marked shall be in accordance with the type of garment as follows:
 - (a) An unadorned garment shall be marked with its base retail price.
 - (b) Precustomized garments (customizing done prior to a customer requesting it), including samples or garments not available for resale, shall be marked with the full purchase price of the garment, complete with customization.
- [Amended 5-21-1997 by Ord. No. 97-6]

§ 73-5. Sale or offer of items related to custom fabricated garments.

Where a business offers for sale materials, such as decals, transfers, appliques and similar items, for use in the fabrication of custom garments or offers additional services where a price is charged for the service on any basis, the following shall apply:

- A. At each point of sale in a store, there shall be a clearly lettered sign, at least 8 1/2 inches by 11 inches, exposed in plain view to the public, with lettering at least two inches high, that itemizes by category or process the unit

price for each type of item or process that can be purchased, either independently or as part of the custom fabricated garment.

- B. Two prices may be shown, one the price of the item included on a garment, and the other, if purchased independently. If this practice is used, headings at the top of each price column, in letters no smaller than three inches tall, with the wording bought separately and included on garment, as appropriate.
- C. A clearly visible identifying mark, at least 1/2 inch high must be used adjacent to a price or item to refer to a legend at the bottom of the posting, that reads in one-inch-high letters the phrase taxable item for all items for which New Jersey sales tax is charged, if such New Jersey sales tax is applicable to any of the items.
- D. The following requirements shall apply to the display of prices of adhered and unadhered decals, transfers, appliques and other similar items for use in the fabrication of custom garments:
 - (1) There shall be a display in full public view of prices of decals, transfers, appliques and similar items for use in the fabrication of custom garments. The price display shall not be obstructed by any materials, shelving, racks or any other item which would prevent full public view. The prices of all such items shall be displayed on a white sign clearly lettered in two-inch black lettering, which sign shall also be exposed in plain view to the public.
 - (2) If any such decal, transfer, applique or similar item shall be available to the public in more than one size, then every available size must be displayed, indicating in two-inch black lettering, the price and corresponding size of the item.
 - (3) Where there is a processing or service charge applicable, the same must be indicated in two-inch black lettering on the same sign where prices and sizes are indicated to inform the public of the separate cost of any such service charge and what the service entails.

§ 73-6. General regulations for sale of custom fabricated garments.

- A. All buyers of any merchandise or products in a licensed establishment shall be given a receipt for any purchases, showing the price(s) and charges of materials bought and the amount of sales tax, if any. This is commonly known as a cash register receipt.
- B. All businesses must keep a copy of this chapter (as provided by the borough) at each point of sale in the store and make it available for any customer or Borough Inspector to read upon request.
- C. All stores must post at the point of sale a sign, to be provided by the Borough of Seaside Heights to license holders in quantities as needed by the license holder, that details conditions of the license as follows:
 - (1) This business has been licensed by the Borough of Seaside Heights to sell custom fabricated garments.
 - (2) The license number is _____.
 - (3) You must also receive a cash register receipt or other receipt for any purchase from this store when you pay for your goods.
 - (4) A copy of the Borough of Seaside Heights ordinance regulating the sale of custom fabricated garments is available for a customer to read at any cash register or other point of sale in this store.
 - (5) The failure of a merchant to comply with any of these provisions should be reported to the Clerk of the Borough of Seaside Heights at Sherman Avenue and Boulevard, Seaside Heights.
- D. Failure to post this sign in plain view of the customer at the point of sale is a violation of this chapter.

§ 73-7. Violations and penalties.

- A. Any person violating or failing to comply with any other provision of this article shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$1,000, by imprisonment not to exceed 90 days or by community service of not more than 90 days or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.

- B. The violation of any provision of this chapter shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

Chapter 77. Defense and Indemnification

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 2-19-1997 by Ord. No. 97-1. Amendments noted where applicable.]

§ 77-1. Civil actions.

Subject to the limitations set forth in the subsequent sections of this chapter, whenever any civil action has been or shall be brought against any person (hereinafter referred to as "employee") holding or formerly holding any office, position or employment within the Borough of Seaside Heights, including but not limited to members of the Land Use Board and/or Board of Adjustment and/or any other municipal board, body, committee, agency or commission within the Borough of Seaside Heights for any action or omission arising out of or in the course of the performance of the duties of such office, position or employment, the borough shall defray all costs of defending such action, including reasonable counsel fees and expenses, together with costs of appeal, if any, and shall save harmless and protect such persons from any financial loss resulting from the litigation. The Borough Attorney or another attorney selected by the Mayor with the advice and consent of the Borough Council shall represent the borough official or employee.

§ 77-2. Criminal actions.

The borough shall not defray the costs of defending any criminal action against any municipal employee except as may be authorized by state statute or other municipal ordinance or resolution of the Borough of Seaside Heights, and, in those circumstances, the responsibility for defraying the costs of defending such employee shall be applicable only when such criminal proceedings shall have been dismissed or result in a final disposition in favor of the employee. However, should the borough determine that there is good cause to dismiss the employee arising out of the incident or related incidents of the criminal prosecution, the borough will not reimburse the employee or official for legal defense and costs of defending the suit, even though criminal proceedings against the employee may be dismissed or the employee found not guilty.

§ 77-3. Exceptions.

- A. The obligation of the Borough of Seaside Heights to defend and indemnify its employees for acts or omissions arising out of or in the course of the performance of the duties of that person shall be limited to those circumstances under which the borough itself would be liable for the acts of its employees under the doctrine of respondeat superior, except that the borough shall defend any such officer or employee sued under the Federal Civil Rights Act, provided that the Mayor and/or Committee shall not have concluded that such act or omission was outside the scope of the responsibilities of said officer or employee.
- B. Furthermore, the borough shall not defend and save harmless any employee committing an intentional or willful act or willful omission arising out of or in the course of the performance of the duties of such office, position or employment.
- C. Also specifically excluded from the provisions of this chapter are any municipal employee or official providing any form of professional medical services, such as doctors and nurses, insofar as said civil action arises out of or concerns those professional medical services.
- D. The borough shall not be responsible for the defense or indemnification of any official or employee of the borough, when the governing body has determined that:
 - (1) The act or omission was not within the scope of employment.
 - (2) The act or failure to act was because of actual fraud, willful misconduct or actual malice.
 - (3) The defense of the action or proceeding would create a conflict of interest between the borough and the public employee.

- (4) The defense of the action or proceeding is provided for by an insurance policy or policies, whether obtained by the borough or by any other person.
- (5) The public employee failed to deliver to the Borough Administrator, within 10 calendar days after the time he is served with any summons, complaint, process, notice, demand or pleading, the original or a copy of the same.
- (6) The public employee has failed to cooperate fully with the defense.

§ 77-4. Borough control over litigation.

Whenever the borough provides any defense required of it under this chapter, the borough, through counsel, may assume exclusive control over the representation of the public employee, and such employee shall cooperate fully with the defense.

§ 77-5. Indemnification.

- A. In any case where the borough is required to provide a defense under this chapter, the borough shall pay or shall reimburse the public employee for:
 - (1) Any bona fide settlement agreements entered into by the employee.
 - (2) Any judgments entered against the employee.
 - (3) If the borough has failed to provide such required defense, all costs of defending the action, including reasonable counsel fees and expenses, together with costs of any appeal.
- B. In addition, in any case where the borough would be required to provide a defense under this chapter except for the fact that such defense is provided for by insurance, the borough shall provide indemnification as aforesaid, but only to the extent not covered by insurance.

§ 77-6. Limitation on indemnification.

Nothing in this chapter shall authorize the borough to pay for punitive or exemplary damages or damages resulting from the commission of a crime.

Chapter 80. Drug-Free Park and Recreation Zone

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 6-17-1998 by Ord. No. 98-22. Amendments noted where applicable.]

GENERAL REFERENCES

Drug-Free School Zone Map — See Ch. 82.

§ 80-1. Map established.

In accordance with and pursuant to the authority of N.J.S.A. 2C:35-7.1, as amended, the Drug-Free Park and Recreational Zone Map produced on or about June 3, 1998, by Michael O'Donnell, P.E., O'Donnell, Stanton & Associates, Ten Allen Street, Toms River, New Jersey, is hereby approved and adopted as an official finding and record of the location and area within the Borough of Seaside Heights which is used for public park and recreational purposes and which is owned and/or maintained by the Borough of Seaside Heights and of the areas on or within 500 feet of such real property.

§ 80-2. Public park and recreational zone.

All the area shown to be included within the public park and recreational zone as depicted on the map established by § 80-1 of this chapter is hereby designated as a public park constituting recreational areas and facilities, including but not limited to the beaches and boardwalk owned and/or maintained by the Borough of Seaside Heights fronting upon

the Atlantic Ocean; all beaches, docks, piers and other structures owned and/or maintained by the Borough of Seaside Heights on or adjacent to the Barnegat Bay; and all other playgrounds, athletic fields, recreational facilities and recreational areas as depicted in the map referred to above.

§ 80-3. Map to constitute official finding and record.

The Drug-Free Park and Recreational Zone Map approved and adopted pursuant to § 80-1 of this chapter shall constitute an official finding and record as to the location and boundaries of areas on or within 500 feet of property owned and/or maintained by the Borough of Seaside Heights which is used for public park and recreational purposes until such time as this chapter is amended to reflect any additions or deletions with respect to the location and boundaries of the public parks and recreational property and the drug-free park and recreational zones.

§ 80-4. Map to be kept on file; availability and distribution of copies.

The Borough Clerk is hereby directed to receive and keep on file the original of the map approved and adopted pursuant to § 80-1 of this chapter and to provide at a reasonable cost 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 chapter shall be provided without cost to the County Clerk and to the office of the Ocean County Prosecutor.

§ 80-5. Use of map in prosecutions.

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

- A. It is understood that the map approved and adopted pursuant to § 80-1 of this chapter was prepared and is intended to be used as evidence in prosecutions arising under the criminal laws of this state and that, pursuant to state law, such map shall constitute prima facie evidence of the following:
 - (1) The location of the public parks and recreational areas and facilities that are within the Borough of Seaside Heights.
 - (2) The boundaries of the real property which is owned and/or maintained by the Borough of Seaside Heights for public park and recreational use.
 - (3) That such public property is and continues to be used for park and recreational purposes.
 - (4) The location and boundaries of the areas which are on or within 500 feet of such public park and recreational areas.
- B. Pursuant to the provisions of N.J.S.A. 2C:35-7.1, as amended, a prosecutor is not precluded from introducing or relying upon any other evidence or testimony to establish a violation of the offense defined in that statute, including use of a map or diagram other than the one approved and adopted pursuant to § 80-1 of this chapter. The failure of the map approved herein to depict the location and boundaries of any property which is, in fact, used for public park and recreational purposes, 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 in a revised approved map, shall not be deemed to be an official finding and record that such property is not owned, maintained or used by the Borough of Seaside Heights or that such property is not used for public park and recreational purposes.
- C. All of the requirements set forth in N.J.S.A. 2C:35-7.1, as amended, concerning the preparation, approval and adoption of a Drug-Free Park and Recreational Zone Map have been complied with.

Chapter 82. Drug-Free School Zone Map

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 2-19-1997 by Ord. No. 97-1. Amendments noted where applicable.]

§ 82-1. Map established.

In accordance with and pursuant to the authority of N.J.S.A. 2C:35-7, as amended, the Drug-Free School Zone Map produced on or about December 1987, by the Ocean County Engineering Department, Court House Annex, Toms River, New Jersey, is hereby approved and adopted as an official finding and record of the location and area within the borough property which is used for school purposes and which is owned by the Elementary School Board, and of the areas on or within 1,000 feet of such property.

§ 82-2. Map to constitute official finding and record.

The Drug-Free School Zone Map approved and adopted pursuant to § 82-1 of this chapter shall continue to constitute an official finding and record as to the location and boundaries of areas on or within 1,000 feet of property owned by the Seaside Heights Elementary School which is used for school purposes until such time that this chapter is amended to reflect any additions or deletions with respect to the location and boundaries of the school property and Drug-Free School Zones.

§ 82-3. Authorities to be notified of map changes.

The School Board is hereby directed and shall have the continuing obligation to properly notify the Borough Engineer of any changes or contemplated changes in the location and boundaries of any property owned by or leased to the Elementary School and which is used for school purposes.

§ 82-4. Map to be kept on file; availability and distribution of copies.

The Borough Clerk is hereby directed to receive and keep on file the original of the map approved and adopted pursuant to § 82-1 of this chapter and to provide at a reasonable cost 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 chapter shall be provided without cost to the County Clerk and to the office of the Ocean County Prosecutor.

§ 82-5. Use of map in prosecutions.

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

- A. It is understood that the map approved and adopted pursuant to § 82-1 of this chapter was prepared and is intended to be used as evidence in prosecutions arising under the criminal laws of this state, and that pursuant to state law, such map shall constitute prima facie evidence of the following:
 - (1) The location of the Elementary School within the municipality;
 - (2) The boundaries of the real property which is owned by the school or School Board;
 - (3) That such school property is and continues to be used for school purposes; and
 - (4) The location and boundaries of areas which are on or within 1,000 feet of such school property.
- B. Pursuant to the provisions of N.J.S.A. 2C:35-7, as amended, a prosecutor is not precluded from introducing or relying upon any other evidence or testimony to establish a violation of the offense defined in that statute, including use of a map or diagram other than the one approved and adopted pursuant to § 82-1 of this chapter. 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 school or School Board, 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 property is not owned by or leased to a school or School Board, or that such property is not used for school purposes.
- C. All of the requirements set forth in N.J.S.A. 2C:35-7, as amended, concerning the preparation, approval and adoption of a Drug-Free School Zone Map have been complied with.

Chapter 86. Entertainment Establishments

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 2-19-1997 by Ord. No. 97-1. Amendments noted where applicable.]

GENERAL REFERENCES

Amusement games and devices — See Ch. 25.

§ 86-1. License required.

It shall be unlawful for any public dance hall, public assembly hall, nightclub, cabaret, theater, movie house, social club, restaurant and/or any person, partnership or corporation holding a plenary retail consumption license occupying any buildings or parts of buildings to furnish in or on those premises occupied by the aforesaid establishments entertainment of any kind or nature, whether or not an admission charge, cover fee or minimum is charged, without first obtaining a license therefor from the governing body.

§ 86-2. Age restriction for entertainers.

No licensee shall engage, employ, allow, permit or use entertainers under the age of 18 years.

§ 86-3. Application for license.

- A. Any person desiring a license under this chapter shall file with the Borough Clerk an original and four copies of an application, under oath, in writing, on a form furnished by the Borough Clerk.
- B. The application shall set forth the following information:
 - (1) The applicant's name, business name and business address.
 - (2) Whether the applicant is an individual, a partnership, a corporation or another entity, and, if another entity, a full explanation and description thereof.
 - (3) If the applicant is an individual, the applicant's residence address and date and place of birth.
 - (4) If the applicant is a partnership, the full names, residence addresses, dates and places of birth of each partner.
 - (5) If the applicant is a corporation or other entity, in the case of a corporation, the full names, residence addresses, dates and places of birth of each major officer and each stockholder, the name and address of the registered agent and the address of the principal office. [The term stockholder, as used herein, means and includes any person owning or having an interest, either legal or equitable in 10% or more of the stock issued and outstanding of the applicant corporation.]; in the case of another entity, the full names, residence addresses, dates and places of birth of each person owning or having any interest, either legal or equitable, aggregating in value 10% or more of the total capital of said entity, the name and address of the registered agent, if any, and the address of the principal office.
 - (6) Whether the applicant or any partners, officers or stockholders thereof have ever been arrested or convicted of a crime, and, if so, the name of the person arrested or convicted, the date of arrest, the crime or charge involved and the disposition thereof. The term officers, as used herein, means and includes the president, vice presidents, secretary and treasurer of a corporate applicant.
 - (7) The number of plenary retail consumption licenses held by the applicant.
 - (8) A specific description of the nature and type of entertainment to be provided on the licensed premises.
- C. Upon receipt of such application, the Borough Clerk shall submit the same to the Police Department, Fire Public Safety Department, Building Department and Health Department for reports with reference to the compliance or noncompliance of the licensed premises with municipal and state rules, regulations, statutes and ordinances and the truth of the matters contained in the application.
- D. Upon receipt of such application and reports, the Borough Clerk shall submit same to the Borough Council for its consent and approval.

- E. The Borough Council shall consent to and approve the issuance of such license unless it reasonably finds that the applicant's character and business responsibility are not satisfactory; that a violation of municipal or state rules, regulations, statutes and ordinances exist; that untrue matters are contained in the application for such license; that the issuance of such license will tend to create a nuisance; or that the issuance of such license will adversely affect the good government, order and protection of persons and property and the preservation of the public health, safety and welfare of the Borough of Seaside Heights and its inhabitants. The Borough Council shall determine that the applicant's character and business responsibility are satisfactory unless the application, the reports of the various departments or other evidence presented shall tangibly disclose any of the following:
- (1) Conviction for a crime involving moral turpitude.
 - (2) Prior violations of statutes, ordinances or regulations relevant to the furnishing of entertainment.
 - (3) Conviction for a crime or disorderly persons offense involving gambling.
 - (4) Concrete evidence of bad character.
 - (5) Grounds similar to those listed above which would reasonably cause the Borough Council to determine that the character and business responsibility of the applicant or any partner, officer or stockholder thereof are not satisfactory.
- F. Upon the consent and approval of the Borough Council to the issuance of such license, the Borough Clerk shall issue the same.

§ 86-4. Revocation of license.

Any license issued under this chapter may be revoked by the Borough Council. If the Borough Council shall determine that there are reasonable grounds upon which to revoke any such license, such grounds being the same grounds upon which the Council may refuse to consent to and approve the issuance of such license as set forth in § 86-3E above, it shall cause a notice to be served, in writing, upon the licensee or other person in charge of the premises for which such license has been issued, citing the licensee to appear before the Borough Council at the time and place designated in the notice to show cause why such license should not be revoked. Notice may be served upon the licensee by personal service or by registered or certified mail addressed to the licensee's last known address. The licensee shall be afforded a hearing before the Borough Council prior to the final revocation of such license.

§ 86-5. Revocation and suspension of license; notice and hearing.

- A. An entertainment license may be revoked or suspended in the event that any businesses are operated in a manner which substantially impairs public safety to their customers or to the general public. As a specific standard, the following activities shall be deemed to be injurious to the public health and therefore prohibited: loud and abusive noises coming from customers or business invitees; loud gatherings within and upon the business premises; boisterous activities within and upon the business premises; loud, unruly and profane language; public drunkenness; minors consuming alcoholic beverages; overcrowding upon the business premises or near the business premises due to activity upon the business premises; use of fireworks; public urination; excessive noise as defined in the following subsections; and any other disorderly acts which disturb the peace and good order of the neighborhood and community. As a further specific standard, any creating of loud or unnecessary noise shall be prohibited upon the business premises or near the business premises due to activity on the business premises. The making, creating or permitting of any unreasonably loud, disturbing or unnecessary noise in the borough is hereby prohibited.
- B. The making, creating or permitting of any noise of such character, intensity or duration as to be detrimental to the life, health or welfare of any individual or which either steadily or intermittently annoys, disturbs, injures or endangers the comfort, repose, peace or safety of any individual is hereby prohibited.
- C. In the event that the Borough of Seaside Heights, through its Police Department or its residents, receives three separate written complaints during one calendar year concerning the improper operation of a business establishment allegedly violating one of the standards set forth in Subsection **A** and **B** of this section, then said complaints are to be reviewed by the Mayor and Council or its duly authorized representative. By separate complaints it is meant that separate and different individuals make each complaint. When a complaint is received:

- (1) The Police Department or its duly authorized representative shall investigate the circumstances alleged in the complaints by contacting the complainants, checking other police records and taking whatever steps are necessary to determine whether or not a valid complaint exists. The Police Department shall inform the licensee by letter of the Department's determination of the validity of the complaint.
- (2) If it is determined by the Police Department that there have been three valid complaints against a licensee, the Mayor and Council or its duly authorized representative shall cause a formal legal complaint to be served upon the licensee in question, and said formal legal complaint shall clearly state the charges brought against said licensee. This formal legal complaint may be served by personal service, certified mail or regular mail in the event that service is refused. If the whereabouts of the licensee is unknown and the same cannot be ascertained by the exercise of reasonable diligence, the Mayor and Council, or its duly authorized representative shall make an affidavit to that effect and then serve such complaint or order by publishing same once each week for two consecutive weeks in a newspaper printed and published in the Borough of Seaside Heights or, in the absence of such newspaper, in one printed and published in Ocean County and circulating in the Borough of Seaside Heights. The formal legal complaint shall further state the charges and it shall contain a notice that a hearing shall be held before the Mayor and Council or its duly authorized representative at a place therein fixed not less than 10 days nor more than 30 days after the serving of said formal legal complaint; that the owners and parties in interest shall be given the right to file an answer to the formal legal complaint and to appear in person or by their attorney and give testimony at the place and time fixed in the formal legal complaint; and that the rules of evidence prevailing in the courts of law shall be controlling at the administrative hearing.
- (3) If, after said notice and hearing, the Mayor and Council, or its duly authorized representative, determines that said licensee has operated its said business in a manner injurious to the public health, safety or welfare, by violating one of the standards set forth in Subsections **A** and **B** of this section, then a written order shall issue to said licensee. The order shall state the findings of the governing body or its duly authorized representatives and shall prescribe the remedial action to be taken by the licensee. In the event that the licensee fails to cease said improper operation or in the event that the actions are considered to be of such a serious nature and/or a continuing threat to the health, safety and welfare of the residents of the Borough of Seaside Heights by being in violation of one of the standards set forth in Subsections **A** and **B** of this section, then the licensee's entertainment license may be suspended or revoked.

§ 86-6. License fee.

- A. The entertainment license fee per year or any part thereof shall be as follows:

Form of Entertainment	Fee
1. Juke Box (patron-operated device on premises where dancing is not permitted or invited).	\$1,000.00
2. Karaoke or nonamplified acoustical entertainment (where dancing is not permitted or invited).	\$1,500.00
3. Live, amplified entertainment (where dancing is not permitted or invited).	\$2,000.00
4. All other live or recorded music or other entertainment when dancing is either invited or permitted.	\$3,000.00
5. All uses not described in this section, provided that dancing is not invited or permitted.	\$1,500.00

- B. The fee shall accompany the application for the license and shall also include a license fee of \$50 for the premises of any licensed club establishment per year or for any part thereof. All licenses shall run from July 1 and expire on June 30 of the next succeeding year of its issuance. Payment of one license fee shall entitle licensee to engage in other forms of entertainment which require a license fee of lower cost as set forth above.

§ 86-7. Seating requirement.

No entertainment permit shall be granted unless the licensed premises shall have provisions for seating 25 or more persons.

§ 86-8. Violations and penalties.

- A. Any person violating or failing to comply with any other provision of this article shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$1,000, by imprisonment not to exceed 90 days or by community service of not more than 90 days or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.
- B. The violation of any provision of this chapter shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

Chapter 92. Fees

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 2-19-1997 by Ord. No. 97-1. Amendments noted where applicable.]

§ 92-1. Marriage licenses.

There is hereby established a fee of \$28 for marriage licenses issued within the Borough of Seaside Heights, County of Ocean, State of New Jersey. Said license fee shall cover a fee of \$3 to the borough and a fee of \$25 to the State of New Jersey.

§ 92-2. Copies of licenses and certificates.

[Amended 12-20-2006 by Ord. No. 06-18]

There is hereby established a fee of \$100 for a duplicate tax title certificate and a fee of \$10 for certified copies of marriage licenses, birth certificates and death certificates.

§ 92-3. (Reserved)

[1] *Editor's Note: Former § 92-3, Fee for employment application for Police Department, was repealed 11-7-2018 by Ord. No. 2018-21.*

§ 92-4. Fee for driveway modification.

Any individual requesting a driveway modification permit shall pay a fee of \$25 for said permit.

§ 92-5. Fee for application for firearms permit and firearms purchaser identification card.

[Added 6-17-1998 by Ord. No. 98-20]

Any individual applying for a permit to purchase a handgun shall pay a fee of \$2 for said permit application. Any individual applying for a firearms purchaser identification card shall pay a fee of \$5 for said firearms purchaser identification card application.

§ 92-6. Fees for rental of community center.

[Added 12-20-2000 by Ord. No. 2000-28]

- A. Any individual applying to rent the community center shall pay the following fees:
 - (1) Nonresident: rental fee of \$300. For holidays, an additional rental fee of \$150 will be charged.
 - (2) Resident: rental fee of \$150. For holidays, an additional rental fee of \$150 will be charged.
- B. Said fees must be paid in full upon submission of the application.

§ 92-7. Fees for use of Borough bath house; fee for use of bath house lockers, fee for various toiletries.

[Added 6-18-2003 by Ord. No. 03-18; 8-20-2003 by Ord. No. 03-23]

- A. Fees for use of Borough of Seaside Heights bath house. Any individual wishing to use the Borough of Seaside Heights facility for showering and/or changing shall pay a fee of \$2 on weekdays and \$3 on weekends and holidays. No fee shall be charged for children under the age of five.
- B. Fee for use of bath house lockers. Any individual wishing to use the Borough of Seaside Heights lockers shall pay a fee of \$2 daily.
- C. Fees for various toiletries. Any individual wishing to purchase any of the below-listed items shall pay the corresponding fee for said item:
 - (1) Shampoo: \$0.25 each.
 - (2) Soap: \$0.25 each.
 - (3) Tampons: \$0.25 each.

§ 92-8. Filming permit, special event and street performer fees.

[Added 3-21-2012 by Ord. No. 12-02]

The following fees shall be paid to the Borough Clerk's office at the time of filing the applications specified below:

- A. The fee for submission of a filming permit application or a special event application in accordance with Chapter **193** of the Borough Code, entitled Special Events, shall be \$25.
- B. The fee for submission of a street performer permit application in accordance with Chapter **200** of the Borough Code, entitled Street Performers, shall be \$25.

Chapter 97. Fire Insurance Procedure

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 2-19-1997 by Ord. No. 97-1. Amendments noted where applicable.]

§ 97-1. Taxes and assessments to be paid prior to payment of claims.

- A. No insurance company authorized to issue fire insurance policies in the State of New Jersey which issue or renew any fire insurance policy after the adoption of this chapter and the filing of same with the State Commissioner of Insurance, shall pay to any claimant a sum in excess of \$2,500 for fire damage on any real property located within the Borough of Seaside Heights, New Jersey until such time as:
 - (1) All taxes and assessments and all other municipal liens and charges due and payable to the Borough of Seaside Heights as indicated on an official certificate of search for municipal liens, shall have been paid in full; or
 - (2) A municipality submits to the insurance company a certified copy of a resolution adopted pursuant to N.J.S.A. 17:36-11.
- B. If an appeal is taken on the amount of any lien or charge other than an appeal on an assessed valuation of real property, the insurance company shall issue a draft payable to the court of record pursuant to N.J.S.A. 17:36-10, in an amount totaling 75% of the full amount of the lien or charge being contested and the insurance company shall issue a draft payable to the municipality for the remaining 25% of the lien or charge being contested; provided, however, that the amount paid by the insurance company to the court and the municipality shall not exceed the proceeds payable under its insurance policy. Pending termination of all proceedings, at which time all moneys and interest accrued shall be disbursed in accordance with the final order or judgment of the court, the 75% of the full amount of lien or charge shall be placed in an interest bearing escrow account as provided in N.J.S.A. 17:36-10.

§ 97-2. Interpretation of provisions.

The provisions of this chapter are intended to be interpreted in conjunction with N.J.S.A. 17:36-8 through N.J.S.A. 17:36-13, and the provisions of said statutes and any amendments thereto are herein incorporated by reference.

Chapter 98. Five-Year Tax Exemption and Abatement

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 12-20-2000 by Ord. No. 2000-22. Amendments noted where applicable.]

§ 98-1. Purpose.

The purpose of this chapter is to establish procedures whereby qualified individuals and corporations may avail themselves of the property tax exemptions and abatements which the Borough of Seaside Heights is permitted by law to grant pursuant to N.J.S.A. 40A:21-1 et seq.

§ 98-2. Area covered.

[Amended 9-15-2010 by Ord. No. 10-16]

The areas covered by this chapter shall include all areas designated as an area in need of rehabilitation. It is the desire and intent of the chapter to promote the construction and rehabilitation of structures in these areas and to combat economic decline.

§ 98-3. Definitions.

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

ABATEMENT

That portion of the assessed value of a property as it existed prior to construction, improvement or conversion of a building or structure thereon which is exempted from taxation pursuant to this chapter.

AREA IN NEED OF REHABILITATION

A portion or all of the Borough which has been determined to be an area in need of rehabilitation or redevelopment pursuant to the "Local Redevelopment and Housing Law," P.L. 1992, c. 79 (N.J.S.A. 40A:12A-1 et al.), a "blighted area" as determined pursuant to the "Blighted Areas Act," P.L. 1949, c. 187 (N.J.S.A. 40:55-21.1 et seq.), or which has been determined to be in need of rehabilitation pursuant to P.L. 1975, c. 104 (N.J.S.A. 54:4-3.72 et seq.), P.L. 1977, c. 12 (N.J.S.A. 54:4-3.95 et seq.), or P.L. 1979, c. 233 (N.J.S.A. 54:4-3.121 et seq.).

[Amended 9-15-2010 by Ord. No. 10-16]

ASSESSOR

The officer of the Borough of Seaside Heights charged with the duty of assessing real property for the purpose of general taxation.

COMMERCIAL or INDUSTRIAL STRUCTURE

A structure or part thereof used for the manufacturing, processing or assembling of material or manufactured products or used for research, office, industrial, commercial, retail, recreational, hotel or motel facilities or warehousing purposes, or for any combination thereof, which the governing body determines will tend to maintain or provide gainful employment within the borough, assist in the economic development of the borough, maintain or increase the tax base of the borough and maintain or diversify and expand commerce within the borough. It shall not include any structure or part thereof used or to be used by a business relocated from another qualifying municipality.

COMPLETION

Substantially ready for the intended use for which a building or structure is constructed, improved or converted.

CONSTRUCTION

The provision of a new commercial or industrial structure or the enlargement of the volume of an existing commercial or industrial structure by more than 30%, but shall not mean the conversion of an existing building or structure to another property class use.

CONVERSION or CONVERSION ALTERATION

The alteration or renovation of a building or structure in such manner as to convert the building or structure from its previous use to use as a commercial or industrial structure.

COST

Only the cost or fair market value of direct labor and materials used in improving, converting or constructing a building or structure, including any architectural, engineering and contractor's fees associated therewith, as the owner of the property shall cause to be certified to the governing body by an independent and qualified architect following the completion of the project.

DWELLING

A building or part of a building used, to be used or held for use as a home or residence, including accessory buildings located on the same premises, together with the land upon which such building or buildings are erected and which may be necessary for the fair enjoyment thereof, but shall not mean any building or part of a building, defined as a "multiple dwelling" pursuant to the Hotel and Multiple Dwelling Law, P.L. 1967, c. 76 (N.J.S.A. 55:13A-1 et seq.). A dwelling shall include, as they are separately conveyed to individual owners, individual residences within a cooperative, if purchased separately by the occupants thereof, and individual residences within a horizontal property regime or a condominium, but shall not include "general common elements" or "common elements" of such horizontal property regime or condominium as defined pursuant to the Horizontal Property Act,^[1] or the Condominium Act^[2] or of a cooperative if the residential units are owned separately.

EXEMPTION

That portion of the Assessor's full and true value of any improvement, conversion, alteration or construction not regarded as increasing the taxable value of a property pursuant to this chapter.

IMPROVEMENT

A modernization, rehabilitation, renovation, alteration or repair which produces a physical change in an existing building or structure that improves the safety, sanitation, decency or attractiveness of the building or structure. It shall not include ordinary painting, repairs and replacement of maintenance items or an enlargement of the volume of an existing structure by more than 30%. In no case shall it include the repair of fire or other damage to a property for which payment of a claim was received by any person from an insurance company at any time during the three-year period immediately preceding the filing of an application pursuant to this chapter unless the improvement resulted in compliance with the base flood elevation standard in place at the time of the improvement and the demonstrated cost of the improvement is no less than \$100,000.

[Amended 12-30-2014 by Ord. No. 14-23]

MULTIPLE DWELLING

A building or structure meeting the definition of "multiple dwelling" as set forth in the Hotel and Multiple Dwelling Law, and means for the purpose of improvement or construction the "general common elements" and "common elements" of a condominium, a cooperative or a horizontal property regime.

[1] *Editor's Note: See N.J.S.A. 46:8A-1 et seq.*

[2] *Editor's Note: See N.J.S.A. 46:8B-1 et seq.*

§ 98-4. Exemption for improvements.

- A. This chapter authorizes an exemption from taxation of improvements to commercial or industrial structures as defined herein. This exemption shall be granted only by the governing body on an individual basis after review, evaluation and approval of each application.

[Amended 12-6-2017 by Ord. No. 2017-19]

- B. With regard to exemption from taxation of improvements to commercial or industrial structures, the municipality shall regard, in determining the value of real property, the Assessor's full and true value of the improvements as not increasing the value of the property for a period of five years, notwithstanding that the value of the property to which the improvements are made is increased thereby. During the exemption period, the assessment on the property shall not be less than the assessment thereon existing immediately prior to the improvements unless there is damage to the structure through action of the elements sufficient to warrant a reduction.

[Amended 12-6-2017 by Ord. No. 2017-19]

- C. Upon the timely receipt of a completed application, the governing body may approve a tax agreement providing for the tax phase-in for the value of the improvements as cited by the Assessor or an alternate taxing method if it is in the public interest.

§ 98-5. Exemption and abatement for new construction.

[Amended 12-30-2014 by Ord. No. 14-23]

- A. This chapter authorizes the granting of tax abatement and exemption for new construction or certain improvements to commercial or industrial structures as defined herein.

[Amended 12-6-2017 by Ord. No. 2017-19]

- B. Upon the timely receipt of a completed application, the governing body may approve a tax agreement as provided for in § 98-7 of this chapter.

§ 98-6. Application.

[Amended 12-6-2017 by Ord. No. 2017-19]

With regard to tax exemption and abatement for improvements to or for new construction of commercial or industrial structures, all applicants shall provide the governing body with an application setting forth:

- A. A general description of a project for which exemption and abatement is sought.
- B. A legal description of all real estate necessary for the project.
- C. Plans, drawings and other documents as may be required by the governing body to demonstrate the structure and design of the project.
- D. A description of the number, classes and type of employees to be employed at the project site within two years of completion of the project.
- E. A statement of the reasons for seeking tax exemption and abatement on the project and a description of the benefits to be realized by the applicant if a tax agreement is granted.
- F. Estimates of the cost of completing such project.
- G. A statement showing the real property taxes currently being assessed at the project site; estimated tax payments that would be made annually by the applicant on the project during the period of the agreement; and estimated tax payments that would be made by the applicant on the project during the first full year following the termination of the tax agreement.
- H. A description of any lease agreements between the applicant and proposed users of the commercial or industrial project and a history and description of the users' businesses.
- I. Such other pertinent information as the governing body may require.

§ 98-7. Tax agreement.

On approval by the governing body of a tax agreement for a particular project, the governing body may enter into a written agreement with the applicant for the exemption and abatement of local real property taxes. The agreement shall provide for the applicant to pay to the municipality in lieu of full property tax payments an amount annually to be computed by one, but in no case a combination, of the following formulas:

- A. Tax phase-in basis. The agreement may provide for the applicant to pay to the municipality in lieu of full property tax payments an amount equal to a percentage of taxes otherwise due according to the following schedule:
 - (1) In the first full tax year after completion, no payment of the increased taxes otherwise due as a result of the improvement or construction.
 - (2) In the second tax year, an amount not less than 20% of the tax increase otherwise due as a result of the improvement or construction.

- (3) In the third tax year, an amount not less than 40% of the tax increase otherwise due as a result of the improvement or construction.
 - (4) In the fourth tax year, an amount not less than 60% of the tax increase otherwise due as a result of the improvement or construction.
 - (5) In the fifth tax year, an amount not less than 80% of the tax increase otherwise due as a result of the improvement or construction.
- B. Cost basis. The agreement may provide for the applicant to pay to the municipality in lieu of full property tax payments an amount equal to 2% of the cost of the project. For the purposes of the agreement, the "cost of the project" means only the fair market value of the direct labor and the cost of all materials used in the construction, expansion or rehabilitation of all buildings, structure and facilities at the project site, including the cost, if any, of land acquisition and land preparation, provision of access roads, utilities, drainage facilities and parking facilities, together with architectural, engineering, legal, surveying, testing and contractors' fees associated with the project, which the applicant shall cause to be certified and verified to the governing body by an independent and qualified architect following the completion of the project.
- C. Gross revenue basis. The agreement may provide for the applicant to make an annual payment to the municipality in lieu of full property tax payments in an amount equal to 15% of the annual gross revenues from the project. For the purposes of the agreement, "annual gross revenues" means the total annual gross rental and other income payable to the owner of the project from the project. If in any leasing, any real estate taxes or assessments on property included in the project, any premiums for fire or other insurance on or concerning property included in the project or any operating or maintenance expenses ordinarily paid by the landlord are to be paid by the tenant, then those payments shall be computed and deemed to be part of the rent and shall be included in the annual gross revenue. The tax agreement shall establish the method of computing the revenues and may establish a method of arbitration by which either the landlord or tenant may dispute the amount of payments so included in the annual gross revenue.

§ 98-8. Term of agreement; filing of same.

- A. All tax agreements entered into under this chapter shall be in effect for no more than five full tax years following the date of completion of the project.
- B. All projects subject to tax agreement as provided herein shall be subject to all applicable federal, state and local laws and regulations on pollution control, worker safety, discrimination in employment, housing provision, zoning, planning and building code requirements.
- C. That percentage which the payment in lieu of taxes for a property bears to the property tax which would have been paid had an exemption and abatement not been granted for the property shall be applied to the valuation of the property for determining equalization for county tax apportionment and school aid during the term of the tax agreement.
- D. Within 30 days after the execution of a tax agreement, the Borough Clerk shall forward a copy of the agreement to the Director of the Division of Local Government Services and the Department of Community Affairs and to such other officials or agencies that the governing body may direct.

§ 98-9. Termination of tax agreement.

- A. If during any tax year prior to the termination of the tax agreement the property owner ceases to operate or disposes of the property or fails to meet the conditions for qualifying, then the tax which would have otherwise been payable for each tax year shall become due and payable from the property owner as if no exemption and abatement had been granted. The governing body shall notify the property owner and Tax Collector forthwith and the Tax Collector shall, within 15 days thereof, notify the owner of the property of the amount of taxes due. However, with respect to the disposal of the property where it is determined that the new owner of the property will continue to use the property pursuant to the conditions which qualified the property, no tax shall be due, the exemption and the abatement shall continue and the agreement shall remain in effect.
- B. At the termination of a tax agreement, a project shall be subject to all applicable real property taxes as provided by state law and regulation and local ordinance; but nothing herein shall prohibit a project, at the termination of an agreement, from qualifying for and receiving the full benefits of any other tax preferences provided by law.

§ 98-10. Assessor determination.

The Borough Assessor shall determine, on October 1 of the year following the date of the completion of an improvement, conversion or construction, the true taxable value thereof. Except for projects subject to tax agreement pursuant to this chapter, the amount of tax to be paid for the first full tax year following completion shall be based on the assessed valuation of the property for the previous year, minus the amount of the abatement, if any, allowed pursuant to this chapter, plus any portion of the assessed valuation of the improvement, conversion or construction not allowed an exemption pursuant to this chapter. The property owner shall continue to be treated in the appropriate manner under the terms of this chapter and the tax agreement, if any, for each of the five full tax years subsequent to the original determination by the Borough Assessor.

§ 98-11. Subsequent improvements and exemptions.

Any additional improvement, conversion or construction completed on a property granted a previous exemption or abatement pursuant to this chapter during the period in which such previous exemption or abatement is in effect shall be qualified for an exemption, or exemption and abatement, just as if such property had not received a previous exemption or abatement. In such case, the additional improvement, conversion or construction shall be considered as separate for the purposes of calculating exemptions and abatements pursuant to this chapter, except that the assessed value of any previous improvement, conversion alteration or construction for the purpose of determining the assessed valuation of the property from which any additional abatement is to be subtracted.

§ 98-12. Tax delinquency.

No exemption or abatement shall be granted or tax agreement entered into pursuant to this chapter with respect to any property for which property taxes are delinquent or remain unpaid or for which penalties for nonpayment of taxes are due.

§ 98-13. Application for exemption.

No exemption or abatement shall be granted pursuant to this chapter except upon written application filed with and approved by the Borough Tax Assessor. Every application shall be on a form prescribed by the Director of the Division of Taxation in the Department of the Treasury and provided for the use of claimants by the Borough of Seaside Heights and shall be filed with the Borough Assessor within 30 days, including Saturdays and Sundays, following the completion of the improvement, conversion alteration or construction and/or issuance of a certification of occupancy, whichever occurs first. Every application for exemption or exemption and abatement which is filed within the time specified shall be approved and allowed by the Assessor and governing body to the degree that the application is consistent with the provisions of the adopting ordinance or the tax agreement, provided that the improvement, conversion alteration or construction for which the application is made qualified as an improvement, a conversion alteration or construction pursuant to the provision of this chapter and the tax agreement, if any. The granting of an exemption or exemption and abatement or tax agreement shall be recorded and made a permanent part of the official tax records of the borough, which record shall contain a notice of the termination date thereof.

§ 98-14. Exemption applicable to all levys.

The exemption and abatement of real property taxes pursuant to this chapter shall apply to property taxes levied for municipal purposes, school purposes, county government purposes and for the purposes of funding any other property tax exemptions or abatements.

§ 98-15. Notice of exemption program.

The Borough Tax Collector shall include a notice describing the exemption program or exemption and abatement program provided for by this chapter and the application procedure therefore in the mailing of annual property tax bills to each owner of property located in an area in which exemptions or exemptions and abatements may be allowed pursuant to this chapter during the first year following adoption of the chapter.

§ 98-16. Report of Tax Assessor.

- A. The Tax Assessor shall report, on or before September 1 of each year, to the Mayor and Council as to the total amount of real property taxes exempted and the total amount abated within the borough in the current tax year under this chapter.
- B. The report shall state, for the current tax year, the total amount of payments made in lieu of taxes according to the formula utilized by the borough and the difference between that total amount and the total amount of real property taxes which would have been paid on the project had the tax agreement not been in effect.

§ 98-17. Prior exemption.

No exemption or abatement granted by any prior ordinance or law shall be affected or terminated by this chapter but shall remain in effect for the time and under the terms granted as if the ordinance had not been superseded or repealed.

§ 98-18. Severability.

If any provision of this chapter or the application of such provision to any person or circumstance is declared invalid, such invalidity shall not affect the other provisions or applications of this chapter which can be given effect, and to this end, the provisions of this chapter are declared to be severable.

§ 98-19. When effective.

[Amended 9-15-2010 by Ord. No. 10-16]

This chapter shall take effect immediately and shall, pursuant to N.J.S.A. 40A:21-4, remain effective until December 31, 2020, unless either readopted or repealed before that date.

Chapter 99. Flood Damage Prevention

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 11-4-1998 by Ord. No. 98-34; amended in its entirety 9-20-2006 by Ord. No. 06-13. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Stormwater management — See Ch. **199**.

Zoning and land use — See Ch. **246**.

Article I. Statutory Authority; Findings of Fact; Purpose; Objectives

§ 99-1. Statutory authority.

The Legislature of the State of New Jersey has in N.J.S.A. 40:48-1 et seq., delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the governing body of the Borough of Seaside Heights, County of Ocean, State of New Jersey does ordain as follows.

§ 99-2. Findings of fact.

- A. The flood hazard areas of Seaside Heights are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- B. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

§ 99-3. Statement of purpose.

It is the purpose of this chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Protect human life and health;
- B. Minimize expenditure of public money for costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. Minimize prolonged business interruptions;
- E. Minimize damage to public facilities and utilities, such as water and gas mains, electric, telephone and sewer lines, streets, bridges located in areas of special flood hazard;
- F. Help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;
- G. Ensure that potential buyers are notified that property is in an area of special flood hazard; and
- H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

§ 99-4. Methods of reducing flood losses.

In order to accomplish its purposes, this ordinance includes methods and provisions for:

- A. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- B. Requiring that uses vulnerable to floods including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;
- D. Controlling filling, grading, dredging, and other development which may increase flood damage; and
- E. Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas.

Article II. Definitions

§ 99-5. Word usage.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meanings they have in common usage and to give this chapter its most reasonable application.

§ 99-6. Terms defined.

APPEAL

A request for a review of the Floodplain Manager's interpretation of any provision of this chapter or a request for a variance.

AREA OF SHALLOW FLOODING

A designated AO, AH, or VO Zone on a community's Flood Insurance Rate Map with a one-percent or greater chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist,

where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD

The land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year.

AREAS OF SPECIAL FLOOD-RELATED EROSION HAZARD

The land within a community which is most likely to be subject to severe flood-related erosion losses. After a detailed evaluation, the special flood-related erosion hazard area will be designated a Zone E on the Flood Insurance Rate Map.

BASE FLOOD

The flood having a one-percent chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION (BFE)

The elevation shown on a community's Flood Hazard Map that indicates the advisory still-water elevation plus wave effect (BFE = SWEL + wave effect) resulting from a flood that has a one-percent or greater chance of being equaled or exceeded in any given year.

[Added 1-16-2013 by Ord. No. 13-04]

BASEMENT

Any area of the building having its floor subgrade (below ground level) on all sides.

BEST AVAILABLE FLOOD HAZARD DATA

The most recent available flood risk guidance FEMA has provided. The best available flood hazard data may be depicted on but not limited to Advisory Flood Hazard Area Maps, Preliminary Work Maps or Preliminary FIS and FIRM.

[Added 7-17-2013 by Ord. No. 13-16]

BREAKAWAY WALL

A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation system.

COASTAL HIGH-HAZARD AREA

An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

DEVELOPMENT

Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials located within the area of special flood hazard.

ELEVATED BUILDING

A nonbasement building built, in the case of a building in a area of special flood hazard, to have the top of the elevated floor or, in the case of a building in a coastal high-hazard area, to have the bottom of the lowest horizontal structural member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water, and adequately anchored so as not to impair the structural integrity of the building during a flood up to the magnitude of the base flood. In an area of special flood hazard "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters. In areas of coastal high-hazard "elevated building" also includes a building otherwise meeting the definition of "elevated building" even though the lower area is enclosed by means of breakaway walls.

EROSION

The process of the gradual wearing away of land masses.

FLOOD HAZARD AREA (FHA)

The land in the floodplain within a community subject to flooding from the one-percent annual chance event depicted on the best available Flood Hazard Map.

[Added 7-17-2013 by Ord. No. 13-16]

FLOOD HAZARD MAP

The best available map on which the Federal Emergency Management Administration has delineated the areas of flood hazards applicable to the community based upon the best available data.

[Added 7-17-2013 by Ord. No. 13-16]

FLOOD INSURANCE RATE MAP (FIRM)

The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY (FIS)

The official report provided in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Insurance Rate Map(s) and the water surface elevation of the base flood.

FLOOD or FLOODING

A general and temporary condition of partial or complete inundation of normally dry land areas from:

- A. The overflow of inland or tidal waters; and/or
- B. The unusual and rapid accumulation or runoff of surface waters from any source.

FLOODPLAIN MANAGEMENT REGULATIONS

Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

FLOOD-RELATED EROSION

The collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by unusually high water level in a natural body of water, accompanied by a severe storm, or by unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

FLOOD-RELATED EROSION AREA or FLOOD-RELATED EROSION PRONE AREA

A land area adjoining the shore of a lake or other body of water which, due to the composition of the shore line or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion.

FLOOD-RELATED EROSION AREA MANAGEMENT

The operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works, and floodplain management regulations.

FREEBOARD

A factor of safety, which is at least one foot above the base flood elevation. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood elevation.

[Added 1-16-2013 by Ord. No. 13-04]

HIGHEST ADJACENT GRADE

The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE

Any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district preliminarily determined by the Secretary to qualify as a registered historic district;
- C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

- (1) By an approved state program as determined by the Secretary of the Interior; or
- (2) Directly by the Secretary of the Interior in States without approved programs.

LOWEST FLOOR

The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, useable solely for the parking of vehicles, building access or storage in an area other than a basement is not considered a building's lowest floor, provided that such enclosure is not built so to render the structure in violation of other applicable nonelevation design requirements.

MANUFACTURED HOME

A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a recreation vehicle.

MANUFACTURED HOME PARK or MANUFACTURED HOME SUBDIVISION

A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

NEW CONSTRUCTION

Structures for which the start of construction commenced on or after the effective date of a floodplain regulation adopted by a community and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION

A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by the municipality.

PRIMARY FRONTAL DUNE

A continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves from coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from the relatively steep slope to a relatively mild slope.

RECREATIONAL VEHICLE

A vehicle which is:

- A. Built on a single chassis;
- B. Four hundred square feet or less when measured at the longest horizontal projections;
- C. Designed to be self-propelled or permanently towable by a light-duty truck; and
- D. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REFERENCE FEATURE

The receding edge or bluff or eroding frontal dune, or if such a feature is not present, the normal high-water line or the seaward line of permanent vegetation if a high-water line cannot be identified.

SAND DUNES

Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

SIXTY-YEAR SETBACK

A distance equal to 60 times the average annual long-term recession rate at a site, measured from the reference feature.

START OF CONSTRUCTION

For other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. No. 97-348), includes substantial improvements and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site such as the pouring of a slab or footings, the installation of piles, the construction of

columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings or piers, or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE

A walled and roofed building, a manufactured home, or a gas or liquid storage tank, that is principally above ground.

SUBSTANTIAL DAMAGE

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT

Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage regardless of the actual repair work performed. The term does not, however, include either:

- A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement officer and which are the minimum necessary to assure safe living conditions; or
- B. Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

THIRTY-YEAR SETBACK

A distance equal to 30 times the average annual long-term recession rate a site, measured from the reference feature.

VARIANCE

A grant of relief from the requirements of this chapter that permits construction in a manner that would otherwise be prohibited by this chapter.

- [1] *Editor's Note: The former definition of "advisory base flood elevation (ABFE)," which immediately followed, was repealed 7-17-2013 by Ord. No. 13-16.*

Article III. General Provisions

§ 99-7. Applicability.

This chapter shall apply to all areas of special flood hazards within the jurisdiction of the Borough of Seaside Heights, Ocean County, New Jersey.

§ 99-8. Basis for establishing areas of special flood hazard.

[Amended 1-16-2013 by Ord. No. 13-04; 7-17-2013 by Ord. No. 13-16]

- A. The areas of special flood hazard for the Borough of Seaside Heights, Community No. 340389, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:
 - (1) A scientific and engineering report, "Flood Insurance Study, Ocean County, New Jersey (All Jurisdictions)," dated September 29, 2006.
 - (2) Flood Insurance Rate Map for Ocean County, New Jersey (All Jurisdictions) as shown on Index and Panel Numbers 0329, 0337, whose effective date is September 29, 2006.
 - (3) Best available flood hazard data. These documents shall take precedence over effective panels and FIS in construction and development regulations only. Where the effective mapping or base flood elevation conflict

with or overlap the best available flood hazard data, whichever imposes the more stringent requirement shall prevail.

- B. The above documents are hereby adopted and declared to be a part of this chapter. The Flood Insurance Study, maps and documents are on file at the Borough Hall Complex located on Sherman Avenue and the Boulevard in Seaside Heights, New Jersey.

§ 99-9. Violations and penalties.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$1,200 or be imprisoned for not more than 90 days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Borough of Seaside Heights from taking such other lawful action as is necessary to prevent or remedy any violation.

§ 99-10. Abrogation and greater restrictions.

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and other ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

§ 99-11. Interpretation of provisions.

In the interpretation and application of this chapter, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and
- C. Deemed neither to limit nor repeal any other powers granted under state statutes.

§ 99-12. Warning; disclaimer of liability.

- A. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages.
- B. This chapter shall not create liability on the part of the Borough of Seaside Heights, any officer or employee thereof or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

Article IV. Development Permits

§ 99-13. Permit required; application.

- A. A development permit shall be obtained before construction or development begins within any area of special flood hazard established in § 99-8.
- B. Application.
 - (1) Application for a development permit shall be made on forms furnished by the Floodplain manager and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing.

- (2) Specifically, the following information is required:
- (a) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
 - (b) Elevation in relation to mean sea level to which any structure has been floodproofed;
 - (c) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in § 99-18B; and
 - (d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

§ 99-14. Designation of local administrator.

The Construction Official or other official designated by resolution of the governing body of the Borough of Seaside Heights is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

§ 99-15. Duties and responsibilities of Floodplain Manager.

Duties of the Floodplain Manager shall include, but not be limited to:

A. Permit review.

- (1) Review all development permits to determine that the permit requirements of this chapter have been satisfied.
- (2) Review all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
- (3) Review all development permits to determine if the proposed development is located in the floodway, assure that the encroachment provisions of § 99-19A are met.
- (4) Review all development permits in the coastal high-hazard area of the area of special flood hazard to determine if the proposed development alters sand dunes so as to increase potential flood damage.
- (5) Review plans for walls to be used to enclose space below the base flood level in accordance with § 99-19B(4).

B. Use of other base flood and floodway data. When base flood elevation and floodway data has not been provided in accordance with § 99-8, Basis for establishing areas of special flood hazard, the Land Use Board shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer § 99-18, Specific standards, Subsection A, Residential construction, and § 99-18, Specific standards, Subsection B, Nonresidential construction.

C. Information to be obtained and maintained.

- (1) Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
- (2) For all new or substantially improved floodproofed structures:
 - (a) Verify and record the actual elevation (in relation to mean sea level); and
 - (b) Maintain the floodproofing certifications required in § 99-13B(2)(c).
- (3) In coastal high-hazard areas, certification shall be obtained from a registered professional engineer or architect that the provisions of § 99-19A and B(2)(a) and (b) are met.
- (4) Maintain for public inspection all records pertaining to the provisions of this chapter.

D. Alteration of watercourses.

- (1) Notify adjacent communities and the New Jersey Department of Environmental Protection; Flood Plain Management Section and the Land Use Regulation Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
 - (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so the flood-carrying capacity is not diminished.
- E. Interpretation of FIRM boundaries. Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual filed conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in § 99-16.

§ 99-16. Variance procedure.

A. Appeal Board.

- (1) The Land Use Board as established by the governing body shall hear and decide appeals and requests for variances from the requirements of this chapter.
- (2) The Land Use Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Manager in the enforcement or administration of this chapter.
- (3) Those aggrieved by the decision of the Land Use Board, or any taxpayer, may appeal such decision to the appropriate court of competent jurisdiction, according to law.
- (4) In passing upon such applications, the Land Use Board shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:
 - (a) The danger that materials may be swept onto other lands to the injury of others;
 - (b) The danger to life and property due to flooding or erosion damage;
 - (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (d) The importance of the services provided by the proposed facility to the community;
 - (e) The necessity to the facility of a waterfront location, where applicable;
 - (f) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (g) The compatibility of the proposed use with existing and anticipated development;
 - (h) The relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
 - (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (j) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - (k) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- (5) Upon consideration of the factors of Subsection **A(4)** and the purposes of this chapter, the Land Use Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
- (6) The Floodplain Manager shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Insurance Administration upon request.

B. Conditions for variances.

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that the items in Subsection **A(4)(a)** through **(k)** have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (3) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (5) Variances shall only be issued upon:
 - (a) A showing of good and sufficient cause;
 - (b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in Subsection **A(4)**, or conflict with existing local laws or ordinances.
- (6) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

Article V. Provisions for Flood Hazard Reduction

§ 99-17. General standards.

[Amended 7-17-2013 by Ord. No. 13-16]

In all areas of special flood hazard, compliance with the applicable requirements of the Uniform Construction Code (N.J.A.C. 5:23) and the following standards, whichever is more restrictive, is required:

A. Anchoring.

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- (2) All manufactured homes to be placed or substantially improved shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

B. Construction materials and methods.

- (1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- (2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters;
- (3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding; and

- (4) For all new construction and substantial improvements, the electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

C. Utilities.

- (1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- (2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters;
- (3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding; and
- (4) For all new construction and substantial improvements, the electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

D. Subdivision proposals.

- (1) All subdivision proposals and other proposed new development shall be consistent with the need to minimize flood damage;
- (2) All subdivision proposals and other proposed new development shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- (3) All subdivision proposals and other proposed new development shall have adequate drainage provided to reduce exposure to flood damage; and
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed new development which contain at least 50 lots or five acres (whichever is less).

E. Enclosure openings. All new construction and substantial improvements having fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

- (1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- (2) The bottom of all openings shall be no higher than one foot above grade.
- (3) Openings may be equipped with screens, louvers, or other covering or devices, provided that they permit the automatic entry and exit of floodwaters.

§ 99-18. Specific standards.

[Amended 1-16-2013 by Ord. No. 13-04; 7-17-2013 by Ord. No. 13-16]

In all areas of special flood hazard where base flood elevation data has been provided as set forth in § 99-8, Basis for establishing areas of special flood hazard, or in § 99-15B, Use of other base flood data, the following standards are required:

A. Residential construction.

- (1) In Zones A or AE, new construction and substantial improvement of any residential structure shall have the lowest floor, including basement, together with the attendant sanitary facilities, elevated at or above the base flood elevation (published FIS/FIRM) or the best available flood hazard data elevation, whichever is more restrictive, plus one foot.
- (2) Within any AO Zone on the municipality's FIRM, all new construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated above the highest adjacent

grade one foot above the depth number specified in feet (at least three feet if no depth number is specified) or at or above the best available flood hazard data elevation, plus one foot, whichever is more restrictive, and adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures are required.

B. Nonresidential construction. In A or AE Zones, all new construction and substantial improvement of any commercial, industrial or other nonresidential structure shall have the lowest floor, including basement, together with the attendant utilities and sanitary facilities, either:

- (1) Elevated to or above the base flood elevation (published FIS/FIRM) or the best available flood hazard data elevation, whichever is more restrictive, plus one foot; and
- (2) Within any AO Zone on the municipality's DFIRM, all new construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated above the highest adjacent grade one foot above the depth number specified in feet (at least three feet if no depth number is specified), or at or above the best available flood hazard data elevation plus one foot, whichever is more restrictive, and adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures are required; or
- (3) Be floodproofed so that below the base flood level, plus one foot, or the best available flood hazard data elevation, plus one foot (whichever is more restrictive), the structure is watertight with walls substantially impermeable to the passage of water;
- (4) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
- (5) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of this subsection. Such certification shall be provided to the official as set forth in § 99-15C(2).

C. Manufactured homes.

- (1) Manufactured homes shall be anchored in accordance with § 99-17A(2).
- (2) All manufactured homes to be placed or substantially improved within an area of special flood hazard shall be elevated on a permanent foundation such that the top of the lowest floor is at or above the base flood elevation (published FIS/FIRM) or the best available flood hazard data elevation, plus one foot (whichever is more restrictive).

§ 99-19. Coastal high-hazard area.

Coastal high-hazard areas (V or VE Zones) are located within the areas of special flood hazard established in § 99-8. These areas have special flood hazards associated with high velocity waters from tidal surges and hurricane wave wash; therefore, the following provisions shall apply:

A. Location of structures.

- (1) All buildings or structures shall be located landward of the reach of the mean high tide.
- (2) The placement of manufactured homes shall be prohibited, except in an existing manufactured home park or manufactured home subdivision.

B. Construction methods.

- (1) Elevation. All new construction and substantial improvements shall be elevated on piling or columns so that the bottom of the lowest horizontal structural member of the lowest floor (excluding the piling or columns) is elevated to or above the base flood elevation or the advisory base flood elevation, whichever is more restrictive, plus one foot of freeboard, with all space below the lowest floor's supporting member open so as not to impede the flow of water, except for breakaway walls as provided for in Subsection B(4).
[Amended 1-16-2013 by Ord. No. 13-04]
- (2) Structural support.
 - (a) All new construction and substantial improvements shall be securely anchored on piling or columns.

- (b) The pile or column foundation and structure attached thereto shall be anchored to resist flotation, collapse or lateral movement due to the effects of wind and water loading values each of which shall have a one-percent chance of being equaled or exceeded in any given year (one-hundred-year mean recurrence interval).
- (c) There shall be no fill used for structural support.
- (3) Certification. A registered professional engineer or architect shall develop or review the structural design specifications and plans for the construction and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for compliance with the provisions of Subsection **B(1)** and **(2)(a)** and **(b)**.
- (4) Space below the lowest floor.
 - (a) Any alteration, repair, reconstruction or improvement to a structure started after the enactment of this ordinance shall not enclose the space below the lowest floor unless breakaway walls, open wood lattice-work or insect screening are used as provided for in this section.
 - (b) Breakaway walls, open wood lattice-work or insect screening shall be allowed below the base flood elevation, provided that they are intended to collapse under wind and water loads without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting foundation system. Breakaway walls shall be designed for a safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading of 20 pounds per square foot (either by design or when so required by local or state codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions.
 - [1] Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
 - [2] The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement or other structural damage due to the effects of wind and water load acting simultaneously on all building components (structural and nonstructural). Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state or local building standards.
 - (c) If breakaway walls are utilized, such enclosed space shall be used solely for parking of vehicles, building access, or storage and not for human habitation.
 - (d) Prior to construction, plans for any breakaway wall must be submitted to the local administrator for approval.

C. Sand dunes. There shall be no alteration of sand dunes, which would increase potential flood damage.

§ 99-20. Erosion zones.

- A. When the Administrator has not yet identified any area within the municipality as having special flood-related erosion hazards, but the municipality has indicated the presence of such hazards by submitting an application to participate in the program, the municipality shall:
 - (1) Require an issuance of a permit for all proposed construction, or other development in the area of flood-related erosion hazard, as it is known to the municipality;
 - (2) Require review of each permit application to determine whether the proposed site alterations and improvements will be reasonably safe from flood-related erosion hazards or otherwise aggravate the existing flood-related erosion hazard; and
 - (3) If a proposed improvement is found to be in the path of flood-related erosion or to increase the erosion hazard, require the improvement to be relocated or adequate protective measures to be taken which will not aggravate the existing erosion hazard.
- B. When the Administrator has delineated Zone E on the community's FIRM, the municipality shall:
 - (1) Meet the requirements of Subsection **A**; and

- (2) Require a setback for all new development from the ocean, lake, bay, riverfront or other body of water, to create a safety buffer consisting of a natural vegetative or contour strip. This buffer will be designated by the Administrator according to the flood-related erosion hazard and erosion rate, in conjunction with the anticipated useful life of structures, and depending upon the geologic, hydrologic, topographic and climatic characteristics of the municipality's land. The buffer may be used for suitable purposes, such as for agricultural, forestry, outdoor recreation and wildlife habitat areas, and for other activities using temporary and portable structures.

Chapter 103. Garage Sales

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 2-18-1998 by Ord. No. 98-6. Amendments noted where applicable.]

GENERAL REFERENCES

Mercantile establishments — See Ch. **122**.

Peace and good order — See Ch. **154**.

Signs — See Ch. **191**.

Zoning and land use — See Ch. **246**.

§ 103-1. Purpose.

The purpose of this chapter is to control garage sales, lawn sales, rummage sales, flea market sales or other casual sales within the Borough of Seaside Heights.

§ 103-2. Definitions.

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

GARAGE SALES

Includes all sales entitled "garage sale," "lawn sale," "attic sale," "rummage sale," "yard sale," "flea market sale" or any similar casual sale of tangible personal property which is advertised by any means whereby the public at large is or can be made aware of said sale.

GOODS

Includes any goods, warehouse merchandise or other property capable of being the object of a sale regulated hereunder.

PERSON

Includes individuals, partnerships, voluntary associations and corporations.

§ 103-3. Registration with Borough Clerk required.

It shall be unlawful for any person, firm, group, corporation, association or organization to conduct a garage sale in the Borough of Seaside Heights without first completing a garage sale registration form. Such a form can be obtained at the office of the Municipal Clerk during normal business hours.

§ 103-4. Number of sales limited.

Any one person shall only be permitted to conduct two garage sales within a twelve-month period, and only two garage sales shall be permitted on any one property within a twelve-month period. In addition, no such sale shall take place for more than two consecutive calendar days. Charitable, religious and nonprofit civic organizations may be permitted to conduct more than two garage sales with the approval of the Borough Council.

§ 103-5. Hours of sale.

All garage sales shall be conducted between the hours of 8:00 a.m. and 6:00 p.m. only.

§ 103-6. Removal of signs.

Any signs posted advertising the garage sale shall be removed within 24 hours after the completion of the sale, and no signs shall be posted on telephone or light poles, nor upon other borough property.

§ 103-7. Sales on holidays prohibited.

It shall be unlawful for any person, firm, group, corporation, association or organization to conduct a garage sale on any weekend or weekday upon which the following holidays occur: Independence Day, St. Patrick's Day, Easter, Columbus Day, Memorial Day, Labor Day and Mother's Day.

§ 103-8. Exceptions.

A. The provisions of this chapter shall not apply to or affect the following persons or sales:

- (1) Persons selling goods pursuant to an order or process of a court of competent jurisdiction.
- (2) Persons acting in accordance with their powers and duties as public officials.
- (3) Any person selling or advertising for sale an item or items of personal property, which are specifically named or described in the advertisement and which separate items do not exceed five in number.
- (4) Any sale conducted by any merchant or other business establishment in a place of business wherein such sale would be permitted by the land use ordinances of the Borough of Seaside Heights^[1] or under the protection of the nonconforming use section thereof or any sale conducted by a manufacturer, dealer or vendor, which sale would be conducted from a properly zoned premises and would not otherwise be prohibited in the borough ordinances.

^[1] *Editor's Note: See Ch. 246, Zoning and Land Use.*

B. Any bona fide charitable, eleemosynary, educational, cultural or other organization or association not-for-profit is exempted from the limitations fixed by § 103-3 hereof upon demonstrating to the Borough Council its right to such exemption. The production of a certified copy of a certificate of incorporation pursuant to Title 15 of the Revised Statutes of New Jersey shall be presumptive evidence of the right of such organization to this exemption.

§ 103-9. Enforcement; responsibility for maintaining premises and good order.

- A. This chapter shall be enforced by the Police Department, Code Enforcement Officer or any other employee designated by the Borough Council by resolution to enforce this chapter.
- B. The owner or tenant of the premises on which such sale or activity is conducted shall be jointly and severally responsible for the maintenance of good order and decorum on the premises during all hours of such sale or activity. No such person shall permit any loud or boisterous conduct on said premises or permit vehicles to impede the passage of traffic on any roads or streets or interfere with the orderly passage of pedestrian traffic on sidewalks in the area of such premises. All goods offered for sale shall be removed from public view within 24 hours after the completion of the garage sale. All such persons shall obey the reasonable orders of any members of the Police Department of the Borough of Seaside Heights in order to maintain the public health, safety and welfare.

§ 103-10. Violations and penalties.

- A. Any person violating or failing to comply with any of the provisions of this chapter shall, upon conviction thereof, be punishable by a fine of not more than \$1,000, by imprisonment for a term not to exceed 90 days or by community service of not more than 90 days, or any combination of fine, imprisonment and community service as determined in the discretion of the Municipal Court Judge. 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.

- B. The violation of any provision of this chapter shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

Chapter 107. Garbage; Solid Waste Disposal

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Littering — See Ch. 118.

Article I. Collection and Regulation of Solid Waste and Recycling

[Adopted 2-19-1997 by Ord. No. 97-1]

§ 107-1. Definitions.

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

MULTIFAMILY HOUSING DEVELOPMENT

A building containing three or more dwelling units occupied or intended to be occupied by persons living independently of each other, or a group of such buildings.

PROOF OF COLLECTION SERVICE

A written record, log, bill or document evidencing receipt of service for the collection of solid waste for the preceding month from a person lawfully engaging in private solid waste collection services within a municipality.

RECYCLABLE MATERIALS

Those materials which would otherwise become municipal solid waste, and which may be collected, separated or processed and returned to the economic mainstream in the form of raw materials or products and any such materials designated as recyclable by the Borough of Seaside Heights.

RECYCLING AREA

A space allocated for collection and storage of source separated recyclable materials.

REGULAR SOLID WASTE COLLECTION SERVICE

The scheduled pickup and removal of solid waste from residential, commercial or institutional premises located within the boundaries of any municipality at least once a week.

SOLID WASTE

Garbage, refuse, recyclable materials and other discarded materials resulting from industrial, commercial, domestic and community activities which must be disposed of.

SOLID WASTE COLLECTION

The activity related to pickup and transportation of solid waste from its source or location to a solid waste facility or other destination.

SOLID WASTE DISPOSAL

The storage, treatment, utilization, processing, or final disposal of solid waste.

SOLID WASTE FACILITIES

The plants, structures and other real and personal property acquired, constructed or operated or to be acquired, constructed or operated by any person pursuant to the provisions of this or any other act, including transfer stations, incinerators, resource recovery facilities, sanitary landfill facilities or other plants for the disposal of solid waste, and all vehicles, equipment and other real and personal property and rights therein and appurtenances necessary or useful and convenient for the collection or disposal of solid waste in a sanitary manner.

§ 107-2. Municipal collection of solid waste.

The borough shall provide regular solid waste collection service to all properties within the borough, subject to the rules and regulations adopted by the governing body. Said rules and regulations shall include, but not be limited to, pickup schedules, designation of recyclable materials and the manner in which all solid waste must be prepared for collection.

§ 107-3. Regulation of solid waste collection to be adopted by resolution.

The rules and regulations for the collection of solid waste shall be adopted by resolution of the governing body. Said rules and regulations shall remain in effect until a subsequent set of rules and regulations have been adopted by resolution.

§ 107-4. Compliance with rules and regulations.

All persons, firms, corporations or other entities responsible for the generation of solid waste shall be responsible to comply with the rules and regulations of solid waste collection. Failure to comply shall result in a violation of this chapter. All such rules and regulations shall be available to residents of the borough during regular business hours in the office of the Borough Clerk.

§ 107-5. Exception; solid waste proof of service.

- A. Any property owner or business that opts not to have the borough collect its solid waste, shall enter into a contract for regular solid waste collection service with any person lawfully providing private solid waste collection services within the borough and shall notify the Borough Clerk, in writing, of same within 30 days. Any such person, firm, corporation or other entity may be required by the borough to provide proof of collection service to ensure that all solid waste is being disposed of properly.

§ 107-6. Containers.

[Amended 3-17-1999 by Ord. No. 99-7; 4-16-2014 by Ord. No. 14-10]

- A. It shall be the responsibility of the owner of a multiple-dwelling or commercial establishment to provide a sufficient number of solid waste containers for the deposit of nonrecyclable waste material to be disposed of as solid waste and a sufficient number of containers for the deposit of recyclable materials.
- B. All food establishments located upon or adjoining the Seaside Heights boardwalk will provide their own public trash cans in front of their businesses. The number of said cans shall be a minimum of one can for the first 15 feet of frontage adjoining the boardwalk and one additional can for each additional 15 feet, or portion thereof, of the establishment adjoining the boardwalk. Said can shall be a minimum of 25 gallons and a maximum of 55 gallons.
- C. Garbage cans and/or receptacles of any type must be kept in good repair and in a clean and sanitary condition.
- D. Any dumpster kept on a property for garbage disposal shall be no larger than four cubic yards. If a dumpster is kept on a property, it must have a watertight lid which shall be in use at all times and the dumpster shall be maintained in such condition that such lid can be fully closed. If a dumpster is kept on a property it shall be shielded from public view. Privacy shielding of any dumpster shall be done with opaque fencing or other appropriate building material.
- E. Solid waste must be put out, in preparation for pickup and transportation by the Borough of Seaside Heights, in trash bags contained in trash cans with lids or covers that do not exceed 35 gallons. Notwithstanding this requirement, the Borough Administrator and Department of Public Works may approve a different trash collection plan with businesses in the Resort Recreational Zone and Resort Recreational District A Zone for the period between May 1 and September 30 each year.

[Added 8-1-2018 by Ord. No. 2018-13]

§ 107-7. Enforcement.

The Code Enforcement Officer, Police Department or any other official so designated by the Mayor and Borough Council are hereby designated to enforce the provisions of this chapter.

§ 107-8. Recycling facilities for multifamily housing developments.

- A. There shall be included in any new multifamily housing development that requires subdivision or site plan approval an indoor or outdoor recycling area for the collection and storage of residentially-generated recyclable materials. The dimensions of the recycling area shall be sufficient to accommodate recycling bins or containers which are of adequate size and number, and which are consistent with anticipated usage and with current methods of collection in the area in which the project is located. The dimensions of the recycling area and the bins or containers shall be determined in consultation with the district recycling plan adopted pursuant to Section 3 of P.L. 1987, c. 102 (N.J.S.A. 13:1E-99.13), and any applicable requirements of the municipal master plan, adopted pursuant to Section 26 of P.L. 1987, c. 102.^[1]

[1] *Editor's Note: See N.J.S.A. 13:1E-99.16.*

- B. The recycling area shall be conveniently located for the residential disposition of source separated recyclable materials, preferably near, but clearly separated from, a refuse dumpster.
- C. The recycling area shall be well lit, and shall be safely and easily accessible by recycling personnel and vehicles. Collection vehicles shall be able to access the recycling area without interference from parked cars or other obstacles. Reasonable measures shall be taken to protect the recycling area, and the bins or containers placed therein, against theft of recycling materials, bins or containers.
- D. The recycling area, or the bins or containers placed therein, shall be designed so as to provide protection against adverse environmental conditions which might render the collected materials unmarketable. Any bins or containers which are used for the collection of recyclable paper or cardboard, and which are located in an outdoor recycling area, shall be equipped with a lid, or otherwise covered, so as to keep the paper or cardboard dry.

§ 107-9. Recycling area signs.

Signs clearly identifying the recycling area and the materials accepted therein shall be posted adjacent to all points of access to the recycling area. Individual bins or containers shall be equipped with signs indicating the materials to be placed therein.

§ 107-10. Landscaping and/or fencing at recycling area.

Landscaping and/or fencing shall be provided around any outdoor recycling area and shall be developed in an aesthetically pleasing manner.

§ 107-11. Violations and penalties.

- A. Any person violating or failing to comply with any other provision of this article shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$1,000, by imprisonment not to exceed 90 days or by community service of not more than 90 days or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.
- B. The violation of any provision of this chapter shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

Article II. Improper Disposal of Waste

[Adopted 9-19-2012 by Ord. No. 12-11]

§ 107-12. Purpose.

The purpose of this article is to prohibit the spilling, dumping, or disposal of materials other than stormwater to the municipal separate storm sewer system (MS4) that is owned or operated by the Borough of Seaside Heights, or other public body, so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

§ 107-13. Definitions.

As used in this article, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this article clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)

A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that is owned or operated by the Borough of Seaside Heights, or other public body, and is designed and used for collecting and conveying stormwater.

PERSON

Any individual, corporation, company, partnership, firm, association, or political subdivision of this state subject to municipal jurisdiction.

STORMWATER

Water resulting from precipitation (including rain and snow) that runs off the land's surface, is transmitted to the subsurface, is captured by separate storm sewers or other sewerage or drainage facilities, or is conveyed by snow removal equipment.

§ 107-14. Prohibited conduct.

The spilling, dumping or disposal of materials other than stormwater to the municipal separate storm sewer system in the Borough of Seaside Heights is prohibited. The spilling, dumping, or disposal of materials other than stormwater in such a manner as to cause the discharge of pollutants to the municipal separate storm sewer system is also prohibited.

§ 107-15. Exceptions.

- A. Waterline flushing and discharges from potable water sources.
- B. Uncontaminated groundwater (e.g., infiltration, crawl space or basement sump pumps, foundation or footing drains, rising groundwaters).
- C. Air-conditioning condensate (excluding contact and noncontact cooling water).
- D. Irrigation water (including landscape and lawn watering runoff).
- E. Flows from springs, riparian habitats and wetlands, water reservoir discharges and diverted stream flows.
- F. Residential car-washing water and residential swimming pool discharges.
- G. Sidewalk, driveway and street wash water.
- H. Flows from firefighting activities.
- I. Flows from rinsing of the following equipment with clean water:
 - (1) Beach maintenance equipment immediately following their use for their intended purposes; and
 - (2) Equipment used in the application of salt and de-icing materials immediately following salt and de-icing material applications. Prior to rinsing with clean water, all residual salt and de-icing materials must be removed from equipment and vehicles to the maximum extent practicable using dry cleaning methods (e.g., shoveling and sweeping). Recovered materials are to be returned to storage for reuse or properly

discarded. Rinsing of equipment, as noted in the above situation is limited to exterior, undercarriage, and exposed parts and does not apply to engines or other enclosed machinery.

§ 107-16. Enforcement.

This article shall be enforced by the Police Department and/or the Code Enforcement Officer of the Borough of Seaside Heights.

§ 107-16.1. Violations and penalties.

- A. Any person violating or failing to comply with any other provision of this article shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$1,000, by imprisonment not to exceed 90 days or by community service of not more than 90 days, or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.
- B. The violation of any provision of this chapter shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

Article III. Refuse Containers and Dumpsters

[Adopted 9-19-2012 by Ord. No. 12-11]

§ 107-17. Purpose.

This article requires that dumpsters and other refuse containers that are outdoors or exposed to stormwater be covered at all times and prohibits the spilling, dumping, leaking, or otherwise discharging of liquids, semiliquids or solids from the containers to the municipal separate storm sewer system(s) operated by the Borough of Seaside Heights and/or the waters of the state so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

§ 107-18. Definitions.

For the purpose of this article, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this article clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)

A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that is owned or operated by the Borough of Seaside Heights, or other public body, and is designed and used for collecting and conveying stormwater.

PERSON

Any individual, corporation, company, partnership, firm, association, or political subdivision of this state subject to municipal jurisdiction.

REFUSE CONTAINER

Any waste container that a person controls, whether owned, leased, or operated, including dumpsters, trash cans, garbage pails, and plastic trash bags.

STORMWATER

Water resulting from precipitation (including rain and snow) that runs off the land's surface, is transmitted to the subsurface, is captured by separate storm sewers or other sewerage or drainage facilities, or is conveyed by snow removal equipment.

WATERS OF THE STATE

The ocean and its estuaries, all springs, streams and bodies of surface or ground water, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

§ 107-19. Covering of containers and dumpsters; prevention of leaks and discharges.

- A. Any person who controls, whether owned, leased, or operated, a refuse container or dumpster must ensure that such container or dumpster is covered at all times and shall prevent refuse from spilling out or overflowing.
- B. Any person who owns, leases or otherwise uses a refuse container or dumpster must ensure that such container or dumpster does not leak or otherwise discharge liquids, semiliquids or solids to the municipal separate storm sewer system(s) operated by the Borough of Seaside Heights.

§ 107-20. Exceptions.

- A. Permitted temporary demolition containers;
- B. Litter receptacles (other than dumpsters or other bulk containers);
- C. Individual homeowner trash and recycling containers;
- D. Refuse containers at facilities authorized to discharge stormwater under a valid NJPDES permit;
- E. Large bulky items (e.g., furniture, bound carpet and padding, white goods placed curbside for pickup).

§ 107-21. Enforcement.

This article shall be enforced by the Police Department and/or the Code Enforcement Officer of the Borough of Seaside Heights.

§ 107-22. Violations and penalties.

Any person(s) who is found to be in violation of the provisions of this article shall be subject to a fine of not less than \$250, nor more than \$1,000, by imprisonment of a term not to exceed 90 days, or by community service of not more than 90 days, or any combination of fine, imprisonment and community service as determined in the discretion of the Municipal Court Judge. 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.

Chapter 110. Hotel and Motel Occupancy Tax

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 2-1-2017 by Ord. No. 17-01. Amendments noted where applicable.]

§ 110-1. Purpose.

It is the purpose of this chapter to implement the provisions of P.L. 2003, c. 114,^[1] which authorizes the governing body of a municipality to adopt an ordinance imposing a tax at a uniform percentage rate not to exceed 3% on charges of rent for every occupancy of a room or rooms in a hotel subject to taxation pursuant to Subsection (d) of § 3 of P.L. 1966, c. 40 (N.J.S.A. 54:32B-3) which shall be in addition to any other tax or fee imposed pursuant to statute or local ordinance or resolution by any governmental entity upon the occupancy of a hotel room.

[1] *Editor's Note: See N.J.S.A. 54:32D-1 et seq.*

§ 110-2. Establishment.

There is hereby established a hotel and motel room occupancy tax in the Borough of Seaside Heights which shall be fixed at a uniform percentage rate of 3% on charges of rent for every occupancy of a hotel or motel room in the Borough of Seaside Heights of a room or rooms in a hotel subject to taxation pursuant to Subsection (d) of § 3 of P.L. 1966, c. 40, N.J.S.A. 54:32B-3 (sales tax). The hotel and motel room occupancy tax shall be in addition to any other tax or fee imposed pursuant to statute or local ordinance or resolution by any governmental entity upon the occupancy of a hotel room.

§ 110-3. Exempt organizations.

The hotel and motel room occupancy tax authorized herein shall not be imposed on the rent for an occupancy if the purchaser, user or consumer is an entity exempt from the tax imposed on an occupancy under the Sales and Use Tax Act pursuant to Subsection (a) of § 9 of P.L. 1966, c. 30 (N.J.S.A. 54:32B-9).

§ 110-4. Collection.

In accordance with the requirements of P.L. 2003, c. 114:^[1]

- A. All taxes imposed by this chapter shall be paid by the purchaser.
- B. A vendor shall not assume or absorb any tax imposed by this chapter.
- C. A vendor shall not in any manner advertise or hold out to any person or to the public in general, in any manner, directly or indirectly, that the tax will be assumed or absorbed by the vendor, that the tax will not be separately charged and stated to the customer, or that the tax will be refunded to the customer.
- D. Each assumption or absorption by a vendor of the tax shall be deemed a separate offense and each representation or advertisement by a vendor for each day that the representation or advertisement continues shall be deemed a separate offense.
- E. The tax imposed by this chapter shall be collected on behalf of the Borough by the person collecting the rent from the hotel or motel customer. Each person required to collect the tax herein imposed shall be personally liable for the tax imposed, collected or required to be collected hereunder. Any such person shall have the same right in respect to collecting the tax from a customer as if the tax were a part of the rent and payable at the same time; provided that the Chief Financial Officer of the Borough shall be joined as a party in any action or proceeding brought to collect the tax.

[1] *Editor's Note: See N.J.S.A. 54:32D-1 et seq.*

§ 110-5. Violations and penalties.

Any person violating or failing to comply with any other provision of this chapter shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$2,000, by imprisonment not to exceed 90 days or by community service of not more than 90 days or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.

Chapter 118. Littering

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 2-19-1997 by Ord. No. 97-1. Amendments noted where applicable.]

GENERAL REFERENCES

Garbage and solid waste disposal — See Ch. 107.

§ 118-1. Definitions.

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

LITTER

Any used or unconsumed substance or waste material which has been discarded whether made of aluminum, glass, plastic, rubber, paper or other natural or synthetic material or any combination thereof, including, but not limited to, any bottle, jar or can, any unlighted cigarette, cigar, match or any flaming or glowing material or any garbage, trash, refuse, debris, rubbish, grass clippings or other lawn or garden waste, newspaper, magazines, glass, metal, plastic or paper containers or other packaging.

LITTER RECEPTACLE

A container suitable for the depositing of litter.

§ 118-2. Littering prohibited.

It shall be unlawful for any person to throw, drop, discard or otherwise place litter of any nature upon any public or private property other than a litter receptacle.

§ 118-3. Litter receptacles to be provided and serviced.

Litter receptacles and their servicing are required at the following public places which exist in the municipality, including: sidewalks used by pedestrians in active retail commercially zoned areas, such that at a minimum there shall be no single linear quarter-mile without a receptacle; buildings held out for use by the public, including schools, government buildings and railroad and bus stations; parks; drive-in restaurants; all street vendor locations; self-service refreshment areas, construction sites; gasoline service station islands; shopping centers; parking lots; marinas, boat 4moorage and fueling stations; boat launching areas; public and private piers operated for public use; beaches and bathing areas; and at special events to which the public is invited, including sporting events, parades, carnivals, circuses and festivals. The proprietors of these places or the sponsors of these events shall be responsible for providing and servicing the receptacles such that adequate containerization is available.

§ 118-4. Illegal dumping.

It shall be unlawful for any person to discard or dump along any street or road, on or off any right-of-way, any household or commercial solid waste, rubbish, refuse, junk, vehicle or vehicle parts, rubber tires, appliances, furniture or private property, except by written consent of the owner of said property, in any place not specifically designated for the purpose of solid waste storage or disposal.

§ 118-5. Storage of bulky household wastes.

It shall be unlawful for any residential or business property owners to store or permit storage of any bulky household waste, including household appliances, furniture and mattresses in areas, except in a fully enclosed structure or on days designated for the collection of bulky items.

§ 118-6. Storage of tires.

It shall be unlawful for any property owner to store or permit the storage of tires in areas, except in a fully enclosed structure or on days designated for the collection of tires.

§ 118-7. Storage of inoperable vehicles.

It shall be unlawful for any person to keep or permit the keeping on streets, vacant lots and residential lawns except in a fully enclosed structure, any motor vehicle, trailer or semitrailer which:

- A. Is missing tires, wheels, an engine or any essential parts;
- B. Is wrecked, disassembled or partially disassembled.

§ 118-8. Vehicle loads to be secure.

It shall be unlawful for any vehicle to be driven, moved, stopped or parked on any highway unless such a vehicle is constructed or loaded to prevent any of its load from dropping, sifting, leaking or otherwise escaping therefrom. Any person operating a vehicle from which any glass or objects have fallen or escaped, which could cause an obstruction, damage a vehicle or otherwise endanger travelers or public property, shall immediately cause the public property to be cleaned of all glass or objects and shall pay the costs therefor.

§ 118-9. Construction sites.

It shall be unlawful for any owner, agent or contractor in charge of a construction or demolition site to permit the accumulation of litter before, during or after completion of any construction or demolition project. It shall be the duty of the owner, agent or contractor in charge of a construction site to furnish containers adequate to accommodate flyable or nonflyable debris or trash at areas convenient to construction areas, and to maintain and empty the receptacles in such a manner and with such a frequency as to prevent spillage of refuse.

§ 118-10. Open or overflowing waste disposal bins prohibited.

It shall be unlawful for any residential or commercial property owner to permit open or overflowing waste disposal bins on his or her property.

§ 118-11. Street and sidewalk maintenance.

It shall be the duty of the owner, lessee, tenant, occupant or person in charge of any structure to keep and cause to be kept the sidewalk and curb abutting the building or structure free from obstruction or nuisances of every kind and to keep sidewalks, areaways, backyards, courts and alleys free from litter and other offensive material. No person shall sweep into or deposit in any gutter, street, catch basin or other public place any accumulation of litter from any public or private sidewalk or driveway. Every person who owns or occupies property shall keep the sidewalk in front of his or her premises free of litter. All sweepings shall be collected and properly containerized for disposal.

§ 118-12. Violations and penalties.

- A. Any person violating or failing to comply with any other provision of this article shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$1,000, by imprisonment not to exceed 90 days or by community service of not more than 90 days or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.
- B. The violation of any provision of this chapter shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

Chapter 122. Mercantile Establishments

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 2-19-1997 by Ord. No. 97-1. Amendments noted where applicable.]

GENERAL REFERENCES

Adult businesses — See Ch. 8.

Amusement games and devices — See Ch. 25.

Custom garment fabrication business — See Ch. 73.

Entertainment establishments — See Ch. 86.

Retail food establishments — See Ch. 180.

Tattooing — See Ch. 208.

Article I. Licensing

§ 122-1. Enumeration of licenses and fees; license applications; inspections.

- A. Hereafter, any person, persons, corporation or corporations engaged in, conducting or operating any business within the limits of the Borough of Seaside Heights shall be required to secure a license for any business conducted or operated and pay annually to the Borough of Seaside Heights a license fee to conduct or carry on any hereinafter-mentioned business or operation. Conviction of operation of a mercantile establishment without a current mercantile license shall result in an automatic delay of 30 days in eligibility for such license.
[Amended 6-3-2009 by Ord. No. 09-07]

A

Academy (nonindustrial vocational or professional training) [Added 9-19-2001 by Ord. No. 2001-14]	\$200.00
Advertising vehicles, without sound effect (advertising vehicle with sound not permitted)	\$100.00
Airbrush shirts	\$75.00
Aluminum products	\$50.00
Appliance store, sales and service	\$200.00
Arcade games (Resort/Recreational 25 machines no prizes)	\$200.00
Art sales	\$200.00
Auto tags (personalized)	\$100.00

B

Bakery	\$150.00
Balloons	\$60.00
Barbershop	\$100.00
Bathhouse	\$300.00
Batting cages (per batting cage)	\$35.00
Beach chairs, umbrellas, swings or surf mats	\$660.00
Beauty parlors	\$100.00
Bicycle rental places	\$70.00
Boat rentals	\$200.00
Body piercing	\$500.00
Branding establishment	\$500.00

C

Coin-operated machines, not otherwise listed, and automated teller machines [Added 7-3-2002 by Ord. No. 2002-17]	\$35.00
Commercial painting/artist (signs) ^[1]	\$135.00
Craft store	\$75.00
Cruise boats [Amended 5-20-1998 by Ord. No. 98-14]	\$275.00

D

Distributor of soft drinks (wholesale)	\$130.00
Drugstores, hardware stores or department stores, including beachwear and wearing apparel	
Off the boulevard	\$150.00
On the boulevard	\$250.00
On the boardwalk	\$500.00

E

Electric illusion or exhibition of any kind	\$200.00
Employment agencies	\$50.00

F

Face painting	\$50.00
Flower shop/florist	\$200.00

G

Gasoline service station [Amended 5-20-1998 by Ord. No. 98-14]	\$275.00
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Gift shop off the boardwalk		\$150.00
Gift shop on boardwalk		\$395.00
Gymnasium		\$200.00
	H	
Hats, sale of ^[2]		\$55.00
Hobby shop		\$200.00
Hotel and motel keepers, without sale of liquor ^[3]		\$18.00 per unit
	J	
Jewelry stores ^[4]		\$200.00
Job printing and newspaper establishments		\$200.00
	K	
Key chains		\$55.00
	L	
Laundry, self-service (including machines necessary to laundering operations) [Amended 7-3-2002 by Ord. No. 2002-17]		\$200.00
Leather goods shop		\$100.00
Lumberyard		\$250.00
	M	
Marineland ^[5]		\$135.00
Markets:		
Butcher, deli, fish store, fruit and vegetable, grocery, self-service or any combination		\$300.00
Massage business		\$125.00
Miniature golf course, each ^[6]		\$200.00
Motorboats, fishing		\$135.00
Motorboats, recreation		\$275.00
Motorized bicycle rentals, each		\$35.00
Music recording studio		\$200.00
	N	
Newsstand		\$135.00
	O	
Outdoor sales of holiday equipment, supplies and decorations from a fixed location for three periods of one month each, with each one-month sales period to be identified in writing to the Borough Clerk no less than two weeks prior to the commencement of such sales activities, with no such sales being permitted during the months of June, July, August and September		\$50.00
	P	
Parking lots:		
For each 100 square feet		\$5.00
With a maximum fee of		\$500.00
Photographer/film development		\$150.00
Portrait artist ^[7]		\$70.00
	R	
Reading, hand		\$100.00
Restaurant:		
in Resort Recreational Zone		\$350.00
in all other zones		\$225.00
Rides, kiddie, each		\$150.00
Rides, major		\$300.00
Rides, secondary, open air, Ferris wheel, miniature railroads, carousel		\$250.00

Rooms, apartments and cottages:

Rooms, each	\$12.00
Apartments or cottages, each unit	\$21.00

S

Sand art	\$75.00
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Stores:

Shoe repair	\$50.00
Sale of popcorn, French fries, hot dogs, hamburgers	\$275.00
Sale of waffles, custard, ice cream snowballs, cotton candy, pretzels or other pre-prepared food	\$200.00
Sale of hot dogs, hamburgers or other sandwiches with tables	\$350.00
Sale of pizza	\$350.00
Sale of corn, watermelon, clams or oysters	\$400.00
Swimming pools, each (public pools)	\$330.00

T

Taxi service:

Taxicab, per cab	\$75.00
Limousine, per unit	\$90.00

Tattoos:

Temporary tattoos	\$100.00
Permanent tattoo establishments [Added 5-21-1997 by Ord. No. 97-6]	\$500.00

U

Used cars, sale of	\$100.00
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V

Video sales, rentals	\$135.00
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W

Water slide:

10 slides or less	\$300.00
11 to 25 slides	\$600.00

Water taxi:

Per watercraft providing taxi service stopping at a Seaside Heights waterfront dock	\$25.00
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Any business, game or trade not herein otherwise mentioned or referred to shall, with the approval of the Mayor and Council, be imposed a license fee not to exceed \$700.

- [1] *Editor's Note: The license fee for Christmas trees and accessories, which preceded this entry, was repealed 11-21-2001 by Ord. No. 2001-15.*
- [2] *Editor's Note: The license fee for each handwriting machine, which preceded this entry, was repealed 7-3-2002 by Ord. No. 2002-17.*
- [3] *Editor's Note: The license fee for a horoscope machine, which preceded the entry, was repealed 7-3-2002 by Ord. No. 2002-19.*
- [4] *Editor's Note: The license fee for each ice cream truck vendor, which preceded this entry, was repealed 5-20-1998 by Ord. No. 98-14. The license fee for each ice vending machine, which preceded this entry, was repealed 7-3-2002 by Ord. No. 2002-19.*
- [5] *Editor's Note: The license fees for machines, coin-operated and not otherwise listed, and machines, electronic, video game or console cathode-ray tube game, each game, which preceded this entry, were repealed 7-3-2002 by Ord. No. 2002-19.*
- [6] *Editor's Note: The license fee for each milk machine, which preceded this entry, was repealed 7-3-2002 by Ord. No. 2002-19.*
- [7] *Editor's Note: The license fee for each punching bag, which followed this entry, was repealed 7-3-2002 by Ord. No. 2002-19.*

B. Explanatory notes:

[Amended 3-17-1999 by Ord. No. 99-8]

- (1) Whenever the designation (B) appears next to a business or operation, said designation refers to businesses or operations located on the municipal boardwalk adjacent to the Atlantic Ocean. License fees and rates in said area are generally higher than in other areas of the municipality, due to the fact that the municipal costs, including garbage collection, policing and other administration costs generally are higher and more expensive in said boardwalk area.
- (2) Where more than one business or operation or the combination of the sale of similar items shall take place, then, and in that event, the person, firm or corporation engaged in said activity shall pay the license fee which is the highest, and if any question arises as to the interpretation of the various businesses, then, and in that event, the decision of the Mayor and Council as to the license fee to be charged shall be conclusive.
- (3) In regards to the requirement for a license for the rental of an apartment or cottage, the following shall apply:
 - (a) When an owner of a property has leased the entire property to a tenant under a net lease, so that the tenant, for practical purposes, stands in the place of the owner, use of the leased premises by the tenant shall be considered the same as use of the premises by the owner. In order to receive the benefit of this provision, an owner leasing such property under a net lease must provide the Borough Clerk with a copy of such leases in effect.

C. Investigation and inspection; denial of application.

- (1) Upon the receipt of an application for a license, the Borough Clerk shall refer such application to the proper officer for a physical inspection of the premises for which the license is to be issued. The officer charged with making the investigation and inspection shall make a report thereon, favorable or otherwise, after receiving the license application. The inspection shall be made to ensure that the operation of this business will not endanger the health, welfare or safety of the general public and that the business and premises comply with all applicable ordinances of the Borough of Seaside Heights. This end, the inspection shall specifically cover the care and handling of food, if applicable, and preventing of nuisances and the spread of disease (health); compliance with the Property Maintenance, Building and Zoning Codes; and compliance with reasonable fire prevention standards (i.e., no potential fire hazard within the premises).
[Amended 5-21-1997 by Ord. No. 97-6; 5-5-1999 by Ord. No. 99-12]
- (2) If the applicant's premises are found not to conform with the standards herein enumerated, the Borough Clerk shall notify the applicant that the application will be denied. Such notification shall be written and shall state the reasons for such refusal and shall advise the steps that should be taken so that a permit or license could be issued. Thereafter, the applicant may proceed in accordance with the provisions of § **122-1E** below.
- (3) No license shall be issued for premises upon which are located speakers which emit music or any amplified sound, unless said speakers are positioned such that they are turned in towards the booth, store or premises upon which they are located. Failure of the licensee to keep the speakers turned inward shall be a violation of the provisions of this chapter.

D. Periodic inspection; right of entry; revocation.

- (1) To ensure that the health, welfare and safety of the community will not be endangered by the activities of any business conducted within the Borough, periodic inspections of all such premises shall be made.
- (2) It shall be the duty of the licensee, or the person in charge of the premises to be inspected, to admit thereto, for the purpose of making the inspection, any officer or employee of the Borough who is authorized to make such inspections, at any reasonable time that admission is requested.
- (3) The subject and concern of such inspection shall be the same as set forth in § **122-1C**. If any violations are found, the licensee shall be given five days to correct such violations. If at the end of that period any said violations still exists, then the license for the operation of such business shall be revoked.

E. Appeals.

- (1) Upon the revocation or refusal to issue license, the party concerned (or licensee) shall be given notice of the right to appeal such refusal or revocation at the next Borough Council meeting. A full report of the reasons for refusal or revocation shall be made available to the licensee, and copies thereof shall be provided to the Mayor and Council of the Borough. In considering the appeal of the licensee, the Mayor and Council of the Borough shall give due regard to the seriousness of the violations; the good faith efforts, or lack thereof, by the licensee to remedy such violations; and the reasonable time period necessary to correct such violation.

- (2) The Mayor and Council shall have the power to issue the license, stay any revocation and provide a reasonable period within which the licensee shall correct the violations.

- F. Certificate of occupancy required. In order for a mercantile license to be issued for any premises requiring a certificate of occupancy, a person applying for a mercantile license must possess a certificate of occupancy for the premises for which the mercantile license is sought. Said certificate of occupancy must have been issued within 12 months of the mercantile license application.

[Added 7-2-2003 by Ord. No. 03-21]

§ 122-2. Use of fees.

The above-mentioned license fees are imposed for the purpose of providing funds to enable efficient regulation of the various businesses, to ensure the protection of public health, safety and welfare and to provide funds to assist in deferring the cost of various municipal expenditures in connection with said program.

§ 122-3. Nontransferability.

No license granted to any person, persons or corporation shall be assignable or transferable to any other person, persons or corporation. In the event the licensee wishes to move the license from one location to another, said licensee must first advise the Borough Clerk.

§ 122-4. Expiration date; license information; partial-year fees.

[Amended 2-7-2001 by Ord. No. 2001-2; 12-17-2008 by Ord. No. 08-18]

All licenses issued shall state the purpose for which the same was granted, the number of the license and the name of the person or persons or corporation licensed. Fees for licenses issued shall be as follows:

- A. All licenses in effect as of January 1, 2009, shall expire on the 30th day of June of 2009, without regard to the time when the same is taken out or issued. All licenses issued in 2009 will be effective until December 31, 2010, and the fee for licenses issued in 2009 shall be 150% of whatever fees are enumerated for the business in question pursuant to § 122-1.
- B. All licenses issued in 2010, and thereafter in any given calendar year, will pay the full, unprorated one-year fee, and all licenses will then be issued on a calendar-year basis, expiring December 31 of each year. Any person requesting a license prior to January 1 of the succeeding year, for the year 2010 and forward, shall pay the full fees as shown in § 122-1 of this chapter.

§ 122-5. Payment of fees.

Said license fees shall be paid to the Borough Clerk for use by the Borough. Upon the payment of such license fee or fees hereinbefore mentioned, the Borough Clerk shall issue to the person, firm or corporation applying for such license a certificate showing the payment of such license fee or fees in advance of opening business. All fees for licenses under this chapter shall be paid in advance of the beginning of operation of business and as soon after the final passage and approval of this chapter as possible. No refund shall be made on any license fee paid.

§ 122-6. Unlicensed businesses unlawful.

It shall be unlawful for any person, persons or other entity to manage or conduct any business or to use for any business purpose any wagon, vehicle, motor-driven vehicle, stand, store, room, apartment, single-family home or other place or thing herein required to be licensed or to aid, assist or act as employee, clerk or otherwise in the carrying on of such business or the using of any wagon, vehicle, motor-driven vehicle, stand, room, apartment, single-family home or other place or thing as aforesaid, unless such license fee has been paid and such certificate obtained as hereinbefore required.

§ 122-7. License display.

Each license issued under this chapter shall be, at all times, on display in open view upon the licensed premises.

§ 122-8. Street peddling prohibited.

No street peddling shall be permitted in this Borough except as specifically provided in Article V of this chapter for licensees licensed under N.J.S.A. 45:24-9 et seq.

§ 122-9. Violations and penalties.

[Amended 2-16-2005 by Ord. No. 05-06]

- A. Any person violating or failing to comply with any other provision of this article shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$1,250, by imprisonment not to exceed 90 days or by community service of not more than 90 days or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.
- B. The violation of any provision of this chapter shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

Article II. Display of Merchandise

§ 122-10. Use of sidewalks.

No person shall display any merchandise for sale or exhibition, or place any sign, on any municipal sidewalk.

§ 122-11. Use of public walks.

No person shall display any merchandise for sale or exhibition, or place any sign, on any public property in this municipality, including, but not limited to, public walks, utility space and streets.

§ 122-12. Merchandise for sale or exhibition.

[Amended 12-20-2000 by Ord. No. 2000-25; 2-16-2005 by Ord. No. 05-06; 7-17-2013 by Ord. No. 13-19]

- A. In the Borough of Seaside Heights, on any lands in front or on the side of any building, displays of merchandise shall be allowed one foot out from the front building line as long as said displays are attached to the building and do not physically touch the sidewalk or ground. On those properties fronting on the boardwalk, displays of merchandise shall be allowed one foot out from the front building line as long as said displays are attached to the building and do not physically touch the boardwalk. Additionally, on those properties fronting on the boardwalk, merchandise may be hung from any overhang (a projecting upper part of a building, as a roof) above the retail establishment, so long as the items thus displayed are a minimum of seven feet above the surface of the boardwalk. "Displays of merchandise" shall not be interpreted to include the placement of telephones and/or vending machines.
- B. This section shall not apply to the exhibition or sale of merchandise when offered in connection with a sidewalk sale approved by the Mayor and Council of the Borough of Seaside Heights. Such sales shall not occur more than two times in any one year.

§ 122-13. Amusement games.

With the exception of those machines located within an establishment having an arcade license lying within the Resort Recreational District, no business operation shall be permitted to have more than three amusement games within its place of business. Said amusement games are hereby defined as machines or devices of a type commonly known and designated as pinball, console cathode-ray-tube game machines, electronic or video game machines and any other game, machine or device similar to the above, operated by the use of coins.

§ 122-14. Violations and penalties.

[Amended 7-17-2013 by Ord. No. 13-19]

- A. Any person violating or failing to comply with any other provision of this article shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$1,250, by imprisonment not to exceed 90 days or by community service of not more than 90 days, or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.
- B. The violation of any provision of this chapter shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

Article III. Business Hours

§ 122-15. Boardwalk closing hours.

All entrances to any business located along that portion of the boardwalk which is owned or controlled by the Borough of Seaside Heights shall be required to close its entrance to the boardwalk by 3:00 a.m. and remain closed until 6:00 a.m.

§ 122-16. Violations and penalties.

[Amended 2-16-2005 by Ord. No. 05-06]

- A. Any person violating or failing to comply with any other provision of this article shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$1,250, by imprisonment not to exceed 90 days or by community service of not more than 90 days or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.
- B. The violation of any provision of this chapter shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

Article IV. Revocation or Suspension of Licenses

§ 122-17. Cause for suspension or revocation of license.

- A. Any person or corporation receiving a license under this section must operate the business in accordance with the provisions of this chapter. Conviction of any violation of the provisions of this chapter may result in revocation of said license to do business. Three convictions within any given twelve-month period for any violation(s) of Chapter **73** or Chapter **47** of the Borough Code of the Borough of Seaside Heights shall result in an automatic suspension for 10 days of the license to do business under this chapter, such suspension to be in addition to any other remedies, revocations or suspension authorized by this chapter. Operation of a mercantile establishment under such automatic suspension shall result in extension of such suspension for an additional 30 days.
[Amended 5-21-1997 by Ord. No. 97-6; 6-3-2009 by Ord. No. 09-07]

- B. Notwithstanding the foregoing references to revocation of a mercantile license, a license may be revoked or suspended in the event that any business is operated in a manner which substantially impairs public safety to its customers or to the general public. As a specific standard, the following activities shall be deemed to be injurious to the public health and therefore prohibited: loud and abusive noises coming from tenants, guests or business invitees; loud gatherings at all hours of the day and night within and upon the business premises; boisterous activities; loud, unruly and profane language; public drunkenness; minors consuming alcoholic beverages; overcrowding upon the business premises or near the business premises due to activity upon the business premises; use of fireworks; public urination; excessive noise as defined in the following subsections; and any other disorderly acts which disturb the peace and good order of the neighborhood and community.

- C. As a further specific standard, any creating of loud or unnecessary noise shall be prohibited upon the business premises or near the business premises due to activity upon the business premises. The making, creating or permitting of any unreasonably loud, disturbing or unnecessary noise in the Borough is hereby prohibited.
- D. The making, creating or permitting of any noise of such character, intensity or duration as to be detrimental to the life, health or welfare of any individual or which either steadily or intermittently annoys, disturbs, injures or endangers the comfort, repose, peace or safety of any individual is hereby prohibited.

§ 122-18. Complaints.

[Amended 10-2-2002 by Ord. No. 2002-24; 6-3-2009 by Ord. No. 09-07]

In the event that the Borough of Seaside Heights, through its Police Department or municipal offices or officers, receives three separate and verified complaints during any twelve-month period concerning the improper operation of a business establishment constituting an action allegedly injurious to the public health, safety and welfare, the following actions shall be taken:

- A. The Borough Clerk, or a duly authorized representative of said Clerk, shall cause a complaint to be issued and served upon the licensee in question. Service of said complaint may be made by personal service, certified mail, return receipt requested, or regular mail in the event that service is refused. If the whereabouts of the licensee is unknown and the same cannot be ascertained by the exercise of reasonable diligence, the Clerk, or a duly authorized representative of said Clerk, shall make an affidavit to that effect and then serve such complaint by publishing the same once each week for two consecutive weeks in the newspaper printed and published in the official newspaper of the Borough of Seaside Heights. The complaint shall clearly state the charges brought against the licensee and shall contain a notice that a hearing will be held before a hearing officer, who shall be an attorney-at-law of the State of New Jersey designated by the Mayor and Council, at a place therein fixed, not more than 45 days after the serving of said complaint. The complaint shall also advise the licensee that said licensee shall have the right to file an answer to the complaint and to appear, in person or otherwise, to give testimony or present evidence in his defense. The complaint shall also set forth the conferencing and discovery provisions of § 122-19. The aforementioned complaint shall be prosecuted by a special prosecutor designated by the Mayor and Council of the Borough of Seaside Heights.
- B. No later than 15 days after the conclusion of the above hearing, the hearing officer shall issue a written order setting forth its findings. If the hearing officer concludes, by a preponderance of the evidence, that the licensee has operated its business in a manner injurious to the public health, safety and welfare, then said written order shall prescribe the remedial action to be taken by the licensee and/or the penalty to be imposed. Adjudication of complaints by the Municipal Court, reoccurrence and frequency of complaints, the amount of time between the date of the complaint and the date of the hearing, and any remedial actions undertaken by the licensee prior to the hearing may be considered by the hearing officer in assessing penalties. Penalties may include the suspension or revocation of the licensee's mercantile license. In the event a license is suspended, said suspension may be required to be served during specific months identified by the hearing officer, where such particularized suspension would increase the effectiveness or appropriateness of the penalty.

§ 122-18.1. Prehearing conference, discovery and evidence.

[Added 10-2-2002 by Ord. No. 2002-24]

- A. Prehearing conference. No more than 20 days after the service of the complaint, the hearing officer shall hold a prehearing conference, the date of which shall be set forth in the complaint, with the special prosecutor and the licensee, or counsel for the licensee if the licensee is represented, during which agreed upon facts may be stipulated, the issue for hearing defined, any pending discovery disputes resolved and a date certain for the hearing set.
- B. Discovery. Within 15 days of the date set for hearing, the special prosecutor must provide to the licensee, or his counsel if the licensee is represented, a written list of witnesses to be presented at hearing, and a copy of all documents upon which the Borough may rely at hearing. Within 10 days of the date fixed for hearing, the licensee, or his counsel if the licensee is represented, must provide to the special prosecutor a written list of witnesses and a copy of all documents upon which the licensee may rely at hearing. Any requests for additional discovery must be provided, in writing, to the hearing officer within five days of the date set for hearing. The hearing officer may resolve the request for additional discovery either by written decision, via telephone conference with both parties at the prehearing conference, or at the date set for hearing. If the hearing officer concludes that a request for discovery is reasonable and constitutes a basis for adjournment of the hearing date,

the hearing officer may so adjourn the hearing date to another date certain. The party seeking discovery shall pay for all reasonable expenses caused by the discovery request.

- C. Evidence. Generally, the rules of evidence applicable to a Superior Court hearing shall apply. However, subject to a valid claim of privilege, hearsay evidence shall be admissible at the hearing. Hearsay evidence which is admitted shall be accorded whatever weight the hearing officer deems appropriate taking into account the nature, character and scope of the evidence, the circumstances of its creation and production, and, generally, its reliability. Notwithstanding the admissibility of hearsay evidence, some legally competent evidence must exist to support each ultimate finding of fact to an extent sufficient to provide assurances of reliability and to avoid the fact or appearance of arbitrariness.

Article V. Hawkers, Peddlers, and Vendors

§ 122-19. Definitions.

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

MOTOR VEHICLE

Any vehicle used for the displaying, storing or transporting of articles, including food, offered for sale by a vendor, which is required to be licensed and registered by the Department of Motor Vehicles.

PERSON

Any individual, but should not be construed to mean a corporation, partnership, association or any other form of business entity.

VENDING UNIT

Any pushcart, wagon or any other wheeled vehicle or device which may be moved without assistance of a motor and which is not required to be licensed and registered by the Department of Motor Vehicles, used for the displaying, storing or transporting of articles, including food, offered for sale by a vendor.

VENDOR

Any person who goes from house to house, from place to place or from street to street traveling by foot, automotive vehicle or any other type of conveyance, carrying or transporting merchandise for the purpose of selling and delivering the merchandise to customers. The word vendor shall also include the words peddler and hawker.

§ 122-20. License and registration required.

No person shall engage in hawking, peddling or vending within the Borough of Seaside Heights unless holding and possessing a valid license permitting hawking, peddling or vending, issued pursuant to and in accordance with the provisions of Title 45, Revised Statutes of New Jersey (N.J.S.A. 45:24-9 et seq.), and shall have registered with the Borough of Seaside Heights as hereinafter provided.

§ 122-21. Registration requirements.

Any person having a type of license referred to in § 122-20 who desires to hawk, peddle or vend within the Borough of Seaside Heights shall in advance thereof register with the Borough in the following manner:

- A. The applicant for registration shall produce a license issued to him by a County Clerk, pursuant to Title 45, Revised Statutes of New Jersey.
- B. The applicant shall complete and sign a form of application for registration made available by the Borough, setting forth the following information:
- (1) Name and address.
 - (2) Description of the applicant.
 - (3) A description of the nature of the business proposed.

- (4) A description of the vending unit to be utilized. If a motor vehicle is to be utilized, the registration number, license plate number and name and address of insurance carrier and insurance policy number and coverage must be listed.

§ 122-22. Regulation.

The business of hawking, peddling or vending shall be subject to the following regulations:

- A. All vending units shall not be permitted to be in use and shall be off the streets and sidewalks of the Borough during the period from 9:00 p.m. to 7:00 a.m. daily.
- B. All vending units must be on wheels and mobiles.
- C. There shall be no vending within 200 feet of the grounds of any school between 1/2 hour prior to the start of the school day and 1/2 hour after dismissal at the end of the school day.
- D. There shall be no vending within 200 feet from any church, synagogue or other house of worship while same is in session.
- E. No vending unit or motor vehicle shall be left unattended for any reason on the streets or sidewalks of the Borough of Seaside Heights.
- F. There shall be no sale of food or beverage for immediate consumption unless the vendor has made available for the public use a litter receptacle which is available for use by his patrons.
- G. No vendor shall leave any location without first picking up, removing or disposing of all trash or refuse remaining from the sales made by him. The vendor shall not sweep or deposit any accumulation of litter into any gutter or street.
- H. No vendor shall allow any items relating to the operation of the vending business to be placed anywhere other than in or on the vending unit.
- I. No vendor shall set up, maintain or permit the use of any table, crate, carton or rack or other device to increase the selling or display capacity of his unit or motor vehicle. There shall be no stacking of items to be sold upon any sidewalk or street. All materials and/or merchandise must be located solely on the vending unit.
- J. No vendor shall solicit or conduct business with potential customers who are in motor vehicles. All sales are to be conducted from the curbside of the vending unit and only to pedestrians.
- K. No person shall sell anything other than such commodities described in the registration.
- L. No vendor shall use any device that produces a loud or raucous noise or use or operate any loudspeaker, public address system, radio, sound amplifier or similar device to attract the attention of the public.
- M. No hawker, peddler or vendor shall have any exclusive right to any location in the public streets, nor be permitted to operate in any congested area where the operation might unreasonably impede the public. A license to hawk, peddle or vend granted under this chapter does not authorize the display or sale of merchandise from a fixed location. Said display or sale is hereby prohibited.
- N. No vendor shall sell from a vending unit on a sidewalk where the sidewalk is less than nine feet in width or vend within 10 feet of the outside perimeter of any entrance to any building or vend within 20 feet of any driveway, within 20 feet of a crosswalk of any intersection or within 20 feet of any bus or jitney zone, within 25 feet of any emergency exit, within 20 feet of any loading and unloading zone or within 25 feet of the principal entrance to a hotel or motel.
- O. No vendor shall allow the vending unit or any other item relating to the operation of the vending business to be placed against any building or other structure without the consent of the owner of said building or structure.
- P. No person shall hawk, peddle or vend unless possessing a valid state license, issued pursuant to Title 45, Revised Statutes of New Jersey, and a registration card.
- Q. No vendor vending from a motor vehicle shall conduct business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant or create or become a public nuisance, increase traffic congestion or delay or constitute a hazard to traffic, life or property or an obstruction to an adequate

access for fire, police or sanitation vehicles. No vendor vending from a motor vehicle shall stop, stand or park the vehicle upon any street or permit it to remain there except on the roadway at the curb for the purpose of vending therefrom. No vendor vending from a motor vehicle shall stop, stand or park the vehicle on any street for the purpose of selling, or sell on any street, under any circumstances during the hours when parking, stopping or standing has been prohibited by signs or curb markings or is prohibited by statute or ordinance. No vendor vending from a motor vehicle shall remain in any one place for a period longer than necessary to make a sale after having approached or stopped for that purpose. No vendor vending from a motor vehicle shall stop, stand or park the vehicle within 50 feet of any intersection.

- R. All vending units must be thoroughly covered with proper material to assure that no portion that is heated is exposed where the public is able to come in contact with it.
- S. No vendor shall use any conveyance, device or thing whatsoever which, when fully loaded with merchandise, cannot be easily moved and maintained under control by the licensee.
- T. No vendor shall stop, stand, park, place nor allow a conveyance closer than 150 feet to any other conveyance being used by any other vendor.
- U. There shall be no mixing of food and nonfood items for sale.
- V. No vending unit shall be permitted on the public boardwalk or public beach, nor shall the same be permitted within 250 feet of the boardwalk.
- W. At no time shall a vending unit be located in such a way as to not provide a continuous space of eight feet for pedestrian passage.
- X. Any vendor who is legally blind or totally disabled may be assisted by a nonveteran vendor, which nonveteran must be registered with the Borough. The blind or disabled veteran must be present at the vending unit at all times.
- Y. It shall be unlawful for any mobile vending unit to dispense products from any metered parking space in this municipality. Additionally, no vending unit shall park, even temporarily, in any no-parking area or yellow-curbed area within this municipality.
- Z. No vending unit operating within this municipality shall remain in any fixed location for more than three minutes from its last sale to any patron. When operating within the Borough, such mobile vending unit shall park only in areas where automobiles are permitted to park and shall begin the sale within five minutes of the time in which it parks and shall leave that location within three minutes of its last sale to pedestrian patrons using said service.
[Amended 5-21-1997 by Ord. No. 97-6]

§ 122-23. Size of vending units.

No vending unit shall exceed four feet in width, seven feet in length and eight feet in height.

§ 122-24. Health and sanitation requirements.

A mobile food unit is defined as any vending unit, including hand-carried portable containers in or on which food or beverage is cooled or prepared and transported for retail sale, or given away at temporary or fixed locations. All mobile food units and mobile food unit operators shall comply with the inspection provisions and standards of the Seaside Heights Health Code Ordinances. The equipment used in the vending of food and beverages shall be inspected upon application for registration and shall receive a certificate of inspection upon compliance with all applicable Seaside Heights ordinances, state statutes and all applicable sections of Chapter 12 of the New Jersey State Sanitary Code, N.J.A.C. 8:24-1 et seq. Each food and beverage vending unit shall be inspected at least once a year.

§ 122-25. Safety requirements.

All vending units, whether in motor vehicles or not, in or from which food is prepared or sold shall comply with the following requirements:

- A. All equipment installed in any part of the vending unit shall be secured in order to prevent movement during transit and to prevent detachment in the event of a collision or overturn.
- B. All utensils shall be stored in order to prevent their being hurled about in the event of a sudden stop, collision or overturn. A safety knife holder shall be provided to avoid loose storage of knives.
- C. Compressors, auxiliary engines, generators, batteries, battery chargers, gas-fueled water heaters and similar equipment shall be installed so as to be accessible only from the outside of the unit.
- D. Vending units operating after sundown shall be lighted with at least 30 footcandles of light on all working surfaces.

§ 122-26. Violations and penalties.

[Amended 2-16-2005 by Ord. No. 05-06]

- A. Any person violating or failing to comply with any other provision of this article shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$1,250, by imprisonment not to exceed 90 days or by community service of not more than 90 days or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.
- B. The violation of any provision of this chapter shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

Article VI. Display of Refund Policy for Retail Mercantile Establishments

§ 122-27. Definitions.

As provided for in this article, the following terms shall have the following definitions:

MERCHANDISE

shall mean any object, wares, goods, commodities or any other tangible items offered, directly or indirectly, to the public for sale.

PROOF OF PURCHASE

shall mean a receipt, bill, credit card slip or any other form of evidence which constitutes reasonable proof of purchase.

RETAIL MERCANTILE ESTABLISHMENT

shall mean any place of business where merchandise is exposed or offered for sale at retail to members of the consuming public.

§ 122-28. Posting of refund policy.

Every retail mercantile establishment shall conspicuously post its refund policy as to all merchandise for sale on a white sign with two-inch black lettering. The sign should be placed in at least one of the following locations:

- A. Affixed to each cash register or point of sale and so situated as to be clearly visible to the buyer from the cash register; or
- B. Posted at each store entrance used by the public.

§ 122-29. Contents of sign.

The sign posted pursuant to § 122-28 of this chapter shall state whether or not it is the policy of such establishment to give refunds and under what conditions a refund will be given. The sign shall include a statement on whether a refund will be given:

- A. On merchandise which has been advertised as sale merchandise or marked as is;
- B. On merchandise for which no proof of purchase exists;
- C. At any time or not beyond a point in time specified; or
- D. In cash, as a credit or as a store credit only.

§ 122-30. Exceptions to requirement of posting of signs.

The provisions of this article requiring a retail mercantile establishment to post a sign revealing its refund policy shall not apply to a retail mercantile establishment or department that has a policy of providing, in connection with the return of its unused and undamaged merchandise within a period of up to 20 days after the date of purchase:

- A. A cash refund for a cash purchase; or
- B. Issuing a credit for a credit purchase, which credit is applied to the account on which the purchase was debited.

§ 122-31. Penalties; refunds or credits to buyers.

A retail mercantile establishment violating any provision of this article shall:

- A. Any person violating or failing to comply with any other provision of this article shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$1,000, by imprisonment not to exceed 90 days or by community service of not more than 90 days or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.
- B. The violation of any provision of this chapter shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.
- C. For up to 20 days from the date of purchase, be liable to the buyer of any merchandise for a cash refund or a credit, at the buyer's option, provided that the merchandise has not been used or damaged by the buyer.

Article VII. Rental Properties

[Added 2-16-2000 by Ord. No. 2000-2]

§ 122-32. Rental registration.

All owners of transient rental properties shall be required to register with the Clerk of the Borough. The information to be supplied shall include, but not be limited to, name and location of the establishment; number of units; and the maximum occupancy number of each unit. The registration required by this section shall be completed at the time of the annual mercantile licensing application.

§ 122-33. Posting of notice.

The owner or his representative shall post the following notice on the back of each transient unit's entry door: "The maximum occupancy for this units is _____. If you believe this unit does not meet current building or property maintenance codes, please call (732) 793-9100, Monday through Friday until 4:00 p.m. or (732) 793-1800, after hours."

§ 122-34. Nontransient requirements.

All rooms, apartments or cottages rented on a nontransient basis must comply with the provisions of Article II of Chapter 55.

§ 122-35. Violations and penalties.

[Added 8-2-2000 by Ord. No. 2000-16; amended 2-16-2005 by Ord. No. 05-06]

- A. Any person violating or failing to comply with any other provision of this article shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$1,250, by imprisonment not to exceed 90 days or by community service of not more than 90 days or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.
- B. The violation of any provision of this chapter shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

Chapter 127. Mobile Structures for Business and Residential Use

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 2-19-1997 by Ord. No. 97-1. Amendments noted where applicable.]

§ 127-1. Purpose.

The purpose of this chapter is to restrict business, commercial and residential uses to permanent structures which fully comply with all building, electrical and other codes and regulations in effect within the Borough of Seaside Heights in order to allow uniform application and to upgrade the safety and appearance of the Borough of Seaside Heights. It is further the purpose and intent of this chapter to improve the appearance of the borough and, therefore, to protect and perpetuate the health, safety and welfare of our citizens.

§ 127-2. Definitions.

For the purpose of this chapter, the following applies:

MOBILE STRUCTURE

Any assembly of materials forming a construction for occupancy or use, having a portable design built on a chassis and designed to be moved from one site to another and to be used without a permanent foundation.

§ 127-3. Use for business and residential purposes prohibited.

The use of any mobile structure located upon private real property within the Borough of Seaside Heights for any business or commercial activity or residential purposes is hereby prohibited.

§ 127-4. Violations and penalties.

- A. Any person violating or failing to comply with any other provision of this article shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$1,000, by imprisonment not to exceed 90 days or by community service of not more than 90 days or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.
- B. The violation of any provision of this chapter shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

§ 127-5. Requirements for habitation.

[Added 7-15-1998 by Ord. No. 98-26]

Hereafter, no trailer shall be used as living or rooming quarters for human habitation in the Borough of Seaside Heights, in the County of Ocean and State of New Jersey, unless and until each trailer is connected with the municipal water and sewer systems and is so constructed, erected and maintained that it complies with the municipal building and sanitary regulations.

§ 127-6. Continuing violation.

[Added 7-15-1998 by Ord. No. 98-26]

Each day each trailer is unlawfully used in violation hereof may be considered a separate offense hereunder.

Chapter 130. Nepotism

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 4-5-2017 by Ord. No. 17-07. Amendments noted where applicable.]

GENERAL REFERENCES

Administrative offices — See Ch. 5.

Contracts — See Ch. 65.1.

Personnel policy — See Ch. 158.

§ 130-1. Definitions.

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

IMMEDIATE FAMILY

Spouse, child, stepchild, parent, stepparent, brother, stepbrother, sister, stepsister, grandparent, father-in-law, mother-in-law, sister-in-law, brother-in-law, half-brother, half-sister, nephew or niece.

§ 130-2. Employment of relatives of elected officials.

As of the effective date of this chapter, the Borough shall not hire, to any permanent, nonseasonal employment position, any immediate family members of the Mayor or Borough Council members.

§ 130-3. Prohibition on direct supervision of family members.

- A. The Borough shall not hire immediate family members of department heads or the head of any office for positions which would require the department head to directly supervise an immediate family member.
- B. If, subsequent to the hiring of an employee by the Borough, the employee becomes an immediate family member such that the policies delineated above would be violated, the Business Administrator, to the extent practicable, shall transfer one of the employees in question to a comparable position in another department or office so as to eliminate the violation. The decision as to which employee shall be transferred to another department or office shall be in the Business Administrator's discretion in light of Civil Service laws and any applicable collective bargaining or employment agreements. If the act which created the immediate family member relationship affects more than two employees, the authority of the Business Administrator to transfer employees as delineated above may be extended to any additional employees so that the policies of this chapter are not violated.

§ 130-4. Extenuating circumstances waiver.

If, in the opinion of the Mayor, Business Administrator or any member of Council, extenuating circumstances necessitate the waiver of the policy set forth in § 130-2 or 130-3, a written recommendation delineating the extenuating circumstances shall be submitted to the Mayor and Borough Council, provided that such waiver would not create a violation of the Local Public Ethics Law and that any direct supervisory authority of a family member over another family member can be legally and effectively delegated. If the Borough Council concurs that there are

extenuating circumstances, this policy may be waived by resolution adopted by an affirmative vote of at least 2/3 of the majority of the full Borough Council as to the particular hiring at issue only.

§ 130-5. Effect on prior relationships.

This chapter is not intended to apply to immediate family member relationships between or among employees which were created or existed prior to the effective date of this chapter.

Chapter 131. Newsracks

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 2-19-1997 by Ord. No. 97-1. Amendments noted where applicable.]

§ 131-1. Purpose.

The purpose of the provisions and prohibitions hereinafter contained and enacted is to secure and promote the public health and general welfare of persons in the Borough of Seaside Heights in their use of public rights-of-way:

- A. The uncontrolled placement of newsracks in public rights-of-way presents an inconvenience and danger to the safety and welfare of persons using such rights-of-way, including pedestrians, persons entering and leaving vehicles and buildings and persons performing essential utility, traffic control and emergency services.
- B. Newsracks so located cause an inconvenience or danger to persons using public rights-of-way, and unsightly newsracks located therein constitute public nuisances.

§ 131-2. Definitions.

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

DISTRIBUTOR

The person responsible for placing and maintaining a newsrack in a public right-of-way.

NEWSRACK

Any self-service or coin-operated box, container, storage unit or other dispenser installed, used or maintained for the display, sale and distribution of newspapers, other news periodicals.

PARKWAY

Any area within a roadway which is not open to vehicular travel.

ROADWAY

That portion of a street improved, designed or ordinarily used for vehicular travel.

SIDEWALK

Any surface provided for the exclusive use of pedestrians. Where there is no paved surface may also refer to the area between the edge of the roadway and the property line adjacent thereto.

STREET

All that area dedicated to public use for public street purposes and shall include, but not be limited to, roadways, parkways, alleys and sidewalks.

UTILITY AREA

That area between the sidewalks and the curb of any street.

§ 131-3. Registration required.

Any person, firm or corporation to erect, place, maintain or operate a newsrack on any public street or sidewalk or in any other public way or place in the borough must within 10 days of placement of same register the location of the rack or racks with the Borough Clerk.

§ 131-4. Registration form.

Registration shall be done, in writing, by filling out the registration form which shall contain the name and address of the registrant, the proposed specific location of said newsrack and shall be signed by the registrant.

§ 131-5. Registration fee.

Registration of a newsrack may be completed without prior inspection of the location, but such newsrack or newsracks may only remain in that location so long as the provisions of this chapter are observed. An annual registration fee of \$10 for the first rack and \$8 for each additional newsrack shall be required to cover administration and enforcement costs.

§ 131-6. Standards for maintenance and installation.

Any newsrack which rests in whole or in part upon or on any portion of a public right-of-way or which projects onto, into or over any part of a public right-of-way shall be located in accordance with the provisions of this section.

- A. No newsrack shall exceed four feet in height, 30 inches in width or two feet in thickness.
- B. No newsrack shall be used for advertising signs or publicity purposes other than that dealing with the display, sale or purchase of the newspaper or news periodical sold or distributed therein.
- C. Each newsrack shall be equipped with a coin-return mechanism to permit a person using the machine to secure an immediate refund in the event that the newsrack door does not open. The coin-return mechanism shall be maintained in good working order.
- D. Each newsrack shall have affixed to it, in a readily visible place so as to be seen by anyone using the newsrack, a notice setting forth the name and address of the distributor and the telephone number of a working telephone service to call to report a malfunction or to secure a refund in the event of a malfunction of the coin-return mechanism.
- E. Each newsrack shall be maintained in a neat and clean condition and in good repair at all times. Specifically, but without limiting the generality of the foregoing, each newsrack shall be serviced and maintained so that:
 - (1) It is reasonably free of dirt and grease.
 - (2) It is reasonably free of chipped, faded, peeling and cracked paint in the visible painted areas thereof.
 - (3) It is reasonably free of rust and corrosion in the visible unpainted metal areas thereof.
 - (4) The clear plastic or glass parts thereof, if any, through which the publications therein are viewed are unbroken and reasonably free of cracks, dents, blemishes and discoloration.
 - (5) The paper or cardboard parts or inserts thereof are reasonably free of tears, peeling or fading.
 - (6) The structural parts thereof are not broken or unduly misshapen.

§ 131-7. Location and placement.

Any newsrack which rests in whole or in part upon or on any portion of a public right-of-way or which projects onto, into or over any part of a public right-of-way shall be located in accordance with the provisions of this section.

- A. No newsrack shall be used or maintained which projects onto, into or over any part of the roadway of any public street or which rests, wholly or in part upon, along or over any portion of the roadway of any public street.
- B. No newsrack shall be permitted to rest upon, in or over any public sidewalk or parkway when such installation, use or maintenance endangers the safety of persons or property, or when such newsrack unreasonably interferes with or impedes the flow of pedestrian or vehicular traffic.

- C. No newsrack shall be chained, bolted, anchored to the ground or otherwise attached to any fixture located in the public right-of-way, except to other newsracks.
- D. Newsracks may be placed next to each other, provided that no group of newsracks shall extend for a distance of more than eight feet along a curb, and a space of not less than three feet shall separate each group of newsracks.
- E. No newsrack shall be placed, installed, used or maintained:
 - (1) Within five feet of any marked crosswalk.
 - (2) Within 12 feet of the curb return of any unmarked crosswalk.
 - (3) Within five feet of any fire hydrant, fire call box, police call box or other emergency facility.
 - (4) Within five feet of any driveway.
 - (5) Within three feet ahead or 15 feet to the rear of any sign marking a designated bus stop.
 - (6) Within three feet of the outer end of any bus bench.
 - (7) At any location whereby the clear space for the passageway of pedestrians is reduced to less than three feet.
 - (8) Within three feet or on any public area improved with lawn, flowers or shrubs.

§ 131-8. Violations and penalties.

- A. Any person violating or failing to comply with any other provision of this article shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$1,000, by imprisonment not to exceed 90 days or by community service of not more than 90 days or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.
- B. The violation of any provision of this chapter shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

Chapter 137. Obscene Material, Display of

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 2-19-1997 by Ord. No. 97-1. Amendments noted where applicable.]

§ 137-1. Display prohibited.

It shall be unlawful for a retailer to display or permit to be displayed at a business premises any obscene material, as defined in N.J.S.A. 2C:34-3, at a height of less than five feet or without a blinder or covering placed on or in front of the material displayed.

§ 137-2. Presumptive evidence of violation.

The display of any obscene material, as defined in N.J.S.A. 2C:34-3, at a retail place of business shall constitute presumptive evidence that the retailer knowingly made or permitted the display.

§ 137-3. Violations and penalties.

- A. Any person violating or failing to comply with any other provision of this article shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$1,000, by imprisonment not to exceed 90 days or by community service of not more than 90 days or any combination of fine, imprisonment and community

service, as determined in the discretion of the Municipal Court Judge. 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.

- B. The violation of any provision of this chapter shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

Chapter 142. Parental Responsibility for Juveniles

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 2-19-1997 by Ord. No. 97-1. Amendments noted where applicable.]

§ 142-1. Liability of parent or guardian.

A parent, guardian or other person having legal custody of an infant under 18 years of age who fails or neglects to exercise reasonable supervision and control of the conduct of such infant shall be liable for any willful, malicious or unlawful injury or destruction by such infant of real or personal public property of the Borough of Seaside Heights.

§ 142-2. Civil proceeding authorized.

Whenever the real or personal property of the Borough of Seaside Heights is destroyed or damaged by any willful, malicious or unlawful act of a minor, the Borough Council may authorize the institution of legal proceedings in civil court to hold the parent, guardian or other person having legal custody of the infant under 18 years of age liable for the damage caused to the real or personal property of the borough where such a parent, guardian or other person has failed or neglected to exercise reasonable supervision and control over the conduct of such infant under 18 years of age.

§ 142-3. Nonapplicability.

The provisions of this chapter shall not apply to parents from whom parental custody and control of such infant has been removed by court order, decree, judgment, military service or marriage of such infant.

Chapter 146. Parking

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 2-19-1997 by Ord. No. 97-1. Amendments noted where applicable.]

GENERAL REFERENCES

Vehicles and traffic — See Ch. 223.

Article I. General Parking Regulations

§ 146-1. Parking prohibited at all times.

[Amended 12-3-1997 by Ord. No. 97-13]

No person shall park a vehicle at any time upon any of the streets or parts thereof established by resolution, adopted and amended from time to time by the Borough Council.

§ 146-2. Restricted parking; handicapped residences.

[Amended 12-3-1997 by Ord. No. 97-13]

A restricted parking zone shall be established in front of a residence occupied by a handicapped person if a windshield placard or wheelchair symbol license plates have been issued for a vehicle owned by the handicapped person, or by another occupant of the residence who is a member of the immediate family of the handicapped person as issued by the Division of Motor Vehicles. Said restricted parking is established by resolution, adopted and amended from time to time by the Borough Council.

§ 146-2.1. Parking in front of private driveway.

[Added 8-7-2002 by Ord. No. 2002-20]

A motor vehicle may be parked in front of a private driveway, where not otherwise prohibited and where the permitting of such parking would not interfere with the normal flow of traffic, only under the following circumstances:

- A. Where the motor vehicle so parked and the driveway blocked are owned by the same person; or
- B. Where the motor vehicle so parked is owned by a member of the same household as the owner of the private driveway; or
- C. Where the owner of the private driveway authorizes such parking of a motor vehicle in front of the private driveway.^[1]

[1] *Editor's Note: Former Subsection B, regarding driveway parking permits, which immediately followed, was repealed 6-3-2009 by Ord. No. 09-08.*

§ 146-3. Parking prohibited during certain hours.

[Amended 12-3-1997 by Ord. No. 97-13]

No person shall park a vehicle between the hours, specified by resolution, of any day, except Sundays and public holidays, upon any of the streets or parts of streets established by resolution, adopted and amended from time to time by the Borough Council.

§ 146-4. Stopping or standing prohibited during specified times.

[Amended 12-3-1997 by Ord. No. 97-13]

No person shall stop or stand a vehicle for the times, specified by resolution, of any day, except Sundays and public holidays, upon any of the streets or parts of streets established by resolution, adopted and amended from time to time by the Borough Council.

§ 146-5. Parking time limited.

[Amended 12-3-1997 by Ord. No. 97-13]

No person shall park a vehicle for longer than the time limit shown by resolution at any time between the hours listed in said resolution of any day, except Sundays and public holidays, upon any of the streets or parts of streets established by resolution, adopted and amended from time to time by the Borough Council.

§ 146-6. Corner parking prohibited on certain streets.

No vehicle shall be parked on the most easterly 20 feet of any street running in an easterly and westerly direction in the municipality.

§ 146-7. Loading stations established.

On the easterly 20 feet of all streets in the municipality running in an easterly and westerly direction, where general parking has been prohibited hereinbefore in this chapter, loading and unloading stations shall be permitted in order to facilitate the conduct of general business on and in the vicinity of the public boardwalk immediately east of said twenty-foot areas, which loading and unloading vehicles shall be permitted while so engaged for a period not exceeding 10 minutes.

§ 146-8. Parking of disabled vehicles prohibited.

Disabled vehicles shall not be parked on any of the streets of the Borough at any time.

§ 146-9. Street end parking prohibited.

[Amended 12-17-1997 by Ord. No. 97-16; 7-7-1999 by Ord. No. 99-17; 8-4-1999 by Ord. No. 99-26]

It shall be a violation of this article whenever any individual parks a car at a street end other than in a designated parking stall.

§ 146-10. Violations and penalties.

[Amended 12-17-1997 by Ord. No. 97-16; 12-15-1999 by Ord. No. 99-35]

Any person, firm or corporation convicted of a violation of this article shall, upon conviction, suffer a penalty of \$55 or 10 days' imprisonment in the Ocean County Jail, or both, at the discretion of the court or judge before whom such conviction is had.

Article II. Driveway Restrictions

§ 146-11. Driveways not permitted in certain areas.

There shall be no driveways permitted on the west side of Ocean Terrace within the Borough of Seaside Heights between Sherman Avenue on the south and Hierung Avenue on the north. All access to properties adjoining the west side of Ocean Terrace in this area shall enter and/or exit on the appropriate side streets.

§ 146-12. Effect on existing driveways.

This chapter shall not affect any currently existing driveway located in the aforesaid area.

Article III. Designated Parking Spaces Marked Reserved for Medical or Dental Offices

§ 146-13. Purpose.

Every medical or dental office located within the Borough of Seaside Heights shall be entitled to have one parking space along the street in front of the medical or dental office marked reserved for medical physician or dentist. It shall be a violation for anyone other than the medical physician or dentist to park in said space other than a patient of said medical physician or dentist who is utilizing the services of that medical physician or dentist.

§ 146-14. Violations and penalties.

[Amended 12-15-1999 by Ord. No. 99-35]

Any person who shall violate any of the provisions of this article shall, upon conviction thereof, before the Municipal Court Judge of the Borough of Seaside Heights, be fined \$55, together with costs of Court.

Article IV. Parking Meters

§ 146-15. Definitions.

For the purpose of this chapter, the following terms shall have the meanings indicated:

OPERATOR

Shall mean and include every individual who shall operate a vehicle.

PARKING METERS

Individual meters at each space; or spaces designated and properly signed so as to be paid spaces when payments are to be made at a common station.

[Added 2-18-2009 by Ord. No. 09-03]

PERSON

Any individual, firm, copartnership or corporation.

STREET

Any public street, avenue, road, highway or other public place within the Borough of Seaside Heights established for the use of vehicles.

VEHICLE

Any device in, upon or by which any person or property is or may be transported upon a street, except devices moved by human power or operated exclusively upon stationary rails.

§ 146-16. Meter zone established; placement restricted; installation.

- A. There is hereby authorized to be established a parking-meter zone, which consists of both sides of all streets and avenues located in the Borough of Seaside Heights.
- B. No parking meters shall be placed where parking is now or may hereafter be prohibited.
- C. The Mayor and Borough Council of the Borough of Seaside Heights shall cause parking meters to be installed on streets and avenues in the Borough at their discretion.
- D. It shall be unlawful to park more than one vehicle of any description at any location in the Borough of Seaside Heights where a parking meter has been installed; that is to say, one vehicle shall be parked for each meter installation and no combination of vehicles such as motorcycles, motor bikes, miniature vehicles, wagons or any other self-propelled vehicle or vehicles shall be permitted except one such vehicle for each parking meter space.
- E. It shall be unlawful to park any vehicle having an overall length of more than 15 feet at any location where a parking meter has been installed within the Borough of Seaside Heights and where the parking space is clearly marked compact cars only or where some other similar designation is clearly marked upon the parking space.

§ 146-17. Compliance required.

It shall be unlawful for the owner or operator of any vehicle to park such vehicle upon portions of streets or avenues designated where parking meters have been installed, unless specific payments are made as hereinafter designated.

§ 146-18. Meter spaces designated; legal parking period indicated.

[Amended 4-16-2014 by Ord. No. 14-09]

- A. On the streets so designated, the Borough shall, by appropriate markings, outline individual parking spaces, adjoining each of which parking spaces there shall be erected a parking meter which, upon the deposit of coins, as hereinafter provided, will indicate the duration of the legal parking period and the time when such period has elapsed.
- B. Any owner of property within the Borough who, in order to address the parking of vehicles in front of such property for an extended period of time and/or some other valid reason, desires to have a parking meter installed at any location on the public street adjacent to such property, which location may be located no less than 50% in front of such property, may provide a written request to the Borough Council for such parking meter installation. The approval of such request shall be made by the Borough Administration upon consideration of parking conditions in the requested location, and the time of such installation shall be solely at the convenience of the Borough.

§ 146-19. Times of operation; deposits required for legal parking periods.

[Amended 5-17-2000 by Ord. No. 2000-8; 2-7-2001 by Ord. No. 2001-5; 3-5-2003 by Ord. No. 03-02; 4-7-2004 by Ord. No. 04-03; 12-20-2006 by Ord. No. 06-16; 5-21-2008 by Ord. No. 08-07; 2-18-2009 by Ord. No. 09-03; 6-3-2009 by Ord. No. 09-08; 3-3-2010 by Ord. No. 10-5; 2-16-2011 by Ord. No. 11-03; 12-21-2011 by Ord. No. 11-14; 2-6-2013 by Ord. No. 13-06; 5-15-2013 by Ord. No. 13-12; 5-7-2014 by Ord. No. 14-11; 10-15-2014 by Ord. No. 14-18]

- A. On Ocean Terrace from Porter Avenue to Hierung Avenue; on all street ends from Ocean Terrace to the Boardwalk; on Grant Avenue between Ocean Terrace and the Boulevard; and in municipally owned and metered lots (with the exception of the municipal lot located at Hamilton Avenue and Bay Boulevard for which no fee is charged), meters are in effect 24 hours a day at a rate of \$2 per hour.
[Amended 5-16-2018 by Ord. No. 2018-09]
- B. In all locations other than those specified in Subsection **A** above, meters are in effect from 8:00 a.m. to 4:00 a.m., 30 minutes per quarter, maximum of 20 coins for 10 hours.
- C. Parking meters installed on all streets and avenues in the Borough shall be in operation on every day of the week, including Sundays and holidays, for the period April 1 through October 31 of each year.
- D. Notwithstanding any other provisions of this section, the Borough of Seaside Heights is upgrading all parking meter mechanisms to an electronic type. As electronic mechanisms are installed, they will be set, by resolution, at a rate not to exceed \$2 per hour at all locations in the Borough, other than those identified in Subsection **A** above.
- E. From time to time, the Borough Council may, via resolution, establish temporary charges for parking in certain metered areas. Any such resolution shall be published in the official newspaper of the Borough of Seaside Heights no less than one week prior to effectuation of such temporary parking charges.

§ 146-20. Deposit required; fees for municipally owned unmetered parking lots.

[Amended 12-3-1997 by Ord. No. 97-13; 5-20-1998 by Ord. No. 98-12; 12-15-1999 by Ord. No. 99-35; 5-17-2000 by Ord. No. 2000-8; 2-7-2001 by Ord. No. 2001-5; 6-6-2001 by Ord. No. 2001-11; 4-3-2002 by Ord. No. 2002-10; 5-15-2002 by Ord. No. 2002-14; 2-18-2009 by Ord. No. 09-03]

- A. The operator of a vehicle shall, immediately upon entering a parking space, deposit one or more coins of the United States, as designated, in the parking meter assigned to that space and turn the lever, if so equipped, to cause the meter to operate. In the case of pay stations that are installed for several spaces, the operator shall immediately proceed to the nearest station and pay for time on the space in which he or she has parked.
- B. Parking fee for municipally owned unmetered parking lot. The following fees shall be charged for all unmetered parking lots owned and operated by the Borough when a parking lot attendant is present at the time a car enters the lot, with the exception of the municipal lot located at Hamilton Avenue and Bay Boulevard for which no fee is charged:
[Amended 4-7-2004 by Ord. No. 04-03; 5-16-2018 by Ord. No. 2018-09]
 - (1) All weekday days (from 9:00 a.m. to 2:00 a.m.): \$5 per day, regardless of time of entry.
 - (2) All weekend and holiday days (from 9:00 a.m. to 2:00 a.m.): \$10 per day, regardless of time of entry.
 - (3) The Borough Administrator may determine and set a daily fee for any given day in the range of \$3 to \$20. Said fee as set by the Borough Administrator shall be recorded by the Chief Financial Officer. All fees set pursuant to this subsection shall be presented by the Borough Administrator for review and approval by the governing body at the Council meeting next following the dates on which the fees were set.
 - (4) Where no fee has been set for a particular day, the fees as set forth in § **146-20B(1)** and **(2)** above shall be charged.

§ 146-20.1. Annual parking permits; leased meters.

[Added 5-15-2002 by Ord. No. 2002-14; 3-5-2003 by Ord. No. 03-02; amended 12-20-2006 by Ord. No. 06-16; 2-16-2011 by Ord. No. 11-03; 2-6-2013 by Ord. No. 13-06]

- A. Annual parking permits. The owner or operator of a vehicle may obtain an annual parking permit for the current calendar year from the Borough Clerk's office during normal business hours. The parking permit shall be for use on a single vehicle and shall be properly adhered to the vehicle on the driver's side rear bumper of said vehicle. The parking permit shall allow the owner or operator of said vehicle displaying a valid parking permit to park at any metered spot within the Borough of Seaside Heights, except for those spots specifically set forth in § **146-19A** at which a coin deposit shall be required. The fee for said annual parking permit shall be \$250.^[1]

[1] *Editor's Note: Former Subsection B, Lease of parking space, as amended, which immediately followed, was repealed 12-4-2013 by Ord. No. 13-26.*

§ 146-20.2. Removal of parking spaces.

[Added 10-15-2008 by Ord. No. 08-13; amended 10-15-2014 by Ord. No. 14-16]

- A. The owner of any property seeking the removal of any parking space to accommodate a driveway cut or other property change or enhancement shall apply to the governing body for the removal of such space. Approval by the governing body shall be conditioned on the level of pedestrian and vehicular traffic in the area, traffic and/or pedestrian safety concerns, proximity of commercial establishments to the space in question and the prior approval, where applicable, of the Planning Board and state agencies.
- B. Should the governing body agree to the removal of any metered parking space after consideration of the above-referenced factors, a fee of \$2,500 for removal of the space shall be charged to compensate for parking meter revenue loss.

§ 146-21. Unlawful use of metered spaces prohibited.

No person shall cause or permit a vehicle to remain in or to be parked in a parking space adjacent to any parking meter while such meter displays a signal indicating that the period of time prescribed for such parking space has expired.

§ 146-22. Lawful use of metered spaces required.

It shall be unlawful for any person to cause, allow, permit or suffer any such vehicle, registered in his or her name, to be parked adjacent to a parking meter in violation of the provisions of this chapter.

§ 146-23. Parking within lines required.

It shall be unlawful to park any vehicle across any line or marking designating a parking space, or to park said vehicle in any way that the same shall not be wholly within a parking space as designated by said markings.

§ 146-24. Deposit of coin substitutes prohibited.

It shall be unlawful to deposit or cause to be deposited in any parking meter a slug or device or metallic substitute for a coin of the United States.

§ 146-25. Protection of meters.

It shall be unlawful to deface or tamper with, damage, open or willfully break, destroy or impair the usefulness of any parking meter installed under the terms of this chapter.

§ 146-26. Construal.

Nothing contained in this chapter or in any ordinance hereinafter establishing parking meter zones shall be construed to permit parking of vehicles in those spaces within any zone in which by other ordinances of the Borough parking is prohibited.

§ 146-27. Violations and penalties.

[Amended 12-15-1999 by Ord. No. 99-35; 3-5-2003 by Ord. No. 03-02; 5-21-2003 by Ord. No. 03-14; 10-15-2003 by Ord. No. 03-30; 8-18-2004 by Ord. No. 04-13; 12-17-2008 by Ord. No. 08-16; 2-18-2009 by Ord. No. 09-03]

Any person who shall violate any of the provisions of this article, and any person aiding, abetting or assisting in said violation, shall, upon conviction thereof before the Judge of the Municipal Court of this municipality, be fined \$45, together with costs of court, and, in default thereof, shall undergo imprisonment in the county jail for a period not to exceed 10 days.

§ 146-28. Terms defined.

Whenever any words and phrases are used in this chapter, the meaning respectively ascribed to them in Subtitle 1 of Title 39 of the Revised Statutes of New Jersey shall be deemed to apply to such words and phrases used herein.

Article V. Commercial Parking Lots

§ 146-29. Term defined.

The term vehicle shall bear the same definition as appears in Title 39 of the New Jersey Revised Statutes, i.e., Vehicle means every device in, upon or by which a person or property is or may be transported upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

§ 146-30. Rules and regulations.

[Amended 11-14-1998 by Ord. No. 98-33; 7-7-1999 by Ord. No. 99-19; 2-7-2001 by Ord. No. 2001-5; 6-19-2002 by Ord. No. 2002-16; 3-5-2003 by Ord. No. 03-02; 3-19-2003 by Ord. No. 03-09; 5-21-2003 by Ord. No. 03-14; 12-20-2006 by Ord. No. 06-16; 12-17-2008 by Ord. No. 08-16; 3-5-2014 by Ord. No. 14-04]

- A. No vehicle shall be placed on a parking lot with its exhaust facing the boundary line of a dwelling or other building which is located on adjacent property within five feet of said boundary line.
- B. All parking lot owners or operators shall post their hours of operation in a conspicuous place so that same may be visible to customers who may intend to enter the parking lot. The parking lot owner or operator shall set forth, in letters and numbers no less than three inches in height, the hours of operation and the policy regarding towing of vehicles in the parking lot. Once said hours of operation and towing policy are posted, neither may be changed affecting any vehicle which is already on the parking lot.
- C. All parking lot owners and operators shall place typical concrete parking abutments on any part of their lot that adjoins a public sidewalk when they park cars in such a way as to be perpendicular to said sidewalk.
- D. No parking lot owners or operators, or their attendants or employees, shall solicit business by hand waving or vocal solicitation beyond the property lines of the parking lot. All commercial activities, specifically including, but not limited to, efforts to attract customers, undertaken on the lot must be completed by individuals standing on the ground and may not involve the use of elevating equipment of any kind.
- E. All parking lot owners or operators shall post their rates in a conspicuous place so that same may be visible to customers who may intend to enter the parking lot. The parking lot owner or operator shall set forth the specific rates and the hours that said rates are in effect in letters and numbers no less than three inches in height. Once said rates are posted, said rates may not be changed affecting any vehicle which is already on the parking lot.
- F. All advertising signs for parking lots must be located within the property lines of the parking lot and may not be placed on the sidewalk, on the street or on Borough property.
- G. Appropriate Borough officials and police officers shall have the right to enter upon parking lots to enforce municipal ordinances and state laws in connection with persons eating or disrobing in vehicles, or other violations of the law.
- H. No commercial parking lot shall have any structure upon it other than one small building which shall be no more than four feet by four feet by 6 1/2 feet high unless other buildings are preexisting or obtain approval from the Land Use Board of the Borough of Seaside Heights.
- I. All operations of any commercial parking lot shall be confined to the licensed premises.
- J. Placement of signs when lot is closed.

- (1) All parking lot owners that have a policy or practice of towing or booting cars shall place as many three-foot-by-four-foot A-frame signs upon the premises as are necessary to ensure that such a sign is readable from any driveway to a commercial parking lot when the parking lot is closed. Such sign must state:
 - (a) The parking lot is closed.
 - (b) Any car parked in the parking lot when it is closed shall be subject to towing by the owner/operator of the commercial parking lot.
 - (2) The sign shall have a solid yellow background with black letters. Each letter of the text stating the parking lot is closed shall be a minimum of six inches in height. Any additional information shall be at least three inches in height for each letter.
- K. Any car illegally parked in the parking lot when the parking lot is open shall be subject to towing by the owner/operator of the commercial parking lot in accordance with the towing policies posted pursuant to Subsection B. Booting of vehicles in private parking lots is expressly prohibited.
- L. The maximum number of parking space for any commercial lot of 4,000 square feet or less shall be determined by the Borough through the Police Department, Code Enforcement Officer or Parking Meter Supervisor on an annual basis. A written determination will be provided by the Borough personnel to the parking lot owner no later than May 1 of each year. Such written determination must be posted on the property at all times the lot is in operation.
- M. Noncompliance with any one or more of the regulations set forth herein shall cause the parking lot owner's or operator's license to be suspended or revoked.

§ 146-31. License required; fee.

From and after the final passage of this chapter, any person, persons, corporation or unincorporated association engaging in or operating a business in the nature of a parking lot or a place for the parking of automobiles or other vehicles shall be required to secure a license for such business conducted or operated and shall pay annually to the Borough of Seaside Heights a license fee in the amount established by Chapter 127 of this Code.

§ 146-32. Violations and penalties.

- A. Any person violating or failing to comply with any of the provisions of this article shall, upon conviction thereof, be punishable by a fine of not more than \$1,000, by imprisonment for a term not to exceed 90 days or by community service of not more than 90 days, or any combination of fine, imprisonment and community service as determined in the discretion of the Municipal Court Judge. 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.
- B. The violation of any provision of this article shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

Article VI. Overnight Parking and Excessive Idling

[Amended 5-5-2010 by Ord. No. 10-08]

§ 146-33. Overnight parking and excessive idling of certain vehicles prohibited.

- A. Between the hours of 11:00 p.m. and 6:00 a.m., it shall be unlawful for anyone to park a moving van, dump truck, licensed construction equipment or any other vehicle with a gross weight in excess of three tons on any and all public streets within the Borough of Seaside Heights, County of Ocean, State of New Jersey. This section shall not apply to vehicles in the process of loading or unloading.
- B. Between the hours of 11:00 p.m. and 6:00 a.m., it shall be unlawful for anyone to park any diesel-powered vehicle which is registered as commercial within the Low-Density and Single-Family Residential Zones of the

Borough of Seaside Heights, County of Ocean, State of New Jersey.

- C. Diesel-powered vehicles, whether located on public or private property, may not remain idling (which shall mean continuously running at low speed with the transmission disengaged for a period of longer than three minutes) within the Low-Density and Single-Family Residential Zones of the Borough of Seaside Heights.

§ 146-34. Purpose.

The purpose of this article is to prevent large vehicles and construction vehicles from parking overnight in areas within the Borough of Seaside Heights so as to unreasonably block light and air from residences and businesses in the Borough of Seaside Heights and to ensure that residential areas also remain free from the unreasonable noise and release of airborne contaminants attendant upon the starting and/or idling of diesel-powered vehicles.

§ 146-35. Excluded vehicles.

Any official municipal, county, state or school vehicle shall be excluded from the provisions of this chapter.

§ 146-36. Violations and penalties.

- A. Any person violating or failing to comply with any of the provisions of this chapter shall, upon conviction thereof, be punishable by a fine of not more than \$2,000, by imprisonment for a term not to exceed 90 days or by community service of not more than 90 days, or any combination of fine, imprisonment and community service as determined in the discretion of the Municipal Court Judge. 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.
- B. The violation of any provision of this chapter shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

Article VII. Handicapped Parking

§ 146-37. Purpose.

The purpose of this chapter is to provide for restricted parking zones in front of a residence occupied by a handicapped person pursuant to N.J.S.A. 39:4-197. et seq. as provided by said statute.

§ 146-38. Word usage.

Whenever any words or phrases are used in this chapter, the meanings respectively ascribed to them in Subtitle 1 of Title 39 of the Revised Statutes of New Jersey shall be deemed to apply to such words.

§ 146-39. Permit and requirements for issuance; limitation on number to be issued.

[Amended 7-18-2012 by Ord. No. 12-07]

- A. The governing body of the Borough of Seaside Heights shall issue permits for restricted parking zones in accordance with N.J.S.A. 39:4-197.6.
- B. The Borough shall not issue more than 34 restricted parking zone permits (the number of such permits issued as of June 15, 2012) at any time. If the holder of such a permit either surrenders the permit or fails to provide proof of residency and entitlement to a handicapped parking space to the Borough Clerk by May 1 of any year as required by § 146-41, that permit shall become available to the first applicant on the waiting list as established herein.

- C. An applicant may secure a spot on the waiting list for a restricted parking zone permit by submitting a complete application to the Borough Clerk. The applicants on the list will be ranked in the chronological order in which the Borough Clerk receives their initial applications. If the applicant's address changes, it is the applicant's responsibility to so notify the Borough Clerk in writing.
- D. Upon becoming aware of the availability of a restricted parking zone permit, the Borough Clerk shall send correspondence, advising the first applicant on the waiting list of the availability of a permit. The notified applicant shall have 10 calendar days from receipt of the notification to advise the Borough Clerk, in writing, whether the applicant desires to obtain the available permit. If the Borough Clerk does not receive a response from the first applicant within 10 calendar days of the applicant's receipt of the notification of license availability, the Borough Clerk shall provide notification of availability to the next applicant on the waiting list in the manner prescribed herein.

§ 146-40. Currently existing locations designated; special identification required.

Pursuant to the authority granted by N.J.S.A. 39:4-197.5, the locations set forth in a list adopted and amended by resolution of the governing body of the Borough of Seaside Heights, are hereby designated as handicapped restricted parking zones for use by persons who are Seaside Heights residents and have been issued a windshield placard or wheelchair symbol license plates by the Division of Motor Vehicles. No vehicle other than the vehicle for which the windshield placard or the wheelchair symbol license plate has been issued shall be permitted in a restricted parking zone in front of a particular residence for which a zone has been restricted. As provided under N.J.S.A. 39:4-197.6, the restricted parking zone may be granted to either the handicapped person's vehicle for which special identification has been issued by the Division of Motor Vehicles or the vehicle of an immediate member of the handicapped person's residence whose vehicle has been issued same.

§ 146-41. Signage.

[Amended 3-5-2003 by Ord. No. 03-02]

Upon the adoption of this chapter, proper signs calling attention to the provisions of this chapter shall be erected or placed upon the portions of streets as set forth by resolution attached hereto and made a part hereof. Proof of residency and entitlement to a handicapped parking space shall be provided to the Borough Clerk by May 1 of each year. Failure to comply with this requirement will be reason for the Borough to remove the handicapped signage.

§ 146-42. Violations and penalties.

- A. Any person violating or failing to comply with any of the provisions of this article shall, upon conviction thereof, be punishable by a fine of not more than \$1,000, by imprisonment for a term not to exceed 90 days or by community service of not more than 90 days, or any combination of fine, imprisonment and community service as determined in the discretion of the Municipal Court Judge. 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.
- B. Any person parking a motor vehicle in a restricted parking space without a special vehicle identification card shall be liable to a fine of \$100 for the first offense and, for subsequent offenses, a fine of at least \$100 and up to 90 days' community service on such terms and in such form as the court shall deem appropriate, or any combination thereof.
- C. The violation of any provision of this article shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

Article VIII. Temporary Parking Restrictions; Special Purpose

§ 146-43. Temporary restriction.

From time to time it will be necessary for the Borough of Seaside Heights to perform certain maintenance work or street cleaning along the streets within the Borough of Seaside Heights. In order to facilitate the performance of that work and cleaning of the Borough streets, the Borough Council of the Borough of Seaside Heights may authorize a

temporary or permanent parking prohibition on any street, or a portion thereof, located within the Borough of Seaside Heights. The Borough Administrator, or in his absence the Chief of Police, is authorized to designate temporary no parking streets, or portions thereof, and to direct the posting of "Temporary No Parking" signs.

§ 146-44. Special purpose restrictions; notification.

- A. "Temporary No Parking" signs shall be posted along the streets, or portion thereof, which are subject to the temporary no parking restriction.
- B. Notification that the "Temporary No Parking" signs are being or will be posted shall be given to the operator or owner of any vehicle which has been parked prior to the posting of said sign.
- C. The public shall be notified of parking restrictions for street cleaning by the erection of signs.
- D. Any unoccupied vehicle parked or standing in violation of this article shall be deemed a nuisance, and the owner shall be required to pay the reasonable cost of removal and storage which may result from the removal of the vehicle; and/or pay applicable fines.

§ 146-45. Violations and penalties.

[Amended 12-15-1999 by Ord. No. 99-35]

Any person who shall violate any of the provisions of this article shall, upon conviction thereof, before the Municipal Court Judge of the Borough of Seaside Heights, be fined \$55, together with costs of Court.

Article IX. Parking of Autobuses, Tractors, Trailers

§ 146-46. Parking of autobuses, tractors, trailers, dumpsters and roll-off containers restricted.

[Amended 10-20-1999 by Ord. No. 99-28; 12-3-1997 by Ord. No. 97-13; 2-7-2001 by Ord. No. 2001-5; 5-21-2008 by Ord. No. 08-07; 12-17-2008 by Ord. No. 08-16; 5-2-2018 by Ord. No. 2018-08]

- A. The parking of tractors, trailers, tractor-trailers, dumpsters and roll-off containers in the Borough of Seaside Heights shall be prohibited in all municipal parking lots and all private parking facilities. This prohibition shall not be construed to prevent the loading and unloading of said tractors, trailers and/or tractor-trailers, dumpsters and roll-off containers in designated areas for the purposes of delivery and pickup. This prohibition shall not prevent the parking of said vehicles in an area designated by the governing body for this purpose. The governing body may, by resolution, designate an area for parking of said vehicles. The annual fee for leasing one of these spots shall be \$350 for residents and \$500 for nonresidents for any part of a calendar year and shall be nonrefundable.
- B. The parking of autobuses shall be prohibited on all public streets in the Borough of Seaside Heights, County of Ocean, State of New Jersey.
- C. The parking of autobuses shall be prohibited in all off-street private parking facilities except in those private parking facilities that have been approved by resolution of the governing body of the Borough of Seaside Heights after assessment of traffic flow and safety concerns and in light of proximity to, and type of, residential and commercial activities in close proximity to the facility in question. Parking of autobuses in private lots is subject to the limitations established by § 146-30 of this chapter.
- D. An autobus may park in defined areas of the municipal parking lot located on the west side of Bay Boulevard at Hamilton Avenue, provided such autobus displays a bus parking permit obtained from the employee or agent designated to provide such permits by resolution of the governing body. All written requests and applications for the permit must be received by the designated employee or agent not later than 10 days before the day on which the autobus is intended to be parked in the bus parking area. The request for an autobus parking permit shall be granted only if there is sufficient available parking space for the vehicle in the designated parking area on the date in question. The request for an autobus parking permit shall be accompanied by a fee of \$50 which shall be returned if there is not sufficient available space on the date requested.

§ 146-47. Time limits; prohibited uses.

The parking of trailers and/or tractor trailers at any time during the year in the Borough of Seaside Heights for any time beyond which is reasonably required to unload said trailer is prohibited, and it shall be unlawful for any trailer to be used for an extended period as a storage or warehouse facility. Also no vehicle with a gross vehicle weight of 6,000 pounds or more may be parked on Borough streets from 11:00 p.m. to 6:00 a.m.

§ 146-48. Enforcement by Police Department.

From and after the effective date of this chapter, the Police Department of this Borough shall be empowered to carry out the provisions of this chapter and it shall be the responsibility of said Police Department to take all reasonable steps to prevent the parking or standing of autobuses on the public streets of the Borough of Seaside Heights, as aforesaid.

§ 146-49. Violations and penalties.

A. Any person violating or failing to comply with any of the provisions of this chapter shall, upon conviction thereof, be punishable by a fine of not more than \$1,000, by imprisonment for a term not to exceed 90 days or by community service of not more than 90 days, or any combination of fine, imprisonment and community service as determined in the discretion of the Municipal Court Judge. 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.

B. The violation of any provision of this chapter shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.^[1]

[1] *Editor's Note: Former Art. X, Schedules, which immediately followed this subsection, was deleted 12-3-1997 by Ord. No. 97-13.*

Article X. Parking Services Agency

[Added 4-7-2010 by Ord. No. 10-07]

§ 146-50. Agency created.

There shall be a Department of Borough government to be known as the Parking Services Agency. The Parking Services Agency shall have oversight over and control of the Borough's parking system consisting of on-street parking and parking within garages, lots and other facilities, and fixtures and equipment owned, leased, or otherwise under the control of the Borough of Seaside Heights.

§ 146-51. Function of Agency.

The functions of the Department shall be to provide and manage parking within the Borough, including but not necessarily limited to on-street parking and parking within garages, lots, or other facilities owned, leased, or otherwise under the control of the Borough.

§ 146-52. Officers and employees.

The head of the Parking Services Agency shall be the Parking Meter Supervisor as created by § 166-26, et seq.^[1] The officers and employees of the Department shall include the Parking Meter Supervisor, the Parking Enforcement Officers and such support, maintenance, and enforcement staff as may be approved from time to time by the governing body.

[1] *Editor's Note: See also §§ 146-55 through 146-58.*

§ 146-53. Enforcement responsibilities.

Enforcement of parking regulations in the Borough, including but not limited to time limits and general prohibitions, shall be by the Parking Meter Supervisor, the Parking Enforcement Officers and Borough Police Officers.

§ 146-54. Duties of Parking Meter Supervisor.

The Parking Meter Supervisor shall be responsible for management of the Department, its employees, facilities and equipment, including assigning tasks to employees. Subject to approval by the Borough Administrator, the Parking Meter Supervisor may establish rules and regulations for parking services within the limits of policies set by the Governing body. In establishing rules and regulations, provision of effective, efficient, economical, convenient parking services to the community shall be of paramount concern.

§ 146-55. Office established.

There is hereby established the office of Parking Meter Supervisor for the Borough of Seaside Heights.

§ 146-56. Appointment; term of office.

The Parking Meter Supervisor shall be appointed by the Mayor, with the advice and consent of the Borough Council, and shall serve for a term of one year, commencing on January 1 of the year of appointment and ending on December 31 of that year, or until a successor or successors shall be appointed and qualified.

§ 146-57. Qualifications.

To be appointed as Parking Meter Supervisor for the Borough of Seaside Heights, an individual must have three years of experience in the repair of parking meters or other coin-regulated machines, one year of which shall have been in a supervisory capacity during which time he or she has had charge of, directed, and worked with a group of employees engaged in the installation, removal, repair, maintenance, and adjustment of parking meters and/or in work involved in collecting, counting, and depositing monies from parking meters.

§ 146-58. Duties.

The Parking Meter Supervisor shall supervise the establishment, development, and execution of work plans and procedures for the installation, maintenance, repair, inspection, and removal of parking meters. The Parking Meter Supervisor shall also give assignments and instruction to staff; supervise their work, investigate and make reports on damages to meters, maintain records of meters in service, receive complaints and requests for repairs, obtain, store, and safeguard equipment, materials, and supplies, establish and maintain essential records and files and maintain records of monies collected from meters.

§ 146-59. Office established.

There is hereby established an office of Parking Enforcement Officer for the Borough of Seaside Heights pursuant to N.J.S.A. 40A:9-154.7 et seq.

§ 146-60. Qualifications.

Minimum qualifications, uniform and duty shall be as prescribed by N.J.S.A. 40A:9-154.9.

§ 146-61. Duties.

The Parking Enforcement Officer shall have all of the powers, duties and responsibilities established by the aforesaid statute which shall include, but shall not be limited to, the following:

- A. Issue a parking ticket for a parking offense, as those two terms are defined in the Parking Offenses Adjudication Act (N.J.S.A. 39:4-139.2 et seq.).

- B. Serve and execute all process for any parking offense issuing out of the court and the municipality having jurisdiction over the complaint.
- C. Cause any vehicle parked, stored or abandoned in the municipality in violation of a statute, resolution, ordinance or regulation to be towed away from the scene of the violation and to collect from the vehicle owner or owner's agent, on behalf of the municipality, the cost of the towing and subsequent storage of the vehicle before surrendering the vehicle to the owner or agent.

§ 146-62. Not members of Police Department.

No Parking Enforcement Officer, by virtue of his appointment as such shall be or become a member of the Police Department.

Article XI. PURPLE HEART PARKING

[Added 5-2-2018 by Ord. No. 2018-03]

§ 146-63. Purpose.

The governing body of the Borough of Seaside Heights finds and determines combat-wounded service members have made great sacrifices which often go unrecognized. Therefore, to honor such men and women who have selflessly served their country, the Borough will designate certain parking spaces as Purple Heart parking to grant certain parking privileges to wounded combat veterans that have received the Purple Heart.

§ 146-64. Designated spaces for Purple Heart recipients only.

No person shall stop, stand or park a vehicle in any area designated as Purple Heart parking unless the vehicle bears the Purple Heart license plate or placard issued by the New Jersey Motor Vehicle Commission.

§ 146-65. Purple Heart recipients in accordance with state law.

New Jersey law (N.J.S.A. 39:4-207.10) permits exemption from payment of municipal parking meter fees, for up to 24 hours, for Purple Heart recipients when the vehicle displays a Purple Heart license plate or placard issued by the New Jersey Motor Vehicle Commission. The Purple Heart veteran shall be the driver or passenger of the vehicle.

§ 146-66. Purple Heart parking locations.

In accordance with the provisions of this article, the following locations are designated as Purple Heart Parking:

- A. Three parking spaces located in municipal parking lot at Grant Avenue;
- B. One parking space located at Carteret Avenue street end;
- C. One parking space located at Blaine Avenue street end;
- D. One parking space located at Franklin Avenue street end.

§ 146-67. Violations and penalties.

- A. Any person violating or failing to comply with any of the provisions of this article shall, upon conviction thereof, be punishable by a fine of not more than \$2,000, by imprisonment for a term not to exceed 90 days or by community service of not more than 90 days, or any combination of fine, imprisonment and community service as determined in the discretion of the Municipal Court Judge. 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.

- B. The violation of any provision of this article shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

Chapter 150. Payment of Claims

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 2-19-1997 by Ord. No. 97-1. Amendments noted where applicable.]

§ 150-1. Presentation of certified bill.

Any person claiming payment from the municipality shall present a detailed bill of items or demand to the Borough Chief Financial Officer, with the certification of the party claiming payment that it is correct.

§ 150-2. Required signature.

It shall be the duty of the Chief Financial Officer to see that the signature of the officer or employee who has been duly designated by the Borough Council to certify that the materials have been received by or the services rendered to the borough appears on every claim.

§ 150-3. Determination of availability of funds.

Prior to submitting the claim to the governing body for payment, the Chief Financial Officer or a designee shall first determine that there are proper and sufficient funds available for payment of the claim and that there is legal authority for the payment. In the event that funds are not available for payment of the claim, the Chief Financial Officer or a designee shall immediately so advise the governing body and the Borough Administrator, in writing.

§ 150-4. Approvals.

Claims shall be presented to the Councilperson in charge of the department responsible for the receipt of such materials or services who, if satisfied the claims are proper, shall approve the same. After such approval is given, the Councilperson shall return the claims to the Chief Financial Officer, who shall then present these claims to the governing body for formal approval at the next regular meeting after said claims shall have been made available for review by all members of the governing body.

§ 150-5. Records to be kept.

It shall be the duty of the Borough Clerk to record all claims in the official minutes, indicating that the governing body has, by formal action, approved the same, with appropriate record as to any claims disapproved or rejected.

§ 150-6. Certification of approval.

It shall be the duty of the Borough Clerk, or such other officer designated by resolution of the governing body, to certify on said claims that they have been approved for payment, with the date of approval noted on the claim.

§ 150-7. Preparation of checks.

After the Borough Clerk has certified that the claims have been approved, the Clerk shall turn them over to the Chief Financial Officer, or a designee, who shall forthwith prepare the necessary checks for payment. The checks shall be signed by three of the following four individuals: the Mayor, the Borough Clerk, the Chief Financial Officer and Deputy Borough Clerk. After preparing checks for the payment of the claims, the Chief Financial Officer, or a designee, shall record them in proper books of account and thereafter mail or otherwise distribute the checks to the claimants.

§ 150-8. Payroll procedure.

In the case of payrolls, the appropriate department heads shall prepare the necessary payroll information for all employees, which payroll information shall be duly certified by the department head, and present the same to the Chief Financial Officer. Said payroll shall then be prepared by the Chief Financial Officer or a designee, and presented to the governing body for approval and, after approval, the payroll shall be paid in due course.

§ 150-8.1. Establishment of direct deposit program.

[Added 4-19-2017 by Ord. No. 17-12]

As of May 1, 2017, for seasonal/temporary employees and July 1, 2017, for regular employees, mandatory direct deposit of net pay is established for all employees of the Borough of Seaside Heights, including any person holding public office, position, or employment whose compensation is paid by the Borough of Seaside Heights. Compensation shall be deposited directly into each employee's specific banking institution based upon information provided by the employee.

§ 150-8.2. Information to be provided to employees.

[Added 4-19-2017 by Ord. No. 17-12]

The Chief Financial Officer shall make available for such employees who have net pay directly deposited any information concerning net pay, any accompanying information approved for distribution with net pay, and W-2 forms in accordance with applicable federal law, only on the Internet with restricted access and policies and procedures to protect the integrity and confidentiality of the information.

§ 150-9. Reimbursement for travel expense, education, license or certification, mileage.

- A. In the case of reimbursement for actual and necessary traveling expenses, itemized claims supported by receipts, where available, should be presented in order to obtain reimbursement for expenses incurred by local officials and employees when authorized to travel by the municipality.
- B. The governing body may, by resolution, provide for and authorize payment of advances to officers and employees toward their expenses for authorized official travel and expenses. Any such resolution shall provide for the verification and an adjustment of such expenses and advances and the repayment of any excess advance by means of a detailed bill of items or demand and the certification required under § 150-6 hereof. The certification of the officer or employee shall be submitted within 10 days after the completion of the travel for which the advance was made.
- C. When authorized by the Borough Council, employees shall be reimbursed for class, course, seminar, license or certification fees paid by the employees in order to further their education and to allow them to better perform their duties as employees of the Borough of Seaside Heights. The employees shall submit a request to attend the class, course or seminar that they want to attend to enhance their job performance or obtain any necessary license or certification for the performance of their duties as employees of the borough. Included on the request shall be a statement of the cost to take the class, course or seminar, and a request for reimbursement from the governing body. A grade of "C" or above is required to be considered for reimbursement.
- D. As of January 1, 2015, when authorized by the Borough Administrator, employees shall be reimbursed at the standard mileage rate issued by the federal Internal Revenue Service to calculate the deductible costs of operating an automobile for business purposes when an employee uses his or her own vehicle for Borough business in cases where a Borough vehicle suited for the intended travel is unavailable. To be considered for reimbursement, an employee must submit a claim form stating the date and time when the employee's personal vehicle was used for Borough business, the destination to which the employee was traveling, and the amount of miles for which the employee requests payment as reimbursement for use of the employee's vehicle. All claims for reimbursement must be made within 30 days of the date of the use of the employee's vehicle. Failure to submit the request within 30 days is grounds for denial of reimbursement. All such claims must be approved by the Borough Council prior to reimbursement to the employee.

[Amended 3-7-2018 by Ord. No. 2018-01]

§ 150-10. Adoption of purchasing policies and procedures.

The Borough Council may from time to time adopt such purchasing policies and procedures as may be recommended by the Chief Financial Officer or Administrator. The purchasing policies and procedures shall be adopted by resolution of the Borough Council and may be amended by resolution of the Borough Council.

§ 150-11. Reimbursement pursuant to employee contracts.

Where an employee of the municipality has an employment contract which provides for reimbursement for expenses, the employee shall be entitled to reimbursement for expenses under the provisions of the contract, provided the employee submits the necessary voucher to the Chief Financial Officer documenting the employee's claim for reimbursement within 30 days or as otherwise provided in said employment contract.

§ 150-12. Payment of advances for travel expenses.

[Added 1-20-2016 by Ord. No. 16-02]

Notwithstanding any other provision of this chapter, the Borough Council may, by resolution, provide for and authorize the payment of advances to specific Borough officers and employees for travel expenses and incidental expenses thereto when such travel and incidental expenses are necessary and proper, as the Borough Council in its sole discretion shall determine, in advancing the scope and nature of the work of the particular Borough officer or employee.

§ 150-13. Payment of advances for vendor services.

[Added 1-20-2016 by Ord. No. 16-02]

Notwithstanding any other provisions of this chapter, the Borough Council may, by resolution, provide for and authorize the payment of advances for vendor services, excluding the provision of materials and supplies, when such services are of a professional nature as defined in the Local Public Contracts Law of New Jersey, N.J.S.A. 40A:11-1 et seq., and when the Borough Council, in its sole discretion, shall determine that circumstances exist which require the simultaneous payment for the services when the services are provided.

§ 150-14. Procedure for payment of advances.

[Added 1-20-2016 by Ord. No. 16-02]

In making advances, pursuant to this chapter, to any individual and/or vendor, the following procedure shall govern:

- A. A resolution shall be prepared by the Borough Administrator, setting forth the department head requesting the advance, the party to whom the advance is to be paid and the purpose and amount of the advance.
- B. The original resolution shall be approved, in writing, by the Borough Administrator and maintained on file in his office.
- C. A voucher requesting the advance and completed in accordance with § 150-1 shall be attached to the original resolution on file in the office of the Borough Administrator, bearing the signature of the appropriate department head requesting the advance and the party to whom the advance is to be paid.
- D. The advance payment resolution shall be approved at a public meeting of the Borough Council, pursuant to § 150-4.
- E. Following approval, an advance check shall be issued pursuant to § 150-7.
- F. Within 10 days of the completion of the authorized travel or payment for the vendor's services, the department head from whose department the request originated shall countersign the previously submitted voucher, submit a detailed bill and require any necessary adjustment to be made as to the advance payment to any officer or employee within his department, including the repayment of any excess advance, under the supervision of the Borough Administrator.

§ 150-15. Procurement cards.

[Added 12-20-2017 by Ord. No. 17-21]

- A. Procurement cards may be used by designated municipal employees under the supervision of the Procurement Card Program Manager and in accordance with this section and Procurement Card Program Cardholder Policies and Procedures. Allowable circumstances for the appropriate use of procurement cards may include, but shall not be limited to:
- (1) When payment to vendors is required in advance of the delivery of certain goods or services that cannot be obtained from any other source at comparable prices.
 - (2) When ordering, billing and payment transactions for goods or services are made through a computerized electronic transaction (e.g., Internet purchases).
 - (3) Comparable pricing is not otherwise obtainable for goods and services to be available at the time and place required.
 - (4) The cost of purchases is comparable to costs available from other vendors who can provide the required goods and services in a timely manner.
 - (5) Items are purchased in a transaction where vendor certification would not normally be readily available at the time of purchase.
 - (6) The vendor requires immediate payment and the Borough Council has approved such use for a purchase from a particular vendor for a particular item.
 - (7) Purchase is from a "big box" or other store that does not accept vouchers, purchase orders or checks.
- B. Procurement cards shall not be used for reimbursement of employee expenses or payment for personal services.

§ 150-16. Procurement card program.

[Added 12-20-2017 by Ord. No. 17-21]

- A. Procurement cards or electronic transactions will not change or eliminate any provision of the New Jersey Local Public Contracts Law^[1] and will be administered in accordance with the rules enumerated in N.J.S.A. 40A:5-16(c), notwithstanding the provisions of N.J.S.A. 40A:5-16(a) or N.J.A.C. 5:30-9A.1 et seq.
- [1] Editor's Note: See N.J.S.A. 40A:11-1 et seq.*
- B. Procurement cards will only be distributed to essential administrative personnel, department heads or supervisors and/or assistant supervisors on an as-needed basis, which shall be determined by the Borough Council in consultation with the Borough Administrator and Chief Financial Officer.
- C. All authorized procurement card users will be required to complete training on the policies and procedures governing the use of the procurement card and shall complete and sign a contract of understanding that includes the financial and legal responsibility for misuse.
- D. Procurement cards shall be issued in the name of a specific individual but under no circumstance shall be used to purchase personal property or services, including travel and dining expense.
- E. Limits on cards will be established by amount, time and category of usage permissible. An authorized procurement card user is prohibited from using the procurement card to conduct personal business or for any circumstances that are not authorized in N.J.S.A. 40A:5-16(c), N.J.A.C. 5:30-9A.1 or the Procurement Card Program Cardholder Policies and Procedures.
- F. Procurement card. It will be incumbent on the cardholders to reconcile all procurement card transactions with receipts and invoices to document a transaction. It will be incumbent for the Chief Financial Officer, in his or her role as Procurement Card Program Manager, to reconcile card activity along with payments made to the issuing financial institution.
- (1) Violations of policies governing the use of procurement cards shall result in appropriate remedial or disciplinary action without regard to the position held by the cardholder. Any violation of the policies governing use of the procurement card will result in immediate forfeiture of the ability to use such card and may result in other disciplinary action, including but not limited to suspension, termination and criminal prosecution. The Borough will also retain all rights to any funds misappropriated and will seek restitution of said funds through garnishment of wages, forfeiture of benefits and legal actions in a court of law.

- (2) Under no circumstance shall any procurement card or electronic transaction be used for personal business or personal services.

Chapter 154. Peace and Good Order

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights as indicated in article histories. Amendments noted where applicable.]

Article I. General Provisions

[Adopted 2-19-1997 by Ord. No. 97-1]

§ 154-1. Consumption and possession of alcohol prohibited in certain areas; sealed containers exception.

[Amended 10-15-2008 by Ord. No. 08-14]

No person shall drink, imbibe or consume any alcoholic beverage in or upon a public street, lane, roadway, avenue, sidewalk, public parking place, park, playground, recreation area or any other public or quasi-public place, or in a public conveyance or private motor vehicle while the same is in motion or parked in any public street, lane, public parking lot or public or quasi-public place, or on any private property not his own without the express permission of the owner or other person having authority to grant such permission. No person shall have in his possession or possess any alcoholic beverage in, on or upon any public street, road, alley, sidewalk, park, playground or in, on or upon any land or building owned or occupied by the Borough government, unless the same is contained within a closed or sealed container.

§ 154-2. Urinating and defecating in public places; public nudity.

[Amended 12-17-1997 by Ord. No. 97-18]

- A. It shall be unlawful for any person to urinate or defecate in any public place, except in such places as may be provided for such use.
- B. No person shall appear or travel on any street, avenue, highway, road, boardwalk, beach, beachfront or waterway located in the Borough of Seaside Heights or appear in any public place, store or any business open to the public in said Borough in a state of nudity. A person shall be found in a state of nudity when clothing or absence of clothing completely exposes to public view a person's anus, genitals, pubic area or female breasts. No person shall dress or undress in any public place or in public view within the Borough of Seaside Heights.

§ 154-3. Noise.

[Amended 5-21-1997 by Ord. No. 97-6; 2-16-2005 by Ord. No. 05-07; 7-18-2012 by Ord. No. 12-09]

Whereas it is found that excessive sound and vibration are a serious hazard to the public health, safety, and welfare and the quality of life, and technology exists by which excessive sound and vibration may be substantially abated, and whereas the people have a right to and should be ensured an environment free from excessive sound and vibration that may jeopardize their health, safety or welfare or degrade the quality of life, it is hereby declared the policy of the Borough to prevent excessive sound and vibration which may jeopardize the health, safety and welfare of its citizens and degrade the quality of life.

§ 154-3.1. Certain noise prohibited.

[Added 7-18-2012 by Ord. No. 12-09]

It shall be unlawful for any person to make, continue or cause to be made or continued any unreasonably loud, unnecessary or unusual noise which either unreasonably disturbs or endangers the comfort, repose, health, peace or safety of others within the limits of the Borough.

§ 154-3.2. Unlawful acts.

[Added 7-18-2012 by Ord. No. 12-09]

- A. The following acts are hereby declared to be examples of unlawful noise that annoy, disturb, injure, or endanger the comfort, repose, health, peace or safety of others and are in violation of this article:
- (1) Radios; televisions; phonographs. The using, operating or permitting to be played, used or operated any radio receiving set, television, musical instrument, phonograph or other machine or device for the producing or reproducing of sound at any time, in such manner as to disturb the peace, quiet and comfort of neighboring inhabitants [including neighboring inhabitants in attached residential units sharing a common wall(s)]. The operation of any such set, instrument, phonograph, machine or device between the hours of 11:00 p.m. and 8:00 a.m. in such manner as to be plainly audible at a distance of 50 feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this article.
 - (2) Yelling; shouting. Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m., or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office, dwelling, hotel, motel or other type of residence or of any persons in the vicinity.
 - (3) Animals; birds. The keeping of any animals or birds which, by causing frequent or long-continued noise, disturbs the comfort or repose of any person in the vicinity.
 - (4) Horns. The sounding of any horn or warning device on any automobile, motorcycle, bus or other vehicle except when required by law or when necessary to give timely warning of the approach of the vehicle or as a warning of impending danger to persons driving other vehicles or to persons upon the street. No person shall sound any horn or warning device on any automobile, motorcycle, bus or other vehicle which emits an unreasonably loud or harsh sound or for any unreasonable period of time.
 - (5) Exhaust. The discharge into the open air of the exhaust/engine noise of any engine, stationary internal-combustion engine or motor vehicle, motorcycle except through a muffler or other device which effectively prevents loud or explosive noises therefrom.
 - (6) The operating of landscape machinery, including any noise-creating blower or power fan or any internal-combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is adequately muffled and such engine is equipped with a muffler device sufficient to deaden such noises. In no event shall such landscaping equipment or machines be operated except between the hours of 8:00 a.m. and 8:00 p.m., Monday through Friday, and between the hours of 9:00 a.m. and 8:00 p.m. on Saturday, Sunday or any state or federal holiday.
 - (7) Defect/modification in vehicle or load. The use of any automobile, motorcycle or vehicle so out of repair, so loaded or specifically modified in such manner as to create loud and unnecessary grating, grinding, rattling, combustion or other noise.
 - (8) Schools; courts; churches. The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same is in use, or which unreasonably interferes with the working of such institution, provided that conspicuous signs are displayed in such street indicating that the same is a school, hospital or court street.
- B. The above enumeration is intended to give typical illustrations of noise prohibited pursuant to § 154-3.1 and shall not be construed as exclusive.

§ 154-3.3. Exceptions.

[Added 7-18-2012 by Ord. No. 12-09]

The following are exempt from the noise regulations contained herein.

- A. Sounds from any municipality-sponsored or -approved celebrations or events.
- B. Sounds from any police, fire, ambulance or other emergency vehicles in the discharge of their official duties, garbage trucks or such other vehicles used for the removal of residential or commercial garbage, together with the removal of snow and ice from Borough and county roadways and from residential, commercial and office properties located within the Borough.
- C. Sounds emanating from the performance of any municipal, county or state generators, construction, or improvements project(s).

D. Sound from church bells and church chimes when a part of religious observance or service.

§ 154-4. Motorboats.

It shall be unlawful to permit the exhaust of any motorboat to emit disturbing noises on any of the waters within this borough between the hours of 11:00 p.m. and 6:00 a.m.

§ 154-5. Solicitation or distribution.

[Amended 4-4-2007 by Ord. No. 07-05]

No person shall solicit or distribute any object, including literature, on the public beaches in the Borough of Seaside Heights. Distribution of any object, including literature, on the public boardwalk, streets or sidewalks of the Borough of Seaside Heights shall be conducted in a manner which does not endanger the safety of persons or property, nor unreasonably interfere with or impede the flow of pedestrian or vehicular traffic.

§ 154-6. Disturbances.

No person or persons shall, within the limits of this borough, create any disturbance by violence.

§ 154-7. Malicious injury or destruction of property.

No person or persons shall, within the limits of this borough, maliciously destroy, damage or injure any property.

§ 154-8. Parking on private property.

No person shall park a vehicle in any private driveway or on any private property within the limits of this Borough without having first obtained the permission of the owner.

§ 154-9. Outdoor storage or repair of vehicles.

It shall be unlawful for any person, firm or corporation to store or place outdoors vehicles in a state of major disassembly, disrepair or in the process of being stripped or dismantled or to carry on the repairing of said vehicles outdoors, including automobiles, buses, motorcycles or any other motorized vehicles used for transportation.

§ 154-10. Nuisances declared.

Each and every one of the acts hereinbefore declared to be unlawful are hereby declared and considered nuisances.

§ 154-11. Nuisances prohibited.

It shall be unlawful for any person or persons to commit any nuisances on any of the streets, boardwalks beaches, or other public places within the limits of this Borough.

§ 154-12. Use or discharge of firearms prohibited; exception.

It shall be unlawful for any person to use or discharge any gun, pistol or firearm in gunning for game, in target practice or practice shooting, or discharge any such gun, pistol or firearm, within the corporate limits of this Borough; provided, however, that nothing herein contained shall be construed to prevent the use of any such gun, pistol or firearm in defense of the person using the same, nor to prevent the use of any gun, pistol or firearm in a shooting gallery game properly licensed under the provisions of Chapter **25** of the Code.

§ 154-13. Violations and penalties.

[Amended 2-16-2005 by Ord. No. 05-07]

- A. Any person violating or failing to comply with any of the provisions of this article shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$1,250, by imprisonment not to exceed 90 days or by community service of not more than 90 days or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.
- B. The violation of any provision of this article shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

Article II. Residency Restrictions for Certain Sex Offenders

[Adopted 8-17-2005 by Ord. No. 05-19]

§ 154-14. Restrictions established.

It shall be unlawful for a person subject to the registration requirements set forth in N.J.S.A. 2C:7-1 et seq. who has committed a sex offense, as defined within N.J.S.A. 2C:7-2, and whose victim was under the age of 18, to reside within 2,500 feet of the real property comprising an elementary or secondary school, child-care center, as defined within N.J.S.A. 30:5B-3, or playground, as defined in N.J.S.A. 52:27D-123.9, unless:

- A. The person is required to serve a sentence at a jail, prison, juvenile facility or other correctional institution or facility which is located within 2,500 feet of the real property comprising an elementary or secondary school, child-care center or playground;
- B. The person is receiving treatment at a mental health facility located within 2,500 feet of the real property comprising an elementary or secondary school, child-care center or playground;
- C. The person established the residence prior to the effective date of this article;
- D. An elementary or secondary school, child-care center or playground is built or established within 2,500 feet of the person's existing residence;
- E. The parole board, after considering an individual's housing options, determines that a needs-based exception is required; or
- F. A court that has discharged the person from a psychiatric facility with conditions pursuant to N.J.S.A. 30:4-27.15 determines that an exemption is appropriate.

§ 154-15. Violations and penalties.

Any person violating or failing to comply with any of the provision of this article shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$1,250, by imprisonment not to exceed 90 days or by community service of not more than 90 days, or any combination of fine, imprisonment and community service as determined in the discretion of the Municipal Court Judge. 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.

Chapter 158. Personnel Policy

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 2-19-1997 by Ord. No. 97-1. Amendments noted where applicable.]

§ 158-1. Personnel policies manual.

[Amended 4-21-2004 by Ord. No. 04-05]

The governing body of the Borough of Seaside Heights has adopted "The Borough of Seaside Heights Policy and Procedures Manual," which manual shall be kept on file in the Borough Clerk's office for inspection and review by all employees of the Borough, as well as the general public, during normal business hours. Copies of said manual shall also be distributed to all managerial/supervisory employees of the Borough of Seaside Heights.

§ 158-2. Amendments to personnel policies manual.

The governing body of the Borough of Seaside Heights reserves the right to rescind or revise, by resolution, any and all policies that are not set by any valid bargaining agreement, the New Jersey Statutes or the New Jersey Administrative Code.

§ 158-3. Policies and procedures for specific departments.

The Mayor and Borough Council may adopt policies and procedures for specific departments within the Borough such as, but not limited to, the Public Works Department and the Police Department. Such policies and procedures shall be in writing and a copy provided to the employees of that department. The policies and procedures shall be adopted by resolution and may be amended by resolution of the governing body.

Chapter 162. Pier Use

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 2-19-1997 by Ord. No. 97-1. Amendments noted where applicable.]

GENERAL REFERENCES

Beach regulations — See Ch. 33.

§ 162-1. Docking of boats; obstructing prohibited.

- A. It shall be unlawful to tie up or anchor any boat, motorboat, yacht, vessel or other watercraft to any pier or dock owned by the Borough of Seaside Heights.
- B. It shall further be unlawful to obstruct the use of any pier or dock owned by the borough in such a manner as to obstruct, impede or endanger navigation or the use of said pier or dock by the public.
- C. In the event that the Mayor and Council grant permission for temporary use of any such pier or dock, the provisions of Subsection **A** and **B** above shall not apply.

§ 162-2. Removal of boats by borough.

In the event that any boat, motorboat, yacht, vessel or other watercraft is unlawfully tied up or anchored to or in such proximity that it obstructs the use of any dock or pier owned and maintained by the Borough of Seaside Heights, the following action shall be taken:

- A. A summons may be issued as hereinafter set forth in § 162-3.
- B. In the event that a summons is issued and the boat, motorboat, yacht, vessel, or other watercraft still remains for a period of two days after a summons is issued, then the following action shall be taken. The Police Department of the Borough of Seaside Heights shall immediately investigate the ownership of the boat by referencing the registration numbers on the hull. In the event that there are no such registration numbers and the boat or other watercraft is one which should be registered, then the boat may be removed and stored until such time as the borough has had the opportunity to attempt to determine the ownership of said boat or watercraft. In the event that the owner is determined, then a notice shall be forwarded by certified mail, return receipt requested, to said owner at the address listed on the registration, and said owner shall have five days to remove said boat or watercraft. In the event that said boat is not removed within the five days, then the borough may remove said boat or watercraft and secure said craft for a period of 30 days. At the end of said 30 days, if no one has claimed said craft, then it may be scheduled for public sale to the highest bidder. At least seven days prior to the scheduled sale date, notice of such sale shall be forwarded by certified mail, return receipt requested, to the owner at the address listed on the registration. In the event that the owner attempts to regain possession of said

craft, said owner shall be liable to pay a storage fee not to exceed \$25 per day to the Borough of Seaside Heights. Any unregistered craft shall be treated in the same manner as to storage and public disposition.

§ 162-3. Violations and penalties.

- A. Any person violating or failing to comply with any other provision of this article shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$1,000, by imprisonment not to exceed 90 days or by community service of not more than 90 days or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.
- B. The violation of any provision of this chapter shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

Chapter 166. Police Department

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 2-19-1997 by Ord. No. 97-1. Amendments noted where applicable.]

Article I. General Provisions

§ 166-1. Establishment.

A Police Department in and for the Borough of Seaside Heights, in the County of Ocean, is hereby established.

§ 166-2. Police Department structure.

[Amended 10-21-1998 by Ord. No. 98-32; 5-1-2002 by Ord. No. 2002-12; 6-18-2003 by Ord. No. 03-16; 12-17-2003 by Ord. No. 03-38; 11-15-2005 by Ord. No. 05-20; 5-17-2006 by Ord. No. 06-10; 12-19-2007 by Ord. No. 07-13; 7-2-2008 by Ord. No. 08-11; 1-20-2010 by Ord. No. 10-03; 4-7-2010 by Ord. No. 10-07]

- A. The structure of the Seaside Heights Police Department shall be as follows:
 - (1) One Chief of Police;
 - (2) Police Lieutenants, maximum of two;
 - (3) Police Sergeants, maximum of five;
 - (4) Patrol officers.
- B. The Mayor and Borough Council shall, in their discretion, determine the optimum number of officers and patrol officers to be appointed in the Seaside Heights Police Department. A designation of a maximum number of Police Lieutenants or Sergeants does not require the Mayor and Borough Council to appoint that number of Lieutenants or Sergeants, nor does the listing of an officer position in Subsection **A** above require that any appointment be made to said position.
- C. All officers of the Police Department shall be appointed by the Mayor with the advice and consent of the Borough Council and in accordance with the provisions of the Department of Personnel. Where the number of officers of any particular rank within the structure of the Seaside Heights Police Department varies from that set forth in Subsection **A** above at the time of revision of that subsection, the number of officers currently holding such rank shall not be affected by revision of that subsection.
- D. The following employees shall also be responsible to the Chief of Police in carrying out their duties:
 - (1) Special police officers;
 - (2) Public safety telecommunications operators.

§ 166-3. Qualifications.

To be appointed as a police officer, regardless of rank, an individual must:

- A. Be a citizen of the United States.
- B. Be sound of body and of good health sufficient to satisfy the Board of Trustees of the Police and Firemen's Retirement System of New Jersey as to his eligibility for membership in the retirement system.
- C. Be able to read, write and speak the English language well and intelligently.
- D. Be of good moral character and has not been convicted of any criminal offense involving moral turpitude.
- E. Meet such other requirements as are established in the police rules and regulations.

§ 166-4. Residency requirements.

[Added 5-21-1997 by Ord. No. 97-6; amended 12-20-2001 by Ord. No. 2001-19; 3-6-2002 by Ord. No. 2002-7]

- A. The governing body of the Borough of Seaside Heights hereby finds that limiting police personnel by residency requirement would seriously impede this municipality's ability to hire and maintain competent personnel for its police force and does, therefor, hereby authorize the retention or employment of present and/or future members of its police force, regardless of the residency of said applicant and/or police personnel. Therefore, pursuant to N.J.S.A. 40A: 14-123.1a, the Borough of Seaside Heights shall classify all the duly qualified applicants for initial hiring as noncivilian police personnel to be filled in the following classes:
 - (1) Class I: residents of the municipality.
 - (2) Class II: other residents of Ocean County.
 - (3) Class III: other residents of the state.
 - (4) Class IV: all other qualified applicants.
- B. The above classes of qualified applicants shall be considered as separate and successive lists of eligibles. The governing body shall first appoint all qualified applicants in Class I and then those in each succeeding class in the order above-listed and shall appoint a person or persons in any such class only to a vacancy or vacancies remaining after all qualified applicants in the preceding class or classes have been appointed or have declined an offer of appointment. Within each such classification duly qualified applicants who are veterans shall be accorded all such veterans' preferences as are provided by law.

§ 166-5. Adoption of rules and regulations.

The Council of the Borough of Seaside Heights, shall, by resolution, adopt appropriate rules and regulations for the regulation, control and management of the Police Department as recommended by the appropriate authority.

§ 166-6. Employment of off-duty police officers.

- A. Any person or entity desiring to retain the services of police officers of the Borough of Seaside Heights for off-duty police-related activities shall be required to enter into a contract with the Borough of Seaside Heights. Said contract shall include but not be limited to the nature of duties to be performed, the location of said duties, the date and hours of service, the rate of payment for services of the officers, administrative fees to the Borough of Seaside Heights and fees for the use of Borough-owned equipment. The Chief of Police is hereby empowered to execute a contract for off-duty police-related activities on behalf of the Borough in accordance with this article.
[Amended 6-21-2000 by Ord. No. 2000-12]
- B. The Chief of Police shall be responsible for the assignment of all off-duty police-related activities and the billing of all compensation due the Borough. The Chief of Police shall be authorized to designate other members of the Police Department as needed to assist him in the assignment of off-duty police-related activities. Any officer undertaking off-duty employment pursuant to this section shall receive payment for such off-duty employment, at

the rate established pursuant to this chapter, in the next practicable Borough payroll check issued to a participating officer after the Borough's receipt of the compensation due the Borough.

[Amended 5-21-2008 by Ord. No. 08-05; 1-16-2013 by Ord. No. 13-02]

- C. All persons or entities shall be required to make payment for all off-duty assignments payable to the Borough of Seaside Heights to the Chief Financial Officer of the Borough of Seaside Heights. The rate of compensation for the officers shall be established by resolution of the governing body.
[Amended 6-17-1998 by Ord. No. 98-23]
- D. Each person or entity who shall employ off-duty police officers pursuant to this section shall be responsible for maintaining his or its own insurance coverage. Said insurance coverage shall include but not be limited to general liability and automobile liability and shall name the Borough of Seaside Heights as an additional insured. In addition, such policy shall provide for a minimum coverage of \$1,000,000. Proof of said insurance coverage shall be provided to the Borough of Seaside Heights prior to the assignment of any off-duty police officers to said person or entity. The person or entity shall provide the aforementioned insurance coverage for any and all officers, vehicles and/or equipment utilized in the off-duty assignment.
[Amended 5-21-2008 by Ord. No. 08-05]
- E. The Chief of Police or his designee shall have the authority to order any police officer engaged in off-duty assignments within the Borough of Seaside Heights to respond to an emergency situation within the Borough of Seaside Heights. The Chief of Police or his designee shall also have the right to order any off-duty assignment to be terminated whenever said assignment creates an unacceptable risk to the health, safety and welfare of the off-duty officer and/or the citizens of the Borough of Seaside Heights. In the event that a police officer is assigned to an emergency situation, the Police Chief or his designee shall make note of said emergency situation, as well as the time said officer was removed from said off-duty assignment. In any situation where an off-duty police officer is called to an emergency situation, said person or entity shall not be responsible for the payment of the officer's hourly rate, administrative fee or any other fees to the Borough of Seaside Heights until such time as said police officer and/or equipment returns to the assignment with the off-duty employer.
- F. Any person or entity requesting the services of off-duty police officers shall agree to indemnify and hold harmless the Borough of Seaside Heights for any and all claims and damages which may arise from the off-duty police officer's employment by said person or entity.
- G. Off-duty police officers shall not be available under the provisions of this chapter for employment by or assignment to any establishment within the Borough that is licensed to serve alcoholic beverages.
[Added 1-16-2013 by Ord. No. 13-02]

Article II. Chief of Police

§ 166-7. Office established.

There is hereby established the office of Chief of Police for the Borough of Seaside Heights pursuant to N.J.S.A. 40A:14-118.

§ 166-8. Qualifications.

The Chief of Police must be a graduate of a New Jersey police academy and must have served a minimum of three years as a Captain of Police.

§ 166-9. Duties.

The Chief of Police Shall be the head of the police force and shall be directly responsible to the appropriate authority for the efficiency and routine day-to-day operations of the police department. The Chief of Police shall, pursuant to policies established by the appropriate authority:

- A. Administer and enforce rules and regulations and special emergency directives for the disposition and discipline of the force and its officers and personnel;
- B. Have, exercise, and discharge the functions, powers and duties of the force;

- C. Prescribe the duties and assignments of all subordinates and other personnel;
- D. Delegate such of his authority as he may deem necessary for the efficient operation of the force to be exercised under his direction and supervision; and
- E. Report at least monthly to the appropriate authority in such form as shall be prescribed by such authority on the operation of the force during the preceding month, and make such other reports as may be requested by such authority.

§ 166-10. Appropriate Authority.

The Borough Administrator is hereby designated as the appropriate authority in accordance with N.J.S.A. 40A:14-118.^[1]

[1] *Editor's Note: Former Art. IIA, Deputy Chief of Police, added 5-1-2002 by Ord. No. 2002-12, which immediately followed this section, was repealed 11-15-2005 by Ord. No. 05-20.*

Article III. (Reserved)

[1] *Editor's Note: Former Art. III, Captain of Police, as amended, was repealed 7-2-2008 by Ord. No. 08-11.*

§ 166-11. through § 166-12. (Reserved)

Article IV. Lieutenant of Police

§ 166-13. Office established.

There is hereby established the office of Lieutenant of Police for the Borough of Seaside Heights.

§ 166-14. Duties.

The duties of said office shall be to be an assistant to the Chief of Police and Captain of Police and to perform as the active executive officer of the Police Department of this Borough during the absence or inability of both the Chief of Police and Captain of Police to perform their respective duties, and to perform such duties as are assigned by a superior officer.

Article V. Sergeant of Police

§ 166-15. Office established.

There is hereby established the office of Sergeant of Police for the Borough of Seaside Heights.

§ 166-16. Duties.

The duties of said office shall be to be an assistant to the Chief of Police, Captain of Police and Lieutenant of Police and to perform as the active executive officer of the Police Department of this Borough during the absence or inability of the Chief of Police, Captain of Police and the Lieutenant of Police to perform their respective duties, and to perform such duties as are assigned by a superior officer.

Article VI. Patrol officer

§ 166-17. Office established.

There is hereby established the office of patrol officer for the Borough of Seaside Heights.

§ 166-18. Duties.

The duties of said office shall be the customary and usual duties of police officer or patrolman.

Article VII. Detective Bureau; Internal Affairs Unit

§ 166-19. Office of detective.

A Detective Bureau is hereby established for the Police Department for the Borough of Seaside Heights and it shall consist of detectives appointed from time to time as hereinafter provided.

- A. The office of detective is hereby established. A detective shall conduct criminal investigations while in civilian clothing and shall conduct preparation of cases for prosecution and perform such other duties as are from time to time assigned by the Chief of Police.
- B. Detectives shall be appointed by the Mayor with the advice and consent of the Borough Council who may change or replace assignments as necessary. The Chief of Police shall have the right in the case of an emergency to make a temporary appointment to the Detective Bureau. Temporary assignment of a patrolman to the Detective Bureau will not extend beyond 90 days.
- C. Any officer appointed as detective shall receive the same compensation as would otherwise be received for that office unless the Borough Council, by ordinance, provides additional or different compensation for a detective.
- D. No person shall at any time serve as a member of the Detective Bureau unless and until being appointed in accordance with the provisions of the within chapter.

§ 166-19.1. (Reserved)

[1] *Editor's Note: Former § 166-19.1, Internal Affairs Unit, was repealed 1-16-2013 by Ord. No. 13-02.*

Article VIII. Special Police Officers

§ 166-20. Appointment; term of office.

There shall be a number of special police officers available for assignment to active police duty subject to the eligibility criteria and limitations set forth in the Special Law Enforcement Officers Act, N.J.S.A. 40A:14-146.10 et seq. No special police officers shall be appointed to a term exceeding one year.

§ 166-21. Qualifications.

No person may be appointed as a special law enforcement officer unless the person:

- A. Is a resident of this state during the term of appointment.
- B. Is able to read, write and speak the English language well and intelligently and has a high school diploma or its equivalent.
- C. Is of sound body and of good health.
- D. Is of good moral character.
- E. Has not been convicted of any offense involving dishonesty or that which would make him unfit to serve as a special police officer.

§ 166-22. Duties; classification of special police officers.

There shall be the following two classes of special police officers pursuant to law:

- A. Class 37. Officers of this class shall be authorized to perform routine traffic detail, spectator control and similar duties. Such officers shall have the power to issue summonses for disorderly persons offenses, petty disorderly persons offenses, violations of municipal ordinances and violations of N.J.S.A. 39. The use of a firearm by an officer of this class shall be strictly prohibited, and no officer of this class shall be assigned any duties which may require the carrying of or use of a firearm.
- B. Class 2. Officers of this class are authorized to exercise powers and duties commensurate with those of a regular police officer. The use of a firearm by such officer may only be authorized upon successful completion of training and instruction as required by law.

§ 166-23. Special police officers; part-time.

The office of special police officer shall be a temporary office and shall not be a permanent regular annual office.

§ 166-24. Not members of Police Department.

No special police officer, by virtue of his appointment as such shall be or become a member of the Police Department.

§ 166-25. Compliance with rules and regulations.

Every special police officer, while on duty, shall abide by all the rules and regulations of the Police Department. Any violation of the rules and regulations, where the penalty for a police officer is suspension or dismissal, may result in the immediate dismissal of the special police officer.

Article IX. (Reserved)

[1] *Editor's Note: Former Art. IX, Parking Meter Supervisor, added 12-9-2007 by Ord. No. 07-13, was repealed 4-7-2010 by Ord. No. 10-07. See now Ch. 146, Art. X, Parking Services Agency.*

§ 166-26. Office of Professional Responsibility.

[Added 1-16-2013 by Ord. No. 13-02]

The Office of Professional Responsibility is hereby established within the Police Department of the Borough of Seaside Heights.

- A. The Office of Professional Responsibility shall be responsible for organizational oversight of training, officer professionalism and internal affairs for the Seaside Heights Police Department.
- B. The Office of Professional Responsibility shall be staffed by such regular or Class II Special Police Officers as are assigned by the Chief of Police. Personnel assigned to the Office of Professional Responsibility shall serve at the pleasure of, and be directly responsible to, the Chief of Police.
- C. The internal affairs function of the Office of Professional Responsibility is to ensure that the integrity of the Police Department is maintained through the system of internal investigations and discipline where fairness and justice are assured by objective, impartial investigation and review.
- D. The Office of Professional Responsibility shall conduct investigations of allegations of misconduct by members of the Department and review the adjudication or minor complaints handled by supervisors. In addition, the Office of Professional Responsibility shall be responsible for the coordination of investigation involving the discharge of firearms by Department personnel. The Office of Professional Responsibility will also be responsible for any other investigation as directed by the Chief of Police. The Office of Professional Responsibility may conduct an internal affairs investigation on its own initiative, upon notice to or at the direction

of the Chief of Police. The Office of Professional Responsibility may also refer investigations to the employee's supervisor for action as permitted by Department policy and procedures.

- E. Any officer or member assigned to the Office of Professional Responsibility is hereby conferred with the authority to interview any member of the Department and to review any record or report of the Department relative to the officer's assignment or the investigation being conducted. Officers or members conducting internal affairs investigations shall be acting as designated representatives of the Chief of Police and, in that capacity, shall be subordinate only to the Chief of Police. Requests to members of the Police Department and any other employees thereof from the Office of Professional Responsibility personnel made in furtherance of the duties and responsibilities of the Office of Professional Responsibility shall be given full cooperation and compliance by all members and employees of the Police Department as though the request came directly from the Chief of Police.
- F. In accordance with N.J.S.A. 40A:14-181, the Office of Professional Responsibility and internal investigations conducted by the Police Department for the Borough of Seaside Heights shall be consistent with the guidelines governing the Internal Affairs Policies and Procedures of the Police Management Manual promulgated by the Police Bureau of the Division of Criminal Justice and Department of Law and Public Safety, together with any amendments or supplements thereto, and pursuant to applicable Seaside Heights Police Department standard operating procedure and policies governing internal affairs investigations.
- G. One member of the Office of Professional Responsibility, so designated by the Chief of Police, shall serve as Training Coordinator to staff of the Office of Professional Responsibility. The Training Coordinator will fulfill the requirements for departmental training as detailed within the Seaside Heights Police Department training policy.

§ 166-27. through § 166-29. (Reserved)

Article X. (Reserved)

- [1] *Editor's Note: Former Art. X, Parking Enforcement Officer, as amended, was repealed 4-7-2010 by Ord. No. 10-07. See now Ch. 146, Art. X, Parking Services Agency.*

§ 166-30. through § 166-33. (Reserved)

Article XI. Public Safety Telecommunications Operators

[Amended 12-19-2007 by Ord. No. 07-13^[1]]

- [1] *Editor's Note: This ordinance also repealed former Art. XI, Code Enforcement Officers, added 6-18-2003 by Ord. No. 03-16.*

§ 166-34. Supervising Operator; Operator; Operator Trainee; part-time Operator; offices established.

There is hereby established the offices of Public Safety Telecommunications Operator, Supervising Public Safety Telecommunications Operator, Public Safety Telecommunications Operator Trainee and part-time Public Safety Telecommunications Operator within the Borough of Seaside Heights Police Department.

§ 166-35. Qualifications.

- A. To be appointed as a Public Safety Telecommunications Operator (PSTO) for the Borough of Seaside Heights, an individual must possess one year of experience in work involving the receiving, transmitting and relaying of video display and/or radio messages and in the receiving, relaying and recording of complaints and requests for emergency assistance which shall have included the use of video display, data processing, automatic number identification, automatic location identification, switching equipment or other computer-oriented equipment.
- B. No experience is needed to be appointed as a Public Safety Telecommunications Operator Trainee. The term for a Public Safety Telecommunications Operator Trainee shall be one year. After the one-year training period, a Public Safety Telecommunications Operator Trainee shall be eligible for promotion to PSTO. The inability of a

Public Safety Telecommunications Operator Trainee to attain a level of performance warranting advancement after one year may be cause for separation.

§ 166-36. Duties.

- A. The Supervising Public Safety Telecommunications Operator shall, under direction, supervise and work with a group of employees engaged in receiving and relaying radio messages to various vehicles and concerned personnel; supervise the work of a group of communications operators who are engaged in receiving and transmitting police, fire and other emergency alarms and requests for assistance through the uses of telephone, radio, computer terminal or other types of communications equipment; and shall do related work as required.
- B. Public Safety Telecommunications Operators shall receive and relay radio messages to various vehicles and concerned personnel; operate a variety of communications equipment; and shall do related work as required.
- C. Duties of a Public Safety Telecommunications Operator Trainee shall be the same as those of a Public Safety Telecommunications Operator.

Chapter 171. Property Maintenance

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 2-19-1997 by Ord. No. 97-1. Amendments noted where applicable.]

GENERAL REFERENCES

Certificates of occupancy — See Ch. 55.

Littering — See Ch. 118.

Unfit buildings — See Ch. 215.

§ 171-1. Legislative intent.

It is hereby found and declared that there exist in the Borough of Seaside Heights structures which are or may become in the future substandard with respect to structural integrity, equipment or maintenance, or further, that such conditions, including but not limited to structural deterioration, lack of maintenance of exterior premises, infestation and unsanitary conditions, constitute a menace to the health, safety, morals, welfare and reasonable comfort of the citizens and inhabitants of the Borough of Seaside Heights. It is further found and declared that by reason of lack of maintenance and progressive deterioration, certain properties have the further effect of creating blighting conditions and that if the same were not curtailed and removed, the aforesaid conditions will grow and spread and will necessitate in time the expenditure of large amounts of public funds to correct and eliminate the same, and that by reason of timely restrictions as herein contained, the growth of blight may be prevented and the neighborhood and property values thereby maintained, the desirability and amenities of dwelling and neighborhoods enhanced and the public health, safety and welfare protected and fostered.

§ 171-2. Purpose.

The purposes of this chapter are to protect the public health, safety, morals and welfare by establishing minimum standards governing the conditions of occupancy, maintenance of premises and duties of owners and operators of buildings; to authorize and establish procedures for the inspection of dwellings and other buildings, and to fix penalties for the violations of this chapter. This chapter is hereby declared to be remedial and essential for the public interest, and it is intended that this code be liberally construed to effectuate the purposes as stated herein.

§ 171-3. Applicability.

The provisions of this chapter shall apply to every building or structure of any kind located within the Borough of Seaside Heights.

§ 171-4. Adoption of standards.

[Amended 5-5-1999 by Ord. No. 99-11; 11-3-1999 by Ord. No. 99-29; 2-16-2000 by Ord. No. 2000-3]

The Borough of Seaside Heights adopts the following standards for property maintenance in the Borough of Seaside Heights:

- A. A certain document, three copies of which are on file in the office of the Borough Clerk in the Borough of Seaside Heights, being marked and designated as the "Regulations for the Maintenance of Hotels and Multiple Dwellings," which is Chapter 10 of Title 5 of the New Jersey Administrative Code, be and is hereby adopted as the Property Maintenance Code of the Borough of Seaside Heights, New Jersey; the applicable sections of such code to control all properties within the Borough, including one- and two-family dwellings and commercial and business properties; and each and all of the regulations, provisions, penalties, conditions and terms of Chapter 10 of Title 5 as updated by the State of New Jersey are hereby referred to, adopted and made a part thereof, as if fully set out in this chapter.
- B. Regulations for the Maintenance of Hotels and Multiple Dwellings, which is Chapter 10 of Title 5 of the New Jersey Administrative Code, solely as such standards are adopted as the Property Maintenance Code of the Borough of Seaside Heights, New Jersey is amended and revised in the following respects:
 - (1) Sections 5:10-1.1-1 through 5:10-1.5 and 5:10-3.1 through 5:10-3.4 are deleted.
 - (2) Sections 5:10-25.1 through 5:10-25.5 are deleted.
 - (3) Section 5:10-6.4 is amended to add subsection (c), which shall read in its entirety as follows:
 - (c) No property owner, tenant or individual in control of any property within the Borough of Seaside Heights shall store or maintain or accumulate within the front or side yard setbacks any debris, junk or construction materials. Any such items stored upon the property shall be stored in the rear yard in a manner shielded from the view of the neighboring properties.
 - (4) Section 5:10-13.1 is amended to add subsections (f) and (g), which shall read in their entirety as follows:
 - (f) All bathrooms must have a ground fault interrupter (GFI) electrical receptacle and all kitchen and bathroom electrical outlets within six feet of a sink must be GFI wired.
 - (g) Each room used as a bedroom must have at least one working smoke detector.
 - (5) Section 5:10-7.7(b)2 is amended so as to read in its entirety as follows:
[Added 2-19-2003 by Ord. No. 03-05]

 Guards shall be constructed so that the area in the plane of the guard, from the top of the tread or floor to the top of the guard, is subdivided or filled so that a sphere of 4 inches in diameter cannot pass through said plane.
 - (6) Section 5:10-22.3 is amended to add the word "non-transient" prior to dwelling units in Subsection (a) and to add Subsections (e) and (f), which shall read in their entirety as follows:
[Added 12-20-2006 by Ord. No. 06-19]
 - (e) In every non-transient dwelling unit other than a rooming unit, every room occupied or intended to be occupied for sleeping purposes must have a door or doors so as to make it private from the rest of the dwelling unit, and it must not be a room that needs to be passed through in order to get to any other habitable space within the dwelling unit.
 - (f) In every transient dwelling unit there shall be a maximum of two people permitted to sleep in any space that does not have a door or doors so as to make it private from the rest of the dwelling unit and/or needs to be passed through in order to get to any other habitable space within the dwelling unit.
- C. Any repairs or alterations to a structure, or changes of use therein, shall be done in accordance with the procedures and provisions of the building, plumbing and mechanical codes adopted by the State of New Jersey Department of Community Affairs.
- D. The provisions of this code shall not be construed to prevent the enforcement of other ordinances or regulations which prescribe standards other than those provided herein. In the event of a conflict, the most restrictive provision shall apply.

§ 171-5. Boarding up of building and other structures.

[Added 3-4-1998 by Ord. No. 98-7^[1]]

A. Registration with Code Enforcement Officer required.

- (1) It shall be unlawful for any property owner to board up the windows or doors of any building or other structure, or permit another to do such boarding, without first completing a property boarding registration form. Such a form can be obtained from the Code Enforcement Officer during normal business hours at the Municipal Complex.
 - (2) Under no circumstances shall the windows or doors of any building or other structure remain boarded up for more than six months of a twelve-month period. The applicable twelve-month period shall run from the date of filing of a property boarding registration form.
 - (3) If a window or door of a property must be boarded up on an emergent basis, such as, but not limited to, a threat of imminent damage due to extreme weather conditions, a property boarding registration form must be filed within seven days of attaching boards.
 - (4) Any boarding of property must be done in a professional workmanlike manner, all boarding material must be of a type made for exterior use, all windows and doors must have a custom fit, with boards being securely attached within the door or window frames, and all bonding material must be white or of the same color as the building being boarded.
- [Amended 11-3-1999 by Ord. No. 99-29]

[1] *Editor's Note: This ordinance also redesignated former § 171-5, Violations and penalties, as § 171-6.*

§ 171-5.1. Emergency Boardwalk lighting.

[Added 5-2-2001 by Ord. No. 2001-10]

Emergency lighting fixtures, to be operational upon the failure of the electrical power supply, shall be installed by the property owner on all buildings which front upon the Boardwalk. The governing body shall, by resolution, designate specifications for the amount, placement and type of emergency lighting to be installed.

§ 171-6. Notice to owner or person responsible.

[Added 11-3-1999 by Ord. No. 99-29^[1]]

Whenever the Code Official determines that there has been a violation of this code or has reasonable grounds to believe that a violation has occurred, or whenever the Code Official has condemned any structure or equipment, notice shall be given to the owner or the person or persons responsible therefore in the manner prescribed below. Such notice shall:

- A. Be in writing.
- B. Include a description of the real estate sufficient for identification.
- C. Include a statement of the reason or reasons why the notice is being issued.
- D. Include a correction order allowing a reasonable time for the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this code.

[1] *Editor's Note: This ordinance also redesignated former § 171-6, Violations and penalties, as § 171-10.*

§ 171-7. Service of notice.

[Added 11-3-1999 by Ord. No. 99-29]

Such notice shall be deemed to be properly served upon such owner if a copy thereof is delivered to the owner personally; or by leaving the notice at the usual place of abode, in the presence of someone in the family of suitable age and discretion who shall be informed of the contents thereof; or by regular mail addressed to the owner at the last known address.

§ 171-8. Failure to comply with notice.

When the time provided for in the notice of violation for curing of violating condition shall have passed without the responsible person curing the violating condition, the Code Enforcement Official shall serve a summons, specifying the section of the property maintenance code adopted in this chapter or other applicable municipal ordinance violated and shall serve such summons upon the person responsible. The summons shall also set forth the date and place when the person named in the summons shall appear in the Municipal Court of the Borough of Seaside Heights to be heard on the summons.

§ 171-9. Service of summons.

[Added 11-3-1999 by Ord. No. 99-29; amended 12-20-2006 by Ord. No. 06-19]

Such service shall be deemed to be properly served upon such owner if a copy thereof is delivered to the owner personally; or by leaving the summons at the usual place of abode, in the presence of someone in the family of suitable age and discretion who shall be informed of the contents thereof; or by regular mail addressed to the owner at the last known address; or if the letter is returned, by posting a copy thereof in a conspicuous place in or about the structure affected by such summons, and at least one publication of such summons in a local newspaper of general circulation.

§ 171-10. Violations and penalties.

[Amended 11-3-1999 by Ord. No. 99-29; 12-20-2006 by Ord. No. 06-19]

- A. Any person violating or failing to comply with any of the provisions of this chapter shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$1,250, by imprisonment for not to exceed 90 days or by community service of not more than 90 days or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.
- B. The violation of any provision of this chapter shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

Chapter 176. Public Records, Inspection of

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 2-19-1997 by Ord. No. 97-1. Amendments noted where applicable.]

§ 176-1. Right to inspect; copies; exceptions.

[Amended 7-3-2002 by Ord. No. 2002-19]

- A. In accordance with the provisions of N.J.S.A. 47:1A-1 et seq., the Borough Clerk shall permit a government record to be inspected, examined and copied by any person during not less than six regular business hours over not less than three business days per week or the Borough's regularly scheduled business hours, whichever is less, unless a government record is exempt from public access. Copies of government records may be made under the supervision of the custodian, or his/her representative, upon payment of the price established by law.
- B. Notwithstanding the provisions of Subsection **A**, where it shall appear that the records which are sought to be inspected, copied or examined pertain to an investigation in progress by any public agency, the right of access may be denied if the inspection, copying or examination of the records is inimical to the public interest, provided that this provision shall not be construed to allow any public agency to prohibit access to a record that was open to public inspection, examination or copying before the investigation commenced.
- C. Prior to allowing access to any government record, the Borough Clerk shall redact from that record any information which discloses a social security number, credit card number, unlisted telephone number or driver license number of any person, except for use by any government agency, including any court or law enforcement agency in carrying out its functions, or any private person or entity acting on behalf thereof or any private person or entity seeking to enforce payment of court ordered child support, except that a social security number contained in a record required by law to be made, maintained or kept on file by a public agency shall be disclosed when access to the document or disclosure of that information is not otherwise prohibited law.

§ 176-2. Fees for copies.

A. The following fees shall be charged for copies of public documents and records:

- (1) Duplicate tax bills: \$5 for an initial duplicate copy of a tax bill. Twenty-five dollars for each subsequent copy of a tax bill for the same tax year requested by the same person or organization.
- (2) Zoning maps: Small scale maps: \$5 each.
- (3) Police reports and photographs:
 - (a) Police reports: first page to tenth page: \$0.75 per page; eleventh page to twentieth page: \$0.50 per page; all pages over 20: \$0.25 per page. For police accident reports not requested in person and not part of Municipal Court discovery, an additional fee of \$5 for the first three pages and \$1 per page thereafter to cover the administrative costs of the report shall be assessed as provided by N.J.S.A. 39:4-131.
[Amended 8-4-2004 by Ord. No. 04-12]
 - (b) Police reports and photographs sent to requesting party via regular mail will require an additional fee for the actual cost of postage, plus \$0.25 for stationery-related expense.
[Amended 8-4-2004 by Ord. No. 04-12]
 - (c) Police photographs will be photocopied at the following rates: first page to 10th page: \$0.75 per page; 11th page to 20th page: \$0.50 per page; all pages over 20: \$0.25 per page. If requests are made for duplicate photographs, the actual cost of making the photographs shall be charged.
[Amended 2-2-2005 by Ord. No. 05-03]
- (4) Copies of Land Use and Development Ordinance and Zoning Ordinance:^[1] first page to tenth page: \$0.75 per page; eleventh page to twentieth page: \$0.50 per page; all pages over 20: \$0.25 per page.
[Amended 8-4-2004 by Ord. No. 04-12]
^[1] *Editor's Note: See Ch. 246, Zoning.*
- (5) All other documents: first page to tenth page, \$0.75 per page; eleventh page to twentieth page, \$0.50 per page; all pages over twenty, \$0.25 per page.
[Amended 7-3-2002 by Ord. No. 2002-19]
- (6) On any item that cannot be photocopied on the Borough copy machine or is not otherwise provided for in this schedule, the actual cost incurred in making the copy or copies shall be charged.
[Amended 2-2-2005 by Ord. No. 05-03]
- (7) Copies of videotapes and audiotapes: The Borough does not maintain equipment with the capability of reproducing videotapes or audiotapes. Any requestor of a copy of a videotape or audiotape shall have access to the source videotape or audiotape at no charge, but will be responsible for the reproduction itself either by use of his or her own equipment to do the same or by contracting with an outside service to make the copy or copies. Any requestor may review a videotape or audiotape at no charge.
[Amended 2-2-2005 by Ord. No. 05-03]
- (8) No criminal defendant shall be charged to review or copy a videotape or audiotape requested in connection to the charges against him or her. The Borough does not maintain equipment with the capability of reproducing videotapes or audiotapes. Any defendant requesting a copy of a videotape or audiotape shall have access to the source videotape or audiotape at no charge, but will be responsible for the reproduction itself either by use of his or her own equipment to do the same or by contracting with an outside service to make the copy or copies.
[Amended 2-2-2005 by Ord. No. 05-03]
- (9) Municipal Court discovery and certified copies of disposition of Municipal Court cases: first page to 10th page: \$0.75 per page; 11th page to 20th page: \$0.50 per page; all pages over twenty: \$0.25 per page. Municipal Court discovery and certified copies of disposition of Municipal Court cases sent to requesting party via regular mail will require an additional fee for the actual cost of postage, plus \$0.25 for stationary-related expense. Where the discovery must be obtained from an entity other than the Borough, the actual costs paid to the other entity shall be paid by the requestor.
[Amended 8-4-2004 by Ord. No. 04-12; 2-2-2005 by Ord. No. 05-03]

(10) Tax maps:

- (a) Small set 12 by 18: \$75.
- (b) Large set 24 by 39: \$200.
- (c) Small tax map 12 by 18 (single sheet): \$2 each.
- (d) Large tax map 24 by 39 (single sheet): \$4 each.

- B. Whenever the nature, format, manner of collation or volume of a government record embodied in the form of printed matter to be inspected, examined or copied is such that the record cannot be reproduced by the Borough by ordinary document copying equipment in ordinary business size or involves an extraordinary expenditure of time and effort by the Borough to accommodate the request, the Borough may charge, in addition to the actual cost of duplicating the record, a special service charge that shall be reasonable and based upon the actual direct cost of providing the copy or copies. The requestor shall have the opportunity to review and object to the charge prior to its being incurred.

[Amended 7-3-2002 by Ord. No. 2002-19; 8-4-2004 by Ord. No. 04-12]

- C. The cost of postage, if it is requested that copies are to be mailed to an individual.
- D. The Borough Clerk may require a deposit for duplication costs anticipated to exceed \$5. In any circumstance where such a deposit will be required, the requestor shall have the opportunity to review and object to the charge prior to its being incurred.

[Added 7-3-2002 by Ord. No. 2002-19; 2-2-2005 by Ord. No. 05-03]

- E. In the event an extraordinary expenditure of time and effort is needed by the Borough to accommodate a request to inspect, in addition to any fees for actual duplication and copying incurred by the requestor under this chapter, the Borough shall assess a special service charge based upon the cost incurred for such extensive use of information technology resources and/or the labor cost of the personnel providing the service that is actually incurred or attributable to the Borough for the clerical and supervisory assistance required, or both. The manner by which such special inspection service fee is calculated shall be kept on file with the Borough. The requestor shall have the opportunity to review and object to the charge prior to its being incurred.

[Added 8-4-2004 by Ord. No. 04-12]

§ 176-3. Review of requests for documents.

[Amended 7-3-2002 by Ord. No. 2002-19]

The following procedure shall be utilized in regard to a request by an individual for copies or inspection of government records in the possession of the Borough of Seaside Heights:

- A. All record requests must be made on the request form adopted by the Borough Clerk and addressed to the Borough Clerk's office.
- B. The Borough Clerk will compile the documents known to be accessible to the public and will determine and collect the appropriate copy fee at the time the copies are to be picked up by the individual requesting the documents or arrange for prepayment if documents are to be mailed to said individual.
- C. Some government records will be immediately available and some records will require time to compile and to make the copies requested, but will generally be available during normal business hours and within seven business days. If any document or copy which has been requested is not a public record or cannot be provided within the seven business days, the requestor will be provided with a response with that information within seven business days.
- D. If the Borough Clerk is unsure as to whether the certain documents are public information, the opinion of the Borough Attorney shall be obtained as to whether the document requested is a government record subject to review and copying by the public. In the event the Borough Attorney determines that the document is not subject to review or copying by the public, the Borough Clerk will advise the individual requesting said government record.
- E. The Clerk may require that routine requests from a taxpayer or property owner for documents pertaining to one's own property, such as duplicate tax utility bills, rental CO or violation notices, etc., can be handled directly by the person responsible for these files, provided the individual responsible for the files obtains a written request and the payment of the required fee as provided above and otherwise complies with the directives of the Clerk.

- F. Under no circumstances will any employee permanently remove documents from any files without written authorization from the Borough Clerk.
- G. The Clerk may direct that police reports be obtained from the Seaside Heights Police Department from the individual directed by the Clerk to handle such requests.

Chapter 178. Recycling

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 6-3-2009 by Ord. No. 09-06.^[1] Amendments noted where applicable.]

GENERAL REFERENCES

Garbage; solid waste disposal — See Ch. 107.

Littering — See Ch. 118.

Zoning and land use — See Ch. 246.

- [1] *Editor's Note: This chapter was adopted as Ch. 108, but was renumbered with the permission of the Borough in order to maintain the alphabetical organization of the Code.*

§ 178-1. Definitions.

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

DESIGNATED RECYCLABLE MATERIALS

Those materials designated within the Ocean County District Solid Waste Management Plan to be source separated for the purpose of recycling. For residential areas, those materials are: commingled (bottles, glass and cans), newspaper, mixed paper (magazines, catalogues, junk mail, used writing paper), leaves, white goods, tires, motor oil and batteries. For commercial, industrial and institutional sectors, those materials are: commingled (bottles, glass and cans), newspaper, cardboard, high-grade office paper, concrete, asphalt, brick, block stumps, tree parts, leaves, automobile batteries, motor oil, white goods, tires and ferrous and nonferrous scrap metal.

DUAL STREAM

- A. Commingled — All plastic bottles, aluminum and steel cans, glass bottles and containers.
- B. Paper — Magazines, catalogues, junk mail, used writing paper, newsprint, corrugated cardboard, office and school paper. No chipboard or pizza boxes.

SINGLE STREAM

The combination of commingled and paper listed above in one container. Do not include plastic bags, food waste, paper towels, paper napkins, pizza boxes, egg cartons, aluminum foil, plastic cups and utensils. No plastic other than bottles. No juice boxes or bags. No garbage.

ELECTRONIC WASTE

A computer central processing unit and associated hardware, including keyboards, modems, printers, scanners and fax machines, a cathode ray tube, a cathode ray tube device, a flat-panel display or similar video display device with a screen that is greater than four inches measured diagonally and that contains one or more circuit boards, including a television and cell phones.

MULTIFAMILY DWELLING

Any building or structure, or complex of buildings, in which three or more dwelling units are owner-occupied or rented or leased, or offered for rental or lease, for residential purposes (See N.J.S.A. 13:1E-99.13a.) and shall include hotels, motels or other guesthouses serving transient or seasonal guests as those terms are defined under Subsection (j) of § 3 of the Hotel and Multiple Dwelling Law, P.L. 1967, c. 76 (N.J.S.A. 55:13A-1 et seq.)

MUNICIPAL RECYCLING COORDINATOR

Person or persons appointed by the Borough Council and who shall be authorized to, among other things, enforce the provisions of this chapter and any rules and regulations which may be promulgated hereunder. Such person or persons shall have achieved professional certification in compliance with the requirements of N.J.S.A. 13:1E-99 et seq.^[1]

MUNICIPAL SOLID WASTE STREAM (MSW)

All solid waste generated at residential, commercial and institutional establishments within the boundaries of the Borough of Seaside Heights.

RECYCLABLE MATERIALS

Those materials which would otherwise become solid waste and which may be collected, separated or processed and returned to the economic mainstream in the form of raw materials or products.

SOURCE-SEPARATED RECYCLABLE MATERIALS

Recyclable materials which are separated at the point of generation by the generator thereof from solid waste for the purposes of recycling.

SOURCE SEPARATION

Process by which recyclable materials are separated at the point of generation by the generator thereof from solid waste for the purposes of recycling.

[1] *Editor's Note: N.J.S.A. 13:1E-99 was repealed by L. 1987, c. 74, § 11, effective 3-11-1987. See N.J.S.A. 13:1E-99.16.*

§ 178-2. Mandatory source separation.

It shall be mandatory for all persons who are owners, tenants or occupants of residential and nonresidential premises, which shall include but not be limited to retail or other commercial locations, as well as government, schools and other institutional locations within the Borough of Seaside Heights, to separate designated recyclable materials from all solid waste. Designated recyclable materials shall be deposited separately and apart from other solid waste generated by the owners, tenants or occupants of such premises and shall be placed separately at the curb in a clean and safe manner to coincide with the designated recycling schedule.

§ 178-3. Collection of recyclable materials.

- A. All containers containing recyclable materials shall be placed, prior to collection, between the curb and sidewalk or, in the absence of curb and sidewalk, as near to the street as not to constitute a danger, where such receptacles shall be readily accessible to the collector without providing obstruction to pedestrians. The owner or occupant of the premises shall keep all receptacles clean and in safe handling condition. Receptacles or other items to be disposed of shall be placed as noted above anytime after 6:00 p.m. on the day immediately preceding the day of collection, but no later than 7:00 a.m. on the day of collection. After collection, any containers shall be removed from the curbside no later than 8:00 a.m. the day following the day of collection.
- B. All receptacles or dumpsters shall be maintained in a clean and safe manner.
- C. The owner and/or occupant of any property shall also comply with the regulations found in Chapter 107, Garbage; Solid Waste Disposal.

§ 178-4. Residential dwelling compliance required.

The owner of any property shall be responsible for compliance with this chapter. For multifamily units, the management or owner is responsible for setting up and maintaining the recycling system, including collection of recyclable materials, in accordance with guidelines or regulations established by the appropriate municipal office. Violation and penalty notices will be directed to the owner or management in those instances where the violator is not easily identifiable. The management shall issue notification and collection rules to new tenants when they arrive and every six months during their occupancy.

§ 178-5. Nonresidential establishment compliance required.

- A. All commercial or institutional generators of solid waste shall be required to comply with the provisions of this chapter.
- B. The arrangement for collection of designated recyclables hereunder shall be the responsibility of the commercial, institutional or industrial property owner, or his or her designee, unless the municipality provides for the collection of designated recyclable materials. All commercial, institutional or industrial properties which provide outdoor litter receptacles and disposal service for their contents shall also provide receptacles for

designated recyclable materials, for those materials commonly deposited, in the location of the litter receptacle, and shall provide for separate recycling service for their contents.

- C. Every business, institution or industrial facility shall report on an annual basis to the Recycling Coordinator, on such forms as may be prescribed, on recycling activities at its premises, including the amount of recycled material, by material type, collected and recycled and the vendor or vendors, providing recycling service.
- D. All food service establishments, as defined in N.J.A.C. 8:24-1.5, shall, in addition to compliance with all other recycling requirements, be required to recycle grease and/or cooking oil created in the processing of food or food products, and maintain such records as may be prescribed for inspection by any code enforcement officer.

§ 178-6. Design standards.

New developments of Multifamily residential units or commercial, institutional or industrial properties (pursuant to N.J.S.A. 13:1E-99.13a and 13:1E-99.16c) shall comply with the following:

- A. Any application to the Planning Board of the Borough of Seaside Heights for subdivision or site plan approval for the construction of multifamily dwellings of three or more units, single-family developments of 50 or more units or any commercial, institutional or industrial development for the utilization of 1,000 square feet or more of land must include a recycling plan. This plan must contain, at a minimum, the following:
 - (1) A detailed analysis of the expected composition and amount of solid waste and recyclables generated at the proposed development; and
 - (2) Locations documented on the application's site plan that provide for convenient recycling opportunities for all owners, tenants and occupants. The recycling area shall be of sufficient size, in a convenient location and contain other attributes (signage, lighting, fencing, etc.) as may be determined by the municipal recycling coordinator.
- B. Prior to the issuance of a certificate of occupancy by the Borough of Seaside Heights, the owner of any new multifamily housing or commercial, institutional or industrial development must supply a copy of a duly executed contract with a hauling company for the purposes of collection and recycling of source-separated recyclable materials, in those instances where the municipality does not otherwise provide this service.
- C. Provisions shall be made for the indoor, or enclosed outdoor, storage and pickup of solid waste, to be approved by the municipal engineer.

§ 178-7. Collection of solid waste mixed with recyclable materials prohibited.

- A. It shall be unlawful for solid waste collectors to collect solid waste that is mixed with, or contains visible signs of, designated recyclable materials. It is also unlawful for solid waste collectors to remove for disposal those bags or containers of solid waste which visibly display a warning notice sticker or some other device indicating that the load of solid waste contains designated recyclable materials.
- B. It shall be the responsibility of the resident or occupant to properly segregate the uncollected solid waste for proper disposal or recycling. Allowing such unseparated solid waste and recyclables to accumulate will be considered a violation of this chapter and the local sanitary code.
- C. Once placed in the location identified by this chapter, or any rules or regulations promulgated pursuant to this chapter, no person, other than those authorized by the municipality, shall tamper with, collect, remove or otherwise handle designated recyclable materials.

§ 178-8. Enforcement.

The Code Enforcement Official, the Recycling Coordinator, the Property Maintenance Official, the Housing Officer and the Seaside Heights Department of Health are hereby individually and severally empowered to enforce the provisions of this chapter. An inspection may consist of sorting through containers and opening solid waste bags to detect, by sound or sight, the presence of any recyclable material.

§ 178-9. Violations and penalties.

- A. Any person, corporation, occupant or entity that violates or fails to comply with any provision of this chapter or any of the rules and regulations promulgated hereunder shall, upon conviction thereof, be punishable by a fine of not less than \$250 nor more than \$1,000. Each day for which a violation of this chapter occurs shall be considered a separate offense.
- B. Fines levied and collected pursuant to the provisions of this chapter shall be immediately deposited into the Municipal Recycling Trust Fund. Monies in the Municipal Recycling Trust Fund shall be used for the expenses of the municipal recycling program.

Chapter 179. Rental Property

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights as indicated in article histories. Amendments noted where applicable.]

Article I. Bonding Requirements for Repeated Improper Conduct

[Adopted 7-18-2018 by Ord. No. 2018-16]

§ 179-1. Purpose.

For the purpose of this article, the following meanings shall apply:

HEARING OFFICER

A person designated by the Borough Council to hear and determine proceedings under this article. The hearing officer shall be a licensed attorney in the State of New Jersey. The hearing officer may not own or lease any real property within the Borough, nor hold any interest in the assets of or profits arising from the ownership or lease of such property.

LANDLORD

The person or persons who own or purport to own any building in which there is rented or offered for rent housing space for living or dwelling under either a written or oral lease, which building contains no more than four dwelling units.

SUBSTANTIATED CONVICTION

An act of disorderly, indecent, tumultuous or riotous conduct, including by way of example but not limited to, simple assault, terroristic threats, harassment, urinating in public, lewdness, criminal mischief, or excessive noise, upon or in proximity to any seasonal rental premises, and attributable to the acts or incitements of any of the tenants of those premises which have been substantiated by prosecution and conviction in any court of competent jurisdiction.

§ 179-2. Complaints; notice; hearing; penalty.

- A. If, in any twenty-four-month period, two substantiated convictions on separate occasions of conduct upon or in proximity to any rental premises, and attributable to the acts or incitements of any of the tenants of those premises have been substantiated by prosecution and conviction in any court of competent jurisdiction as a violation of any provision of Title 2C or any municipal ordinance governing disorderly conduct, the municipal governing body or its designee may institute proceedings to require the landlord of those premises to post a bond against the consequence of future incidents of the same character.
- B. Notice of conduct and hearing.
 - (1) In the event that a tenant is convicted of a violation of any provision of Title 2C or any municipal ordinance governing disorderly conduct, the governing body or its designee shall cause a notice to be served on the landlord in person or by registered mail at the address appearing on the tax records of the Borough, advising that the specified conduct has occurred.

- (2) The governing body or its designee shall cause to be served upon the landlord, in person or by registered mail to the address appearing on the tax records of the municipality, notice advising of the institution of such proceedings, together with particulars of the substantiated convictions upon which those proceedings are based, and of the time and place at which a hearing will be held in the matter, which shall be in the municipal building, municipal court or other public place within the municipality, and which shall be no sooner than 30 days from the date upon which the notice is served or mailed.

C. Hearing.

- (1) At the hearing pursuant to Subsection **B** of this section, the hearing officer shall give a full hearing to both the complaint of the municipality and to any evidence in contradiction or mitigation that the landlord, if present or represented and offering such evidence, may present.
- (2) The hearing officer may consider, to the extent deemed relevant by the hearing officer, prior complaints about the residents of the property, even if those complaints did not result in a conviction.
- (3) At the conclusion of the hearing, the hearing officer shall determine whether the landlord shall be required to post a bond in accordance with the terms of this article.

D. Any bond required to be posted shall be in accordance with the judgment of the hearing officer, in light of the nature and extent of the offenses indicated in the substantiated convictions upon which the proceedings are based, to be adequate in the case of subsequent offenses to make reparation for:

- (1) Damages likely to be caused to public or private property and damages consequent upon disruption of affected residents' rights of fair use and quiet possession of their premises;
- (2) Securing the payment of fines and penalties likely to be levied for such offenses; and
- (3) Compensating the Borough for the costs of repressing and prosecuting such incidents of disorderly behavior; but no such bond shall be in an amount less than \$500 or more than \$5,000.

E. The Borough may enforce the bond thus required by action in the Superior Court and shall be entitled to an injunction prohibiting the landlord from making or renewing any lease of the affected premises for residential purposes until that bond or equivalent security, in satisfactory form and amount, has been deposited with the municipality.

F. A bond or other security deposited in compliance with Subsection **D** of this section shall remain in force for four years. Upon the lapse of the specified period, the landlord shall be entitled to the discharge thereof, unless prior thereto further proceedings leading to a forfeiture or partial forfeiture of the bond or other security shall have been had under § **179-3**, in which case the security shall be renewed, in an amount and for a period that shall be specified by the hearing officer.

§ 179-3. Proceedings against landlord for forfeiture of security.

- A. If, during the period for which a landlord is required to give security, a substantiated conviction is recorded against the property in question, the governing body or its designee may institute proceedings against the landlord for the forfeiture or partial forfeiture of the security, for an extension of the time period required for the posting of the security, or for an increase in the amount of security required.
- B. Any forfeiture or partial forfeiture shall be determined by the hearing officer solely in accordance with the amount deemed necessary to provide for the compensatory purpose set forth in § **179-2D**.
- C. Any decision by the hearing officer to increase the amount or extend the period of the required security shall be determined in light of the same factors as set forth in § **179-2C** and shall be taken only to the extent that the nature of the substantiated conviction or convictions out of which the proceedings arise under this section indicates the appropriateness of such change in order to carry out the purposes of this act effectually.
- D. The decision of the hearing officer in such circumstances shall be enforceable in the same manner as provided for in § **179-2E**.

Article II. Rental to Minors

[Adopted 9-19-2018 by Ord. No. 2018-19]

§ 179-4. Definitions.

For the purpose of this article, the following meanings shall apply:

GROUP OF MINORS

A unit of two or more individual persons under the age of 18 years.

RESPONSIBLE ADULT OCCUPANT

An individual, a minimum of 18 years of age, who shall occupy a rental unit with a minor or group of minors, having charge of and personal responsibility for the conduct of said minors.

§ 179-5. Rental restrictions.

- A. In cases where any room, apartment, cottage, condominium or house is rented to one occupant, the occupant shall be a minimum of 18 years of age.
- B. In cases where any room, apartment, cottage, condominium or house is rented to two or more occupants, at least one occupant shall be a minimum of 18 years of age.
- C. No room, apartment, cottage, condominium or house shall be rented to, by or for any group of minors unless in compliance with the following:
 - (1) Every group of minors, when occupying a room, apartment, cottage, condominium or house, shall be under the immediate and personal supervision of an adult person not less than 18 years of age occupying the rental unit and having charge of and personal responsibility for the proper and lawful conduct of said minors.
 - (2) No landlord, realtor or owner of any room, apartment, cottage, condominium or house shall permit the same to be occupied by an individual minor or any group of minors until the provisions of this article have been complied with.
 - (3) No landlord, realtor or owner of any room, apartment, cottage, condominium or house shall permit the same to be occupied by any group of minors unless and until a lease or rental agreement is signed by the responsible adult occupant.
 - (4) No lease or rental agreement shall be assigned for use by another group of minors until the provisions of this section have been satisfied.

§ 179-6. Violations and penalties.

- A. Any minor or adult convicted of a violation of or failure to comply with any of the provisions of this article shall be subject to a fine of up \$1,000 for each offense or imprisonment for a term not to exceed 30 days, or both.

Chapter 180. Retail Food Establishments, Licensing of

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 2-19-1997 by Ord. No. 97-1. Amendments noted where applicable.]

§ 180-1. License required.

It shall be unlawful for any person or any body corporate to conduct a retail food establishment as defined in and governed by the applicable sections of Chapter 12 of the New Jersey State Sanitary Code, N.J.A.C. 8:24-1 et seq., adopted by the Ocean County Board of Health, without first having procured a license from the Ocean County Board of Health to do so or without complying with any or all of the provisions concerning operation and maintenance of the same as contained in Chapter 12 of the New Jersey State Sanitary Code.

§ 180-2. Fee and license term.

[Amended 12-3-1997 by Ord. No. 97-15]

- A. Fee. The following fees are hereby established for the license of retail food establishments for each retail food establishment so licensed:
- (1) Businesses located off the boardwalk: \$100.
 - (2) Businesses fronting private property on the boardwalk: \$100.
 - (3) Businesses fronting public property on the boardwalk: \$250.^[1]
- [1] Editor's Note: Former Subsection A(4), concerning businesses located off the Boardwalk but providing outdoor sidewalk seating, added 5-20-1998 by Ord. No. 98-13, was repealed 7-7-1999 by Ord. No. 99-21.*
- B. Term. The term of the license shall be from July 1 through June 30 of the following year.
- C. Any person requesting a license prior to January 1 shall pay the full fees as shown in Subsection A. If the license is applied for between January 1 and March 31, the fee shall be 1/2 of those shown in Subsection A, and if applied for between April 1 and June 30, the fee shall be 1/4 of those shown in Subsection A.
[Added 2-7-2001 by Ord. No. 2001-4]

§ 180-3. Revocation upon hearing.

- A. Any license issued under the terms and provisions of this chapter may be suspended or revoked by the Board of Health of this municipality for the violation by the licensee of any provision of this chapter or Chapter 12 of the New Jersey State Sanitary Code or whenever it shall appear the business, trade, calling, profession or occupation of the person, firm or corporation to whom such license was issued is conducted in a disorderly or improper manner, or in violation of any law of the United States, the State of New Jersey or any ordinance of this municipality, or that the person or persons conducting the retail food establishment is of an unfit character to conduct the same, or that the purpose for which the license has been issued is being abused to the detriment of the public or is being used for a purpose foreign to that for which the license was issued.
- B. A license issued under the terms and provisions of this chapter shall not be revoked, canceled or suspended until a hearing thereon shall have been had by the Board of Health. Written notice of the time and place of such hearing shall be served upon the licensee at least three days prior to the date set for such hearing. Such notice shall also contain a brief statement of the grounds to be relied upon for revoking, canceling or suspending such license. Notice may be given either by personal delivery thereof to the person to be notified or be deposited in the United States Post Office in a sealed envelope, postage prepaid, addressed to such person to be notified at the business address appearing upon said license. At the hearing before the Board of Health the person aggrieved shall have an opportunity to answer and be heard, and upon due consideration and deliberation by the Board of Health, the complaint may be dismissed, or if the Board of Health concludes that the charges have been sustained and substantiated, it may revoke, cancel or suspend the license held by the licensee.
- C. If any such license shall have been revoked, neither the holder thereof nor any person acting for that person, directly or indirectly, shall be entitled to another license to carry on the same business within the borough unless the application for such license shall be approved by the Board of Health.

§ 180-4. Exceptions.

No provision of this chapter shall be applied so as to impose an unlawful burden on either interstate commerce or any activity of the state or federal government.

§ 180-5. Outdoor sidewalk seating.

[Added 5-20-1998 by Ord. No. 98-13^[1]

Holders of retail food establishment licenses and whose businesses are operated on the Boulevard in that section of the Boulevard bordered by Sheridan Avenue on the north and Porter Avenue on the south may provide outdoor sidewalk seating in accordance with the standards adopted by resolution of the Mayor and Council. A copy of such standards may be obtained in the Borough Clerk's office. No outdoor sidewalk seating in seating area shall extend closer to the street than 11 feet from the curblin. Failure to maintain the outdoor seating area in accordance with the

eleven-foot setback from the curbline and the standards adopted by the Mayor and Council shall subject the license holder to the violations and penalties set forth in this chapter.

[1] *Editor's Note: This ordinance provided for the renumbering of former § 180-5, Violations and penalties, as § 180-6.*

§ 180-6. Violations and penalties.

- A. Any person violating or failing to comply with any other provision of this article shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$1,000, by imprisonment not to exceed 90 days or by community service of not more than 90 days or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.
- B. The violation of any provision of this chapter shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

Chapter 184. Salaries and Compensation

[The Salary Ordinance for the Borough of Seaside Heights is on file in the office of the Borough Clerk and is available for examination during regular office hours.]

Chapter 189. Shopping Carts

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 7-1-1998 by Ord. No. 98-11. Amendments noted where applicable.]

§ 189-1. Abandonment unlawful.

No person shall leave or abandon any shopping cart upon the sidewalks, streets or roadways of the Borough of Seaside Heights.

§ 189-2. Identification tags required.

No merchant, corporate or otherwise, shall provide shopping carts for the use of his customers without first affixing thereto a permanent tag of identification setting forth the name and address of the merchant.

§ 189-3. Seizure; redemption or sale of abandoned carts; payment of fees.

[Amended 2-17-1999 by Ord. No. 99-3]

All such carts abandoned or otherwise left on public streets, public property or on private property without the express consent of the owner or tenant thereof or the Borough of Seaside Heights may be seized and impounded by the Department of Public Works to be sold in accordance with the provisions of N.J.S.A. 40A:14-157 at public auction as unclaimed property after a period of six months, unless the owner thereof shall claim them from the Department of Public Works within said period and pay the sums as provided in this chapter to cover municipal retrieval and storage costs. Such fees shall be paid to the Clerk of the Borough of Seaside Heights for the purposes of the Borough of Seaside Heights.

§ 189-4. Fee to recover impounded cart.

[Amended 2-17-1999 by Ord. No. 99-3]

In order to cover municipal retrieval and storage costs, persons wishing to retrieve an impounded shopping cart shall pay a fee to the Borough Clerk's office of \$10 per cart.

§ 189-5. Possession and abandonment of shopping carts prohibited.

[Added 8-5-1998 by Ord. No. 98-28^[1]]

It shall be a violation for anyone within the Borough of Seaside Heights to:

- A. Possess or have custody of a shopping cart which is the property of a commercial entity, intended solely for the use of the patrons of that entity on the property of such entity, where such shopping cart is in the custody and possession of an individual outside of the property of the owning commercial entity; or
- B. To abandon a shopping cart on any public or private property within the borough.

[1] *Editor's Note: This ordinance also provided for the renumbering of former § 189-5, Violations and penalties, as § 189-6.*

§ 189-6. Violations and penalties.

[Amended 8-5-1998 by Ord. No. 98-28]

Any person violating or failing to comply with any other provision of this chapter shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$1,000, by imprisonment not to exceed 90 days or by community service of not more than 90 days, or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.

Chapter 191. Signs

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 2-19-1997 by Ord. No. 97-1. Amendments noted where applicable.]

§ 191-1. Compliance required; transformers.

Only electrical signs properly installed and encased in metal shall be used. Signs, must comply fully with the Electrical Bureau of Ocean County's Electrical Code. All transformers shall be metal encased within the sign itself and properly grounded.

§ 191-2. Hanging-type signs.

All hanging-type signs within the borough shall not extend beyond the allowed footage as hereinafter set forth:

- A. On the Boulevard: six feet from the building line.
- B. Ocean Terrace: three feet from the new setback line.
- C. Central Avenue: three feet from the building line.
- D. All other streets: six feet from the building line.

§ 191-3. Post-type signs.

All post-type signs shall be constructed inside the property line, and the sign shall have a minimum clearance of 10 feet above the ground level, a maximum height of 20 feet and shall not extend over the property line.

§ 191-4. Signs attached to buildings extending over property line.

[Amended 7-17-2013 by Ord. No. 13-18]

All signs attached to buildings or overhangs extending over property lines shall be a minimum of nine feet from the ground to the bottom of said sign, except signs extending over the boardwalk may be a minimum of seven feet from the boardwalk to the bottom of said sign.

§ 191-5. Right of Building Inspector to alter specifications.

In order to provide for the safety of persons and property, the Building Inspector may, with the approval of the Building Committee of the Council, alter specifications herein set forth concerning the construction of signs in the event that the sign to be constructed is on a narrow road or in a dangerous area.

§ 191-6. Certain signs restricted.

[Amended 5-3-2006 by Ord. No. 06-07]

A. Residential area sign restrictions. No signs with automatic blinking lights shall be permitted within the Single-Family Zone, the Low-Density Residential Zone or the Residential Zone. All signs within the Single-Family Zone, the Low-Density Residential Zone or the Residential Zone are restricted to a maximum size of three feet by two feet. Commercial signs within the Single-Family Zone, the Low-Density Residential Zone or the Residential Zone are limited to advertisements of businesses located on that property, and the signs may not be lighted. Any approved signs existing at the time of adoption of this section which violate the maximum size restriction may remain until abandoned or destroyed, or the property upon which such signs are located comes before the Land Use Board, at which time the Land Use Board may condition approval on removal of the nonconforming sign.

[Amended 12-2-2015 by Ord. No. 15-19]

B. Freestanding signs generally. A-frame or other freestanding signs shall not be permitted on any public property. Such signs may be placed on private property as long as they are no larger than three feet by four feet, and such signs are placed no closer than one foot to the public sidewalk or right-of-way.

C. Freestanding signs, boardwalk. From the Tuesday after Labor Day through May 31 of each year, businesses fronting on the boardwalk may place one A-frame or freestanding sign in front of their business when open. This sign can be no larger than three feet by four feet and shall not extend further than 10 feet from the front building line of the building on which the sign fronts. No such sign shall be permitted on the Saturday or Sunday of Palm Sunday, Easter weekend or Memorial Day weekend. The Seaside Heights Police Department is given the discretion to require the relocation or removal of any such sign because of excess crowds, weather conditions, or any other reason said sign shall become a safety hazard.

D. Temporary signs. In addition to signs otherwise permitted by this chapter, temporary signs, defined for purposes of this chapter as any sign constructed of weather-resistant materials, such as wood, plastic, metal or durable fabric, which is not permanently affixed to a building or a permanent freestanding structure, are permitted under the following conditions:

- (1) No banners, defined for purposes of this chapter as an advertising or informational device constructed of cloth, canvas, fabric, plastic or other pliant materials without a structural frame, are permitted.
- (2) Notwithstanding any other provision of this chapter, all temporary signs are restricted to a total of six square feet for every 40 feet of lot frontage located within the Borough of Seaside Heights.
- (3) Banners, and temporary signs not in compliance with the restrictions of this chapter, may be displayed in the Retail Business and Resort Recreational Zones during the time period specifically designated for banner and nonconforming temporary sign display by the terms of a municipal special event approval.
- (4) A temporary sign must be made in a neat and professional manner.
- (5) Political signs, defined for purposes of this chapter as a temporary sign on private property that consists of a poster, placard, board or other similar medium that contains a message related to a matter of public interest, including but not limited to a candidate for office or a ballot issue, but containing no commercial message, are exempted from the restrictions established regarding temporary signs.

§ 191-6.1. Signs located on Route 35 North.

[Added 4-4-2012 by Ord. No. 12-04]

Any sign located upon any property adjacent to Route 35 North shall not be subject to any restriction imposed by this chapter or any other chapter of the Borough Code of the Borough of Seaside Heights regarding the size of said sign, regardless of the position or exact location of the sign.

§ 191-7. Violations and penalties; compliance.

- A. Any person violating or failing to comply with any other provision of this article shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$1,000, by imprisonment not to exceed 90 days or by community service of not more than 90 days or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.
- B. The violation of any provision of this chapter shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

Chapter 193. Special Events and Filming Permits

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 6-18-2003 by Ord. No. 03-19. Amendments noted where applicable.]

GENERAL REFERENCES

Defense and indemnification — See Ch. 77.

Streets and sidewalks — See Ch. 203.

Vehicles and traffic — See Ch. 223.

§ 193-1. Definitions; determination by Special Events Coordinator; additional police protection.

[Amended 4-19-2017 by Ord. No. 17-10^[1]]

- A. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

ADMINISTRATOR

The "Borough Administrator" appointed pursuant to § 5-4, Article II.

APPLICANT

The individual applying for a permit, who is legally authorized to bind the producer.

APPLICATION

The document created by the Administrator that must be completed and submitted to the Administrator by a producer or the producer's authorized representative, in order to request a permit.

BOROUGH

The Borough of Seaside Heights.

BROADCASTING

Transmitting or distributing a program or other information as by television, radio, the Internet or other medium.

CHANGE REQUEST

The document created by the Administrator that must be completed and submitted to the Administrator by a producer or the producer's authorized representative, in order to request a material change to a permit.

CODE

The Borough of Seaside Heights, Code of Ordinances.

DEPARTMENT OF PURVIEW

The Borough department that decides or recommends to the Administrator whether to allow an aspect of filming that is within the department's operational responsibilities.

ELEMENT

An activity that is listed in § 193-15 below.

ENTERTAINMENT INDUSTRY WORK

The production of motion pictures, television series, commercials, music videos, interactive games and animation, where the final product is intended to be commercially or publicly released and/or commercially

or publicly distributed or broadcast.

EQUIPMENT

Includes but is not limited to, television, photographic, film or video cameras or transmitting television and radio equipment, including radio remotes, props, sets, lights, electric and grip equipment, dolly tracks, screens, or microphone devices, and any and all production-related materials. "Equipment" shall not include: a) handheld devices, as defined below; and b) vehicles that are used solely to transport a person or persons while engaged in the activity of filming or broadcasting from within such vehicle, operated in compliance with relevant traffic laws and rules.

FILMING

Taking or creating still or motion picture images, either on film, videotape, webcam, or digital recording medium, or the use and operation of television cameras or transmitting television equipment, including radio remotes and any preparatory activity associated therewith, where the final product is intended to be commercially or publicly released and/or commercially or publicly distributed for viewing on television, in movie theatres, on the Internet, or for institutional use. Filming includes the on-site/on-location preproduction activities associated therewith. Filming does not include activities performed as part of: 1) documenting current affairs; 2) producing newscasts; or location scouting.

HANDHELD DEVICES

Film, still or television cameras, video cameras or other equipment which are held in the photographer's or filmmaker's hand and carried at all times with the photographer or filmmaker during the course of filming. Handheld devices shall not include cables or any other item or equipment not carried by the photographer or filmmaker at all times during the course of photography, filming or transmission.

PERMIT

A document validly issued by the Administrator that authorizes filming or broadcasting and the elements contained therein, if any.

PRODUCER

An individual, organization, corporation or any other entity that is ultimately responsible for the filming or broadcasting that is the subject of the application and the permit.

PUBLIC PROPERTY

Real property and structures owned by the Borough or for which the Borough is a lessee, including, without limitation, parks, playgrounds, streets, sidewalks, other rights-of-way, buildings, docks, boardwalks, beaches. Public property shall also include real property and structures which are being leased by the Borough to a lessee.

RESIDENTIAL AREA

Areas zoned as residential, low-density residential, or single-family, or the areas of other zoning districts in which uses permitted by § 246-36, Residential Zone, are being carried on, pursuant to Chapter 246 of the Code.

SCOUTING

The act of viewing, assessing and photographing locations for filming or broadcasting during preproduction or production.

SPECIAL EVENT

Any activity including, without limitation, any walkathon, bikeathon, racing competition, biathlon, triathlon, block party, concert, parade, festival, art exhibition, or other organized group of 25 or more people having a common purpose or goal, proceeding upon any public property in the Borough. Special events shall include any event which will require use of a portion of Borough property for sole use by a person, people or an organized group to the exclusion of the general public.

TRAFFIC CONTROL PLAN

A drawing that is submitted with a request for a sidewalk, street-end, lane, street, boardwalk or beach closure that details the location of the closures, the alternative routes that will be utilized for the detoured vehicular and/or pedestrian traffic, and the mechanisms (including, without limitation, barricades and signage and the locations thereof) for implementing the closures and alternatives.

- B. Determination of Special Events Coordinator. In the event that an application is received by the Special Events Coordinator which in the judgment of the Special Events Coordinator may not be required pursuant to this

chapter, the Special Events Coordinator shall then consult with the Borough Administrator to determine whether the application must be completed or returned to the applicant unprocessed.

- C. Additional police protection. If the Seaside Heights Chief of Police determines that additional police protection/manpower is necessary to maintain peace and good order and control traffic and spectators at the site of a special event or filming event, the cost thereof determined by the Chief of Police shall be paid by the applicant in accordance with § 166-6 of Chapter 166 of the Code. The applicant shall execute an agreement with the Borough setting forth the terms and conditions of the arrangement.

[1] *Editor's Note: This ordinance also changed the title of this chapter from "Special Events" to "Special Events and Filming Permits."*

§ 193-2. Application to conduct event.

[Amended 3-21-2012 by Ord. No. 12-02]

An application to conduct such special event shall be submitted to the Special Events Coordinator together with an application fee, in writing, by the person or persons in charge or responsible therefor. Such application shall set forth the following information:

- A. The name, address and telephone number of the person requesting the special event permit. The person requesting the permit shall be deemed the contact person for the event unless otherwise specified. If a second person is specified as the contact person for the event, then that person's name, address and telephone number shall also be provided.
- B. The name and address of the organization or group the applicant is representing.
- C. The name, address and telephone number of the person or persons who will act as chairman of the special event and be responsible for the conduct thereof. If said person shall be the same as the contact person, same must be specified.
- D. The number of agents or representatives of the organization hosting the special event who will be present at the time of and during the special event shall be provided. Names of such agents and representatives shall be provided. Some identifying clothing or accessory, such as name tags, shall be worn by each representative or agent so as to make such persons readily identifiable. The Special Events Coordinator shall approve any such clothing or accessory as sufficient to identify event personnel.
- E. The activities planned for the event, the estimated number of persons to participate and/or attend, and the number and types of vehicles (if any) to participate.
- F. The method of notifying participants and invitees of the rules and regulations governing the special event, if appropriate.
- G. The date the event is to be conducted and the hours it will commence and terminate.
- H. The specific assembly and dispersal locations, the specific route and the plans, if any, for assembly and dispersal.
- I. Whether any music will be provided, either live or recorded.
- J. The number, types and locations of all loudspeakers and amplifying devices to be used.
- K. Such other information as the Special Events Coordinator may deem necessary in order to properly provide for traffic control, street and property maintenance and the protection of the public health, safety and welfare.

§ 193-3. Supplemental information for parades.

- A. A person seeking issuance of a parade permit shall file a supplemental application with the Special Events Coordinator. Said application shall be in addition to the general special events application required pursuant to Subsection A.
- B. An application for a parade permit shall be filed with the Special Events Coordinator not less than seven nor more than 30 days before the date on which it is proposed to conduct the parade.

C. The application for a parade shall set forth the following additional information:

- (1) The route to be traveled, the starting point and the termination point.
- (2) The approximate number of persons, animals and vehicles that will constitute such parade; the type of animals and description of the vehicles.
- (3) The hours when such parade will start and terminate. This information shall be in addition to the information provided above which shall indicate the start and end times of the entire event. The answer to this question shall specify the actual time for the duration of the parade itself to the exclusion of any pre or post activities.
- (4) A statement as to whether the parade will occupy all or only a portion of the width of the streets proposed to be traversed.
- (5) A listing of locations by streets of any pre-parade assembly areas for such parade and the time at which units of the parade will begin to assemble at any such area or areas. For purposes of the public health, safety and welfare, these times must be specific and rounded to the quarter hour. The general time of the parade route shall not include the assembly time. For each street upon which assembly will occur, a separate time must be provided, as well as an estimated time of departure from that street to begin the parade. By providing times, the applicant for a parade permit is acknowledging that the parade is scheduled to move from the point of origin to its point of termination expeditiously and without unreasonable delays en route.
- (6) The interval of space to be maintained between units of such parade.
- (7) Any additional information which the Special Events Coordinator shall find reasonably necessary for a fair determination as to whether a permit should issue and any information necessary to secure the public health, safety and welfare.
- (8) If the parade will use or traverse any state or county road or highway within the Borough of Seaside Heights, the application shall be accompanied by a written consent or other written authorization to hold such parade on the date and the time requested, issued by the public agency or body having jurisdiction and control over said road or highway.

D. The Special Events Coordinator shall have the authority to consider any application hereunder which is filed less than seven days before the date such parade is proposed to be conducted and may, at his or her discretion, waive the requirement for certain information if found to be unnecessary based on the application.

§ 193-4. Issuance or denial of permit.

Once a completed application is submitted, the Special Events Coordinator shall review the application. Once the Special Events Coordinator has completed his or her review of the application, he or she shall make a recommendation to the governing body. Upon consideration of the recommendation of the Special Events Coordinator, if the governing body shall find that the special event is not to be held for any unlawful purpose and will not in any manner endanger the public health, safety and welfare or unnecessarily interfere with the public use of the streets and sidewalks, the governing body may approve the application. After giving consideration to the recommendations of the Special Events Coordinator, the final determination as to whether or not a permit shall be issued shall be made by the governing body.

§ 193-5. Consideration of application; time of consideration by governing body.

All completed special event applications shall be presented to the governing body by the Special Events Coordinator at the meeting next following the filing of the completed application. The Special Events Coordinator may exercise reasonable discretion in holding an application from consideration if the Special Events Coordinator determines that an informed decision cannot be made by the governing body without first obtaining additional essential information.

§ 193-6. Conditions contained in permit.

Any permit granted under this chapter may contain conditions reasonably calculated to reduce or minimize dangers and hazards to vehicular or pedestrian traffic and the public health, safety and welfare, including, but not limited to, changes in time, duration or number of participants. In all cases, the following shall apply:

- A. The conduct of the special event will not substantially interrupt the safe and orderly movement of other traffic contiguous to its route or location.
- B. The conduct of the special event will not require the diversion of so great a number of police officers of the Borough to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection to the Borough.
- C. The conduct of such special event will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of the Borough other than those to be occupied by the proposed line of march and areas contiguous thereto.
- D. The concentration of person, animals and vehicles at assembly points of the special event will not unduly interfere with proper fire and police protection of or ambulance service to areas contiguous to such assembly areas.
- E. The conduct of such special event will not interfere with the movement of fire-fighting equipment en route to a fire.
- F. The conduct of the special event is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct or create a disturbance.
- G. All directional signs erected in connection with the special event shall be removed within 24 hours of the termination of the event.

§ 193-7. Closing of streets.

Pursuant to N.J.S.A. 40:67-16.9, for the purpose of carrying out the preceding sections of this chapter, the governing body authorizes the Mayor to provide, by regulation, for the closing of any Borough-owned street, or portion thereof, to motor vehicle traffic on any day or days or during specified hours on any day or days whenever he/she finds that such closing is necessary for the preservation of the public safety, health or welfare. Any regulations promulgated by the Mayor pursuant to the authority of this section shall provide for the posting of proper warning signs of such closing of any street, or portion thereof, during the time same is closed. If any county-owned street needs to be closed in connection with the special event, it shall be the responsibility of the applicant to obtain the approval for the same from the county prior to the commencement of the special event. Proof of such approval shall be provided prior to the commencement of the special event. However, the governing body may, in its discretion, approve an application contingent upon the providing of such proof.

§ 193-8. Certificate of insurance; indemnification; exemption.

[Amended 5-19-2004 by Ord. No. 04-07]

- A. All applicants must provide a certificate of insurance specifically naming the Borough of Seaside Heights as an additional insured providing general liability, bodily injury and property damage coverage with minimum limits of liability not less than \$1,000,000.
- B. The applicant shall agree to indemnify, defend and hold harmless the Borough, its agents, servants, representatives and employees, from and against all losses, damages, claims, liabilities and causes of action of every kind, or character and nature, as well as costs and fees, including reasonable attorneys' fees connected therewith, and the expense of investigation thereof, based upon or arising out of damages or injuries to third persons or their property caused by the acts, omissions or negligence of the applicant, anyone for whose acts the applicant may be liable, or any claims arising out of or in any manner relating to the activities permitted pursuant to this chapter to the extent permitted by law. The applicant shall give the Borough prompt and reasonable notice of any such claims or actions.
- C. Any applicant that is insured by the Ocean County Joint Insurance Fund shall be exempt from the requirements listed in § **193-8A** and **B** above. If an organization other than the applicant will be using Borough property in connection with participation in a particular event and no separate application is submitted by that organization, the organization must comply with the requirements listed in § **193-8A** and **B** above. If the additional

organization(s) is also insured by the Ocean County Joint Insurance Fund, then that organization shall also be exempt from the requirements listed in § 183-8A and B above.

§ 193-9. Purpose and intent.

[Added 4-19-2017 by Ord. No. 17-10]

- A. The intent of the Borough in adopting this filming and broadcasting chapter is to facilitate entertainment industry work performed in the Borough while safeguarding the interests of Borough residents and businesses. The chapter delegates responsibility for processing applications and permits within the Department of Administration under the direction and supervision of the Administrator which will be dedicated to responding to the needs and issues pertaining to entertainment industry work. The chapter simplifies the permitting requirements associated with filming and broadcasting by enabling entertainment industry professionals to obtain required Borough approvals through the Department of Administration rather than through numerous individual departments. It strengthens the Borough's ability to anticipate and provide adequate services for single or multiple filming or broadcasting projects throughout the Borough. It also enhances the Borough's ability to accommodate unanticipated circumstances and requested changes.
- B. The Administrator and the Department of Administration similarly will respond to the needs of Borough residents and businesses regarding entertainment industry work. Although filming and broadcasting can bring positive exposure and economic benefits to a community, in many instances these activities can have negative side effects, unrelated to the subject matter or expressive content of the film or broadcast, that can seriously disrupt peace and good order or impose unanticipated costs on the Borough, particularly the additional police protection, emergency medical services, and Public Works Department services and resources often required.
- C. Some of these negative side effects include: the presence of trucks and trailers to store equipment and house cast, creating traffic and parking problems; the attractive nuisance created by the filming, which can attract crowds of onlookers; excessive noise and lighting; the erection and placement of filming equipment, which can obstruct public rights-of-way and other areas; activities extending well into the late nighttime or early morning hours, disturbing neighbors' peace and quiet enjoyment; the necessity of a constant police presence to keep the site secure and maintain order; and disorderly activities committed by either crew or cast members, or visitors to the site.
- D. These undesirable effects are particularly acute in residential neighborhoods, where residents have a legitimate and legally protectable right to be free from unwanted and unnecessary intrusions into the peace and sanctity of their homes.
- E. Both the federal and state judiciaries have repeatedly reaffirmed that the protection of the well-being, tranquility, and privacy of the home, and the quality of life and aesthetic character of neighborhoods, is a legitimate governmental interest justifying reasonable time, place, and manner restrictions on expressive activities, including filmmaking and broadcasting.
- F. This chapter is intended to advance that interest and control the undesirable effects of filmmaking and broadcasting while advancing the Borough's commitment to being a community to work, live, and visit.

§ 193-10. Borough Administrator and Department of Administration as resource and liaison.

[Added 4-19-2017 by Ord. No. 17-10]

- A. The Borough Administrator and Department of Administration shall be responsible for responding to the needs and issues pertaining to entertainment industry work.
- B. The Administrator and Department of Administration will serve as a resource for the Borough's residents and businesses, providing information upon request about current or scheduled filming, helping to resolve problems that arise from entertainment industry work, and acting as a liaison between residents, businesses and the entertainment industry to address inconvenience experienced generally and with regard to a specific project. The Administrator and his office will also serve as an ambassador to the entertainment industry, providing information, answering questions, helping to resolve challenges and facilitating the industry's work in the Borough. The office will implement other mechanisms that enhance the experience of all people performing and effected by entertainment industry work, which may include an informational web page and online permitting. While permits are required for entertainment industry work that occurs on public property only, the Administrator

and Department of Administration will be a resource and liaison for all entertainment industry work, including work that occurs on private property.

§ 193-11. Permits for filming and broadcasting.

[Added 4-19-2017 by Ord. No. 17-10]

- A. Any producer that wishes to perform entertainment industry work, including filming or broadcasting, on public property or in a residential area under a waiver must first obtain a permit.
- B. Permits are issued under the authority of the Administrator on behalf of the Borough Council.
- C. Permits are issued to the producer.
- D. A permit is required for each location where filming or broadcasting will take place.
- E. All permit applications will be processed on a "first come, first served" basis. If two or more permit applicants request the same date and the same location, the filming or broadcasting application that was received first shall be first eligible for approval.
- F. Duration of permits. Permits shall be valid for a minimum of one day and a maximum of 30 days calculated from the date of issuance. Longer filming or broadcasting periods require additional permits and payment of the established application and permit fees.
- G. A permit will specify the filming or broadcasting that may occur at a particular location at a particular time. The permit will authorize element(s) to be performed as part of the filming or broadcasting provided that the elements have been approved by the Administrator after consultation with the department of purview.
- H. Where the application includes a request to close all or any portion of a Borough street, lane and/or sidewalk, dock, beach or boardwalk, the request shall be evaluated under and the closure must comply with all pertinent sections and subsections of this chapter applicable to the filming or broadcasting at issue.
- I. A producer that receives a permit is responsible for knowing and complying with all other laws, including other ordinances and regulations that establish prerequisites, authorizations and other required permissions applicable to the filming.
- J. Where permitted filming or broadcasting includes advertising signs or other displays of commercial speech, the signs and/or displays must be removed upon the expiration of the permit.
- K. Notwithstanding any other part of this Code, any producer that performs filming or broadcasting without receiving a permit, violates the material terms of a permit, or is otherwise in violation of this entertainment filming and broadcasting ordinance, shall be subject to the provisions of § 193-22.
- L. Notice. Applicants are required to provide written notice to any residents, businesses, and merchants located within a three-block radius of the site. The notice shall state the location and approximate duration, and describe the nature and extent of the filming or broadcasting. The notice shall be provided no later than the date and time contained in the permit. The applicant shall provide the Administrator proof that notice was provided within 24 hours of the notice date and time.
- M. Hold harmless/indemnification. Applicants must agree in writing to hold harmless and indemnify the Borough and its officials, employees, and agents for any and all claims, liabilities, judgments, and damages, including reasonable attorneys' fees and costs of suit, resulting from death, bodily injury, or property damage arising out of or in any way connected with their filming or broadcasting activities.
- N. Additional police protection. If the Seaside Heights Chief of Police determines that additional police protection/manpower is necessary to maintain peace and good order and control traffic and spectators at the site of a special event or filming event, the cost thereof determined by the Chief of Police shall be paid by the applicant in accordance with § 166-6 of Chapter 166 of the Code. The applicant shall execute an agreement with the Borough setting forth the terms and conditions of the arrangement.
- O. The Administrator and the departments of purview shall compile and maintain rules and guidelines applicable to the use of public property for filming or broadcasting, including the elements that are part of the filming or

broadcasting, and shall apply those rules and guidelines equally regardless of the subject matter of the filming or broadcasting and/or the content of the speech therein.

- P. While it is the intent of the Borough to honor each permit, the issuance of such permit shall not grant the producer a constitutionally protected property interest.

§ 193-12. Exemption from filming or broadcasting permit requirement.

[Added 4-19-2017 by Ord. No. 17-10]

- A. The following types of filming and broadcasting are exempt from the permitting requirement of § **193-11** above. This provision does not exempt a producer from complying with other applicable code provisions, laws, ordinances or regulations that require elements or other activities included in the filming or broadcasting to be permitted or approved by the appropriate governmental entity.

(1) First Amendment activity.

- (a) Filming or broadcasting associated with any permitted or unpermitted parade, rally, protest or demonstration, except when the same is staged for the sole purpose of being included in the filming's final product.
- (b) Filming or broadcasting associated with any permitted or unpermitted parade, rally, protest or demonstration, except when using vehicles or equipment.
- (c) Filming or broadcasting associated with an outdoor event that is authorized by a Borough-issued outdoor special event permit, as defined in this chapter, except when the same is staged for the sole purpose of being included in the film's or broadcast's final product.

(2) Other than First Amendment activity.

- (a) Coverage of news or matters of public importance by print, broadcast, or electronic media.
- (b) Filming of limited duration intended primarily for personal, documentary, or promotional purposes that does not involve a movie studio or production company.
- (c) Filming or broadcasting occurring on public property involving the use of handheld devices as defined by § **193-1**.
 - [1] If such activity does not involve the assertion by any means of exclusive use of all or any section of the public property.
 - [2] For purposes of this subsection, standing on public property while using a handheld device and not otherwise asserting exclusive use by any means is not activity that requires a permit.

§ 193-13. Press passes.

[Added 4-19-2017 by Ord. No. 17-10]

The use of a press pass issued by the Seaside Heights Police Department or Department of Administration where an individual is acting in furtherance of the activity authorized by such press pass, and is engaged in filming or broadcasting as defined in these rules, does not require that a permit be obtained pursuant to this chapter.

§ 193-14. Location restrictions.

[Added 4-19-2017 by Ord. No. 17-10]

- A. Residential areas. Filming and/or broadcasting is prohibited in any residential area unless the Administrator grants a waiver.
- B. Exceptions. The prohibition in Subsection **A** above does not apply to:
- (1) Coverage of news or events of public importance by print, broadcast, or electronic media.

- (2) Filming or broadcasting of limited duration, intended for personal, documentary, or promotional purposes, conducted primarily or exclusively in the interior or immediate exterior of a residential dwelling, that does not involve a movie studio or production company.

§ 193-15. Filming and broadcasting elements.

[Added 4-19-2017 by Ord. No. 17-10]

- A. An applicant shall indicate on the application each of the elements listed below that will be included in the filming or broadcasting. The final decision of whether to allow the element shall be made by the Administrator after consultation with the department of purview. Prior to denying permission to perform an element, the Administrator and a representative from the department of purview shall consult with the producer in an attempt to find alternative ways to accommodate the producer's filming needs.
- B. This section applies to the activities listed below only when they occur on public property. Where the element requires approval from an additional governmental jurisdiction, the producer must obtain that approval as well. The elements are as follows:
 - (1) Nighttime filming or broadcasting with the use of outdoor lighting where a residence exists within 150 feet from the location of an outdoor light;
 - (2) Filming or broadcasting in buildings that are owned by the Borough or leased to a third party by the Borough, or in buildings of which the Borough is a lessee;
 - (3) Use of public property that is owned, leased or maintained to or by the Borough;
 - (4) Use of a temporary structure that requires permitting by any local, county, state or federal agency;
 - (5) Use of intellectual property belonging to the Borough, Seaside Heights Tourist Development Commission, or the Seaside Heights Business Improvement District;
 - (6) Closure of all or any section of a street, lane and/or sidewalk, dock, beach or boardwalk;
 - (7) Use of pyrotechnics or other explosives;
 - (8) Use of smoke effects, water effects, or flame effects;
 - (9) Display of real or artificial fire arms, grenades, or other weapons that would cause the public to fear violence;
 - (10) Vehicle chases and/or vehicle crashes;
 - (11) Dangerous stunts that have a reasonable likelihood of causing substantial personal injury;
 - (12) Use of large or any other equipment that has a reasonable likelihood of causing damage to public property;
 - (13) Filming or broadcasting in a Borough park or from a Borough beach or boardwalk; and
 - (14) Use of wild animals controlled under federal, state, or county law and/or ordinances.

§ 193-16. Processing of permit applications.

[Added 4-19-2017 by Ord. No. 17-10]

- A. A producer that wishes to perform filming or broadcasting must submit to the Administrator a completed application and the application fee set forth in § 193-21 below. Where the producer is an organization, corporation or other entity, the application must be signed and submitted by an individual authorized to bind the producer.
- B. The application shall include, but not be limited to, the following:
 - (1) The filming or broadcasting project name;

- (2) The name and contact information of the applicant, including postal address, email address, and telephone number;
 - (3) A valid photo identification of the applicant;
 - (4) The name and contact information of the producer (if the applicant is not the producer);
 - (5) The dates, times and locations of the filming or broadcasting for which a permit is being requested, and a general description of the filming or broadcasting activity that will occur at each location;
 - (6) A description of any elements that may be performed during the filming or broadcasting, including the dates, times and locations of each;
 - (7) A description of any aspects of the filming or broadcasting, other than the elements, that may require Borough services;
 - (8) A description of any assistance the producer may need from the Administrator and Department of Administration, and/or concerns that the producer wants the Administrator and Department of Administration to be aware of; and
 - (9) Where the producer is a student, an official letter or document from her/his school confirming that s/he is currently enrolled there. In addition, the student must appear in person at the Department of Administration and present her/his current student identification card and a valid driver's license. Where the student does not have a driver's license, s/he may present a different form of identification that includes her/his photo.
- C. There is no deadline by which a permit application must be submitted to the Administrator; however, where a permit application includes a request for a street or beach or boardwalk closure, the closure portion of the application will not be approved unless it is received at least 10 business days prior to the closure.

§ 193-17. Permit denials.

[Added 4-19-2017 by Ord. No. 17-10]

- A. The Administrator may deny an application if the Administrator reasonably determines that one or more of the below-listed conditions exists. Prior to denial, the Administrator shall make reasonable efforts to consult with the producer in an attempt to resolve issues of concern and/or find alternative ways to accommodate the producer's filming or broadcasting needs.
- (1) The filming or broadcasting poses an unreasonable risk of personal injury or property damage to people or property not associated with the filming or broadcasting;
 - (2) The filming or broadcasting poses an unreasonable risk of damage to public property;
 - (3) Filming or broadcasting would unreasonably interfere with the use and enjoyment of adjoining properties;
 - (4) Filming or broadcasting would unreasonably impede the free flow of vehicular or pedestrian traffic;
 - (5) The location sought is not suitable because the proposed use cannot reasonably be accommodated in the proposed location;
 - (6) The applicant is unlikely to comply with the material terms of the requested permit;
 - (7) Filming or broadcasting would endanger the public's health, safety, or welfare, or otherwise create a public nuisance;
 - (8) Filming or broadcasting would negatively affect residents' quality of life;
 - (9) Filming or broadcasting would negatively impact local businesses;
 - (10) Filming or broadcasting would unduly strain Borough resources;
 - (11) Noncompliance with the provisions of this chapter;
 - (12) Other municipalities' experience with the applicant's activities;

- (13) The cast or crew's prior criminality;
 - (14) The date and time requested for a particular location conflicts with previously issued permits or permissions for filming, broadcasting, outdoor events, or other activities;
 - (15) Use of the location, or use of the location during the date or time requested, would unreasonably interfere with the operation of Borough functions, especially between Memorial Day weekend and Labor Day weekend;
 - (16) Use of the location or the proposed activity at the location would violate a law, ordinance, statute or regulation, regardless of whether the illegal activity is part of the message or content of the filming. A permit shall not be denied based upon simulation of an illegal activity where the actual illegal activity is not being performed;
 - (17) The producer owes an outstanding debt to the Borough;
 - (18) The producer previously caused significant damage to public property and, at the time of submitting the application under consideration, failed to adequately repair the damage or pay in full the Borough's invoice for damage repair and restoration of services;
 - (19) The producer previously violated this chapter, including without limitation by violating a material condition and/or restriction of a permit;
 - (20) The applicant made a material misrepresentation or gave incorrect material information on the application.
- B. Where the Administrator reasonably determines that one or more of the conditions set forth above exists and that the application should therefore be denied, the Administrator shall issue a written communication to the applicant that includes an explanation for the denial.
 - C. In the event that permission to perform an element is denied, the Administrator will process the remainder of the application and grant all other aspects of the filming or broadcasting for which the requirements have been met.
 - D. In no event shall the Administrator's or any Borough employee's evaluation of whether to grant or deny the application, including any of the elements, include consideration of: a) the race, color, creed, religion, gender, age, disability, domestic relationship status, parental status, familial status, sexual orientation, national origin, gender identity, political affiliation or associational relationships of the applicant, producer or any person associated with the filming; or b) the message or content of the filming.

§ 193-18. Appeal.

[Added 4-19-2017 by Ord. No. 17-10]

- A. Grounds for appeal. An aggrieved applicant may appeal the denial of a permit, or the imposition of any conditions imposed thereon, in accordance with the procedures set forth below.
- B. Time for appeal. The appeal must be submitted in writing to the Administrator no later than seven business days following the decision denying or conditionally approving the permit.
- C. Appeal panel. The appeal will be reviewed by the Seaside Heights Borough Council. The appeal will be adjudicated based on the written submission of the applicant.
- D. Standard of review.
 - (1) The denial of a permit, or the imposition of any conditions thereon, may be overturned only upon a showing by clear and convincing evidence that the filming or broadcasting will not produce any of the negative effects upon which the original denial was based.
 - (2) The denial of a permit pursuant to § **193-17** may be overturned only upon a showing by clear and convincing evidence that the filming or broadcasting:
 - (a) Will not result in the negative effects identified in §§ **193-9** and/or **193-17**;
 - (b) Will be completed in less than three days;

- (c) Will take place largely in the interior of a residential dwelling;
 - (d) Will not violate any applicable Borough zoning ordinance; and
 - (e) Will comply with all other provisions of this section.
- E. Decision on appeal. The Seaside Heights Borough Council shall issue a written decision affirming, reversing, or modifying the original determination no later than 30 days following the filing of the appeal.

§ 193-19. Responsibilities of producer once permit is obtained.

[Added 4-19-2017 by Ord. No. 17-10]

- A. A producer or producer's designee must have the permit on site at the time and location of the filming or broadcasting, and must also have on site any other permits required for that location by the Borough or any other governmental agency.
- B. A producer must confine filming to the locations, times, guidelines and conditions specified in the permit and must abide by all other material terms of the permit.
- C. Permits are not transferable.
- D. A producer must clean and repair the filming location, and restore it to the condition it was in immediately prior to the filming, unless otherwise agreed upon in writing by the Administrator and the producer. The Administrator will inspect the filming location after the filming is completed to ascertain whether this requirement has been met. Where a producer fails to fulfill this requirement, the Administrator will bill the producer for the cleaning, repair and/or restoration costs borne by the Borough, and the producer must pay the invoice in full within 30 days of receipt.
- E. Permits shall require the producer to notify the Administrator immediately upon learning of any emergency event regarding or arising from the filming or broadcasting that involves the media, the police or fire departments or emergency medical services.
- F. Vehicle parking. Only vehicles with permits issued by the Seaside Heights Police Department will be allowed to park in areas designated for the rigging or shooting activity at the time(s) and location(s) described in the applicable permit.
- G. Dolly track or other equipment. No dolly track or other equipment may be laid across a street or block a fire lane without prior approval of the Administrator and the Seaside Heights Police Department.
- H. Pyrotechnics. The use of pyrotechnics, fire effects and explosions, including simulated smoke and smoke effects, shall be conducted only upon authorization by the New Jersey Division of Fire Safety or other approval agencies and subsequent approval shall be obtained from the Administrator prior to shooting.
- I. Animals. The use of wild animals shall be used only upon authorization by the appropriate New Jersey department or agency, and subsequent approval shall be obtained from the Administrator prior to shooting.
- J. Potentially dangerous activities. Conduct or activities associated with rigging or shooting permits which are determined by the Administrator to cause a potential danger to persons or property will be referred by the Administrator for approval by the Seaside Heights Police Department or other governmental agency having jurisdiction over such activity. Such activities shall include, but not be limited to, the use of stunts, helicopters, firearms or simulated firearms.
- K. Trees and plantings. Trimming, damaging, removing or cutting trees or vegetation on public property is prohibited without the prior approval of the Administrator.
- L. Street structures. No street signs, lights, postal boxes, parking meters or any other permanent street structure may be removed or altered without the prior approval of the Administrator and/or local, state or federal agencies charged with maintaining such structures.
- M. Production location access. If determined by the Administrator to be appropriate, permittees shall submit a mitigation plan for minimizing the potential inconvenience to residents and/or businesses caused by rigging or shooting activities.

- N. Food services. There shall be no sit-down catered meals permitted on public streets or sidewalks.
- O. Code of conduct. The Administrator shall issue a location code of conduct that addresses the importance of considerate behavior on the set of all rigging and shooting activities. The permittee is responsible for providing a copy of the code of conduct to the cast and crew of each permitted rigging or shooting activity. Permittees shall be required to encourage participants in the permitted event to act in accordance with such code.
- P. A producer is responsible for:
 - (1) Knowing and complying with all Borough ordinances and other laws applicable to the filming or broadcasting and to the other activities arising from the producer's permit; and
 - (2) Requiring and using commercially reasonable efforts to enforce the requirement that any person working for or at the direction of the producer (including without limitation contractors) complies with all Borough ordinances and other laws applicable to the filming or broadcasting and to the other activities arising from the permit.
- Q. The requirements of § 193-20P(2) above shall include without limitation that the producer is responsible for obtaining any and all permissions, licenses or other required authorizations for use of intellectual property, including intellectual property which is on public property but is not owned by the Borough.
- R. Notwithstanding issuance of permit pursuant to this article, a producer is prohibited from acting or claiming to act as a representative or agent of the Borough or Administrator, and from indicating Borough endorsement of the filming or broadcasting, except as otherwise agreed to in writing by the Administrator. This provision shall not prohibit the producer's use of the Borough logo in the filming credits.
- S. The Administrator shall require that notification be given to residents and businesses within a three-block radius of a location for which a permit has been issued. The Administrator may provide the notification, may require the producer to provide the notification, or may utilize a different mechanism for providing notification. The notification must state that a filming or broadcasting permit has been issued, and must include the date(s), time(s), location(s) and activities that are authorized by the permit. The Administrator shall determine the most effective means and timing of notification based upon factors such as the type of impact that the filming or broadcasting will have on the neighborhood, the time between receipt of the application and commencement of the filming or broadcasting, the producer's budget and previous communications from a neighborhood regarding notification preferences.

§ 193-20. Other permit requirements.

[Added 4-19-2017 by Ord. No. 17-10]

After a permit has been approved by the Administrator, it will be issued once the following have occurred:

- A. The producer signs an indemnification provision on the permit whereby the producer agrees to indemnify the Borough and its officials and employees from all claims, losses and expenses, including attorneys' fees and costs, that may arise from the permit and any of the activities performed pursuant to the permit by, on behalf of, or at the direction of the producer, except to the extent that that claims, losses and/or expenses are caused by the negligence or intentional misconduct of the Borough, its officials and/or employees;
- B. The producer signs a provision agreeing to comply with all applicable environmental laws, including an agreement not to allow legally prohibited contaminants from entering the sewage and stormwater drainage systems serving the area where the filming or broadcasting will occur. The producer must sign a separate indemnification clause, such as the one described in Subsection **A** immediately above, that pertains specifically to environmental breaches and includes without limitation the fines and cleanup costs associated therewith;
- C. The producer obtains insurance coverage in an amount determined by the Borough's risk manager, covers the Borough as an additional insured on the policy, and provides proof of the coverage in a manner established by the Borough's risk manager;
- D. The producer pays the permit fee and any other applicable fees set forth in § **193-21** below.

§ 193-21. Fee schedule.

[Added 4-19-2017 by Ord. No. 17-10]

- A. The Borough Clerk shall collect all applicable fees arising pursuant to this chapter. These fees are set forth below, and in other sections of the Code pertaining to the cost of services or goods provided by other Borough departments.
- (1) Nonrefundable application fee. A filming or broadcasting permit application must be accompanied by a nonrefundable application fee in the amount set forth below. An application shall not be deemed complete until the application fee is received by the Borough Clerk.
 - (a) Except for students: \$300.
 - (b) For students: \$25.
 - (2) Filming or broadcasting permit fee. A permit authorizes all filming or broadcasting for a particular project during a calendar month, regardless of the number of filming or broadcasting locations. A permit is valid through the last day of the calendar month and may be renewed for additional calendar months.
 - (3) Standard permit fee. The following fees apply when the completed permit application is submitted to the Administrator more than three business days prior to the effective date of the permit:
 - (a) For original filming or broadcasting permit, except for students: \$300.
 - (b) For each renewal permit, except for students: \$300.
 - (c) For students, valid for length of filming project: \$25. Monthly renewals not required.
 - (4) Rush permit fee. Where a completed filming or broadcasting permit application is submitted to the Administrator three or fewer business days prior to the intended effective date of the permit, the producer must pay the standard permit fee plus the rush fee set forth below in this subsection. Additionally, where a producer submits an application more than three business days prior to the intended effective date of the permit, the producer voluntarily may pay the standard permit fee plus the rush fee in order to have the application processed within three or fewer business days.
 - (a) Except for students: \$300.
 - (b) For students: \$25.
 - (5) Cancellation fee. Except as set forth in § 193-21A(6) below, a filming or broadcasting permit fee is nonrefundable.
 - (6) A filming or broadcasting permit fee is refundable if cancellation is required because of extraordinary circumstances for which the producer is not responsible and which are not within the producer's control. Inclement weather, except for declared states of emergency, and common illness shall not be deemed extraordinary circumstances.
 - (7) Traffic control plans. Entertainment industry work performed at certain locations will require a traffic control plan. The Administrator is authorized but not required to offer the service of preparing traffic control plans associated with entertainment industry work. The cost of having the Administrator prepare a traffic control plan is as follows:
 - (a) For nonstudents:
 - [1] Traffic control plan for lane and/or sidewalk closure(s) only: \$250.
 - [2] Traffic control plan for street closure(s) only: \$400.
 - [3] Traffic control plan for street closure(s) plus lane and/or sidewalk closure(s) (where the lane and/or sidewalk is not part of or abutting the street being closed): \$600.
 - (b) For students, any type of traffic control plan: \$25.
- B. The Administrator's preparation of a traffic control plan will include submitting the plan to the Seaside Heights Police Department for review, and editing the plan as needed to meet the requirements of the Police Department.
- C. The producer is not required to have the Administrator prepare the traffic control plan, and there will be no penalty against or differential treatment of any producer who has the plan created by a person or entity other

than the Administrator.

- D. Street closures permits — minimum notice. A full street closure will not be permitted unless the application or change request is submitted at least five business days prior to the closure.
- E. Rush fees may not be utilized for full street closure requests.

§ 193-22. Violations and penalties.

[Added 4-19-2017 by Ord. No. 17-10]

- A. Any person violating or failing to comply with any of the provisions of this chapter shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$1,250, by imprisonment not to exceed 90 days or by community service of not more than 90 days or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.
- B. The violation of any provision of this chapter shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

Chapter 197. Special Improvement District

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 12-22-1999 by Ord. No. 99-36. Amendments noted where applicable.]

§ 197-1. Introduction and statement of purpose.

The recitation set forth in the preamble above is hereby incorporated in the chapter.^[1] This chapter allows the formation of a Special Improvement District pursuant to N.J.S.A. 40:56-65 et seq. within the Borough of Seaside Heights and designates the Seaside Heights Special Improvement District Management Corporation to assist the governing body in effectuating the purposes and intent of that legislation and the goals and objectives of the Special Improvement District. The governing body hereby determines that the creation of the Special Improvement District will enhance the safety, welfare and economic growth of the Borough of Seaside Heights business community and the Borough of Seaside Heights as a whole.

[1] *Editor's Note: The preamble to Ord. No. 99-36 is on file in the Borough offices.*

§ 197-2. Establishment of district.

- A. The Seaside Heights Special Improvement District ("District") is hereby established consisting of the properties designated and listed on Schedule A,^[1] annexed hereto, by tax block and lot numbers and street addresses. The Special Improvement District will be governed by a District Management Corporation as defined in § 197-5 of this chapter.

[1] *Editor's Note: Schedule A is on file in the Borough offices.*

- B. Schedule A of this chapter may be amended by resolution to add and delete particular properties which were inadvertently omitted from or added to the list, as well as properties which have a change in use affecting the appropriateness of including them as part of the Special Improvement District. Any change in the classes of properties to be considered part of the Special Improvement District will require an ordinance.

§ 197-3. Assessments.

All costs of improvements and maintenance, other than the costs of improvements and maintenance ordinarily incurred by the Borough out of general funds, shall be determined and approved pursuant to N.J.S.A. 40:56-80 or N.J.S.A. 40:56-85 as determined by the District Management Corporation. The formula for the assessment is as follows: Each property's current assessed value, as determined by the Seaside Heights Tax Assessor for real estate purposes, will be multiplied by the appropriate amount to sustain the approved annual budget to determine the

amount of the special district assessment. The foregoing assessment shall be collected by the Borough of Seaside Heights as a special assessment against the properties that are within the District as defined in Schedule A.

§ 197-4. Annual report and budgets.

[Amended 2-7-2001 by Ord. No. 2001-6]

- A. The District Management Corporation shall submit an annual report to the governing body pursuant to N.J.S.A. 40:56-80 within 30 days of the close of the fiscal year. This report shall consist of a narrative covering the previous year's operation and detailed financial statements.
- B. The District Management Corporation shall submit a detailed business plan and budget for the upcoming year, no later than October 15 of the current fiscal year, for the approval by resolution of the governing body, pursuant to the provision of N.J.S.A. 40:56-84. The budget shall be submitted with a report which explains how the budget contributes to the goals and objectives for the Special Improvement District.
- C. The fiscal year of the District and the Management Corporation shall be January 1 to December 31.
- D. Pursuant to N.J.S.A. 40:56-88 the District Management Corporation shall also cause an audit of its books, accounts and financial transactions to be made and filed with the governing body, and for that purpose the corporation shall employ a certified public accountant of New Jersey. This audit shall be completed and filed with the governing body within four months after the close of the fiscal year of the Corporation. A certified duplicate copy of the audit shall be filed with the Director of the Division of Local Government Services in the State of New Jersey Department of Community Affairs within five days of the filing of the audit with the governing body.

§ 197-5. District Management Corporation.

[Amended 2-7-2001 by Ord. No. 2001-6]

- A. The governing body of the Borough of Seaside Heights hereby designates the Seaside Heights Special Improvement District Management Corporation ("District Management Corporation"), a nonprofit corporation incorporated as the Seaside Heights Business Improvement District Management Corporation, as the District Management Corporation for the District.
- B. The Seaside Heights Special Improvement District Board of Directors, also known as "Board of Directors of the Seaside Heights Business Improvement District Management Corporation," shall be composed of a maximum of 22 voting members appointed by the Mayor and approved by the Council of the Borough of Seaside Heights. The Board of Directors shall be composed of the following:

[Amended 2-19-2003 by Ord. No. 03-06]

- (1) One member of the governing body of the Borough of Seaside Heights selected from the governing body of the Borough of Seaside Heights.
- (2) The Public Affairs Director or other Borough employee appointed by the Mayor of the Borough of Seaside Heights.
- (3) Two members who are retail business owner/operators within the District and whose business is located on the Boardwalk from the south side of Sherman Avenue to Porter Avenue.
- (4) Two members who are retail business owner/operators within the District and whose business is located on the Boardwalk from the north side of Sherman Avenue to Hirling Avenue.
- (5) One member who is a retail business operator and/or tenant who rents the property, the business being located on the Boardwalk from Porter Avenue to Hirling Avenue.
- (6) Two members who are retail business operators whose business is located on the Boulevard from Porter Avenue to Hirling Avenue.
- (7) One member from the nonretail professional business within the District.
- (8) Two owner/operators of lodging accommodations within the District.

- (9) Two residents of the Borough of Seaside Heights who own their residence in the District, do not own or operate a business or commercial establishment in the Borough of Seaside Heights and are over the age of 21.
 - (10) Two owner/operators of a dining and entertainment establishment on the Boulevard from Porter Avenue to Hering Avenue.
 - (11) One retail business owner/operator of a dining and entertainment establishment on the west side of the Boulevard.
 - (12) One owner/operator of a licensed parking lot in the District.
 - (13) Two other members of the business community included in the District.
 - (14) Two member-at-large.
[Amended 2-19-2003 by Ord. No. 03-06]
 - (15) The Executive Director of the Seaside Heights Special Improvement District as a voting member only if there is a tie vote (50/50) and this vote will break the tie.
- C. The District Management Corporation shall be composed of all the directors of the aforementioned District, appointed by the Mayor and approved by the Council of the Borough of Seaside Heights. The officers (President, Vice President, Treasurer and Secretary) of the Corporation will be members of the Board of Directors and elected by a majority vote of the Board.
- D. The District Management Corporation, in addition to acting as an advisory board to the governing body, shall have all powers necessary and requisite to effectuate the purposes of this chapter, including but not limited to:
- (1) Adopt bylaws for the regulation of its affairs and the conduct of its business and prescribe rules, regulations and policies for the performance of its functions and duties.
 - (2) Employ such persons as may be required and fix and pay their compensation from funds available to the Corporation.
 - (3) Apply for, accept, administer and comply with requirements respecting an appropriation of funds or a gift, grant or donation of property or money.
 - (4) Make and execute agreements which may be necessary or convenient to the exercise of the powers and functions of the Corporation, including contract with any person, firm, corporation, government agency or entity.
 - (5) Administer and manage its own funds and accounts and pay its own obligations.
 - (6) Borrow money from private lenders or government entities for periods not to exceed 180 days.
 - (7) Provide security, sanitation and other services in the District, supplemental to those normally supplied by the Borough.
 - (8) Undertake improvements designed to increase safety and attractiveness of the District to businesses which may locate there or visitors to the District, including but not limited to litter cleanup and control, landscaping, signage and those improvements generally permitted for pedestrian malls under N.J.S.A. 40:56-66 pursuant to pertinent regulations of the governing body.
 - (9) Publicize the District and the businesses included within the District boundaries.

§ 197-6. Municipal powers retained.

Notwithstanding the creation of the Special Improvement District, the Borough of Seaside Heights expressly retains all its powers and authority over the area designated as the Special Improvement District.

§ 197-7. Debt obligations.

This chapter obligates the Seaside Heights Special Improvement District to satisfy all debts, loans and financial liabilities incurred by the corporation. The District and the District Management Corporation may not borrow an amount that exceeds the approved budget for that fiscal year. The charter of the Seaside Heights Special Improvement District shall include a clause incorporating the aforementioned.

Chapter 199. Stormwater Management

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Flood damage prevention — See Ch. **99**.

Zoning and land use — See Ch. **246**.

Article I. Minimum Stormwater Management Requirements and Controls for Major Development

[Adopted 12-20-2006 by Ord. No. 06-15]

§ 199-1. Policy statement.

Flood control, groundwater recharge, and pollutant reduction through nonstructural or low-impact techniques shall be explored before relying on structural BMPs. Structural BMPs should be integrated with nonstructural stormwater management strategies and proper maintenance plans. Nonstructural strategies include both environmentally sensitive site design and source controls that prevent pollutants from being placed on the site or from being exposed to stormwater. Source control plans should be developed based upon physical site conditions and the origin, nature, and the anticipated quantity or amount of potential pollutants. Multiple stormwater management BMPs may be necessary to achieve the established performance standards for water quality, quantity, and groundwater recharge.

§ 199-2. Purpose.

It is the purpose of this chapter to establish minimum stormwater management requirements and controls for major development, as defined in § **199-5**.

§ 199-3. Applicability; fees.

- A. This chapter shall be applicable to all site plans and subdivisions for the following major developments that require preliminary or final site plan or subdivision review:
 - (1) Nonresidential major developments; and
 - (2) Aspects of residential major developments that are not pre-empted by the residential site improvement standards at N.J.A.C. 5:21.
- B. This chapter shall also be applicable to all major developments undertaken by the Borough of Seaside Heights.
- C. No additional fees are associated with the requirements of this chapter. All development review fees required in Chapter **246** of the Borough Code shall apply.

§ 199-4. Compatibility with other permit and ordinance requirements.

Development approvals issued for subdivisions and site plans pursuant to this chapter are to be considered an integral part of development approvals under the subdivision and site plan review process and do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act, or ordinance. In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. This chapter is not intended to interfere with, abrogate, or annul any other ordinances, rule or regulation, statute, or other provision of law except that, where any provision of this chapter imposes restrictions different from those imposed by any other

ordinance, rule or regulation, or other provision of law, the more restrictive provisions or higher standards shall control.

§ 199-5. Word usage; definitions.

- A. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meanings they have in common usage and to give this chapter its most reasonable application. The definitions below are the same as or based on the corresponding definitions in the Stormwater Management Rules at N.J.A.C. 7:8-1.2.
- B. As used in this chapter, the following terms shall have the meanings indicated:

CAFRA CENTERS, CORES OR NODES

Those areas within boundaries accepted by the Department pursuant to N.J.A.C. 7:8E-5B.

CAFRA PLANNING MAP

The geographic depiction of the boundaries for Coastal Planning Areas, CAFRA Centers, CAFRA Cores and CAFRA Nodes pursuant to N.J.A.C. 7:7E-5B.3.

COMPACTION

The increase in soil bulk density.

CORE

A pedestrian-oriented area of commercial and civic uses serving the surrounding municipality, generally including housing and access to public transportation.

COUNTY REVIEW AGENCY

An agency designated by the County Board of Chosen Freeholders to review municipal stormwater management plans and implementing ordinance(s). The county review agency may either be a county planning agency or a county water resource association created under N.J.S.A 58:16A-55.5, if the ordinance or resolution delegates authority to approve, conditionally approve, or disapprove municipal stormwater management plans and implementing ordinances.

DEPARTMENT

The New Jersey Department of Environmental Protection.

DESIGNATED CENTER

A state development and redevelopment plan center as designated by the State Planning Commission, such as urban, regional, town, village, or hamlet.

DESIGN ENGINEER

A person professionally qualified and duly licensed in New Jersey to perform engineering services that may include, but not necessarily be limited to, development of project requirements, creation and development of project design and preparation of drawings and specifications.

DEVELOPMENT

The division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or structure, any mining excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, by any person, for which permission is required under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. In the case of development of agricultural lands, "development" means any activity that requires a state permit; any activity reviewed by the County Agricultural Board (CAB) and the State Agricultural Development Committee (SADC), and municipal review of any activity not exempted by the Right to Farm Act, N.J.S.A 4:1C-1 et seq.

DRAINAGE AREA

A geographic area within which stormwater, sediments, or dissolved materials drain to a particular receiving water body or to a particular point along a receiving water body.

EMPOWERMENT NEIGHBORHOOD

A neighborhood designated by the Urban Coordinating Council in consultation and conjunction with the New Jersey Redevelopment Authority pursuant to N.J.S.A 55:19-69.

ENVIRONMENTALLY CRITICAL AREAS

An area or feature which is of significant environmental value, including, but not limited to, stream corridors; natural heritage priority sites; habitat of endangered or threatened species; large areas of contiguous open space or upland forest; steep slopes; and well head protection and groundwater recharge areas. Habitats of endangered or threatened species are identified using the Department's Landscape Project as approved by the Department's Endangered and Nongame Species Program.

EROSION

The detachment and movement of soil or rock fragments by water, wind, ice or gravity.

IMPERVIOUS SURFACE

A surface that has been covered with a layer of material so that it is highly resistant to infiltration by water.

INFILTRATION

The process by which water seeps into the soil from precipitation.

MAJOR DEVELOPMENT

Any development that provides for ultimately disturbing one or more acres of land or increasing impervious coverage by 1/4 acre or more "Disturbance," for the purpose of this rule, is the placement of impervious surface or exposure and/or movement of soil or bedrock, or clearing, cutting or removing of vegetation. A project undertaken by any government agency which otherwise meets the definition of "major development," but which does not require approval under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., is a major development for purposes of this chapter.

[Amended 5-21-2008 by Ord. No. 08-04]

MUNICIPALITY

Any city, borough, town, township, or village.

NODE

An area designated by the State Planning Commission concentrating facilities and activities which are not organized in a compact form.

NUTRIENT

A chemical element or compound, such as nitrogen or phosphorus, which is essential to and promotes the development of organisms.

PERSON

Any individual, corporation, company, partnership, firm, association, the Borough of Seaside Heights, or political subdivision of this state subject to municipal jurisdiction pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

POLLUTANT

(1) Any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, refuse, oil, grease, sewage sludge, munitions, chemical wastes, biological materials, medical wastes, radioactive substance (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. § 2011 et seq.), thermal waste, wrecked or discarded equipment, rock, sand, cellar dirt, industrial, municipal, agricultural, and construction waste or runoff, or other residue discharged directly or indirectly to the land, groundwaters or surface waters of the state, or to a domestic treatment works.

(2) "Pollutant" includes both hazardous and nonhazardous pollutants.

RECHARGE

The amount of water from precipitation that infiltrates into the ground and is not evapotranspired.

SEDIMENT

Solid material, mineral or organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water or gravity as a product of erosion.

SITE

The lot or lots upon which a major development is to occur or has occurred.

SOIL

All unconsolidated mineral and organic material of any origin.

STATE DEVELOPMENT AND REDEVELOPMENT PLAN METROPOLITAN PLANNING AREA (PA1)

An area delineated on the State Plan Policy Map and adopted by the State Planning Commission that is intended to be the focus for much of the state's future redevelopment and revitalization efforts.

STATE PLAN POLICY MAP

The geographic application of the state development and redevelopment plan's goals and statewide policies, and the official map of these goals and policies.

STORMWATER

Water resulting from precipitation (including rain and snow) that runs off the land's surface, is transmitted to the subsurface, or is captured by separate storm sewers or other sewage or drainage facilities, or conveyed by snow removal equipment.

STORMWATER MANAGEMENT BASIN

An excavation or embankment and related areas designed to retain stormwater runoff. A stormwater management basin may either be normally dry (that is, a detention basin or infiltration basin), retain water in a permanent pool (a retention basin), or be planted mainly with wetland vegetation (most constructed stormwater wetlands).

STORMWATER MANAGEMENT MEASURE

Any structural or nonstructural strategy, practice, technology, process, program, or other method intended to control or reduce stormwater runoff and associated pollutants, or to induce or control the infiltration or groundwater recharge of stormwater or to eliminate illicit or illegal non-stormwater discharges into stormwater conveyances.

STORMWATER RUNOFF

Water flow on the surface of the ground or in storm sewers, resulting from precipitation.

TIDAL FLOOD HAZARD AREA

A flood hazard area, which may be influenced by stormwater runoff from inland areas, but which is primarily caused by the Atlantic Ocean.

URBAN COORDINATING COUNCIL EMPOWERMENT NEIGHBORHOOD

A neighborhood given priority access to state resources through the New Jersey Redevelopment Authority.

URBAN ENTERPRISE ZONES

A zone designated by the New Jersey Enterprise Zone Authority pursuant to the New Jersey Urban Enterprise Zones Act, N.J.S.A. 52:27H-60 et seq.

URBAN REDEVELOPMENT AREA

Previously developed portions of areas:

- (1) Delineated on the State Plan Policy Map (SPPM) as the Metropolitan Planning Area (PA1), Designated Centers, Cores or Nodes;
- (2) Designated as CAFRA Centers, Cores or Nodes;
- (3) Designated as Urban Enterprise Zones; and
- (4) Designated as Urban Coordinating Council Empowerment Neighborhoods.

WATERS OF THE STATE

The ocean and its estuaries, all springs, streams, wetlands, and bodies of surface water or groundwater, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

WETLANDS or WETLAND

An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as "hydrophytic vegetation."

§ 199-6. Design and performance standards for stormwater management measures.

- A. Stormwater management measures for major development shall be developed to meet the erosion control, groundwater recharge, stormwater runoff quantity, and stormwater runoff quality standards in § 199-7. To the maximum extent practicable, these standards shall be met by incorporating nonstructural stormwater management strategies into the design. If these strategies alone are not sufficient to meet these standards, structural stormwater management measures necessary to meet these standards shall be incorporated into the design.
- B. The standards in this chapter apply only to new major development and are intended to minimize the impact of stormwater runoff on water quality and water quantity in receiving water bodies and maintain groundwater recharge. The standards do not apply to new major development to the extent that alternative design and performance standards are applicable under a regional stormwater management plan or water quality management plan adopted in accordance with Department rules.

§ 199-7. Requirements for major development.

- A. The development shall incorporate a maintenance plan for the stormwater management measures incorporated into the design of a major development in accordance with § 199-13.
- B. Stormwater management measures shall avoid adverse impacts of concentrated flow on habitat for threatened and endangered species as documented in the Department's Landscape Project or Natural Heritage Database established under N.J.S.A. 13:1B-15.147 through 13:1B-15.150, particularly *Helonias bullata* (swamp pink) and/or *Clemmys muhlenbergi* (bog turtle).
- C. The following linear development projects are exempt from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of Subsections **F** and **G**:
 - (1) The construction of an underground utility line, provided that the disturbed areas are revegetated upon completion;
 - (2) The construction of an aboveground utility line, provided that the existing conditions are maintained to the maximum extent practicable; and
 - (3) The construction of a public pedestrian access, such as a sidewalk or trail with a maximum width of 14 feet, provided that the access is made of permeable material.
- D. A waiver from strict compliance from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of Subsections **F** and **G** may be obtained for the enlargement of an existing public roadway or railroad; or the construction or enlargement of a public pedestrian access, provided that the following conditions are met:
 - (1) The applicant demonstrates that there is a public need for the project that cannot be accomplished by any other means;
 - (2) The applicant demonstrates through an alternatives analysis that, through the use of nonstructural and structural stormwater management strategies and measures, the option selected complies with the requirements of Subsections **F** and **G** to the maximum extent practicable;
 - (3) The applicant demonstrates that, in order to meet the requirements of Subsections **F** and **G**, existing structures currently in use, such as homes and buildings, would need to be condemned; and
 - (4) The applicant demonstrates that it does not own or have other rights to areas, including the potential to obtain through condemnation lands not falling under Subsection **D(3)** above within the upstream drainage area of the receiving stream, that would provide additional opportunities to mitigate the requirements of Subsections **F** and **G** that were not achievable on-site
- E. Nonstructural stormwater management strategies.
 - (1) To the maximum extent practicable, the standards in Subsections **F** and **G** shall be met by incorporating nonstructural stormwater management strategies set forth at Subsection **E** into the design. The applicant shall identify the nonstructural measures incorporated into the design of the project. If the applicant contends that it is not feasible for engineering, environmental, or safety reasons to incorporate any nonstructural stormwater management measures identified in Subsection **E(2)** below into the design of a particular project, the applicant shall identify the strategy considered and provide a basis for the contention.

- (2) Nonstructural stormwater management strategies incorporated into site design shall:
- (a) Protect areas that provide water quality benefits or areas particularly susceptible to erosion and sediment loss;
 - (b) Minimize impervious surfaces and break up or disconnect the flow of runoff over impervious surfaces;
 - (c) Maximize the protection of natural drainage features and vegetation;
 - (d) Minimize the decrease in the time of concentration from preconstruction to postconstruction. "Time of concentration" is defined as the time it takes for runoff to travel from the hydraulically most distant point of the watershed to the point of interest within a watershed;
 - (e) Minimize land disturbance including clearing and grading;
 - (f) Minimize soil compaction;
 - (g) Provide low-maintenance landscaping that encourages retention and planting of native vegetation and minimizes the use of lawns, fertilizers and pesticides;
 - (h) Provide vegetated open-channel conveyance systems discharging into and through stable vegetated areas;
 - (i) Provide other source controls to prevent or minimize the use or exposure of pollutants at the site, in order to prevent or minimize the release of those pollutants into stormwater runoff. Such source controls include, but are not limited to:
 - [1] Site design features that help to prevent accumulation of trash and debris in drainage systems, including features that satisfy Subsection **E(3)** below;
 - [2] Site design features that help to prevent discharge of trash and debris from drainage systems;
 - [3] Site design features that help to prevent and/or contain spills or other harmful accumulations of pollutants at industrial or commercial developments; and
 - [4] When establishing vegetation after land disturbance, applying fertilizer in accordance with the requirements established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., and implementing rules.
- (3) Site design features identified under Subsection **E(2)(i)[2]** above shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this subsection, "solid and floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard, see Subsection **E(3)(c)** below.
- (a) Design engineers shall use either of the following grades whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:
 - [1] The New Jersey Department of Transportation (NJDOT) bicycle safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines (April 1996); or
 - [2] A different grate, if each individual clear space in that grate has an area of no more than seven square inches, or is no greater than 0.5 inch across the smallest dimension. Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb-opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater basin floors.
 - (b) Whenever design engineers use a curb-opening inlet, the clear space in that curb opening (or each individual clear space, if the curb opening has two or more clear spaces) shall have an area of no more than seven square inches, or be no greater than two inches across the smallest dimension.
 - (c) This standard does not apply:

- [1] Where the review agency determines that this standard would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets that meet these standards;
 - [2] Where flows from the water quality design storm as specified in Subsection **G(1)** are conveyed through any device (e.g., end of pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:
 - [a] A rectangular space 4 5/8 inches long and 1 1/2 inches wide (This option does not apply for outfall netting facilities.); or
 - [b] A bar screen having a bar spacing of 0.5 inch.
 - [3] Where flows are conveyed through a trash rack that has parallel bars with one-inch spacing between the bars, to the elevation of the water quality design storm as specified in Subsection **G(1)**; or
 - [4] Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.
- (4) Any land area used as a nonstructural stormwater management measure to meet the performance standards in Subsections **F** and **G** shall be dedicated to a government agency, subjected to a conservation restriction filed with the appropriate County Clerk's office, or subject to an approved equivalent restriction that ensures that measure or an equivalent stormwater management measure approved by the reviewing agency is maintained in perpetuity.
- (5) Guidance for nonstructural stormwater management strategies is available in the New Jersey Stormwater Best Management Practices Manual. The BMP Manual may be obtained from the address identified in § **199-10**, or found on the Department's website at www.njstormwater.org.

F. Erosion control, groundwater recharge and runoff quantity standards.

- (1) This subsection contains minimum design and performance standards to control erosion, encourage and control infiltration and groundwater recharge, and control stormwater runoff quantity impacts of major development.
- (a) The minimum design and performance standards for erosion control are those established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq. and implementing rules.
 - (b) The minimum design and performance standards for groundwater recharge are as follows:
 - [1] The design engineer shall, using the assumptions and factors for stormwater runoff and groundwater recharge calculations at § **199-8**, either:
 - [a] Demonstrate through hydrologic and hydraulic analysis that the site and its stormwater management measures maintain 100% of the average annual preconstruction groundwater recharge volume for the site; or
 - [b] Demonstrate through hydrologic and hydraulic analysis that the increase of stormwater runoff volume from preconstruction to postconstruction for the two-year storm is infiltrated.
 - [2] This groundwater recharge requirement does not apply to projects within the urban redevelopment area, or to projects subject to Subsection **F(1)(b)[3]** below.
 - [3] The following types of stormwater shall not be recharged:
 - [a] Stormwater from areas of high pollutant loading. High pollutant loading areas are areas in industrial and commercial developments where solvents and/or petroleum products are loaded/unloaded, stored, or applied; areas where pesticides are loaded/unloaded or stored; areas where hazardous materials are expected to be present in greater than reportable quantities as defined by the United States Environmental Protection Agency (EPA) at 40 CFR 302.4; areas where recharge would be inconsistent with a Department-approved remedial

action work plan or landfill closure plan and areas with high risks for spills of toxic materials, such as gas stations and vehicle maintenance facilities; and

- [b] Industrial stormwater exposed to source material. "Source material" means any material(s) or machinery, located at an industrial facility, that is directly or indirectly related to process, manufacturing or other industrial activities, which could be a source of pollutants in any industrial stormwater discharge to groundwater. Source materials include, but are not limited to, raw materials; intermediate products; final products; waste materials; by-products; industrial machinery and fuels, and lubricants, solvents, and detergents that are related to process, manufacturing, or other industrial activities that are exposed to stormwater.
- [4] The design engineer shall assess the hydraulic impact on the groundwater table and design the site so as to avoid adverse hydraulic impacts. Potential adverse hydraulic impacts include, but are not limited to, exacerbating a naturally or seasonally high water table so as to cause surficial ponding, flooding of basements, or interference with the proper operation of subsurface sewage disposal systems and other subsurface structures in the vicinity or downgradient of the groundwater recharge area.
- (c) In order to control stormwater runoff quantity impacts, the design engineer shall, using the assumptions and factors for stormwater runoff calculations at § 199-8, complete one of the following:
 - [1] Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, postconstruction runoff hydrographs for the two-, ten-, and one-hundred-year storm events do not exceed, at any point in time, the preconstruction runoff hydrographs for the same storm events;
 - [2] Demonstrate through hydrologic and hydraulic analysis that there is no increase, as compared to the preconstruction condition, in the peak runoff rates of stormwater leaving the site for the two-, ten-, and one-hundred-year storm events and that the increased volume or change in timing of stormwater runoff will not increase flood damage at or downstream of the site. This analysis shall include the analysis of impacts of existing land uses and projected land uses assuming full development under existing zoning and land use ordinances in the drainage area;
 - [3] Design stormwater management measures so that the postconstruction peak runoff rates for the two-, ten-, and one-hundred-year storm events are 50%, 75% and 80%, respectively, of the preconstruction peak runoff rates. The percentages apply only to the postconstruction stormwater runoff that is attributable to the portion of the site on which the proposed development or project is to be constructed. The percentages shall not be applied to postconstruction stormwater runoff into tidal flood hazard areas if the increased volume of stormwater runoff will not increase flood damages below the point of discharge; or
 - [4] In tidal flood hazard areas, stormwater runoff quantity analysis in accordance with Subsection **F(1)(c)[1], [2] and [3]** above shall only be applied if the increased volume of stormwater runoff could increase flood damages below the point of discharge.
- (2) Any application for a new agricultural development that meets the definition of major development at § 199-5 shall be submitted to the appropriate Soil Conservation District for review and approval in accordance with the requirements of this section and any applicable Soil Conservation District guidelines for stormwater runoff quantity and erosion control. For the purposes of this section, "agricultural development" means land uses normally associated with the production of food, fiber and livestock for sale. Such uses do not include the development of land for the processing or sale of food and the manufacturing of agriculturally related products.

G. Stormwater runoff quality standards.

- (1) Stormwater management measures shall be designed to reduce the postconstruction load of total suspended solids (TSS) in stormwater runoff by 80% of the anticipated load from the developed site, expressed as an annual average. Stormwater management measures shall only be required for water quality control if an additional 1/4 acre of impervious surface is being proposed on a development site. The requirement to reduce TSS does not apply to any stormwater runoff in a discharge regulated under a numeric effluent limitation for TSS imposed under the New Jersey Pollution Discharge Elimination System (NJPDES) rules, N.J.A.C. 7:14A, or in a discharge specifically exempt under a NJPDES permit from this requirement. The water quality design storm is 1.25 inches of rainfall in two hours. Water quality calculations shall take into account the distribution of rain from the water quality design storm, as reflected in Table 1. The calculation of the volume of runoff may take into account the implementation of nonstructural and structural stormwater management measures.

Table 1
Water Quality Design Storm Distribution

Time (minutes)	Cumulative Rainfall (inches)
0	0.0000
5	0.0083
10	0.0166
15	0.0250
20	0.0500
25	0.0750
30	0.1000
35	0.1330
40	0.1660
45	0.2000
50	0.2583
55	0.3583
60	0.6250
65	0.8917
70	0.9917
75	1.0500
80	1.0840
85	1.1170
90	1.1500
95	1.1750
100	1.2000
105	1.2250
110	1.2334
115	1.2417
120	1.2500

- (2) For purposes of TSS reduction calculations, Table 2 below presents the presumed removal rates for certain BMPs designed in accordance with the New Jersey Stormwater Best Management Practices Manual. The BMP Manual may be obtained from the address identified in § 199-10, or found on the Department's website at www.njstormwater.org. The BMP Manual and other sources of technical guidance are listed in § 199-10. TSS reduction shall be calculated based on the removal rates for the BMPs in Table 2 below. Alternative removal rates and methods of calculating removal rates may be used if the design engineer provides documentation demonstrating the capability of these alternative rates and methods to the review agency. A copy of any approved alternative rate or method of calculating the removal rate shall be provided to the Department at the following address: Division of Watershed Management, New Jersey Department of Environmental Protection, PO Box 418, Trenton, New Jersey, 08625-0418.
- (3) If more than one BMP in series is necessary to achieve the required TSS reduction of 80% for a site, the applicant shall utilize the following formula to calculate TSS reduction:

$$R = A + B - (A \times B) / 100$$

Where:

R = Total TSS percent load removal from application of both BMPs.

A = The TSS percent removal rate applicable to the first BMP.

B = The TSS percent removal rate applicable to the second BMP.

Table 2
TSS Removal Rates for BMPs

Best Management Practice	TSS Percent Removal Rate
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Table 2
TSS Removal Rates for BMPs

Best Management Practice	TSS Percent Removal Rate
Bioretention systems	90%
Constructed stormwater wetland	90%
Extended detention basin	40% to 60%
Infiltration structure	80%
Manufactured treatment device	See § 199-9
Sand filter	80%
Vegetative filter strip	60% to 80%
Wet pond	50% to 90%

- (4) If there is more than one onsite drainage area, the TSS removal rate of 80% shall apply to each drainage area, unless the runoff from the subareas converge on site, in which case the removal rate can be demonstrated through a calculation using a weighted average.
- (5) Stormwater management measures shall also be designed to reduce, to the maximum extent feasible, the postconstruction nutrient load of the anticipated load from the developed site in stormwater runoff generated from the water quality design storm. In achieving reduction of nutrients to the maximum extent feasible, the design of the site shall include nonstructural strategies and structural measures that optimize nutrient removal while still achieving the performance standards in Subsections **F** and **G**.
- (6) Additional information and examples are contained in the New Jersey Stormwater Best Management Practices Manual, which may be obtained from the address identified in § 199-10.
- (7) In accordance with the definition of FW1 at N.J.A.C. 7:9B-1.4, stormwater management measures shall be designed to prevent any increase in stormwater runoff to waters classified as FW1.
- (8) Special water resource protection areas shall be established along all waters designated Category One at N.J.A.C. 7:9B, and perennial or intermittent streams that drain into or upstream of the Category One waters as shown on the USGS Quadrangle Maps or in the County Soil Surveys, within the associated HUC14 drainage area. These areas shall be established for the protection of water quality, aesthetic value, exceptional ecological significance, exceptional recreational significance, exceptional water supply significance, and exceptional fisheries significance of those established Category One waters. These areas shall be designated and protected as follows:
 - (a) The applicant shall preserve and maintain a special water resource protection area in accordance with one of the following:
 - [1] A three-hundred-foot special water resource protection area shall be provided on each side of the waterway, measured perpendicular to the waterway from the top of the bank outwards or from the center line of the waterway where the bank is not defined, consisting of existing vegetation or vegetation allowed to follow natural succession is provided.
 - [2] Encroachment within the designated special water resource protection area under Subsection **G(8)(a)[1]** above shall only be allowed where previous development or disturbance has occurred (for example, active agricultural use, parking area or maintained lawn area). The encroachment shall only be allowed where the applicant demonstrates that the functional value and overall condition of the special water resource protection area will be maintained to the maximum extent practicable. In no case shall the remaining special water resource protection area be reduced to less than 150 feet as measured perpendicular to the top of bank of the waterway or center line of the waterway where the bank is undefined. All encroachments proposed under this subsection shall be subject to review and approval by the Department.
 - (b) All stormwater shall be discharged outside of and flow through the special water resource protection area and shall comply with the standard for off-site stability in the "Standards For Soil Erosion and Sediment Control in New Jersey," established under the Soil Erosion and Sediment Control Act. N.J.S.A. 4:24-39 et seq.
 - (c) If stormwater discharged outside of and flowing through the special water resource protection area cannot comply with the standard for off-site stability in the "Standards for Soil Erosion and Sediment Control in New Jersey," established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39

et seq., then the stabilization measures in accordance with the requirements of the above standards may be placed within the special water resource protection area, provided that:

- [1] Stabilization measures shall not be placed within 150 feet of the Category One waterway;
 - [2] Stormwater associated with discharges allowed by this section shall achieve a TSS postconstruction removal rate of 95%;
 - [3] Temperature shall be addressed to ensure no impact on the receiving waterway;
 - [4] The encroachment shall only be allowed where the applicant demonstrates that the functional value and overall condition of the special water resource protection area will be maintained to the maximum extent practicable;
 - [5] A conceptual project design meeting shall be held with the appropriate Department staff and Soil Conservation District staff to identify necessary stabilization measures; and
 - [6] All encroachments proposed under this section shall be subject to review and approval by the Department.
- (d) A stream corridor protection plan may be developed by a regional stormwater management planning committee as an element of a regional stormwater management plan, or by a municipality through an adopted municipal stormwater management plan. If a stream corridor protection plan for a waterway subject to Subsection **G(8)** has been approved by the Department of Environmental Protection, then the provisions of the plan shall be the applicable special water resource protection area requirements for that waterway. A stream corridor protection plan for a waterway subject to Subsection **G(8)** shall maintain or enhance the current functional value and overall condition of the special water resource protection area as defined in Subsection **G(8)(a)[1]** above. In no case shall a stream corridor protection plan allow the reduction of the special water resource protection area to less than 150 feet as measured perpendicular to the waterway subject to this subsection.
- (e) Subsection **G(8)** does not apply to the construction of one individual single-family dwelling that is not part of a larger development on a lot receiving preliminary or final subdivision approval on or before February 2, 2004, provided that the construction begins on or before February 2, 2009.

§ 199-8. Calculation of stormwater runoff and groundwater recharge.

A. Stormwater runoff shall be calculated in accordance with the following:

- (1) The design engineer shall calculate runoff using one of the following methods:
 - (a) The USDA Natural Resources Conservation Service (NRCS) methodology, including the NRCS Runoff Equation and Dimensionless Unit Hydrograph, as described in the NRCS National Engineering Handbook Section 4 — Hydrology and Technical Release 55 — Urban Hydrology for Small Watersheds; or
 - (b) The Rational Method for peak flow and the Modified Rational Method for hydrograph computations.
- (2) For the purpose of calculating runoff coefficients and groundwater recharge, there is a presumption that the preconstruction condition of a site or portion thereof is a wooded land use with good hydrologic condition. The term "runoff coefficient" applies to both the NRCS methodology at Subsection **A(1)(a)** and the Rational and Modified Rational Methods at Subsection **A(1)(b)**. A runoff coefficient or a groundwater recharge land cover for an existing condition may be used on all or a portion of the site if the design engineer verifies that the hydrologic condition has existed on the site or portion of the site for at least five years without interruption prior to the time of application. If more than one land cover has existed on the site during the five years immediately prior to the time of application, the land cover with the lowest runoff potential shall be used for the computations. In addition, there is the presumption that the site is in good hydrologic condition (if the land use type is pasture, lawn, or park), with good cover (if the land use type is woods), or with good hydrologic condition and conservation treatment (if the land use type is cultivation).
- (3) In computing preconstruction stormwater runoff, the design engineer shall account for all significant land features and structures, such as ponds, wetlands, depressions, hedgerows, or culverts, that may reduce preconstruction stormwater runoff rates and volumes.

- (4) In computing stormwater runoff from all design storms, the design engineer shall consider the relative stormwater runoff rates and/or volumes of pervious and impervious surfaces separately to accurately compute the rates and volume of stormwater runoff from the site. To calculate runoff from unconnected impervious cover, urban impervious area modifications as described in the NRCS Technical Release 55 — Urban Hydrology for Small Watersheds and other methods may be employed.
 - (5) If the invert of the outlet structure of a stormwater management measure is below the flood hazard design flood elevation as defined at N.J.A.C. 7:13, the design engineer shall take into account the effects of tailwater in the design of structural stormwater management measures.
- B. Groundwater recharge may be calculated in accordance with the following: The New Jersey Geological Survey Report GSR-32 A Method for Evaluating Ground-Water Recharge Areas in New Jersey, incorporated herein by reference as amended and supplemented. Information regarding the methodology is available from the New Jersey Stormwater Best Management Practices Manual; at <http://www.state.nj.us/dep/njgs/>; or at New Jersey Geological Survey, 29 Arctic Parkway, P.O. Box 427, Trenton, New Jersey, 08625-0427; (609) 984-6587.

§ 199-9. Standards for structural stormwater management measures.

- A. Standards for structural stormwater management measures are as follows:
- (1) Structural stormwater management measures shall be designed to take into account the existing site conditions, including, for example, environmentally critical areas, wetlands; flood-prone areas; slopes; depth to seasonal high water table; soil type, permeability and texture; drainage area and drainage patterns; and the presence of solution-prone carbonate rocks (limestone).
 - (2) Structural stormwater management measures shall be designed to minimize maintenance, facilitate maintenance and repairs, and ensure proper functioning. Trash racks shall be installed at the intake to the outlet structure as appropriate, and shall have parallel bars with one-inch spacing between the bars to the elevation of the water quality design storm. For elevations higher than the water quality design storm, the parallel bars at the outlet structure shall be spaced no greater than 1/3 the width of the diameter of the orifice or 1/3 the width of the weir, with a minimum spacing between bars of one inch and a maximum spacing between bars of six inches. In addition, the design of trash racks must comply with the requirements of § 199-11B.
 - (3) Structural stormwater management measures shall be designed, constructed, and installed to be strong, durable, and corrosion resistant. Measures that are consistent with the relevant portions of the residential site improvement standards at N.J.A.C. 5:21-7.3, 5:21-7.4, and 5:21-7.5 shall be deemed to meet this requirement.
 - (4) At the intake to the outlet from the stormwater management basin, the orifice size shall be a minimum of 2 1/2 inches in diameter.
 - (5) Stormwater management basins shall be designed to meet the minimum safety standards for stormwater management basins at § 199-11.
- B. Stormwater management measure guidelines are available in the New Jersey Stormwater Best Management Practices Manual. Other stormwater management measures may be utilized, provided the design engineer demonstrates that the proposed measure and its design will accomplish the required water quantity, groundwater recharge and water quality design and performance standards established by § 199-7 of this chapter.
- C. Manufactured treatment devices may be used to meet the requirements of § 199-7 of this chapter, provided the pollutant removal rates are verified by the New Jersey Corporation for Advanced Technology and certified by the Department.

§ 199-10. Sources for technical guidance.

- A. Technical guidance for stormwater management measures can be found in the documents listed at Subsection A(1) and (2) below, which are available from Maps and Publications, New Jersey Department of Environmental Protection, 428 East State Street, P.O. Box 420, Trenton, New Jersey, 08625; telephone (609) 777-1038.
- (1) Guidelines for stormwater management measures are contained in the New Jersey Stormwater Best Management Practices Manual, as amended. Information is provided on stormwater management

measures, such as bioretention systems, constructed stormwater wetlands, dry wells, extended detention basins, infiltration structures, manufactured treatment devices, pervious paving, sand filters, vegetative filter strips, and wet ponds.

- (2) The New Jersey Department of Environmental Protection Stormwater Management Facilities Maintenance Manual, as amended.

B. Additional technical guidance for stormwater management measures can be obtained from the following:

- (1) The Standards for Soil Erosion and Sediment Control in New Jersey promulgated by the State Soil Conservation Committee and incorporated into N.J.A.C. 2:90. Copies of these standards may be obtained by contacting the State Soil Conservation Committee or any of the Soil Conservation Districts listed in N.J.A.C. 2:90-1.3(a)4. The location, address, and telephone number of each Soil Conservation District may be obtained from the State Soil Conservation Committee, P.O. Box 330, Trenton, New Jersey, 08625: (609) 292-5540;
- (2) The Rutgers Cooperative Extension Service, 732-932-9306; and
- (3) The Soil Conservation Districts listed in N.J.A.C. 2:90-1.3(a)4. The location, address, and telephone number of each Soil Conservation District may be obtained from the State Soil Conservation Committee, P.O. Box 330, Trenton, New Jersey, 08625; (609) 292-5540.

§ 199-11. Safety standards for stormwater management basins.

A. This section sets forth requirements to protect public safety through the proper design and operation of stormwater management basins. This section applies to any new stormwater management basin.

B. Requirements for trash racks, overflow grates and escape provisions.

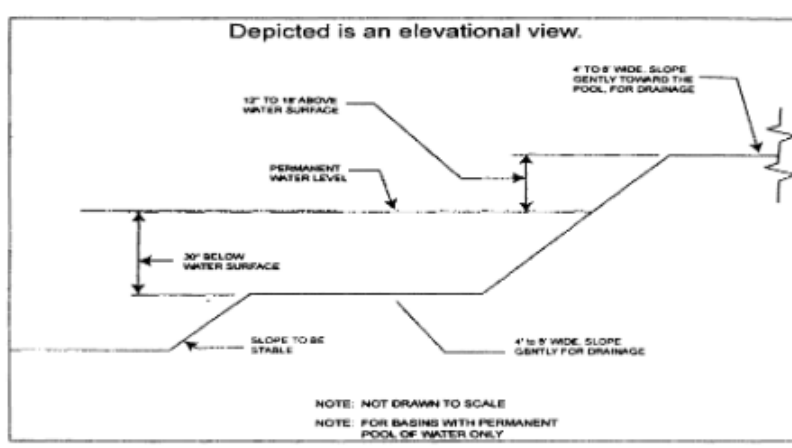
- (1) A trash rack is a device designed to catch trash and debris and prevent the clogging of outlet structures. Trash racks shall be installed at the intake to the outlet from the stormwater management basin to ensure proper functioning of the basin outlets in accordance with the following:
 - (a) The trash rack shall have parallel bars, with no greater than six-inch spacing between the bars.
 - (b) The trash rack shall be designed so as not to adversely affect the hydraulic performance of the outlet pipe or structure.
 - (c) The average velocity of flow through a clean trash rack is not to exceed 2.5 feet per second under the full range of stage and discharge. Velocity is to be computed on the basis of the net area of opening through the rack.
 - (d) The trash rack shall be constructed and installed to be rigid, durable, and corrosion-resistant, and shall be designed to withstand a perpendicular live loading of 300 pounds per foot square.
- (2) An overflow grate is designed to prevent obstruction of the overflow structure. If an outlet structure has an overflow grate, such grate shall meet the following requirements:
 - (a) The overflow grate shall be secured to the outlet structure but removable for emergencies and maintenance.
 - (b) The overflow grate spacing shall be no less than two inches across the smallest dimension.
 - (c) The overflow grate shall be constructed and installed to be rigid, durable, and corrosion-resistant, and shall be designed to withstand a perpendicular live loading of 300 pounds per foot square.
- (3) For purposes of this Subsection **B(3)**, "escape provisions" means the permanent installation of ladders, steps, rungs, or other features that provide easily accessible means of egress from stormwater management basins. Stormwater management basins shall include escape provisions as follows:
 - (a) If a stormwater management basin has an outlet structure, escape provisions shall be incorporated in or on the structure. With the prior approval of the reviewing agency identified in Subsection **C**, a freestanding outlet structure may be exempted from this requirement.

- (b) Safety ledges shall be constructed on the slopes of all new stormwater management basins having a permanent pool of water deeper than 2 1/2 feet. Such safety ledges shall be comprised of two steps. Each step shall be four feet to six feet in width. One step shall be located approximately 2 1/2 feet below the permanent water surface, and the second step shall be located one foot to 1 1/2 feet above the permanent water surface. See Subsection **D** for an illustration of safety ledges in a stormwater management basin.
- (c) In new stormwater management basins, the maximum interior slope for an earthen dam, embankment, or berm shall not be steeper than three horizontal to one vertical.

C. Variance or exemption from safety standards.

- (1) A variance or exemption from the safety standards for stormwater management basins may be granted only upon a written finding by the appropriate reviewing agency (municipality, county or Department) that the variance or exemption will not constitute a threat to public safety.

D. Illustration of safety ledges in a new stormwater management basin.



§ 199-12. Requirements for site development stormwater plan.

A. Submission of site development stormwater plan.

- (1) Whenever an applicant seeks municipal approval of a development subject to this chapter, the applicant shall submit all of the required components of the checklist for the site development stormwater plan at Subsection **C** below as part of the submission of the applicant's application for subdivision or site plan approval.
- (2) The applicant shall demonstrate that the project meets the standards set forth in this chapter.
- (3) The applicant shall submit 14 copies of the materials listed in the checklist for site development stormwater plans in accordance with Subsection **C** of this section.

B. Site development stormwater plan approval. The applicant's site development project shall be reviewed as a part of the subdivision or site plan review process by the municipal board or official from which municipal approval is sought. That municipal board or official shall consult the engineer retained by the Land Use Board to determine if all of the checklist requirements have been satisfied and to determine if the project meets the standards set forth in this chapter.

C. Checklist requirements.

- (1) The following information shall be required:
 - (a) Topographic base map. The reviewing engineer may require upstream tributary drainage system information as necessary. It is recommended that the topographic base map of the site be submitted which extends a minimum of 200 feet beyond the limits of the proposed development, at a scale of one inch equals 200 feet or greater, showing two-foot contour intervals. The map, as appropriate, may indicate the following: existing surface water drainage, shorelines, steep slopes, soils, erodible soils, perennial or intermittent streams that drain into or upstream of the Category One waters, wetlands and

floodplains along with their appropriate buffer strips, marshlands and other wetlands, pervious or vegetative surfaces, existing man-made structures, roads, bearing and distances of property lines, and significant natural and man-made features not otherwise shown.

- (b) Environmental site analysis: a written and graphic description of the natural and man-made features of the site and its environs. This description should include a discussion of soil conditions, slopes, wetlands, waterways and vegetation on the site. Particular attention should be given to unique, unusual, or environmentally sensitive features and to those that provide particular opportunities or constraints for development.
 - (c) Project description and site plan(s): a map (or maps) at the scale of the topographical base map indicating the location of existing and proposed buildings, roads, parking areas, utilities, structural facilities for stormwater management and sediment control, and other permanent structures. The map(s) shall also clearly show areas where alterations occur in the natural terrain and cover, including lawns and other landscaping, and seasonal high groundwater elevations. A written description of the site plan and justification of proposed changes in natural conditions may also be provided.
 - (d) Land use planning and source control plan. This plan shall provide a demonstration of how the goals and standards of Subsection **C(1)(c)** through **(f)** are being met. The focus of this plan shall be to describe how the site is being developed to meet the objective of controlling groundwater recharge, stormwater quality and stormwater quantity problems at the source by land management and source controls whenever possible.
 - (e) Stormwater management facilities map. The following information, illustrated on a map of the same scale as the topographic base map, shall be included:
 - [1] Total area to be paved or built upon, proposed surface contours, land area to be occupied by the stormwater management facilities and the type of vegetation thereon, and details of the proposed plan to control and dispose of stormwater.
 - [2] Details of all stormwater management facility designs, during and after construction, including discharge provisions, discharge capacity for each outlet at different levels of detention and emergency spillway provisions with maximum discharge capacity of each spillway.
 - (f) Calculations.
 - [1] Comprehensive hydrologic and hydraulic design calculations for the predevelopment and postdevelopment conditions for the design storms specified in § **199-7** of this chapter.
 - [2] When the proposed stormwater management control measures (e.g., infiltration basins) depends on the hydrologic properties of soils, then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soils present at the location of the control measure.
 - (g) Maintenance and repair plan. The design and planning of the stormwater management facility shall meet the maintenance requirements of § **199-13**.
- (2) Waiver from submission requirements. The municipal official or board reviewing an application under this chapter may, in consultation with the municipal engineer, waive submission of any of the requirements in Subsection **C(1)(a)** through **(f)** of this Section when it can be demonstrated that the information requested is impossible to obtain or it would create a hardship on the applicant to obtain and its absence will not materially affect the review process.

§ 199-13. Maintenance and repair.

- A. Applicability. Projects subject to review as in § **199-3** of this chapter shall comply with the requirements of Subsections **B** and **C**.
- B. General maintenance.
 - (1) The design engineer shall prepare a maintenance plan for the stormwater management measures incorporated into the design of a major development.

- (2) The maintenance plan shall contain specific preventative maintenance tasks and schedules; cost estimates, including estimated cost of sediment, debris, or trash removal; and the name, address, and telephone number of the person or persons responsible for preventative and corrective maintenance (including replacement). Maintenance guidelines for stormwater management measures are available in the New Jersey Stormwater Best Management Practices Manual. If the maintenance plan identifies a person other than the developer (for example, a public agency or homeowners' association) as having the responsibility for maintenance, the plan shall include documentation of such person's agreement to assume this responsibility, or of the developer's obligation to dedicate a stormwater management facility to such person under an applicable ordinance or regulation.
 - (3) Responsibility for maintenance shall not be assigned or transferred to the owner or tenant of an individual property in a residential development or project, unless such owner or tenant owns or leases the entire residential development or project.
 - (4) If the person responsible for maintenance identified under Subsection **B(2)** above is not a public agency, the maintenance plan and any future revisions based on Subsection **B(7)** below shall be recorded upon the deed of record for each property on which the maintenance described in the maintenance plan must be undertaken.
 - (5) Preventative and corrective maintenance shall be performed to maintain the function of the stormwater management measure, including repairs or replacement to the structure; removal of sediment, debris, or trash; restoration of eroded areas; snow and ice removal; fence repair or replacement; restoration of vegetation; and repair or replacement of nonvegetated linings.
 - (6) The person responsible for maintenance identified under Subsection **B(2)** above shall maintain a detailed log of all preventative and corrective maintenance for the structural stormwater management measures incorporated into the design of the development, including a record of all inspections and copies of all maintenance-related work orders.
 - (7) The person responsible for maintenance identified under Subsection **B(2)** above shall evaluate the effectiveness of the maintenance plan at least once per year and adjust the plan and the deed as needed.
 - (8) The person responsible for maintenance identified under Subsection **B(2)** above shall retain and make available, upon request by any public entity with administrative, health, environmental, or safety authority over the site, the maintenance plan and the documentation required by Subsection **B(6)** and **(7)** above.
 - (9) The requirements of Subsection **B(3)** and **(4)** do not apply to stormwater management facilities that are dedicated to and accepted by the municipality or another governmental agency.
 - (10) In the event that the stormwater management facility becomes a danger to public safety or public health, or if it is in need of maintenance or repair, the municipality shall so notify the responsible person in writing. Upon receipt of that notice, the responsible person shall have 14 days to effect maintenance and repair of the facility in a manner that is approved by the municipal engineer or his designee. The municipality, in its discretion, may extend the time allowed for effecting maintenance and repair for good cause. If the responsible person fails or refuses to perform such maintenance and repair, the municipality or county may immediately proceed to do so and shall bill the cost thereof to the responsible person.
- C. Nothing in this section shall preclude the municipality in which the major development is located from requiring the posting of a performance or maintenance guarantee in accordance with N.J.S.A. 40:55D-53.

§ 199-14. Feeding of wildlife.

[Added 12-16-2009 by Ord. No. 09-13^[1]]

- A. Purpose. The purpose of this section is to prohibit the feeding of unconfined wildlife in any public park or on any other property owned or operated by the Borough of Seaside Heights so as to protect public health, safety and welfare and to prescribe penalties for failure to comply.
- B. Definitions. For the purpose of this section, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this chapter clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

FEED

To give, place, expose, deposit, distribute or scatter any edible material with the intention of feeding, attracting or enticing wildlife. Feeding does not include baiting in the legal taking of fish and/or game.

PERSON

Any individual, corporation, company, partnership, firm, association or political subdivision of this state subject to municipal jurisdiction.

WILDLIFE

All animals that are neither human nor domesticated.

- C. Prohibited conduct. No person shall feed, in any public park or on any other property owned or operated by the Borough of Seaside Heights, any wildlife, excluding confined wildlife (for example, wildlife confined in zoos, parks or rehabilitation centers, or unconfined wildlife at environmental education centers).
- D. Enforcement.
- (1) This section shall be enforced by the Police Department and/or the Code Enforcement Officer of the Borough of Seaside Heights.
 - (2) Any person found to be in violation of this section shall be ordered to cease the feeding immediately.

[1] *Editor's Note: This ordinance also provided for the redesignation of former §§ 199-14, 199-15 and 199-16 as §§ 199-15, 199-16 and 199-17, respectively.*

§ 199-15. Discharge of water onto public property prohibited.

[Added 2-20-2008 by Ord. No. 08-03^[1]]

Discharge, including but not limited to pumping of water upon or adjacent to the public streets, sidewalks, sanitary sewer system or other public property other than during, or within 48 hours subsequent to, a rain event is prohibited.

[1] *Editor's Note: This ordinance also redesignated former § 199-14, Violations and penalties, as § 199-15.*

§ 199-16. Violations and penalties.

Any person who erects, constructs, alters, repairs, converts, maintains, or uses any building, structure or land in violation of this chapter shall be subject to the following penalties: a fine of no less than \$100 and no more than \$1,250, by imprisonment for not to exceed 90 days or by community service of not more than 90 days or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.

§ 199-17. Effective date.

[Added 5-21-2008 by Ord. No. 08-04]

Revisions to this chapter shall take effect immediately upon approval by the Ocean County Land Use Board or 60 days from receipt of a revising ordinance by the Ocean County Land Use Board if the Ocean County Land Use Board should fail to act to approve the revising ordinance within 60 days of its receipt of such ordinance.

Article II. Containerized Yard Waste

[Adopted 9-19-2012 by Ord. No. 12-12]

§ 199-18. Purpose.

The purpose of this article is to establish requirements for the proper handling of yard waste in the Borough of Seaside Heights, so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

§ 199-19. Definitions.

For the purpose of this article, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this article clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely discretionary.

CONTAINERIZED

The placement of yard waste in a trash can, bucket, bag or other vessel, such as to prevent the yard waste from spilling or blowing out into the street and coming into contact with stormwater.

PERSON

Any individual, corporation, company, partnership, firm, association, or political subdivision of this state subject to municipal jurisdiction.

STREET

Any street, avenue, boulevard, road, parkway, viaduct, drive, or other way, which is an existing state, county, or municipal roadway, and includes the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, curbs, sidewalks, parking areas, and other areas within the street lines.

YARD WASTE

Leaves and grass clippings.

§ 199-20. Prohibited conduct.

The owner or occupant of any property, or any employee or contractor of such owner or occupant engaged to provide lawn care or landscaping services, shall not sweep, rake, blow or otherwise place yard waste in the street. Yard waste is to be placed in biodegradable bags at the curblane no earlier than 48 hours from the scheduled pickup, and shall not be placed closer than 10 feet from any storm drain inlet. If yard waste is not properly placed at the curblane, the party responsible for placement of yard waste must remove the yard waste from the area or said party shall be deemed in violation of this article.

§ 199-21. Enforcement.

This article shall be enforced by the Police Department and/or the Code Enforcement Officer of the Borough of Seaside Heights.

§ 199-22. Violations and penalties.

- A. Any person violating or failing to comply with any other provision of this article shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$1,000, by imprisonment not to exceed 90 days or by community service of not more than 90 days or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.
- B. The violation of any provision of this article shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

Article III. Yard Waste Collection Program

[Adopted 9-19-2012 by Ord. No. 12-12]

§ 199-23. Purpose.

This article establishes a yard waste collection and disposal program in the Borough of Seaside Heights, so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

§ 199-24. Definitions.

For the purpose of this article, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this article clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

CONTAINERIZED

The placement of yard waste in a trash can, bucket, bag or other vessel, such as to prevent the yard waste from spilling or blowing out into the street and coming into contact with stormwater.

PERSON

Any individual, corporation, company, partnership, firm, association, or political subdivision of this state subject to municipal jurisdiction.

STREET

Any street, avenue, boulevard, road, parkway, viaduct, drive, or other way, which is an existing state, county, or municipal roadway, and includes the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, curbs, sidewalks, parking areas, and other areas within the street lines.

YARD WASTE

Leaves and grass clippings.

§ 199-24.1. Yard waste collection.

- A. Sweeping, raking, blowing or otherwise placing yard waste that is not containerized at the curb or along the street is only allowed during the seven days prior to a scheduled and announced collection, and shall not be placed closer than 10 feet from any storm drain inlet.
- B. Placement of such yard waste at the curb or along the street at any other time or in any other manner is a violation of this article. If such placement of yard waste occurs, the party responsible for placement of the yard waste must remove the yard waste from the street or said party shall be deemed in violation of this article.

§ 199-24.2. Enforcement.

This article shall be enforced by the Police Department and/or the Code Enforcement Officer of the Borough of Seaside Heights.

§ 199-25. Violations and penalties.

Any person(s) who is found to be in violation of the provisions of this article shall be subject to a fine of not less than \$250, nor more than \$1,000, by imprisonment of a term not to exceed 90 days, or by community service of not more than 90 days, or any combination of fine, imprisonment and community service as determined in the discretion of the Municipal Court Judge. 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.

Article IV. Illicit Connections

[Adopted 9-19-2012 by Ord. No. 12-12]

§ 199-26. Purpose.

The purpose of this article is to prohibit illicit connections to the municipal separate storm sewer system(s) operated by the Borough of Seaside Heights, so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

§ 199-27. Definitions.

For the purpose of this article, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this article clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. The definitions below are the same as or based on corresponding definitions in the New Jersey Pollutant Discharge Elimination System (NJPDES) rules at N.J.A.C. 7:14A-1.2.

DOMESTIC SEWAGE

Waste and wastewater from humans or household operations.

ILLCIT CONNECTION

Any physical or nonphysical connection that discharges domestic sewage, noncontact cooling water, process wastewater, or other industrial waste (other than stormwater) to the municipal separate storm sewer system operated by the Borough of Seaside Heights unless that discharge is authorized under a NJPDES permit other than the Tier A Municipal Stormwater General Permit (NJPDES Permit Number NJ0141852). Nonphysical connections may include, but are not limited to, leaks, flows, or overflows into the municipal separate storm sewer system.

INDUSTRIAL WASTE

Nondomestic waste, including, but not limited to, those pollutants regulated under Section 307(a), (b), or (c) of the Federal Clean Water Act [33 U.S.C. § 1317(a), (b), or (c)].

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)

A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that is owned or operated by the Borough of Seaside Heights, or other public body, and is designed and used for collecting and conveying stormwater.

NJPDES PERMIT

A permit issued by the New Jersey Department of Environmental Protection to implement the New Jersey Pollutant Discharge Elimination System (NJPDES) rules at N.J.A.C. 7:14A.

NONCONTACT COOLING WATER

Water used to reduce temperature for the purpose of cooling. Such waters do not come into direct contact with any raw material, intermediate product (other than heat) or finished product. Noncontact cooling water may, however, contain algacides, or biocides to control fouling of equipment such as heat exchangers, and/or corrosion inhibitors.

PERSON

Any individual, corporation, company, partnership, firm, association, or political subdivision of this state subject to municipal jurisdiction.

PROCESS WASTEWATER

Any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product. Process wastewater includes, but is not limited to, leachate and cooling water other than noncontact cooling water.

STORMWATER

Water resulting from precipitation (including rain and snow) that runs off the land's surface, is transmitted to the subsurface, is captured by separate storm sewers or other sewerage or drainage facilities, or is conveyed by snow removal equipment.

§ 199-28. Prohibited conduct.

No person shall discharge or cause to be discharged through an illicit connection to the municipal separate storm sewer system operated by the Borough of Seaside Heights any domestic sewage, noncontact cooling water, process

wastewater, or other industrial waste (other than stormwater).

§ 199-29. Enforcement.

This article shall be enforced by the Police Department and/or the Code Enforcement Officer of the Borough of Seaside Heights.

§ 199-30. Violations and penalties.

Any person(s) who is found to be in violation of the provisions of this article shall be subject to a fine of not less than \$250, nor more than \$1,000, by imprisonment of a term not to exceed 90 days, or by community service of not more than 90 days, or any combination of fine, imprisonment and community service as determined in the discretion of the Municipal Court Judge. 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.

Article V. Private Storm Drain Inlet Retrofitting

[Adopted 5-18-2016 by Ord. No. 16-09]

§ 199-31. Purpose.

The purpose of this article is to require the retrofitting of existing storm drain inlets which are in direct contact with repaving, repairing, reconstruction, or resurfacing or alterations of facilities on private property, to prevent the discharge of solids and floatables (such as plastic bottles, cans, food wrappers and other litter) to the municipal separate storm sewer system(s) operated by the Borough of Seaside Heights so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

§ 199-32. Definitions.

For the purpose of this article, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this article clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)

A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that is owned or operated by the Borough of Seaside Heights or other public body, and is designed and used for collecting and conveying stormwater. MS4s do not include combined sewer systems, which are sewer systems that are designed to carry sanitary sewage at all times and to collect and transport stormwater from streets and other sources.

PERSON

Any individual, corporation, company, partnership, firm, association, or political subdivision of this state subject to municipal jurisdiction.

STORM DRAIN INLET

An opening in a storm drain used to collect stormwater runoff and includes, but is not limited to, a grate inlet, curb-opening inlet, slotted inlet, and combination inlet.

WATERS OF THE STATE

The ocean and its estuaries, all springs, streams and bodies of surface or ground water, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

§ 199-33. Prohibited conduct.

No person in control of private property (except a residential lot with one single-family house) shall authorize the repaving, repairing (excluding the repair of individual potholes), resurfacing (including top coating or chip sealing with asphalt emulsion or a thin base of hot bitumen), reconstructing or altering any surface that is in direct contact with an existing storm drain inlet on that property unless the storm drain inlet either:

- A. Already meets the design standard below to control passage of solid and floatable materials; or
- B. Is retrofitted or replaced to meet the standard in § 199-34 below prior to the completion of the project.

§ 199-34. Design standard.

Storm drain inlets identified in § 199-33 above shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this section, "solid and floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see Subsection C below.

A. Grates.

- (1) Design engineers shall use either of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:
 - (a) The New Jersey Department of Transportation (NJDOT) bicycle safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines (April 1996); or
 - (b) A different grate, if each individual clear space in that grate has an area of no more than 7.0 square inches, or is no greater than 0.5 inch across the smallest dimension.
- (2) Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb-opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater basin floors.

- B. Whenever design engineers use a curb-opening inlet, the clear space in that curb opening (or each individual clear space, if the curb opening has two or more clear spaces) shall have an area of no more than 7.0 square inches, or be no greater than 2.0 inches across the smallest dimension.

C. This standard does not apply:

- (1) Where the municipal engineer agrees that this standard would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets that meet these standards;
- (2) Where flows are conveyed through any device (e.g., end of pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:
 - (a) A rectangular space 4 5/8 inches long and 1 1/2 inches wide (This option does not apply for outfall netting facilities.); or
 - (b) A bar screen having a bar spacing of 0.5 inch.
- (3) Where flows are conveyed through a trash rack that has parallel bars with one-inch spacing between the bars; or
- (4) Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.

§ 199-35. Enforcement.

This article shall be enforced by the Police Department and the Code Enforcement Official of the Borough of Seaside Heights.

§ 199-36. Violations and penalties.

Any person(s) who is found to be in violation of the provisions of this article shall be subject to a fine not to exceed the maximum penalty allowable under N.J.S.A. 40:49-5, as well as any other penalties allowed by said statute.

Chapter 200. Street Performers

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 5-1-2002 by Ord. No. 2002-11. Amendments noted where applicable.]

GENERAL REFERENCES

Mercantile establishments — See Ch. 122.

§ 200-1. Definition.

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

STREET PERFORMER

Includes any clown, mime, musician, magician, or any other individual engaged in an artistic expressive activity in a public area for the purpose of entertaining the general public.

§ 200-2. Permit requirement.

[Amended 3-21-2012 by Ord. No. 12-02]

No street performer shall conduct his or her performance upon the boardwalk without first obtaining a permit from the Borough Clerk. Such permits shall be issued annually, on a first-come-first-serve basis, upon presentation of a valid form of identification and payment of a permit fee. Such permits shall be valid only during the year in which they are issued, and the number of permits issued during any given year shall not exceed 25.

§ 200-3. Performance regulations.

This chapter regulates the manner in which street performers may perform in the public areas of the Borough of Seaside Heights.

- A. A street performer shall conduct his or her performance in a place and manner so as to not restrict the flow of vehicular or pedestrian traffic. If performing upon the boardwalk, a performer shall be located on the eastern side of the boardwalk and shall not be located within 25 feet of any entrance or exit to the beach, the boardwalk, or any business or public building.
- B. Where two or more street performers are present in a common area, they shall be spaced no less than 50 feet apart, unless engaged in a joint performance. If a performer is located within 50 feet of another performer, or cannot conduct a performance in a location without blocking the passage of the public, the street performer shall leave the location upon notification by a police officer or other Borough official. The performer may then move his or her performance to another location in conformance with this chapter.
- C. Street performers may conduct performances between the hours of 12:00 noon and 10:00 p.m.
- D. Street performances are prohibited during the Memorial Day, July 4, Labor Day and Clownfest weekends due to the extremely high volume of vehicular and pedestrian traffic historically encountered within the Borough at such times.
- E. Notwithstanding the provisions of Subsection **D**, the Borough Council may by a majority vote designate other times or dates during which performances may be restricted or prohibited in order to protect the public interest.
- F. No street performer may sell any merchandise without first obtaining a permit for same pursuant to § 122-19 et seq.

- G. No street performer shall include any activity which is inimical to the health, safety and welfare of the general public. Examples include but are not limited to activities involving fire, flammable liquids, knives or swords.

§ 200-4. Violations and penalties.

- A. Any person violating or failing to comply with any other provision of this chapter shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$1,000, by imprisonment not to exceed 90 days or by community service of not more than 90 days, or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.
- B. The violation of any provision of this chapter shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

Chapter 203. Streets and Sidewalks

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 2-19-1997 by Ord. No. 97-1. Amendments noted where applicable.]

Article I. Repair of Curbs and Sidewalks

§ 203-1. Maintenance by owners.

All owners of lands in the Borough of Seaside Heights, upon which sidewalks and curbs are or shall hereafter be constructed, shall keep and maintain the same in proper repair.

§ 203-2. Failure to comply; repair by borough.

If any owner or owners of lands upon which sidewalks and curbs are now or shall hereafter be constructed shall neglect, after notice given as herein provided, to make the repair directed and required by this chapter, it shall be lawful for the Borough Council to cause such repair to be made under the direction and supervision of the proper officer of the borough or to award one or more contracts for the making of such improvements.

§ 203-3. Notice to owner of required repairs.

If, in any case, any sidewalk in this borough is in bad condition and in need of repair, notice shall be given to the owner or owners of the lands upon which such sidewalk and curb are located that unless repairs are made to the said sidewalk and curb within 30 days after the service thereof, it is the intention of the borough to make such repairs and to assess the same against the land upon which said sidewalk and curb are constructed as provided by law. Such notice may be served upon the owner or owners resident in such municipality, in person or by leaving the same at their usual place of residence with a member of their family above the age of 14 years; in case such owner shall not reside in the municipality, such notice may be served personally or mailed to the last known post office address, or it may be served upon the occupant of the property or upon the agent of the owner in charge thereof; in case the owner of any such property is unknown or service cannot for any reason be made as above directed, notice thereof shall be published at least once, not less than 30 days before the making of such improvement, by the Borough Council, in a newspaper printed and published in the Borough of Seaside Heights or, in the absence of such newspaper, in one printed and published in Ocean County and circulating in the Borough of Seaside Heights; there may be inserted in the said advertisement notice to the owners of several different parcels of land.

Article II. Curb and Sidewalk Specifications

§ 203-4. Purpose.

The purpose of this chapter is to set forth construction requirements for sidewalks and curbs in order to ensure that sound construction practices are incorporated into all such installations.

§ 203-5. References.

All references to Article numbers hereinafter set forth shall refer to the New Jersey State Department of Transportation Standard Specifications for Road and Bridge Construction, 1961.

§ 203-6. General construction requirements.

- A. During all periods of construction, the site must be kept clean on a continuing basis.
- B. All work must be performed with minimum inconvenience to the public.
- C. All curbing shall be backfilled immediately after stripping.
- D. Barricades and lights must be supplied at all times during construction.
- E. All curbing and sidewalk being removed shall be disposed of by the owner or contractor. Existing concrete shall be cut at all joints, whether longitudinal or transverse. Should cut occur at a location other than an existing joint, then contractor shall cut with a concrete power saw.
- F. Where concrete sidewalk is removed and intersecting walks or driveway aprons are existing, the contractor shall remove such apron or walks to the nearest joint in the apron or walk or, in lieu thereof, shall saw-cut the apron or walk on the line of the principal walk removed.
- G. The contractor shall exercise great care so as not to damage any existing curbs, walks, fences, steps, trees, bushes or any structures or property along the line of the work. The contractor shall use the proper size equipment as required to construct without damage to any property.

§ 203-7. Notice prior to construction.

The Borough Engineer or Borough Administrator shall be advised in writing at least 24 hours in advance of exactly when the owner or contractor intends to pour concrete. The Borough Engineer or Borough Administrator shall be furnished with the concrete truck's slips indicating Class B or Class C State mix as required and that no water has been added since material left the plant.

§ 203-8. Concrete curbing.

- A. Concrete curbs shall be constructed at the locations and to the line and grade provided by the Borough Engineer or the Borough Administrator. Curbs shall be 6 x 8 x 18 inches and shall be constructed of the New Jersey State Highway Class B concrete as specified in Article 4.1.2. Curb expansion joints shall be provided every 20 feet and equidistant between these joints will be a cut joint. Joint material shall be a bituminous cellular type 1/2 inch in thickness and shall be inserted 1/4 inch from the top and the face. Curb joints shall be neatly rounded to a 1/4 inch radius. It shall be the owner's or contractor's responsibility to make every possible effort for the determination of depressions in the curb for driveways to each property.
- B. Curbs at driveways shall have a reveal of 1 1/2 inches to two inches. Where existing curb is replaced, it shall be removed in its entirety. Where a new driveway is installed in an existing curb, the old curb shall be removed in its entirety to the nearest joint and new curb installed.
- C. Where paving is disturbed, the minimum paving replacement shall be six inches compacted gravel and two inches Type B Cold Patch or better or be equal or superior to the material disturbed.
- D. Aprons, whether of concrete or bituminous materials, shall not be installed over curbs at driveways.

§ 203-9. Sidewalks.

- A. Concrete sidewalks shall be constructed of Class C concrete as specified in Article 4.1.2. Preformed bituminous cellular-type and preformed bituminous-type joint fillers shall conform to the requirements specified in Article 8.5.31. The subgrade for all sidewalks shall be smooth and even and at the prescribed grades and lines provided by the Borough Engineer or the Borough Administrator. Preparation of the concrete shall be as specified in Article 3.12.3. After being placed, the concrete shall be tamped, screeded and finished to true grade and surface. The finish shall be made with a wood float followed by brushing with a wide soft-haired brush to a neat and workmanlike surface. Transverse expansion joints 1/2 inch wide shall be provided at intervals of not more than 20 feet and filled with preformed bituminous cellular-type joint filler. Transverse joints shall be scored every four feet or shall be cut to match adjacent sidewalk along that particular street. The top of all joint filler shall be 1/4 inch below the top of the sidewalk. All edges shall be neatly rounded to 1/4 inch. The concrete shall be cured as specified in Article 5.5.3. All sidewalks shall be four inches thick, except at driveway areas where the thickness shall be six inches.
- B. The width of the utility area between the curb and the sidewalk shall be determined by the Borough Engineer or Borough Administrator, but said area must be provided in all cases. Joints must be provided between the driveway aprons and the sidewalk.
- C. All sidewalks shall be a minimum of four feet in width.
- D. All properties within the Borough of Seaside Heights fronting a public street shall provide sidewalks and curbing in accordance with the requirements of this chapter.

§ 203-10. Inspections.

It shall be necessary for the owner or contractor to receive final approval of said sidewalk or curb installation from the Borough Engineer or Borough Administrator. Said inspection will be for the purpose of ensuring that all specifications herein have been complied with and that no cracks are present in the finished concrete work. In addition, all concrete work must have a smooth and level finish between all joints in curbs and sidewalks. Furthermore, no approval shall be given for any asphalt materials, and all materials must be in accordance with the provisions of this chapter.

§ 203-11. Violations and penalties.

- A. Any person violating or failing to comply with any other provision of this article shall, upon conviction thereof, be punishable by a fine of not more than \$1,000, by imprisonment not to exceed 90 days or by community service of not more than 90 days or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.
- B. The violation of any provision of this chapter shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

Article III. Street Excavations

[Added 5-17-2017 by Ord. No. 17-15]

§ 203-12. Permit required.

No person, business or corporation shall dig up, break, tunnel, undermine, disturb, or in any manner excavate any Borough street, road, right-of-way, sidewalk, curbing, or public easement, or make or cause to be made any excavation in or under the aforementioned areas for any purpose or place, or deposit, or leave in any of the aforementioned areas any earth or other excavated material obstructing or intending to interfere with the free use of same unless such person shall first have obtained an excavation permit therefor from the Code Enforcement Officer as hereinafter provided. Openings may be made without the necessity of filing a written application and obtaining an excavation permit only in emergencies, such as a broken or frozen water main, gas leak, or other happening which would endanger public life, health and safety; provided, however, that notice thereof shall be immediately given verbally to the Municipal Engineer, Superintendent of Public Works or Police Department, and written application in accordance with this article shall be made within 48 hours.

§ 203-13. Application for permit.

No excavation permit under this article shall be issued until the person, business or corporation seeking such permit shall have first done the following:

- A. Made a written application for the issuance of such permit submitted to the Code Enforcement Officer, signed by the person making the application or by a duly authorized agent, and containing the following information:
 - (1) Name, address and telephone number of the person for whom the work is to be performed.
 - (2) Name, address and telephone number of the person performing the work.
 - (3) Location of the work area, including a map or sketch.
 - (4) An outline or plan describing the work to be performed.
 - (5) Number of square yards of surface to be opened.
 - (6) Cubic content of material to be excavated.
 - (7) Type of surface to be removed or disturbed.
 - (8) Cubic content of material to be burrowed.
 - (9) Date and time of commencement and estimated date of completion with an agreement by the applicant to refill or resurface the opening or excavation so that the street surface shall be restored to the same condition, or better, in which it was before.
 - (10) The types of proposed traffic control devices and procedures to be utilized for the project, which devices and procedures shall be in conformity with the guidelines set forth in the Manual of Uniform Traffic Control Devices, current edition, hereinafter called the "Manual."
 - (11) The names and telephone numbers of at least two persons responsible on a twenty-four-hour call basis to handle emergency repairs for the contractor.
- B. Permit fee.
 - (1) A permit fee shall be charged for the issuance of an excavation permit which shall be in addition to all other fees for permits or charges relative to any proposed construction work. The following schedule of nonrefundable fees is established to be paid to the Borough in conjunction with the issuance, supervision and inspection of excavation work.
 - (a) Opening not greater than 50 square feet: \$75.
 - (b) Opening up to 100 square feet: \$100.
 - (c) Opening up to 200 square feet: \$125.
 - (d) Opening up to 400 square feet: \$175.
 - (e) Opening over 400 square feet: \$250 plus \$0.50 per square foot in excess of 400 square feet.
 - (2) In no case shall a permit be issued until the fees, the guarantees required by Subsection **C** below, and proof of insurance required by Subsection **D** below have been received by the Borough.
- C. In the case of openings more than 16 square feet and four feet deep, the applicant must furnish to the Borough a cash or surety bond to guarantee that the opening or trench made by the permittee will be closed properly. Upon completion of the work in a satisfactory manner, the bond or cash surety will be released in return for a maintenance bond or cash guarantee that the road, street, or highway over the same will remain in good condition for at least one year after the closing by the permittee. The minimum amount of each maintenance bond shall be 25% of the amount of the cash or surety bond, but shall not be less than \$500. A utility company may, in lieu of giving a separate maintenance bond on each project, annually, once in January of each year, give the Borough such a bond for \$5,000; provided that when the total linear footage of openings or trenches made by such utility company reaches 5,000 feet, such utility company may give either an additional bond or deposit

cash security in an amount equivalent to \$1 per foot of length of additional openings or trenches it desires to make in that calendar year.

- D. Deliver to the Borough satisfactory proof of insurance in the minimum amount of \$1,000,000 per person, and \$3,000,000 per occurrence, insuring the permittee and the Borough against liability for injury or loss sustained by any person or persons as a result of the acts of commission or omission of the permittee, or any servants, agents or employees of the permittee.

§ 203-14. Conditions of permit.

- A. In the case of all openings larger than 16 square feet and four feet deep, the application shall be forwarded to the Municipal Engineer for review as to whether or not a permit should be issued. If it is recommended by the Municipal Engineer that a permit be issued, the Code Enforcement Officer will issue same and forward the money tendered with the application and permit fee to the Chief Financial Officer for deposit. If the permit is denied, then the Code Enforcement Officer shall retain the application fee and notify the applicant in writing no later than five days after the action of the Municipal Engineer regarding the application.
- B. In addition, every opening and all excavations, backfilling or grading shall be done by the person to whom any permit is issued. Such person shall give at least 72 hours' written notice to the Municipal Engineer prior to the commencement of any work.
- C. All work shall be performed and completed in such a manner as to cause a minimum of interference with travel on the street affected. No street shall be closed to traffic unless the closing is approved by the Chief of Police. Street and/or traffic lanes approved for closure to traffic must be closed and then reopened at the times specified in the application, with no deviations permitted. The Police Department shall be informed in writing of all street closings at least 24 hours in advance, except where the work is of an emergency nature, in which case notice shall be given to the Police Department when work commences.
- D. Construction work will be permitted only during the hours and times specified on the application and in accordance with municipal ordinances which regulate the times of construction work. The Municipal Engineer or Public Works Superintendent must approve emergency situations or work required beyond the permitted time.

§ 203-15. Notice of street paving by Borough.

When the Borough shall improve or pave any street, the Code Enforcement Officer shall first give notice by certified and regular mail to all persons owning property abutting on the street about to be paved or improved, and to all public utilities and authorities operating in the Borough, and all such persons, utilities, and authorities shall make all connections as well as any repairs thereto which would necessitate excavation or disbursement of the street, within 90 days from the provision of such notice. The time shall be extended if permission is requested in writing and approved by the Municipal Engineer.

§ 203-16. Permits not to be issued on streets improved within five years.

No permit shall be issued by the Code Enforcement Officer to any person which would allow an excavation or opening in a street surface which was paved or improved less than five years prior to the date of the application, unless the applicant can clearly demonstrate that public health or safety requires that the proposed work be permitted or unless an emergency condition exists or the applicant can demonstrate through documentation a significant personal hardship, including but not limited to a medical hardship. In such cases, the applicant shall make the request for a waiver of the permit moratorium in writing to the attention of the Borough Council, which may approve such waiver by resolution.

§ 203-17. Construction operations.

- A. Whenever an opening is made in a paved road, the surface pavement shall be cut with a pavement cutter no wider than one foot outside of the proposed excavation. Where paved sidewalks and gutters or curbing are to be crossed, they shall in no case be removed, but the work shall be done by tunneling beneath them. The work shall be so conducted as to not interfere with the water, sewer, or gas mains or any connections with any building or structure until permission of the proper authorities shall have been obtained. All rock within five feet of

any water, sewer, or gas main or other pipe, which may be damaged thereby, shall be removed without blasting. No excavation that will damage trees or shrubbery shall be made without the approval of the Municipal Engineer.

- B. Where 25% or more of the existing pavement surface has been destroyed or disturbed, final paving shall consist of a one-and-one-half-inch overlay of the entire width of the pavement surface with bituminous concrete Type FABC (Mix I-5).
- C. All pavement openings for which any permit is granted shall be replaced by the permittee by a temporary pavement of a bituminous concrete Type A immediately after filling. Permanent pavement is to be restored by the permittee no less than 30 days nor more than 60 days after opening is made, unless this time is extended by the Municipal Engineer, depending on the road and weather conditions.
- D. In the event of a snow or ice storm, the permittee will be required to take whatever steps the Chief of Police and Superintendent of Public Works deem necessary to secure the traveled way for snow removal operations. At the first sign of precipitation, all work on the shoulders and traveled way shall stop and they shall be cleared of all dirt, etc., and then backfilled so as not to interfere with Borough snow operations until the weather permits resumption of work.
- E. The permittee shall maintain the trench and regrade the subgrade as required until final paving is installed. In case the work has not been completed before the day of expiration as shown in the permit and the permittee has not requested an extension of time, the Superintendent of Public Works may, if he or she deems it advisable and necessary, take steps to backfill the trench and replace a permanent pavement over the opening for which the permit has been issued, and if any extension of time beyond said date is needed for the completion of work, a new application must be filed if required by either the Municipal Engineer or the Superintendent of Public Works.
- F. The restoration of the opening or trench shall be maintained for one year after completion.
- G. In the event that the proposed excavation or opening is to extend across the entire width of a public street, no more than 1/2 of the traveled road surface shall be opened at any one time and such half shall be backfilled before the other half is opened. No excavation within and/or immediately adjacent to roadways available to traffic shall remain open after the hour of 5:00 p.m., nor over any weekend or holiday, unless special permission has been granted by the Municipal Engineer.
- H. The excavation and all piles of excavated material, or any stored material to be used in the work to be performed, shall be carefully marked with barriers complete with appropriate warning devices that shall conform to the Manual. The permittee shall take appropriate measures to assure that during the performance of the excavation work, traffic conditions shall be maintained at all times so as to minimize inconvenience to the public and to the occupants of the adjoining property, and to assure the passage of emergency vehicles including first aid, fire and police.
- I. During the hours of actual operation, construction, excavation or other work at the site, the permittee shall maintain and have in attendance at least one flag person who shall be responsible for the flow of traffic to assure safe passage of vehicles in both directions and to avoid traffic hazards during the use of heavy equipment. When traffic conditions permit, the Chief of Police (or his or her duly authorized representative) may, by written approval, permit the closing of municipally owned streets to all traffic for a period of time prescribed by the Chief if, in the Chief's opinion, it is necessary. Such written approval shall require that the permittee give notification to various agencies, first aid and fire companies, and to the general public. In such cases, such written approval shall not be valid until such notice is given. Warning signs shall be placed far enough in advance of the street, and cones or other approved devices shall be placed to channel traffic, in accordance with the instructions of the Chief of Police of the Borough.
- J. The permittee shall maintain safe crossings for two lanes of traffic at all intersections where possible, and safe crossings for pedestrians at intervals not more than 300 feet.
- K. No work may commence before markout by the appropriate agencies. Right-of-way or property monuments and/or markers, traffic control devices and other public entity maintained devices in the right-of-way shall not be removed or disturbed unless permission to do so is first obtained in writing by the Municipal Engineer.
- L. No person shall divert or pump surface or other waters onto or across Borough roads or do any act upon property abutting Borough roads resulting in the flow or spill of water from the property across the Borough roads. No dewatering equipment, well, points, or piping shall occupy the traveled portions of roadways unless specifically approved and adequately protected to the satisfaction of the Municipal Engineer.

- M. Effluent from dewatering systems shall be discharged in such a manner that erodible soils are not adversely affected. All silt and sediments being carried in the dewatering effluent must be intercepted prior to effluent discharge into any drainage system through use of a sedimentation basin designed to allow retention of discharge for sufficient time to render such waters free of suspended silt and sediments. The use of screening devices in lieu of a sedimentation basin must receive specific approval and be employed only for minor flows.
- N. The permittee shall not interfere with any existing utility without the written consent of the utility owner. If it becomes necessary to relocate an existing utility, this shall be done by the owner. No utility owned by the Borough or any authority shall be moved to accommodate the permittee unless the cost of such work be borne by the permittee. The cost of moving a privately owned utility shall be similarly borne by the permittee unless the permittee makes other arrangements with the person or persons owning the utility. The permittee shall support and protect by methods approved by the Municipal Engineer, all pipes, conduits, poles, wires and other apparatus which may be in any way affected by the excavation work, and do everything necessary to support, sustain and protect them under, over, along and across the work. The permittee shall secure approval of method of support and protection from the owner of the utility in case any of the pipes, conduits, poles, wires or apparatus should be damaged, and for this purpose pipe coating or other encasement of devices are to be considered as part of a substructure, the permittee shall promptly notify the owner thereof. All damaged utilities shall be repaired by the agency or person owning them and the expense of such repairs shall be charged to the permittee. It is the intent of this subsection that the permittee shall assume all liability for damage to utilities and any resulting damage to or injury to anyone because of such utility damage and such assumption of liability of a contractual obligation of the permittee. The only exception will be such instances where damage is exclusively due to the negligence of the owning utility. The Borough shall not be made a party to any action because of this section.

§ 203-18. Placement of excavated materials and backfilling.

- A. All material excavated from trenches and piled adjacent to the trench or in any street shall be piled and maintained in such manner as not to endanger those working in the trench, pedestrians or users of the streets, and so that as little inconvenience as possible is caused to those using streets and adjoining property. Where the confines of the area being excavated are too narrow to permit the piling of excavated material beside the trench, the Municipal Engineer shall have the authority to require that the permittee haul the excavated material to a storage site and then rehaul it to the trench site at the time of backfilling. It shall be the permittee's responsibility to secure the necessary permission and make all necessary arrangements for all required storage sites. However, if material requires disposal, the permittee shall dispose of all excavated materials at an approved location for this purpose. In its application, the permittee shall also describe in detail the location where any and all excavated materials shall be disposed of and provide written documentation that the proposed location for disposal is an approved location for this purpose. If said location is a landfill, the permittee shall provide proof that said landfill is registered and licensed to accept such material.
- B. All material excavated shall be laid compactly along the side of the trench and kept trimmed so as to cause as little inconvenience as reasonably possible to vehicular and pedestrian traffic, or as specified by the Superintendent of Public Works or the Municipal Engineer. Whenever necessary, in order to expedite the flow of traffic or to abate the dirt or dust nuisance, toe boards or bins may be required by the Municipal Engineer to prevent the spreading of dirt into traffic lanes. Further, no person shall place any material on or along any Borough road, gutter, or shoulder resulting in any stoppage of drainage along the road or roads.
- C. Any and all material excavated and stored or piled at or near any intersection, driveway or other access roads or alleys shall be so stored and piled as to provide an adequate line of sight for those persons entering and exiting the intersection streets, alleys or driveways, which line of sight shall provide a minimum of 150 feet visibility.
- D. The permittee shall completely backfill the excavation and replace as great a portion as possible of the material excavated, compacting it by flushing, tamping or other suitable means, and supply additional material where there is a deficiency. Whenever the Municipal Engineer shall deem the material unsatisfactory for backfill, the permittee shall backfill the trench with sand, or other acceptable material compressed as required, and shall remove all excess material from the premises. If tamping alone is employed, the material shall be placed in layers not exceeding six inches in thickness, moistened as directed, and each layer adequately tamped until thoroughly compacted.
- E. Where excavations are made in tunnels beneath concrete pavement or beneath a pavement having a concrete base, the tunnel shall be backfilled with concrete composed of one part of cement, two parts of sand, and five parts of broken stone or washed gravel, or another approved material, tamped into place so that the cavity is completely filled.

- F. As the excavation work progresses, all streets shall be thoroughly cleaned of all rubbish, excess earth, rock and other debris resulting from such work. All cleanup operations at the location of such excavation shall be accomplished at the expense of the permittee and shall be completed to the satisfaction of the Superintendent of Public Works. From time to time, as may be ordered by the Superintendent of Public Works, and in any event immediately after completion of the work, the permittee shall, at its own expense, clean up and remove all refuse and unused materials of any kind resulting from the work, and upon failure to do so within 24 hours after having been notified to do so by the Superintendent of Public Works, the work may be done by the Superintendent of Public Works and the cost thereof charged to the permittee. The permittee shall also be liable for the cost thereof under the surety provided hereunder.
- G. After the backfilling of the opening or trench has been completed as above specified, the restoration of the pavement shall be governed by the following applicable rules:
- (1) In the case of an opening or trench in the earth shoulder, the permittee shall restore the top four inches of the trench or opening with material capable of supporting the growth of grass and shall fertilize and seed the surface with grass seed.
 - (2) In the case of a gravel pavement, the permittee shall fill in the top eight inches of the excavated trench or opening with compacted soil aggregate Type I-2.
 - (3) In the case of a penetration macadam road that consists of broken stone of various sizes, the permittee may salvage the broken stone and replace it in the top of the trench similar to the original pavement and cover it with two inches of hot-mixed bituminous concrete.
 - (4) In the case of a gravel-based bituminous concrete road, the permittee shall restore the surface with six inches of compacted soil aggregate Type I-2, covered with four inches of bituminous stabilized base stone mix and two inches of bituminous concrete surface course, Type FABC-1, Mix No. I-5.
 - (5) In the case of a bituminous-treated gravel road, the permittee shall restore the surface with six inches of compacted soil aggregate Type I-2, covered with four inches of bituminous stabilized base stone mix and two inches of bituminous concrete surface course, Type FABC-1, Mix No. I-5.
 - (6) In the case of portland cement concrete surfaces, steel mesh reinforcement or deformed steel rod reinforcement (rebar) shall be provided in the spacing gauge or diameter and placement as set forth by the New Jersey Department of Transportation Specifications, 1983 Edition, or as amended. All concrete thickness, classifications and compressive strength shall be in conformance with the current New Jersey Department of Transportation standards. Admixtures or curing compounds shall be added only upon approval of the Municipal Engineer.
 - (7) In the case of any special condition, the permittee shall restore the trench or opening as directed by the Municipal Engineer. If the Borough is required to restore the pavement, the final charges, based on the schedule of costs, shall be billed to the permittee upon the completion of the work by the Borough.

§ 203-19. Permit regulations.

- A. The applicant in accepting a permit under this article shall be deemed to have agreed to be liable for, and to indemnify and save harmless the Borough from and against, any and all loss or costs or damages incurred by reason of any damage to any property, injury to any person or any loss of life resulting from its negligence or the negligence of its agents, employees, or subcontractors in undertaking or performing the work covered by the permit, or in failing to properly guard or maintain the opening or excavated material, equipment, or materials to be incorporated in the work.
- B. No permit will be approved for openings scheduled during the period from December 15 to March 1, except in cases of emergency or when deemed necessary by the Municipal Engineer.
- C. Construction equipment shall not be positioned or stored on any street after working hours unless approved by the Superintendent of Public Works.
- D. When a contractor is obligated to supply uniformed police officers on the job site as a condition of its permit, all arrangements shall be made through the Traffic Division of the Seaside Heights Police Department, who may assign the officers 48 hours in advance of the commencement of work on the project in accordance with the provisions of municipal ordinances regulating off-duty services of municipal police officers.

E. Flagmen, when utilized in construction work areas, shall be equipped with the following:

- (1) Orange reflectorized vests.
- (2) Red flag, measuring 24 inches by 24 inches. For night conditions, lights shall be used in lieu of the flag.
- (3) Sign paddles consisting of STOP/SLOW messages, as per the Manual on Uniform Traffic Control Devices, current edition. When used at night, the STOP and SLOW faces shall be reflectorized. All traffic control devices utilized on any road construction within the Borough of Seaside Heights shall conform to the Manual.

§ 203-20. Revocation of permit.

The Borough may, at any time, revoke or annul any permit, or extension endorsed thereon for cause, or for performing work not in accordance with the permit granted, or for failure or neglect to pursue the work in accordance with such permit, or for any conditions which might prove to be dangerous or injurious to any person or interests of the Borough. Every person receiving a permit, or any extension thereof, shall accept the same subject to the foregoing provisions and conditions, without any liability or responsibility attaching to the Borough for any loss or damage that might result by reason of such revocation.

§ 203-21. Borough exempt from permit requirement.

Nothing contained in this article shall be construed as requiring the issuance of a permit for the performance of any opening or excavation by the Borough, its employees, or contractors for Borough projects, including without limitation road improvement projects.

§ 203-22. Violations and penalties.

Any person violating or failing to comply with any of the provisions of this article shall, upon conviction thereof, be punishable by a fine of not less than \$500 nor more than \$1,250, by imprisonment for a term not to exceed 90 days, or by community service of not more than 90 days, or any combination of fine, imprisonment and community service as determined by the Municipal Court Judge. 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. The violation of any provision of this article shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction. Nothing in this article shall be understood or construed by any permittee or other person to absolve any permittee or its employees, agents or contractors of any responsibility for any damage done to any person or property in opening or digging a trench in any public road, street, or highway.

§ 203-23. Borough held harmless.

The permittee shall indemnify and save harmless the Borough, its officers, agents and employees from any loss, injury or damage resulting from any negligence or fault of the permittee, its agents, servants or employees or contractors in connection with the performance of any of the work covered by the permit. The terms and provisions of this article shall be deemed a covenant by such permittee to so indemnify and save harmless the Borough of Seaside Heights of curb being repaired.

Chapter 208. Tattooing

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 2-19-1997 by Ord. No. 97-1. Amendments noted where applicable.]

§ 208-1. Licensing by and compliance with Ocean County Board of Health.

No person, firm, corporation or other entity shall tattoo a human being or conduct the business of tattooing in the Borough of Seaside Heights unless said person, firm, corporation or other entity shall have obtained a license to do

so from the Ocean County Board of Health and is in and remains in compliance with all regulations promulgated by the Ocean County Board of Health.

§ 208-2. Violations and penalties.

- A. Any person violating or failing to comply with any other provision of this article shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$1,000, by imprisonment not to exceed 90 days or by community service of not more than 90 days or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.
- B. The violation of any provision of this chapter shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

§ 208-3. Authorization required for minors.

[Added 7-23-1999 by Ord. No. 99-25]

It shall be a violation for anyone to tattoo any body part of an individual under 18 years of age without authorization signed by his or her parent or legal guardian and witnessed by the operator. The tattooing establishment shall provide such authorization form and shall attach thereto a copy of the authorizing parent's or legal guardian's driver's license or county identification card. The operator shall be responsible for maintaining the original consent form, copies of all consent information and the minor's original application, filled out in compliance with § 208-4, for a period of two years beyond the minor's 18th birthday.

§ 208-4. Application required; maintenance of records.

[Added 7-23-1999 by Ord. No. 99-25]

Each person wishing to be tattooed must fill out an application provided by the establishment which shall include the name, date of birth, address, telephone number, health history, including known allergies and currently prescribed medications, and signature of the patron, as well as the date, location(s) of the piercing(s) and name of the operator. A copy of a driver's license or county identification card verifying the age of the applicant shall be attached to the application. Applicants under the age of 21 must provide photo identification. Such records shall be maintained by the tattooing establishment and shall be available for examination by the local health authority or its authorized representative. Such records shall be maintained by the tattooing establishment for a period of not less than three years.

Chapter 215. Unfit Buildings

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 2-19-1997 by Ord. No. 97-1. Amendments noted where applicable.]

§ 215-1. Legislative findings.

It is hereby found and declared that the existence or occupation of any building or buildings or parts thereof in the Borough of Seaside Heights which are so old, dilapidated or have become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy is inimical to the welfare of the residents of said municipality and dangerous and injurious to the health and safety of the people of this municipality and that a public necessity exists for the repair, closing or demolition of such building or buildings or parts thereof.

§ 215-2. Definitions.

The words "governing body," "public authority," "Public Officer," "owner," "parties in interest," and "building," whenever used or referred to in this chapter, shall have the meanings and be defined as set forth in N.J.S.A. 40:48-2.4.

§ 215-3. Compliance required.

No owner or parties in interest shall continue the existence, use or occupancy of any building or buildings or parts of buildings in violation of the findings and declarations of § 215-1 hereof.

§ 215-4. Designation of Public Officer.

The Construction Code Official and the Code Enforcement Officer are hereby designated as the Public Officer(s) authorized to exercise the powers set forth in this chapter.

§ 215-5. Notice of complaint.

Whenever a petition shall be filed with the Public Officer by a public authority or by at least five residents of the municipality charging that any building is unfit for human habitation or whenever it appears to the Public Officer that any building is unfit for human habitation or occupancy or use, such Public Officer shall, if a preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such building a complaint stating the charges in that respect and containing a notice that a hearing will be held before the Public Officer or designated agent, at a place therein fixed not less than seven days nor more than 30 days after the serving of said complaint, that the owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person or otherwise and give testimony at the place and time fixed in the complaint, and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Public Officer.

§ 215-6. Order to repair or for removal.

If, after such notice and hearing, the Public Officer determines that the building or buildings under consideration are unfit for human habitation or occupancy or use, he shall state, in writing, the findings of fact in support of such determination and shall issue and cause to be served upon the owners thereof and parties in interest an order:

- A. Requiring the repair, alteration or improvement of said building to be made by the owner within a reasonable time, which time shall be set forth in the order, or, at the option of the owner, to vacate and to have said building vacated and closed within the time set forth in the order; and
- B. If the building is in such a condition as to make it dangerous to the health and safety of persons on or near the premises and the owner fails to repair, alter or improve said building, within the time specified in the order, then the owner shall be required to remove or demolish said building within a reasonable time as specified in said order of removal.

§ 215-7. Repair or closing by municipality.

- A. If the owner fails to comply with an order to repair, alter or improve or, at the option of the owner, to vacate and close the building, the Public Officer may cause such building to be repaired, altered or improved or to be vacated and closed; thereupon, the Public Officer may cause to be posted on the main entrance of any building so closed a placard with the following words: "This building is unfit for human habitation or occupancy or use; the use or occupation of this building is prohibited and unlawful."
- B. If an actual and immediate danger to life is posed by the threatened collapse of any fire-damaged or other structurally-unsafe building, the Public Officer may, after taking such measures as may be necessary to make such building temporarily safe, seek a judgment and summary proceedings for the demolition thereof.

§ 215-8. Tampering with posted placard prohibited.

It shall be unlawful for any person to own, have, keep, maintain or live in any building on which there has been posted a placard, as herein provided for, or to remove or cause the removal of any such posted placard.

§ 215-9. Removal by municipality.

If the owner fails to comply with an order to remove or demolish the dwelling, the Public Officer may cause such dwelling to be removed or demolished or may contract for the removal or demolition thereof after advertisement for

the receipt of bids therefor.

§ 215-10. Determination of costs; lien.

The amount of the cost of the filing of legal papers, expert witnesses' fees, search fees and advertising charges incurred in the course of any proceedings taken under this chapter, determined in favor of the municipality, and the cost of such repairs, alterations or improvements, vacating and closing, or removal or demolition, if any, or the amount of the balance thereof remaining after deduction of the sum, if any, realized from the sale of materials derived from such building or from any contract for removal or demolition thereof shall be a municipal lien against the real property upon which such cost was incurred. If the building is removed or demolished by the Public Officer, the materials of such building shall be sold. There shall be credited against the cost of the removal or demolition thereof the proceeds of any sale of such materials or any sum derived from any contract for the removal or demolition of the building. If there are no such credits or if the sum total of such costs exceeds the total of such credits, a detailed statement of the aforesaid costs and the amount so due shall be filed with the Borough Tax Assessor or other custodian of the records of tax liens, and a copy thereof shall be forthwith forwarded to the owner by registered mail. If the total of the credits exceeds such costs, the balance remaining shall be deposited in the Superior Court by the Public Officer, shall be secured in such manner as may be directed by such Court and shall be disbursed according to the order or judgment of the Court; provided, however, that nothing in this section shall be construed to impair or limit in any way the power of the Borough of Seaside Heights to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. Any owner or party in interest may, within 30 days from the date of the filing of the lien certificate, proceed in a summary manner in the Superior Court to contest the reasonableness of the amount or the accuracy of the costs set forth in the municipal lien certificate.

§ 215-11. Determination of unfit conditions.

The Public Officer may determine that a building is unfit for human habitation or occupancy or use upon finding that conditions exist in such building which are dangerous or injurious to the health or safety of the occupants of such building, the occupants of the neighboring buildings or other residents of the Borough of Seaside Heights. Without limiting the generality of the foregoing, such conditions may include the following: defects therein increasing the hazards of fire, accident or other calamities; lack of adequate ventilation, light or sanitary facilities; dilapidation; disrepair, structural defects or uncleanness; or failure to comply with the building code or the certificate of occupancy.

§ 215-12. Method of service of complaints or orders.

Any complaints or orders issued by the said Public Officer pursuant to the provisions of this chapter shall be served upon persons either personally or by registered mail, but if the whereabouts of such persons is unknown and the same cannot be ascertained by the Public Officer in the exercise of reasonable diligence and the Public Officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once in a newspaper printed and published in the Borough of Seaside Heights or, in the absence of such newspaper, in one printed and published in Ocean County and circulating in the Borough of Seaside Heights. A copy of such complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order, and a copy of such complaint or order shall be duly recorded or lodged for record with the Clerk of the County of Ocean.

§ 215-13. Powers of Public Officer.

The Public Officer is hereby authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including the following powers, in addition to other powers herein granted:

- A. To investigate the building conditions in the Borough of Seaside Heights in order to determine which buildings therein are unfit for human habitation or occupancy or use.
- B. To administer oaths and affirmations, examine witnesses and receive evidence.
- C. To enter upon premises for the purpose of making examinations, provided that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession.

- D. To appoint and fix the duties of such officers, agents and employees as deemed necessary to carry out the purpose of this chapter.
- E. To delegate any functions and powers under this chapter to such officers and agents as may be designated.

§ 215-14. Advertisement for bids.

Any action taken using revenues derived from the local property tax shall be taken only after advertisement for, and receipt of bids therefor, unless the action is necessary to prevent imminent danger to life, limb or property.

§ 215-15. Violations and penalties.

- A. Any person violating or failing to comply with any other provision of this article shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$1,000, by imprisonment not to exceed 90 days or by community service of not more than 90 days or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.
- B. The violation of any provision of this chapter shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

Chapter 217. Unmanned Aircraft

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 5-17-2017 by Ord. No. 17-16. Amendments noted where applicable.]

§ 217-1. Purpose and intent.

It is the purpose and intent of this chapter to address the potential hazard unmanned aircraft and unmanned aircraft systems pose to persons and property on the ground. This chapter is not intended to conflict with or preempt Federal Aviation Administration (FAA) regulations, but rather to work in conjunction with those regulations to promote public safety while recognizing the limitation of the FAA's enforcement capabilities.

§ 217-2. Definitions.

The following words, phrases and terms as used in this chapter shall have the meanings indicated as follows:

AVIGATE

To pilot, steer, direct, control, fly or manage an unmanned aircraft or unmanned aircraft system through the air or on the ground. The word "avigate" includes managing or initiating any elements of an unmanned aircraft system.

BOROUGH ADMINISTRATOR

The person appointed pursuant to § 5-4 and having the powers set forth in § 5-5 of the Borough Code.

DRONE

An unmanned aircraft that can fly under the control of a remote pilot or by a geographic positioning system (GPS) guided autopilot mechanism and that may be equipped with any sensing device or capable of any data collection.

FAA

The Federal Aviation Administration.

MODEL AIRCRAFT

An unmanned aircraft or unmanned aircraft system operated by any person strictly for hobby or recreational purposes. A model aircraft operator is an individual who satisfies all of the exemption criteria specified in Section 336 of Public Law 112-95, codified in Part 101 of the FAA Regulations, and flies his or her aircraft in accordance

with a community-based set of safety guidelines and within the programming of a nationwide community-based organization.

PUBLIC PROPERTY

Real property and structures owned or leased by the Borough including, without limitation, parks, playgrounds, streets, sidewalks and other rights-of-way, buildings, docks, boardwalks, and beaches. Public property shall also include real property and structures which are being leased by the Borough to a lessee.

TOY AIRCRAFT

A glider or hand-tossed aircraft that is not designed for and is incapable of sustained flight; may be controlled by means of a physical attachment, such as a string or wire.

UNMANNED AIRCRAFT (UA)

A device of any size that is used or intended to be used for flight in the air, operated without the possibility of direct human intervention from within or on the device. This definition includes devices commonly known as model aircraft and drones, but excludes toy aircraft.

UNMANNED AIRCRAFT SYSTEM (UAS)

Unmanned aircraft and its associated elements, including the control station, communication link, data link, navigation equipment, launch/recovery equipment, other support equipment and payload.

WEAPON

Any instrument, article or substance that, under the circumstances in which it is used, attempted to be used or threatened to be used, is readily capable of causing death or serious physical injury to any person or damage to any property, including, but not limited to, firing a bullet, projectile or laser.

§ 217-3. Operating regulations.

- A. Takeoff and landing. It shall be unlawful for any person avigating any UA/UAS to take off from or land on or upon, except in an emergency, any public property except as specifically provided in § 217-4 below.
- B. Any person who operates or causes to be operated any UA/UAS within the limits of the Borough of Seaside Heights must be able to present, immediately upon request by any Seaside Heights Police Officer or Code Enforcement Officer, a current certificate of aircraft registration issued by the FAA for the UA/UAS, together with a remote pilot certificate where the use of the UA/UAS requires such a certificate under 14 CFR Part 107.
- C. It shall be unlawful for any person to avigate any UA/UAS in the air, on the ground, or on the water:
 - (1) In a careless or reckless manner so as to endanger the life or property of another;
 - (2) In violation of any notice to airmen or any temporary or permanent flight restriction issued by the FAA pursuant to 14 CFR 91, as amended;
 - (3) In violation of any requirement or restriction issued by the FAA applicable to UA/UAS, including, without limitation, the provisions of 14 CFR Part 101 and 14 CFR Part 107; or
 - (4) In a manner that interferes with law enforcement, firefighting, or any government emergency operations.
- D. It shall be unlawful for any person to avigate any UA/UAS less than 400 feet above ground level in areas that have been designated a temporary "no fly zone" by the Borough Administrator. When a no fly zone is established, the Borough Administrator shall post notice of same on the official Seaside Heights website and on the public announcement board located in the George E. Tompkins Municipal Complex, and shall also post warning signs in the vicinity of the no fly zone.
- E. It shall be unlawful for any person to operate any UA/UAS on the grounds of, or less than 400 feet above ground level within the airspace overlaying, a public school in the Borough of Seaside Heights providing instruction in kindergarten or grades one to six, inclusive, during school hours and without the written permission of the school principal or higher authority, or his or her designee, or equivalent school authority.
- F. It shall be unlawful for any person to use any UA/UAS to capture images of public school grounds in the Borough of Seaside Heights providing instruction in kindergarten or grades one to six, inclusive, during school hours and without the written permission of the school principal or higher authority, or his or her designee, or equivalent school authority.

- G. It shall be unlawful for any person to avigate any UA/UAS that is equipped with a firearm or other weapon.
- H. It shall be unlawful for any person to avigate any UA/UAS carrying pyrotechnic devices that explode or burn, or any device which propels a projectile or drops any object that creates a hazard to persons or property.
- I. It shall be unlawful for any person to avigate any UA/UAS with metal-blade propellers or with gaseous boosts.

§ 217-4. Exceptions.

- A. It shall be lawful for any person avigating any UA/UAS to take off from or land on or upon the oceanfront boardwalk and beaches October 1 to April 30 provided that the operator and flight conform to the requirements and restrictions contained in 14 CFR Part 101 or 14 CFR Part 107, whichever is applicable, including but not limited to the pertinent operating rules and remote pilot certification rules.
- B. It shall be lawful for any person avigating any UA/UAS to take off from or land on or upon the bayfront beaches described below May 1 to September 30 provided that the operator and flight conform to the requirements and restrictions contained in 14 CFR Part 101 or 14 CFR Part 107, whichever is applicable, including but not limited to the pertinent operating rules and remote pilot certification rules:
 - (1) South Bay: any part of the bayfront beach that is located south of the public dock, but not from or upon any public dock.
 - (2) North Bay: Any part of the bayfront beach that is located between a point beginning 15 feet south of the designated public swimming beach and 10 feet north of the boat ramp, but not from or upon any public dock.
- C. It shall be lawful for any person avigating any UA/UAS to take off from or land on or upon the bayfront beaches and public docks October 1 to April 30 provided that the operator and flight conform to the requirements and restrictions contained in 14 CFR Part 101 or 14 CFR Part 107, whichever is applicable, including but not limited to the pertinent operating rules and remote pilot certification rules.
- D. It shall be lawful for any law enforcement agency or emergency services organization of or servicing the Borough of Seaside Heights, the County of Ocean, the State of New Jersey, or the United States government to avigate any UA/UAS from or on or upon any public property provided the flight is conducted in a lawful manner and for lawful purposes and the agency or organization is operating the UA/UAS under 14 CFR Part 107, including aircraft and pilot requirements, or has obtained a blanket public certificate of waiver or authorization (COA), or is otherwise authorized by state or federal law.
- E. It shall be lawful for any person avigating any UA/UAS to take off from or land on or upon any public property at any time of the year provided that the Borough Administrator has issued a written waiver after determining that the flight can be conducted in conformance to the requirements and restrictions contained in 14 CFR Part 101 or 14 CFR Part 107, whichever is applicable, including, without limitation, the operating rules and remote pilot certification rules, and in a manner that will not cause unreasonable risk of endangering the life or property of another.

§ 217-5. Construction.

- A. Specific flight operations authorized by the FAA - exception. Notwithstanding the prohibitions set forth in this chapter, nothing in this chapter shall be construed to prohibit, limit or otherwise restrict any person who is authorized by the FAA to operate any UA/UAS in Borough of Seaside Heights airspace, pursuant to Section 333 of the FAA Modernization and Reform Act of 2012 or a certificate of waiver, certificate of authorization or airworthiness certificate under Section 44704 of Title 49 of the United States Code or other FAA grant of authority for a specific flight operation(s), from conducting such operation(s) in Borough of Seaside Heights airspace in accordance with the authority granted by the FAA.
- B. Operations prohibited by the FAA - clarification. Nothing in this chapter shall be construed to authorize the operation of any UA/UAS in Borough of Seaside Heights airspace in violation of any federal statute or rules promulgated thereunder, including, but not limited to, any temporary flight restrictions or notices to airmen issued by the FAA.

§ 217-6. Accident reporting.

The operator of any UA/UAS shall immediately report to the Seaside Heights Police Department any operation of the UA/UAS on public property involving:

- A. Injury to any person; or
- B. Damage to any private or public property.

§ 217-7. Enforcement; violations and penalties.

- A. The Seaside Heights Police Department and Division of Code Enforcement are the local enforcing agencies charged with enforcing this chapter.
- B. Any person who violates any provision of this chapter shall, upon conviction by a court of competent jurisdiction, be subject to a mandatory fine of \$100 for the first offense; \$250 for the second offense; and \$500 for a third and any subsequent offenses.
- C. Enforcement actions for violations of this chapter shall be reported to the FAA by the local enforcing agency in accordance with the FAA's Law Enforcement Guidance for Suspected Unauthorized Operations.

Chapter 219. Utilities

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 2-19-1997 by Ord. No. 97-1. Amendments noted where applicable.]

Article I. Electric Department

§ 219-1. Department created.

The Electric Department is hereby created to serve the Borough of Seaside Heights.

§ 219-2. Electric rates.

[Amended 5-21-1997 by Ord. No. 97-6; 12-20-2000 by Ord. No. 2000-23; 12-20-2001 by Ord. No. 2001-21; 2-6-2002 by Ord. No. 2002-1; 3-15-2006 by Ord. No. 06-02; 4-4-2007 by Ord. No. 07-06; 12-19-2007 by Ord. No. 07-14; 5-21-2008 by Ord. No. 08-06; 2-18-2009 by Ord. No. 09-04; 12-21-2011 by Ord. No. 11-13; 12-19-2012 by Ord. No. 12-14]

- A. The following rates will be in effect for all electric customers for electric usage:

Kilowatt Hours	Rate
First 10	\$5
All others	\$0.18 per kilowatt hour

- B. Floodlights; monthly rates.

- (1) The following monthly rates shall be charged to any electric customer requesting the installation and maintenance of a floodlight on a utility pole under the control and maintenance of the Borough of Seaside Heights:

Wattage	Monthly Rate
150	\$22
250	\$28
400	\$38
1,000	\$50

- (2) If a customer requests that service to a floodlight be disconnected, and then requests reconnection of such service to the same floodlight within a year of the request for disconnection, the fee for reconnection shall be nine times the monthly rate as set forth above.

- C. Rates for governmental entities. Whenever an electric user, that is charged electric rates by the Borough of Seaside Heights, is a governmental entity supported primarily from real estate taxes levied on the property owners of the Borough of Seaside Heights, that entity shall be charged the same rate that the Borough pays for its wholesale power. The Borough does not have to charge interest for the late payments made by governmental entities within the Borough of Seaside Heights.

§ 219-3. Tenant account prohibited.

[Added 7-20-2005 by Ord. No. 05-17;^[1] amended 12-20-2006 by Ord. No. 06-20; 12-19-2012 by Ord. No. 12-14; 10-7-2015 by Ord. No. 15-15]

- A. All electric accounts shall be in the name of the property owner of record, and such owner shall remain solely liable to the Borough for payment of such account. No electric account shall be opened in a tenant's name from January 1, 2016, forward.
- B. If any account has been opened in a tenant's name prior to January 1, 2016, that account must be changed to the name of the property owner of record, and the owner shall remain liable to the Borough for payment of any electric bills accruing to such account prior to January 1, 2016, in the event that the tenant does not pay such electric bill in a timely fashion.

[1] *Editor's Note: This ordinance also superseded former § 219-3, Security deposits, as amended.*

§ 219-4. Minimum monthly charges.

There is hereby established a minimum customer electric service charge for all electric customers of the Borough of Seaside Heights in the amount of \$5 per month per meter. This minimum customer service charge shall only be applied in those instances where the electric consumed by a customer is less than \$5 per month per meter for the billing cycle.

§ 219-5. Billing.

Bills for electric current shall be submitted to account customers on a monthly basis.

§ 219-6. Date due; late payment.

- A. All electric bills shall be due and payable within 10 days of the billing date to the customer. In the event that said payment is not made in full within five days of the expiration of the ten-day period, then said service shall be immediately discontinued upon 48 hours' notice to the customer. Upon receipt of such notice, the owner of a property may submit a written request to the Borough requesting that service not be discontinued or, in the event that service has already been discontinued, reinstated even though payment has not been made in full, so long as such property owner accepts and acknowledges that a lien in accordance with § 219-6C will be placed upon such property for the delinquent amount due the Borough, together with any future unpaid charges.

[Amended 12-3-1997 by Ord. No. 97-14]

- B. Disconnection of residential service for nonpayment may be suspended for a period of up to two months when a customer submits a physician's written statement affirming the existence of a medical emergency within the premises, the nature and probable duration of such emergency condition and that termination of service will aggravate the medical emergency. The physician's statement must be accompanied by proof from the customer of an inability to pay the utility bill during the medical emergency. At the end of such period of emergency, the customer shall remain liable for payment of services provided during the period of emergency.

[Amended 12-20-2006 by Ord. No. 06-20]

- C. All unpaid electric bills shall remain, until paid, municipal liens against the property and premises where such electric power is furnished and shall draw interest at the rate of 18% per annum from and after the date when they shall become due, and shall, in addition to all other remedies, be collectible in the same manner as arrearages of taxes.

§ 219-7. Discontinuance of service; reconnection.

[Amended 12-3-1997 by Ord. No. 97-14; 7-20-2005 by Ord. No. 05-17]

In the event that a discontinuance of service has been effectuated by reason of nonpayment as hereinabove set forth, the reconnection of the electric service may only be made upon payment of the total outstanding bill, all accrued interest due thereon and a reconnection fee in the amount of \$50. A reconnection fee of \$100, together with the payment of the total outstanding bill and all accrued interest due thereon, shall be required for service to be reinstated other than at the meter. A reconnection fee of \$200, together with the payment of the total outstanding bill and all accrued interest due thereon, shall be required for service to be reinstated for electric service of 400 amps or greater.

§ 219-8. Fees for new service.

[Amended 7-20-2005 by Ord. No. 05-17]

There shall be an installation fee of \$100 for each new service installed. In addition, there shall be no replacement charge for an existing service.

§ 219-9. Metering; minimum charges.

- A. All Borough equipment and facilities shall be metered by September 1, 1977. This section shall not apply to street lighting, which shall be billed on an estimated basis.
- B. Meters for all electric accounts shall be moved to the outside of the premises of each consumer by no later than January 1980. All new services installed shall be on the outside of existing structures, except where vault rooms have been installed. Cost of meter pans shall be the responsibility of and shall be charged to the electric customer.
- C. Demand meters may be required by the Borough if deemed necessary. The cost of said meters shall be the responsibility of and charged to the consumer.
- D. Any customer requesting the testing of a meter must do so in writing. If the test results show the meter to be running fast, there will be no charge for the testing. If, however, the test shows the meter to be accurate within 5% of 100%, or running slow, then the customer will be billed, and obligated to pay a fee of \$100 for the test.

§ 219-10. Violations and penalties; right of access.

[Amended 12-20-2006 by Ord. No. 06-20]

- A. It shall be unlawful for anyone to use electric energy supplied by the Borough of Seaside Heights unless a meter has been duly installed. Any unmetered electric users will be subject to a fine of no less than \$100 and no more than \$1,250, by imprisonment not to exceed 90 days or by community service of not more than 90 days or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.
- B. Any individual who tampers with, alters or in any way interferes with the operation of an electric meter or electric service shall be subject to a fine of no less than \$100 and no more than \$1,250, by imprisonment for not to exceed 90 days or by community service of not more than 90 days or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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. In addition, the Borough may discontinue the supply of electric service and remove its equipment from a consumer's premises without notice in the event evidence is found that the Electric Department's service wires, meters, switch boxes or other property or appurtenances on the consumer's premises have been tampered with to illegally divert current.
- C. Employees of the Electric Department of the Borough of Seaside Heights shall be allowed access to individual electric meters at all times during the regular workweek between the hours of 9:00 a.m. and 5:00 p.m. Said access shall be given after the employee presents proper identification. Anyone who refuses said employee access or who interferes with said employee shall be subject to a fine of no less than \$100 and no more than \$1,250, by imprisonment for not to exceed 90 days or by community service of not more than 90 days or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court

Judge. 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.

- D. Any person violating or failing to comply with any other provision of this chapter shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$1,250, by imprisonment for not to exceed 90 days or by community service of not more than 90 days or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.

§ 219-11. Energy adjustment cost.

All energy adjustment costs levied upon the Borough of Seaside Heights shall be charged to all electric customers of the Borough, regardless of classification, on a per-kilowatt-hour basis. All billing for energy adjustment costs will be in addition to the rates set forth hereinabove and shall be charged as a separate item on the regular periodic billing.

§ 219-12. Rules and regulations of the Electric Department.

- A. Meter reading. Anyone wishing an additional meter reading must submit such request in writing at least five days in advance of the date of said reading. This request is to be submitted to the Borough Hall Electric Billing Department and shall be accompanied by a fee of \$10 for said special reading.
[Amended 12-20-2001 by Ord. No. 2001-21]
- B. Transformers.
- (1) The Borough Electric Department shall make all final decisions as to locations and placement of transformers, and whether or not the system is better served with a pad-mount or pole-mounted transformer.
 - (2) The customer shall be responsible for the installation of the pad for a pad-mount transformer and any trench work necessary on their property and restoration of same. The Borough Electric Department shall be responsible for the installation of all primary wire and conduit from the pole to the transformer and any trench work on public property. Subsequent to the installation of a new transformer as hereinabove described, maintenance and replacement of said transformer shall be the responsibility of and at the discretion of the Borough of Seaside Heights through its Electric Department.
[Amended 1-21-1998 by Ord. No. 98-2; 7-20-2005 by Ord. No. 05-17]
 - (3) The Borough Electric Department shall have access to all transformers at all times. Failure to abide by this section shall subject the customer to the penalties hereinafter set forth.
 - (4) As of the effective date of this chapter, all transformers in service in the Borough will become the property of the Borough, and the Borough will be responsible for replacement of same. If any customer previously purchased a transformer or wishes to purchase one, then they must inform the Borough, in writing, of their desire to be responsible for replacement or other costs associated with said transformer.
- C. Temporary electric service. There shall be a \$100 charge for a temporary electric service for construction purposes only, for a duration of no more than 90 days. Consumption will be charged at the same rate as specified in § 219-2.
[Amended 7-20-2005 by Ord. No. 05-17]
- D. Electric self-generation shall be governed by the following regulations:
[Added 12-20-2006 by Ord. No. 06-20]
- (1) Consultation with Municipal Utility.
 - (a) To assure safety and the optimum value for both the customer and the Municipal Utility, it is essential for the customer to consult with the Utility before purchasing, constructing, operating, or interconnecting any self-generation equipment to the system. No self-generating equipment may be connected to the Municipal Utility unless the customer notifies the Municipal Utility and all necessary equipment, in the opinion of the Municipal Utility, is properly installed to isolate the generating equipment from the Municipal Utility system.

- (b) The Municipal Utility will assist the customer in evaluating the feasibility of the proposed self-generation project, in particular helping the customer evaluate the economics of the project after taking into account the customer's responsibility and obligation to pay all interconnection costs.

(2) General requirements:

- (a) No self-generating equipment or facility may be connected to the Municipal Utility without express authorization from the Municipal Utility and unless the requirements contained in this rule are fully and completely satisfied. The customer must provide complete plans and specifications of the proposed equipment, including a single-line diagram and details of proposed protective schemes. Plans must be certified by an electrical engineer. Upon receipt of the certified plans and a fee of \$1,000, as provided in Subsection **D(2)(e)** below to compensate the Municipal Utility for the cost of engineering services provided herein, the Municipal Utility will provide specific switching, breaker, and isolation plans for installation at the customer's expense. Any review of plans by the Municipal Utility does not constitute approval of the correctness of customer's plans. Installation must be in compliance with the National Electrical Code and all applicable municipal, county, and federal codes or regulations.
- (b) Prior to connection to the Municipal Utility system, the equipment and interconnection shall be inspected by the Municipal Utility or its qualified representative. Inspections undertaken by the Municipal Utility shall be undertaken solely for the purpose of determining compliance with the proposed plans and for the safety and integrity of the Municipal Utility system. Nothing done by the Municipality Utility inspector shall constitute approval or waiver by any other inspector who may be authorized to inspect such facility and interconnection.
- (c) Prior to interconnection with the Municipal Utility system, the customer shall enter into a written agreement with the Municipal Utility. In addition to the operating provisions contained in these rules, this agreement shall permit unlimited right of entry to the customer's property for safety reasons or to disconnect whenever the Municipal Utility believes that continued operation of the self-generation equipment could result in harm to the Municipal Utility system or to a customer of the Municipal Utility. Municipal Utility employees shall have the right to inspect and test the interconnection facilities during reasonable hours. This agreement also shall require the safe operation of the equipment or facility, indemnification of the Municipal Utility for damages of any type, including, but not limited to direct, consequential, punitive damages, to the Municipal Utility or any other customer as a result of the operation of the self-generation equipment or facility. The agreement shall contain such other provisions as are appropriate for the protection and safe operation of the Municipal Utility.
- (d) The customer shall be responsible for the safe operation of the self-generation equipment and shall be responsible for all costs of repairs, corrections, or updating of interconnection facilities. The customer shall be financially responsible for all costs of interconnection, including, but not limited to, review of the plans for equipment and the proposed isolation scheme, voltage regulation, wiring, labor, special metering, and inspection. The Municipal Utility shall provide a good faith estimate of the cost of reviewing the plans, inspections, and for the cost of all equipment that may be necessary to interconnect the self-generating equipment with the Municipal Utility, and the customer shall pay the Municipal Utility the full amount of the good faith estimate. Any amounts not expended shall be returned to the customer. Any additional costs reasonably incurred by the Municipal Utility to complete the interconnection with the customer shall be paid to the Municipal Utility prior to interconnection. The customer shall be responsible for the cost of periodic testing of the interconnection facilities.
- (e) The customer shall not change any aspect of the operation, the wiring, the controls, or the interconnection of the self-generation equipment without first providing prior written notice to the Municipal Utility of all proposed changes to the plans or the as-built drawings, as the case may be. All changes or proposed changes shall be certified by an electrical engineer, in the same manner as provided in Subsection **D(2)(a)** above. This information is essential for determining whether the existing interconnection equipment is adequate for the requirements and for safety reasons in the event of emergency cut-off. The customer shall pay all reasonable engineering fees incurred by the Municipal Utility to review and inspect the proposed installation.
- (f) Self-generating equipment that is intended to operate in parallel with the Municipal Utility shall be subject to a contract that provides for such interconnected parallel operation.

(3) Electrical requirements.

- (a) For facilities intended to operate in synchronization with the Municipal Utility:

- [1] The interconnection point between the self-generator and the Municipal Utility shall be on the customer's side of the designated metering location. It shall operate in synchronization with the municipal system.
 - [2] Electrical quality must be 60 Hz, alternating current having voltage and phase characteristics acceptable to the Municipal Utility. Operation of the self-generating unit shall not result in flicker, voltage fluctuations, interference with electronic equipment, or damage to Municipal Utility or customer-owned equipment.
 - [3] Equipment shall be capable of being manually and automatically isolated from the Municipal Utility system within a maximum of 10 seconds, and provide for automatic disconnection from utility lines that have been de-energized. All costs incurred to interconnect the self-generation equipment shall be the responsibility of the customer.
- (b) For generating equipment not intended to operate as interconnected generating facilities:
- [1] The customer shall install all equipment, switches and devices necessary to allow such facility that is capable of being served by the generating equipment to be electrically isolated from the Municipal Utility. All generating equipment subject to this subsection shall be designed so that it is incapable of being operated unless it is isolated and disconnected from the Municipal Utility.
- (4) Meter requirements. All metering costs associated with the interconnection or the interconnected operation of the equipment shall be the responsibility of the Customer. Any deliveries to the Municipal Utility shall be through a separate billing meter. Reversing meters are not permitted.
- (5) Purchase of excess generation.
- (a) The Municipal Utility and the customer shall enter into an agreement that addresses all purchase and payment obligations. The Municipal Utility shall only be required to purchase from PURPA qualifying facilities, as defined in 18 CFR 292.201.
 - (b) Rates for the purchase of excess energy from the PURPA qualifying facility shall be based upon the Municipal Utility's avoided cost. The avoided cost shall be calculated so that it takes into account the all inclusive cost of energy, including capacity costs, availability, dispatchability, load limitations, operating contingencies or limitation, energy costs, and administrative costs. If the Municipal Utility does not require capacity and would receive no benefit from the addition of capacity, the Municipal Utility shall only pay for the avoided cost of energy, excluding all capacity costs. Moreover, the Municipal Utility may charge a net metered customer an administrative fee designed to recover the Municipal's costs of standing ready to provide capacity and transmission service to the entire load of the net metered customer.

Article II. Water Tariff

§ 219-13. Inapplicability of water tariff.

[Amended 10-18-2000 by Ord. No. 2000-20]

As of October 2, 2000, the water tariff set by the Board of Public Utilities is no longer applicable to accounts supplied and serviced by the Seaside Heights Water Utility as all such accounts are located either in the Borough of Seaside Heights or in the Pelican Island section of Berkeley Township. All rates and charges for accounts supplied and serviced by the Seaside Heights Water Utility are set by local ordinance.

Article III. Department of Water and Sewers

§ 219-14. Department created.

The Department of Water and Sewers is hereby created to serve the Borough of Seaside Heights.

§ 219-15. Function of Department.

It will be a function of this Department to oversee and control all functions dealing with any water and sewer facilities.

§ 219-16. Water/sewer charges.

[Amended 1-21-1998 by Ord. No. 98-2; 12-16-1998 by Ord. No. 98-37; 10-18-2000 by Ord. No. 2000-20; 12-20-2001 by Ord. No. 2001-21; 12-20-2000 by Ord. No. 2000-23; 12-20-2001 by Ord. No. 2002-21; 2-6-2002 by Ord. No. 2002-1; 3-15-2006 by Ord. No. 06-02; 12-20-2006 by Ord. No. 06-20; 4-4-2007 by Ord. No. 07-06; 5-21-2008 by Ord. No. 08-06; 7-17-2013 by Ord. No. 13-21; 9-7-2016 by Ord. No. 16-14; 12-27-2017 by Ord. No. 17-22; 11-7-2018 by Ord. No. 2018-20]

The rates pertaining to water/sewer charges shall be as follows:

A. The municipality shall maintain metered accounts, and the rates shall be as follows:

(1) Water/sewer rates effective January 1, 2018:

Facilities Charges (per month)

Type of Account	Water	Sewer
House/condominium/apartment per unit	\$17	\$21
Hotel/motel per unit	\$8	\$10
Food, per cooking area/unit	\$34	\$42
Bar/nightclub, per alcoholic beverage bar area	\$42	\$52
Waterpark/amusement ride park	\$300	\$372
Businesses other than specified above	\$26	\$31

Consumption/flow charges (per 1,000 gallons or part thereof)

Type of account	Water	Sewer
House/condominium/apartment	\$7	\$8
Hotel/motel	\$7	\$8
Food	\$7	\$8
Bar/nightclub	\$7	\$8
Waterpark/amusement ride park	\$7	\$8
Businesses other than specified above	\$7	\$8

- (2) Effective January 1, 2018, a monthly infiltration surcharge of \$21 shall be billed for each vacant parcel of land unless the rate payer is already paying a facility charge. This charge shall be made regardless of whether the vacant parcel of land is actually connected to a sewer lateral.
- (3) Billing for any metered water service for which the Borough of Seaside Heights Water Utility's personnel can definitively determine on an ongoing basis that no sewer fixtures are connected to said service will be billed for the water portion of the above rates only. At the election and expense of the property owner, Borough personnel will install a sewer meter to determine the proper rate apportionment for that metered water service. Additionally, the owner of a property with a swimming pool may be billed for the water portion of the above rates only for the amount of water determined to have been used to fill the pool at any given time. The Borough must be informed in advance of said pool fill so it can determine the amount of water used for said purpose. Whenever it can be confirmed by the Borough that a water leak, whereby said water did not go into the sewer system, has occurred, the billing for the amount of water determined to have leaked shall be for the water portion of the above rates only.
- (4) All condominium associations which do not have individual meters on their dwelling units must provide the Borough with percentages for each dwelling unit to be charged. The Borough will not bill a condominium association for water/sewer usage which supplies any individual dwelling units; an association may only be billed for a meter serving common areas.

- B. The service connection fees for water taps and meters shall be as follows:

Service Size (inches)	Charge
3/4	\$1,500
1	\$1,750
1 1/4	\$2,000
2	\$2,500
4	\$4,500
6	\$6,500

- C. Standby fire lines.

- (1) The charge for standby fire lines (emergency fire use only) in addition to the normal water tap charge shall be \$100 per quarter.
- (2) Such taps are not to be used for any purpose except emergencies. Any unauthorized use of such tap will subject the unauthorized user to a fine of not more than \$1,000.

- D. No water-cooled air conditioner will be permitted after 1976 without a water recovery system.

- E. No water-cooled refrigeration system without a recovery system will be permitted after January 1, 1976.

- F. The following miscellaneous charges are hereby fixed for the Borough of Seaside Heights:

- (1) Water to be used from fireplugs or otherwise jettying wood or concrete piling: \$250 per day.
- (2) Water turn-on and turn-off: \$35. Turn-ons and turn-offs are to be provided by the Borough of Seaside Heights. Curb stops are property of the Borough of Seaside Heights. Tampering with curb stops constitutes a violation of this chapter.

- G. Connection fees, rates, rentals, and other charges of any kind authorized in accordance with this chapter shall be a first lien or charge against the property to which the service is provided. Liens levied in accordance with this section shall be enforceable and collectible in the manner provided for real property tax liens in Chapter 5 of Title 54 of the Revised Statutes.

- H. If any part of the amount due and payable in connection fees, rates, rentals or other charges of any kind remains unpaid for 30 days following the date for the payment thereof, interest upon the amount unpaid shall accrue at a rate of 18% per annum.

§ 219-17. Discontinuance of service; restoration of service.

[Added 9-7-2016 by Ord. No. 16-14]

- A. Water and sewer charges shall be billed monthly, and shall be paid no later than the date for payment set forth in the bill. The date for payment set forth in the bill shall be not less than 10 calendar days nor more than 21 calendar days from the date the bills are mailed.
- B. Department of Water and Sewer staff shall discontinue service to any property for the failure to pay any amount owing within 30 days after the date the amount is due and owing, provided that written notice of the proposed discontinuance of service and of the reasons therefor has been given, within at least 10 days prior to the date of discontinuance, to the owner of record of the property. In the event that notice is provided by mail, the notice requirements shall be satisfied if the mailing is made to the last known address of the owner of record and is postmarked at least 10 days prior to the date of discontinuance.
- C. Service shall not be restored to the premises until the customer pays in full all arrearages, the shut-off fee, and the turn-on fee.
- D. Medical emergencies.
 - (1) Discontinuance of residential service for nonpayment may be suspended for a period of up to two months when a customer submits to the Borough Administrator a physician's written statement affirming the existence of a medical emergency within the premises, the nature and probable duration of such emergency

condition, and that discontinuance of service will aggravate the medical emergency. The physician's statement must be accompanied by proof from the customer of the customer's inability to pay the utility bill in full during the medical emergency.

- (2) In the circumstance of a medical emergency where the postponement request is approved by the Borough Administrator, the customer shall execute an installment payment plan agreeing to pay the arrearages in full no more than two months from the end of the suspension period, in addition to paying all future charges no later than the date for payment thereof. The customer shall pay an administrative fee of \$25 per month for each month of the installment agreement. Failure to comply with the terms of the installment payment agreement will result in immediate discontinuance of service with no additional notice.

[1] *Editor's Note: Former § 219-17, Sewer charges, as amended, was repealed 7-17-2013 by Ord. No. 13-21.*

Article IV. Sewer Connections, Generally

§ 219-18. Drain size.

Where a building is to be connected with the sewer, it must be done by a drain not less than four inches in diameter from the building to the curb, and from the curb to the Y-branches, such drains must be not less than five inches in diameter, having a fall of not less than 1/4 of an inch to a foot, unless special permission therefor be obtained, in writing, from the Borough Engineer or Administrator.

§ 219-19. Cutting of main or laterals; house drain connections.

The main or lateral sewers must not be cut; house drain connections must be made with the Y-branches.

§ 219-20. Prosecution of work.

All work in making the connections must be done in compliance with the national Plumbing Code and to the satisfaction of the person in charge of sewers; the bottom of the trenches must be carefully rammed so as to prevent the unequal settling of the drainpipe. The pipes shall be covered to the depth of at least one foot with well-rammed fine earth, free from stones and rubbish; all the filling shall be well rammed, so as to prevent settling in the streets, and within 48 hours after the drain is opened, the drain must be completed and the paving ballast replaced as found and the surface of the street left in the best possible condition, to the satisfaction of the person in charge of sewers as aforesaid.

§ 219-21. Matter and waters prohibited from sewers.

[Amended 12-20-2001 by Ord. No. 2001-21]

No offal, refuse, solid or indissoluble matter shall be allowed to enter the sewers, nor shall roof water, stormwater, groundwater, or overflow water from cisterns, privies or cesspools, nor exhaust steam, be permitted therein. All sinks, basins, bath and laundry tubs and cellar drains shall have properly constructed screens, placed so as to keep out all the above-listed and similar materials.

§ 219-22. Interference with sewer system.

No person, unless authorized by the Mayor and Council or the Sewer Committee, shall remove the coverings from the flush tanks, manholes, lampholes or in any way obstruct or interfere with the workings of the sewer system or any part thereof.

§ 219-23. Price for laying of laterals.

[Amended 12-16-1998 by Ord. No. 98-37; 12-20-2001 by Ord. No. 2001-21; 3-15-2006 by Ord. No. 06-02]

- A. The owner or owners of the property to which such sewer connection shall be made shall pay to the Borough Clerk the following prices for the laying of laterals to make house connections to the sewer system, which

connection shall be run from the "Y" in the street lateral to the property line:

- (1) For a four-inch service: \$1,200.
- (2) For a six-inch service: \$1,400.
- (3) For an eight-inch service: \$1,600.

- B. The charges under the above Subsection **A(1), (2) and (3)** will only be implemented in the event that said services are available to the property submitted in the application.

§ 219-24. Connection to available sewers required.

All dwellings or buildings fronting, abutting or located on any street, highway, lane or avenue in which a sewer is constructed shall connect said dwellings or buildings with said sewer according to ordinances, rules and regulations of the Borough of Seaside Heights which are now or may hereafter be in force and effect with respect to the same, and all said dwellings and buildings are hereby required to be connected with the sewerage system in the said Borough of Seaside Heights.

§ 219-25. Rules and regulations; violations and penalties.

[Amended 12-20-2001 by Ord. No. 2001-21]

- A. It shall be unlawful for anyone to use water supplied by the Borough of Seaside Heights, where a meter has been duly installed, without said water running through the meter. Any water users who tamper with their plumbing to allow for unmetered usage will be subject to a maximum fine of \$1,000 and/or a maximum of six months' imprisonment for each violation, and each violation of any of the provisions of this chapter and each day that such violation shall continue shall be deemed to be a separate and distinct offense.
- B. Any individual who tampers with, alters or in any way interferes with the operation of a water meter or water service shall be subject to a maximum fine of \$1,000 and/or a maximum of six months' imprisonment for each violation, and each violation of any of the provisions of this chapter and each day that such violation shall continue shall be deemed to be a separate and distinct offense. In addition, the Borough may discontinue the supply of water service and remove its equipment from a consumer's premises without notice, in the event evidence is found that the Water Department's piping, meters, valves or other property or appurtenances on the consumer's premises have been tampered with to illegally divert the supply.
- C. Employees of the Water/Sewer Department of the Borough of Seaside Heights shall be allowed access to individual water meters at all times during the regular workweek between the hours of 9:00 a.m. and 5:00 p.m. Said access shall be given after the employee presents proper identification. Anyone who refuses said employee access or who interferes with said employee shall be subject to a fine not to exceed \$1,000.
- D. Meter reading. Anyone wishing an additional meter reading must submit such request in writing at least five days in advance of the date of said reading. This request is to be submitted to the Borough Hall Water Billing Department and shall be accompanied by a fee of \$10 for said special reading.
- E. Water meters. Placement of and access to water meters shall be as follows:
 - (1) The Borough Water Department shall make all final decisions as to locations and placement of meters and whether the system is better served with a meter pit or interior-installed meter.
 - (2) The customer shall be responsible for giving access to the pipes on his/her property should an interior meter need to be installed. The Borough Water Department employees shall install all valves, backflow preventors and other needed fittings when installing a meter. Subsequent to the installation of a new meter as hereinabove described, maintenance and replacement of said meter shall be the responsibility of and at the discretion of the Borough of Seaside Heights through its Water Department.
 - (3) The Borough Water Department shall have access to all meters at all times. Failure to abide by this section shall subject the customer to the penalties hereinafter set forth.
 - (4) Any customer requesting the testing of a meter must do so in writing. If the test results show the meter to be running fast, there will be no charge for the testing. If, however, the test shows the meter to be accurate

within 5% of 100%, or running slow, then the customer will be billed and obligated to pay a fee of \$150 for the test.

[Added 2-6-2002 by Ord. No. 2002-1]

- F. Except as otherwise established by this section, any person violating or failing to comply with any other provision of this article shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$1,000, by imprisonment not to exceed 90 days or by community service of not more than 90 days, or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.
- G. The violation of any provision of this chapter shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

Chapter 223. Vehicles and Traffic

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 2-19-1997 by Ord. No. 97-1. Amendments noted where applicable.]

GENERAL REFERENCES

Bicycles and skateboards — See Ch. **36**.

Parking — See Ch. **146**.

Streets and sidewalks — See Ch. **203**.

Vehicles on beaches — See Ch. **227**.

Storage of vehicles — See Ch. **231**.

Article I. Removal of Vehicles

§ 223-1. Removal authorized; conditions.

Members of the Police Department are hereby authorized to have a vehicle removed from a street or highway to the nearest garage or other place of safety or to a parking area maintained by the Police Department under the circumstances hereinafter enumerated:

- A. When any vehicle is left unattended upon any street where such vehicle constitutes an obstruction to traffic.
- B. When a vehicle upon a street is so disabled as to constitute an obstruction to traffic and the person in charge of the vehicle is by reason of physical injury incapacitated to such an extent as to be unable to provide for the vehicle's custody or removal.
- C. When any vehicle is left unattended upon a street and is parked in violation of any municipal ordinance.

§ 223-2. Notice to owner.

If an officer removes a vehicle from a street as authorized herein and the officer is able to ascertain the name and address of the owner thereof, such officer shall immediately give notice in writing to such owner of the removal and the reasons therefor and of the place to which the vehicle has been removed.

§ 223-3. Procedure, fees.

The owner of any such vehicle which has been removed from a street and impounded as above is responsible for complying with procedures for repossession and for all fees related to towing and storage.

§ 223-3.1. Removal of vehicles from private property.

[Added 12-20-2000 by Ord. No. 2000-27]

Operators engaged in the removal of motor vehicles, other than removal requested by vehicle owner, from private or public property in the Borough of Seaside Heights must comply with the following regulations:

- A. Maximum time for response to calls regarding tows. All towing services shall respond to a call for a tow in any part of the Borough within 20 minutes of receipt of a call for such service and all cars previously towed shall be returned to any part of the Borough within one hour of receipt of a call requesting such return.
[Amended 6-21-2006 by Ord. No. 06-12]
- B. Storage. Storage shall be provided for all vehicles towed until claimed by the vehicle owner or disposed of in accordance with applicable law. The contractor shall provide an adequate off-street private property storage area.
- C. The operator shall provide to the Borough the year, make, model, vehicle identification number, type of vehicle, registration number and proof of insurance. The operator shall also provide the addresses where the operator shall be regularly based, telephone numbers available on a twenty-four-hour-per-day basis and the name of the operators, their addresses and the serial numbers of their New Jersey motor vehicle licenses.
[Amended 2-19-2003 by Ord. No. 03-03]
- D. Any person towing or booting vehicles on private property within the Borough of Seaside Heights shall provide a receipt for said towing or booting to the owner or operator of the vehicle and shall keep duplicate copies of said receipt or a log of all towing or booting for a six-month period.
[Added 2-19-2003 by Ord. No. 03-03]

§ 223-3.2. Maximum rates and charges for vehicles towed from public or private property.

[Added 12-20-2000 by Ord. No. 2000-27; amended 9-5-2001 by Ord. No. 2001-13; 11-21-2001 by Ord. No. 2001-17; 5-3-2006 by Ord. No. 06-08; 6-21-2006 by Ord. No. 06-12]

Maximum rates and charges for vehicles towed from public or private property shall be as follows:

- A. Maximum basic towing shall be \$105.
- B. Maximum storage fee charges shall be \$25 per day.
- C. Maximum fee for application and removal of a wheel immobilization device ("boot") shall not exceed the municipal fee for parking meter zone violations as established by § **146-27** of the Borough Code, such fee to include all charges for both application and removal. Such devices shall only be utilized on vehicles which are not removed from the parking lot. Where a wheel immobilization device is applied to a vehicle on private property, a written notification including a phone number to be called to request removal of the wheel immobilization device shall be affixed to the vehicle to which said device was applied. Removal of said device shall be accomplished within one hour of the request for removal, provided that the fee for removal has been paid.

§ 223-3.3. Violations and penalties.

[Added 12-20-2000 by Ord. No. 2000-27; amended 6-21-2006 by Ord. No. 06-12]

The provisions of this article shall be enforced by the Police Department of the Borough of Seaside Heights. The following violations and penalties shall apply:

- A. Any person violating or failing to comply with any other provision of this article shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$1,250, by imprisonment for not to exceed 90 days or by community service of not more than 90 days, or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.
- B. The violation of any provisions of this article shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

Article II. Interrupting or Obstructing Passage of Traffic at or in Intersections

§ 223-4. Obstructing passage of traffic prohibited.

No person shall stop or operate a motor vehicle so that said motor vehicle shall block the passage of traffic at an intersection or occupy a street so as to obstruct the passage of traffic. Nor shall any operator of a motor vehicle stand or park said motor vehicle within an intersection within the Borough of Seaside Heights.

§ 223-5. Exceptions.

This section shall not apply to any vehicle of or operated by a federal, state or municipal official while on official business or any public safety or emergency vehicle or any police vehicle.

§ 223-6. Violations and penalties.

Any person who violates the provisions of this chapter shall be subject to a fine of \$65 for each separate offense.

Article III. Vehicle Weight Limits and Routes

§ 223-7. Vehicles over four tons excluded from certain streets.

[Amended 12-3-1997 by Ord. No. 97-13]

Trucks, buses and other motor vehicles over four tons' gross weight are hereby excluded from the streets or parts of streets established by resolution, except for the pickup and delivery of materials or passengers on such streets, said resolution being adopted and amended from time to time by the Borough Council.

§ 223-8. Route for vehicles over four tons.

- A. The streets or parts of streets, established by resolution, are hereby designated as routes for trucks, buses and other motor vehicles over four tons' gross weight, and such vehicles are hereby excluded from all other streets, except for the pickup or delivery of materials or passengers along such streets, said resolution being adopted and amended from time to time by the Borough Council.^[1]

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

- B. Streets forming this route shall be clearly marked by signs placed and maintained to clearly show the routes for motor vehicles over four tons by both day and night. Said signs shall designate the weight of the vehicles which are required to use said routes.

Article IV. One-Way Streets

§ 223-9. One-way streets designated.

The streets or parts of streets established by resolution, adopted and amended from time to time by the Borough Council, are hereby designated as one-way streets in the direction indicated.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

Article V. Through Streets, Stop and Yield Intersections

§ 223-10. Through streets designated.

Pursuant to the provisions of N.J.S.A. 39:4-140, the streets or parts of streets established by resolution, adopted and amended from time to time by the Borough Council, are hereby designated as through streets. Stop signs shall be installed on the near right side of each street intersecting the through street, except where yield signs are provided for in the designations.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

§ 223-11. Stop intersections designated.

Pursuant to the provisions of N.J.S.A. 39:4-140, the intersections established by resolution, adopted and amended from time to time by the Borough Council, are hereby designated as stop intersections. Stop signs shall be installed as provided therein.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

§ 223-12. Yield intersections designated.

Pursuant to the provisions of N.J.S.A. 39:4-140, the intersections established by resolution, adopted and amended from time to time by the Borough Council, are hereby designated as yield intersections. Yield signs shall be installed as provided therein.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

§ 223-13. Dead-end streets designated.

The streets established by resolution, adopted and amended from time to time by the Borough Council, are hereby designated as dead-end streets. Dead-end street signs shall be installed as provided therein.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

Article VI. Bus Stops

§ 223-14. Bus stops designated.

The locations established by resolution, adopted and amended from time to time by the Borough Council, are hereby designated as bus stops.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

Article VII. Passing and Turning Prohibitions

§ 223-15. Left-turn prohibitions.

No person shall make a left turn at any of the locations established by resolution, adopted and amended from time to time by the Borough Council.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

§ 223-16. U-turn prohibitions.

No persons shall make a U-turn at any of the locations established by resolution, adopted and amended from time to time by the Borough Council.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

§ 223-17. No turns.

No person shall make a turn at any of the locations established by resolution, adopted and amended from time to time by the Borough Council.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

§ 223-18. No-passing zones designated.

- A. No-passing zones are hereby established and shall be maintained along those streets or parts of streets established by resolution, adopted and amended from time to time by the Borough Council, as authorized by the New Jersey Department of Transportation.^[1]

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

- B. Regulatory and warning signs shall be erected and maintained to effect the above-designated no-passing zones.

Article VIII. Speed Limits

§ 223-19. Limits established.

The speed limit for both directions of traffic along the streets or parts thereof established by resolution, adopted and amended from time to time by the Borough Council, is hereby established at the rate of speed indicated.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

§ 223-20. Posting of signs.

Regulatory and warning signs shall be erected and maintained to effect the above-designated speed limits as authorized.

Article IX. Penalties

§ 223-21. Violations and penalties.

- A. Unless another penalty is expressly provided by New Jersey statute or another section of this chapter, every person convicted of a violation of the provisions of this chapter or any supplement thereto shall be liable to the penalties set forth in N.J.S.A. 39:4-203.

- B. Violation of certain sections.

- (1) Any person violating Articles **IV** through **VIII** of this chapter may avoid a court appearance for the first or second offense by pleading guilty and paying the following fine:

(a) First offense: \$35.

(b) Second offense: \$60.

- (2) Any person charged with a third or subsequent offense shall be required to make a court appearance and be subject to the penalties set forth in § **223-38**.

§ 223-22. (Reserved)

§ 223-23. (Reserved)

§ 223-24. (Reserved)

§ 223-25. (Reserved)

§ 223-26. (Reserved)

§ 223-27. (Reserved)

§ 223-28. (Reserved)

§ 223-29. (Reserved)

§ 223-30. (Reserved)

§ 223-31. (Reserved)

Article X. Snow Emergencies

[1] *Editor's Note: Former Art. X, Schedules, which immediately preceded this article, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

§ 223-32. Definitions.

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

ESSENTIAL VEHICLE

Those vehicles that are vital or necessary for the safe and orderly operation of the Borough during a snow emergency, such as but not limited to police vehicles and public works vehicles.

SNOW

Any precipitation depositing any accumulation on the streets, roads or highways, including but not limited to snow, sleet, hail or freezing rain.

SNOW EMERGENCY

The accumulation of snow to such an extent that a snow emergency has been declared by the Mayor or his designee, required in order to combat the hazardous conditions.

§ 223-33. Parking prohibited.

- A. Parking of any vehicle on any portion of a Borough road, street or highway improved, designated or ordinarily used for vehicular traffic is prohibited whenever snow has fallen and results in an accumulation sufficient to require plowing of Borough roads, streets or highways by the Borough Department of Public Works.
- B. Said parking prohibition shall remain in effect after the snow has ceased and the streets, roads or highways have been plowed sufficiently and to the extent that parking will not interfere with the normal flow of traffic, as determined by the Borough Council.

§ 223-34. Removal of vehicles.

Any unoccupied vehicle parked in violation of this article shall be deemed a nuisance and a menace to the safe and proper regulation of traffic, and any police officer may provide for the removal of such vehicle. The owner shall pay the reasonable costs of the removal and storage which may result from such removal before regaining possession of such vehicle.

§ 223-35. Driving restrictions during snow emergency.

At the discretion of the Borough Council, driving restrictions may be imposed, as warranted by the severity of the storm, to ensure the safety of the general public.

§ 223-36. Police escort required.

Whenever a snow emergency has been declared in accordance with this article, the Borough Police Department shall provide any necessary escort services for the Public Works Department employees engaged in plowing Borough roads, in order to facilitate plowing and clearing of the roads.

§ 223-37. Construction of provisions.

- A. Nothing in this article shall be construed to permit parking at any time or place where it is forbidden by other provisions of the New Jersey statutes or the Borough Code.
- B. Nothing in this article shall be construed to conflict with the provisions of the New Jersey statutes pertaining to driving during emergencies.

§ 223-38. Violations and penalties.

Any person violating or failing to comply with any other provision of this article shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$1,000, by imprisonment not to exceed 90 days or by community service of not more than 90 days or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.

Chapter 227. Vehicles on Beaches

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 2-19-1997 by Ord. No. 97-1. Amendments noted where applicable.]

GENERAL REFERENCES

Beach regulations — See Ch. 33.

Vehicles and traffic — See Ch. 223.

§ 227-1. Purpose.

The purpose of this chapter is to protect the safety of those who frequent our ocean beaches from the dangers created by the operation of unlicensed and improperly equipped motor vehicles upon the borough's ocean beaches for recreation. Further, this chapter is designed to protect those who would otherwise unduly subject themselves, as well as others, to the dangers created by failure to maintain a properly equipped or proper type of motor vehicle.

§ 227-2. Operation of four-wheel-drive vehicles.

The following rules and regulations shall be adhered to by all those operating four-wheel-drive motor vehicles upon the ocean beach in Seaside Heights.

- A. Anyone desiring to operate a motor vehicle on the ocean beach in Seaside Heights for recreational purposes shall be required to apply to the Seaside Heights Police Department and pay a registration fee of \$15 for said registration.
- B. The Seaside Heights Police Department may, before issuing the aforesaid registration, inspect the four-wheel-drive vehicle in order to ensure that said vehicle is properly equipped for beach use and for fishing.
- C. Upon issuance of the aforesaid registration, the registrant may be issued a key for a locked entrance to the beach to be designated by the Police Department. In the event that the registrant is issued a key, said registrant shall be responsible for securing and locking the ramp upon entering and leaving the ocean beach area. Failure to comply with this section will subject the driver to the penalties provided by this chapter.
- D. Upon entering the ocean beach, no vehicle shall be operated within 70 feet of the boardwalk or pier areas.
- E. There shall be no eating, sleeping or camping on the ocean beach at any time. In addition, it shall be unlawful for anyone to deposit wastes of any type, including, but not limited to, human, animal, vegetable, mineral or otherwise, upon the ocean beach.

- F. No person shall operate a motor vehicle of any type for any purpose other than Seaside Heights official or emergency business upon the ocean beach at any time from May 15 through September 15.

§ 227-3. Only four-wheel-drive vehicles allowed.

During the remainder of the year, only four-wheel-drive motor vehicles equipped for beach and fishing use shall be allowed to be operated on the beach.

§ 227-4. Conformance with statute required.

During the period when certain vehicles are permitted to be operated upon the ocean beach, they shall be so operated subject to and in conformance with the following provisions of Title 39 of the New Jersey Statutes:

- A. N.J.S.A. 39:3-3 to 39:3-82, registration and licensing, equipment, tires and loads.
- B. N.J.S.A. 39:6A-1 et seq. and 39:6B-1 et seq., no-fault insurance and compulsory liability insurance.

§ 227-5. Prohibited acts.

The following acts prohibited by Title 39 of the New Jersey Statutes shall also be deemed prohibited on the places of resort within the Borough of Seaside Heights:

- A. N.J.S.A. 39:4-49.1, operating a motor vehicle with certain drugs in possession or in motor vehicle.
- B. N.J.S.A. 39:4-50 to 39:4-50.5, operating under the influence of liquor or drugs.
- C. N.J.S.A. 39:4-52, racing.
- D. N.J.S.A. 39:4-96, reckless driving.
- E. N.J.S.A. 39:4-97, careless driving.

§ 227-6. Speed limit.

The speed limit upon any ocean beach within the municipality shall be 15 miles per hour.

§ 227-7. Violations and penalties.

- A. Any person violating or failing to comply with any other provision of this article shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$1,000, by imprisonment not to exceed 90 days or by community service of not more than 90 days or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.
- B. The violation of any provision of this chapter shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

Chapter 231. Vehicles, Storage of

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 2-19-1997 by Ord. No. 97-1. Amendments noted where applicable.]

GENERAL REFERENCES

Vehicles and traffic — See Ch. 223.

§ 231-1. Definitions.

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

MOTOR VEHICLE INCAPABLE OF BEING USED OR OPERATED

A motor vehicle which cannot be moved under its own power from place to place upon any public street or highway.

STORE or STORED

The keeping of a motor vehicle upon any lands for a period of more than 15 days.

TRAILER

Any structure designed for mounting upon wheels and incapable of moving or traveling under its own power. Such trailers are normally connected to a cab or motorized unit for hauling.

§ 231-2. Storage of inoperative vehicles prohibited; exceptions.

No person, firm, corporation or other entity shall hereafter store or permit to be stored upon any lands within the Borough of Seaside Heights any motor vehicle which is not capable of being used or operated, unless said motor vehicle is garaged, except that the foregoing should not apply to any person, firm, corporation or other entity holding a valid license to carry on, maintain or establish any motor vehicle business, motor vehicle junkyard or any person, firm or corporation possessing a state license to sell secondhand motor vehicles.

§ 231-3. Trailer storage prohibited.

- A. It shall be unlawful for any individual, partnership, corporation or other entity to store upon any lands within this municipality any trailer, whether attached or unattached to a cab or motorized unit. It shall further be unlawful to use any such unit for storage of any goods or objects while in this municipality.
- B. For the purpose of this chapter, it shall be presumed that any individual, partnership, corporation or other entity is storing any trailer as prohibited by this chapter when the trailer shall remain in the stationary position for more than 24 hours upon any private or public lands within the municipal limits.
- C. It shall be unlawful for any individual, partnership, corporation or other entity to park or store upon any roadway or other public property within the Borough of Seaside Heights any boat or boat trailer; any motorcycle, jet-ski, or personal watercraft trailer; any camping or recreational type trailer; and any other type of trailer whatsoever unless the same has been properly registered with the Division of Motor Vehicles and is attached to a properly registered motor vehicle in which case such motor vehicle and attached trailer shall not be parked or stored for more than one 24 hour period.
- D. The storage or parking on private property of any such vehicle and trailer as set forth in § 231-3C shall be within the established building or setback lines.

§ 231-4. Exemptions.

- A. This chapter shall not apply to trailers being used in connection with a temporary function which is sanctioned by the municipality. Any of these duly sanctioned functions, such as a circus or carnival, shall be exempt from this chapter.
- B. All municipal, fire company or first aid equipment shall be exempt from the provision of this chapter.
- C. Any temporary construction trailers and equipment, when used in conjunction with a construction project, shall be exempt from the provisions of this chapter.
- D. All dumpsters used in connection with a duly licensed business operation shall be exempt from the provisions of this chapter.
- E. This chapter shall not apply to any trailer, container or other equipment used by the borough or any other person, organization or entity with the approval of the borough, for the storage of recycled materials.
- F. This chapter shall not apply to the official impound yard for motor vehicles as authorized by the Borough of Seaside Heights.

§ 231-5. Violations and penalties.

- A. Any person violating or failing to comply with any other provision of this article shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$1,000, by imprisonment not to exceed 90 days or by community service of not more than 90 days or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.
- B. The violation of any provision of this chapter shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

Chapter 236. Volunteer Fire Department

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 2-19-1997 by Ord. No. 97-1. Amendments noted where applicable.]

§ 236-1. Members.

[Amended 10-4-2006 by Ord. No. 06-14]

The members of the Volunteer Fire Department of the Borough of Seaside Heights shall be under the supervision and control of the Borough of Seaside Heights at all times. No person shall be permitted to serve in the Volunteer Fire Department of the Borough of Seaside Heights unless and until he has been approved by the Borough Council of the Borough of Seaside Heights.

§ 236-2. Municipal supervision and control.

Pursuant to N.J.S.A. 40A:14-68, the members of Volunteer Fire Department of the Borough of Seaside Heights shall be under the supervision and control of said municipality, acting through its Administrator, and in performing fire duty shall be deemed to be exercising a governmental function.

§ 236-3. Approval of members; resignation; terminations.

- A. The names of all prospective firefighters shall be submitted to the Borough Council by the Chief of the existing fire department for approval by the Borough Council prior to any performance of fire service by any prospective member. The Borough Council may order an investigation into the background of a prospective firefighter. Prospective firefighters may be required to have a pre-appointment physical by a physician selected by the Borough Council.
- B. As of the effective date of this chapter, no new members of the Volunteer Fire Department of the Borough of Seaside Heights shall be proposed by the Fire Department or approved by the Borough Council unless the total number of existing active members is less than 40.
- C. Suspensions, resignations and terminations of members from the fire department shall be subject to the approval of the Borough Council.
- D. The Borough Council may, on its own motion, seek the suspension, resignation or termination of a firefighter if it deems that same is reasonably necessary for the health, safety and welfare of the Borough of Seaside Heights and its citizens.
- E. All members and prospective members of the Volunteer Fire Department of the Borough of Seaside Heights must be willing to submit to a background investigation by the Seaside Heights Police Department. No one with a criminal record will be permitted to serve in the Volunteer Fire Department of the Borough of Seaside Heights.

§ 236-4. Appointment of Chief.

Pursuant to N.J.S.A. 40A:14-68, appointment or election of the Chief of the volunteer fire company shall remain the prerogative of the membership of the fire company as set forth in the company's certificate of incorporation or bylaws.

§ 236-5. Insurance.

The Volunteer Fire Department of the Borough of Seaside Heights and its members shall comply with any and all requirements as required by the Ocean County Joint Insurance Fund or the borough's insurance carrier for insurance coverage by the Ocean County Joint Insurance Fund or the borough's insurance carrier.

Chapter 237. Volunteer Fire Department Losap

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 8-15-2001 by Ord. No. 2001-12. Amendments noted where applicable.]

GENERAL REFERENCES

Volunteer Fire Department — See Ch. 236.

§ 237-1. Program created.

A Length of Service Awards Program (LOSAP) is herewith created in accordance with P.L. 1997, c. 388,^[1] to reward members of the Volunteer Fire Department of Seaside Heights for their loyal, diligent, and devoted services to the residents of the Borough of Seaside Heights.

[1] *Editor's Note: See N.J.S.A. 40A:14-183 et seq.*

§ 237-2. Annual contributions.

The LOSAP shall provide for fixed annual contributions to a deferred-income account for each volunteer member that meets the criteria set forth below; such contributions shall be made in accordance with a plan that shall be established by the Borough of Seaside Heights pursuant to P.L. 1997, c. 388; and said plan shall be administered in accordance with the laws of the State of New Jersey, the U.S. Internal Revenue Code, and this chapter.

§ 237-3. Criteria for eligibility.

The LOSAP shall provide for fixed annual contributions to each eligible member that meets the criteria as follows:

- A. Points schedule. "Calls" shall include fires, drills, meetings and duty calls. Further, every two hours spent doing work at the firehouse shall count as one call.

Response Percentage Converted to Point Values	Amount of Contribution
33 1/3%-39% of calls shall equal 33 1/3 points	\$100
40%-49% of calls shall equal 40 points	300
50%-59% of calls shall equal 50 points	650
60% or more calls shall equal 60 points	1,150

- B. Any active member of the Volunteer Fire Department of Seaside Heights, an active member being a member who attend 33 1/3% of all calls in a calendar year, shall be eligible to participate in the LOSAP immediately upon commencement of volunteer services with the Volunteer Fire Department of Seaside Heights. An active member of the Volunteer Fire Department must have five years of active volunteer service before the account established pursuant to the LOSAP vests. Proof of any year or years of service during which year or years a member had a 33 1/3% call response record within the 10 years prior to the enactment of this chapter shall be counted toward the five-year vesting period.

§ 237-4. Estimated cost.

The estimated total cost of the program has been calculated at \$69,000 for regular annual services, based on the Volunteer Fire Company bylaws which provide for a maximum of 60 members.

§ 237-5. Points.

Each active volunteer member shall be credited with points for volunteer services provided to the Volunteer Fire Department of Seaside Heights in accordance with the point schedule set forth in § **237-3A** of this chapter.

§ 237-6. Minimum contribution.

The minimum contribution for each active volunteer member shall be \$100 per year of active emergency service, and the maximum contribution for each active volunteer member shall be \$1,150 per year of active emergency service, subject to periodic increases permitted pursuant to N.J.S.A. 40A:14-185.

§ 237-7. Filing required after referendum.

A copy of this chapter, once approved by the voters pursuant to the public question required by P.L. 1997, c. 388, shall be filed with the Division of Local Government Services within 30 days of the date of the referendum.^[1]

[1] *Editor's Note: Ordinance No. 2001-12 was approved at the general election 11-6-2001.*

Chapter 240. Water Use Restrictions

[HISTORY: Adopted by the Borough Council of the Borough of Seaside Heights 2-19-1997 by Ord. No. 97-1. Amendments noted where applicable.]

§ 240-1. Declaration of water emergency.

Whenever the governing body shall be satisfied and finds that a water emergency exists in the borough's water service area, it may adopt a resolution declaring that a water emergency exists in the water service area. Such resolution shall be adopted by the governing body at any regular, special, adjourned or emergency public meeting of the governing body. Such resolution shall identify that portion of the water service area affected by the water emergency, which may include the entire water service area and shall specify which of the water use regulations contained in § **240-2** of this chapter is being imposed as well as any exemptions as may be authorized. Such resolution shall be effective immediately upon publication according to law and shall continue in effect for 90 days, unless extended or repealed as set forth in § **240-3** of this chapter. For the purpose of this section, a water emergency shall exist for any of the following reasons:

- A. The public utility providing water service to all or a portion of the water service area has adopted water use restrictions, has notified the municipality, the New Jersey Board of Public Utilities and the New Jersey Department of Environmental Protection, as well as any other state, county or local agency entitled to notice of such restrictions and such restrictions are not overruled or declared invalid by any state, county or local agency having the jurisdiction and power to do so; or
- B. The governing authority is otherwise satisfied that a water emergency exists in the water service area.

§ 240-2. Water use restrictions.

Upon adoption by the governing body of a resolution declaring that a water emergency exists in the water service area in accordance with § **240-1** of this chapter, all citizens shall be urged to observe voluntary indoor conservation measures, and any of the following water use restrictions shall be imposed and shall be applicable to all residents and tenants, except where a bona fide health emergency exists and to exempt businesses, as specified herein during the water emergency:

- A. The complete ban and prohibition of outside water usage, including the watering of lawns and plants, the filling of pools and the washing of cars; or
- B. Outside water usage on alternate days allowing outside water usage by persons or businesses having even house or box numbers on even days and those having odd house or box numbers on odd days with outside water usage being completely banned and prohibited on the 31st day of any month during the water emergency; or

- C. Any other water use restriction specified by the governing body in the resolution required by § 240-1 of this chapter which is reasonable under the circumstances considering the nature and extent of the water emergency. Any water restriction imposed pursuant to this subsection shall be limited in application to that portion of the water service area, which may include the entire water service area, identified as being affected by the water emergency in the resolution of the governing body adopted in accordance with § 240-1 of this chapter.

§ 240-3. Duration of water use restrictions.

The resolution of the governing body required by § 240-1 of this chapter shall, in addition to complying with § 240-1, provide a period of time during which the water use restrictions imposed shall be applicable and which shall be no longer than reasonably necessary to abate the water emergency under the circumstances considering the nature and extent of the water emergency. At the expiration of the time period specified in the resolution, the water use restriction shall lapse and be inapplicable and unenforceable. If the governing body shall be satisfied that the water emergency has been abated prior to the expiration of the time period specified in the resolution, it shall adopt a resolution declaring the water emergency ended and the water use restrictions inapplicable. If, at the expiration of the time period specified in the resolution, the governing body shall be satisfied that the water emergency continues to exist, it may adopt a resolution in accordance with the requirements of this chapter continuing the water use restrictions.

§ 240-4. Enforcement of water use restrictions.

The water use restrictions imposed pursuant to this chapter shall be enforced during a water emergency by the Seaside Heights Police Department, the Seaside Heights Water Department and the Borough Code Enforcement Officer. Whenever a local authorized official shall find a violation of the water use restrictions, such authorized official shall give the violator a written warning and explain the penalties for a second and third offense as provided by § 240-5 of this chapter. The local authorized official shall keep such records as may be reasonable and necessary for the purpose of determining the persons and businesses who have been warned upon a first offense. The local authorized official is hereby empowered to write summonses for the violation of the water use restrictions imposed pursuant to this chapter.

§ 240-5. Penalties.

- A. Any person violating or failing to comply with any other provision of this article shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$1,000, by imprisonment not to exceed 90 days or by community service of not more than 90 days or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.
- B. The violation of any provision of this chapter shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

Chapter 246. Zoning and Land Use

[HISTORY: Adopted by the Mayor and Council of the Borough of Seaside Heights 4-16-1997 by Ord. No. 1997-4. This ordinance repealed all previous land development ordinances of the Borough, specifically the following chapters of the 1974 Code of the Borough of Seaside Heights: Ch. 60, Site Plan Review, and Chapter 83, Zoning. Amendments noted where applicable.]

GENERAL REFERENCES

Certificates of occupancy — See Ch. 55.
Signs — See Ch. 191.

Article I. General Provisions

§ 246-1. Short title.

This chapter shall be known as the "Borough of Seaside Heights Land Use Ordinance."

§ 246-2. Intent; purpose.

The intent and purposes of this chapter are:

- A. To encourage municipal action to guide the appropriate use and development of all lands in the Borough of Seaside Heights in a manner which will promote the public health, safety, morals and general welfare;
- B. To secure safety from fire, flood, panic and other natural and manmade disasters;
- C. To provide adequate light, air and open space;
- D. To ensure that the development of the Borough of Seaside Heights does not conflict with the development and general welfare of neighboring municipalities, the county and the state as a whole;
- E. To promote appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions and preserve the environment;
- F. To encourage the appropriate and efficient expenditure of public funds by the coordination of public development with land use policies;
- G. To provide sufficient space in appropriate locations for a variety of land uses, and open space, both public and private, according to their respective environmental requirements, in order to meet the needs of the residents of the Borough of Seaside Heights;
- H. To encourage the location and design of transportation routes which will promote the free flow of traffic while discouraging location of facilities and routes which result in congestion or blight;
- I. To promote a desirable visual environment through creative development techniques and good civic design and arrangements;
- J. To promote the conservation of historic sites, open space, energy resources and valuable natural resources and to prevent urban sprawl and degradation of the environment which might otherwise occur through improper use of land;
- K. To encourage development which is carefully planned to incorporate the best features of design and properly relate the land use development to the particular site;
- L. To encourage senior citizen community housing construction consistent with provisions permitting other residential uses of a similar density in the same zone;
- M. To encourage coordination of the various public and private procedures and activities shaping land development with a view of lessening the cost of such development and to the more efficient use of land;
- N. To promote use of renewable energy resources; and
- O. To promote the maximum practicable recovery and recycling of materials from municipal solid waste through the use of planning practices designed to incorporate and complement the State Recycling Plan goals.

§ 246-3. Establishment of controls.

The regulations established by this chapter shall be held to be the minimum requirements and shall apply uniformly to each class or kind of structure or land. It is not the intention of this chapter to interfere with, abrogate or annul any easements, covenants or other agreements between parties; provided, however, that where this chapter imposes a greater restriction with regard to use, height or open space, the provisions of this chapter shall govern.

- A. Use of land; construction of buildings. On and after the effective date of this chapter, no land or building shall be used, constructed, located, altered, rebuilt or enlarged for any purpose within the Borough of Seaside Heights except in conformity with the restrictions and regulations established by this chapter for the zone in which such land or building is located, and in conformity with all other pertinent terms and provisions of this chapter.
- B. Existing uses and structures. In all zones, after the effective date of this chapter, any existing building or structure and all tracts of land, the use of which is not in conformity with the regulations for the zone in which it is

located, shall be deemed as nonconforming and subject to the appropriate regulations of this chapter governing such nonconforming lots, uses and structures.

- C. Failure to comply. Any building constructed, rebuilt, altered or located on or after the effective date of this chapter in violation of the restrictions and regulations established for the zone in which it is located or in violation of other pertinent terms or provisions of this chapter shall be changed, altered, corrected or relocated by the person who constructed or located such building and by the owner of the land on which it is situated so that both building and premises shall conform to all provisions of this chapter. Such change, alteration, correction or relocation shall be made within 30 days after notification, in writing, by the Zoning Officer to the person who constructed, altered or located the building and the owner of the land on which it is located. Such notification shall be by personal service on those to be served or by certified or registered mail, return receipt requested, to the last known address of those to be served.
- D. Any nonconforming building or structure or any building or structure situated upon a nonconforming lot, which has been legally used primarily for year-round occupation, may continue to be occupied on a year-round basis. Any expansion of a nonconforming building or structure or any building or structure situated upon a nonconforming lot from less than year-round use to year-round use, requires the owner to apply for a use variance permitting such expansion.

[Added 6-7-2000 by Ord. No. 2000-11; amended 8-7-2002 by Ord. No. 2002-18]

§ 246-4. Word usage and interpretation.

- A. As used in this chapter, the word "shall" denotes a mandatory requirement, and the term "may" indicates a permissive action.
- B. Words and phrases shall be presumed to have their ordinary meanings, unless specifically defined differently. Disputes concerning definition or interpretation of a word or phrase shall be resolved by the Land Use Board.

§ 246-5. Definitions.

The meaning of words and phrases defined by the Municipal Land Use Law, particularly N.J.S.A. 40:55D-3 through 40:55D-7, if not contained in this section, are incorporated herein and declared to be a part of this chapter. As used in this chapter, the following words and phrases shall have the meanings indicated:

ACCESSORY BUILDING OR STRUCTURE

A building or structure detached from and subordinate to the principal building on the same lot, the use of which is customarily incidental to that of the principal building or structure.

ACCESSORY USE

A use customarily incidental and subordinate to the main use conducted on a lot, whether such accessory use shall be conducted in the main or an accessory building or structure.

ADMINISTRATIVE OFFICER

The Land Use Board Secretary, unless a different municipal official is designated within this chapter.

ALTERATION

As applied to a building or structure, a change or rearrangement in the structural supports or other structural parts, or in the existing facilities; an enlargement, whether by a change in height, width or depth; or moving a building or structure from one location or position to another.

APPLICANT

A developer submitting an application for development.

APPROVING AUTHORITY

The Land Use Board of the Borough of Seaside Heights, unless a different agency is designated by this chapter, when acting pursuant to the authority of the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., and this chapter.

BASEMENT

A story partly underground and having more than 1/2 of its height above the average level of the adjoining ground. A basement shall be counted as a story for the purpose of height measurement if the vertical distance

between the ceiling and the average level of the adjoining ground is more than five feet or if used for business or dwelling purposes.

BILLBOARD

A sign which directs attention to a business, product, commodity, service or entertainment conducted, sold or offered elsewhere than upon the lot on which such sign is situated and designed in conjunction with the sign standards of Chapter 191.

BLOCK

An area of land usually bounded by streets, railways, streams or other barriers to development, which includes within its boundaries land parcels designated by lot numbers on the Municipal Tax Maps.

BREEZEWAY

A covered passageway extending between a main and an accessory building and having a permanent connection so as to be, or become, an integral part of the main building.

BUFFER

An area within a property or site generally adjacent to or parallel with the property line either consisting of natural existing vegetation or created by the use of trees, shrubs or fences and used to visibly separate one use from another or to shield or block noise, lights or other nuisances. Buffers may include fences or berms as well as vegetation. All fences shall be constructed with structural elements and posts facing the property or site on which they are located.

BUILDING

Any structure having a roof supported by columns, piers or walls, or having other support, including tents, lunch wagons, trailers, dining cars, camp cars or other structures on wheels, intended for the shelter, housing or enclosure of any person or use.

BUILDING AREA

The aggregate of the areas of all buildings, as defined in the definition of "building," on a tract. Such areas shall be computed by using outside building dimensions measured on a horizontal plane at ground level.

BUILDING HEIGHT

The vertical distance measured from the ground point determined within this chapter to the top of the roof beam.
[Amended 8-4-2004 by Ord. No. 04-10]

BUILDING, PRINCIPAL

A building or structure in which is conducted the main or principal use of the lot on which said building is situated, to which all other buildings and structures on the lot are accessory.

BUILDING SETBACK LINE

An established line within a property defining the minimum required distance between the face of any structure to be erected and an adjacent right-of-way or street line. All yard requirements are measured to the building line. This is the line which no building or structure shall extend beyond unless otherwise provided for in this chapter.

BUMPERS

Permanent devices set in each stall to block the front wheels and prevent encroachment beyond the stall space.

CANTILEVER

A freestanding projection from a wall of a building or structure to support a balcony, cornice, etc.

CARPORT

An open structure attached to the main building intended for the sheltering of motor vehicles and being not more than 400 square feet in area. The carport shall have no sides, unless such sides are the exterior walls of adjacent buildings or structures.

CELLAR

A story partly underground and having 1/2 or more than 1/2 of its clear height below the average grade of the adjoining ground.

CERTIFICATE OF OCCUPANCY

A certificate issued by the Building Inspector or other designated Construction Official of the Borough of Seaside Heights upon completion of construction, modification or alteration of a building. Said certificate shall

acknowledge compliance with all requirements of this chapter, such adjustments thereto granted by the Land Use Board and/or all other applicable requirements.

CHURCH

A building or group of buildings, including customary accessory buildings, designed or intended for public worship. For the purpose of this chapter, the word "church" shall include chapels, congregations, cathedrals, temples and similar designations, as well as parish houses or rectories, convents and such accessory uses. The word "church" shall exclude, however, buildings or uses for residential, educational, burial, recreational or other purposes not normally associated with worship.

CONDITIONAL USE

A use permitted in a particular zoning district only upon a showing that such use in a specified location will comply with the conditions and standards for the location or operation of such use as contained in this chapter, and upon the issuance of an authorization therefor by the Land Use Board.

CORNER LOT

Any lot fronting on two or more streets.

COUNTER

A board or table in commercial establishments behind which the vendor stands and upon which goods are displayed or consumed or monetary transactions made.

CRAFT DISTILLERY LICENSE

An establishment holding a state-issued craft distillery license pursuant to N.J.S.A. 33:1-10 entitling the holder, subject to state rules and regulations, to manufacture and bottle, distribute and sell the products authorized by such license.

[Added 4-5-2017 by Ord. No. 17-06]

CURB CUT

The opening along the curbline at which point vehicles may enter or leave the roadway.

CURB LEVEL

The elevation of the curb as established. The center-line elevation of the street at the midpoint of the lot.

DENSITY

The permitted number of dwelling units per gross area of land to be developed.

DEPTH OF LOT

The mean distance between front property line and rear property line.

DEVELOPMENT

The division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or of any mining excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to the Municipal Land Use Law or this chapter.

DRAINAGE EASEMENT

An easement required for the installation of storm sewers or drainage ditches and/or required for the preservation or maintenance of a natural stream, watercourse or other drainage facility.

DWELLING, SINGLE-FAMILY

A detached residential structure designed to provide living facilities, including kitchen, for one family only.

—[Amended 12-20-2006 by Ord. No. 06-21]

DWELLING UNIT

[Amended 12-20-2006 by Ord. No. 06-21]

A. APARTMENT UNIT

A dwelling unit which includes living space, sleeping space, storage space, a kitchen and at least one full bathroom.

B. HOTEL or MOTEL UNIT

A temporary dwelling unit for transient use having limited or no storage space and at least one, full bathroom.

C. ROOMING HOUSE UNIT

A dwelling unit that consists of only one room, having a common bath, living and cooking facilities shared by multiple units.

FENCE

An artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

FINAL APPROVAL

The official action of the Land Use Board taken on a preliminarily approved major subdivision or site plan, after all conditions, engineering plans and other requirements have been completed or fulfilled and the required improvements have been installed or guaranties properly posted for their completion, or approval conditioned upon the posting of such guaranties.

FLOATING HOME

Any vessel used, designed or occupied as a permanent dwelling unit, business office or source of any occupation or for any private or social club of whatsoever nature, including but not limited to a structure constructed upon a barge primarily immobile and out of navigation or which functions substantially as a land structure while the same is moored or docked within the corporate limits of the Borough of Seaside Heights, whether such vessel is self-propelled or not, and whose volume coefficient is greater than 3,000 square feet. "Volume coefficient" is the ratio of the habitable space of a vessel measured in cubic feet and the draft of a vessel measured in feet of depth.

FLOATING HOME MARINA

That area within the Borough of Seaside Heights covered by any waterway within the Borough where one or more sites or locations are rented or offered for rent, sold or offered for sale for the location of floating homes.

FRONT YARD

An open space existing between the property line upon which a building fronts and the front setback line and running entirely across the lot to the two side property lines.

GARAGE, PRIVATE

A building used, intended or suitable as an accessory to a dwelling unit which provides for the storage of one or more motor vehicles, but not exceeding three such motor vehicles, and in which no occupation, business or service for profit is carried on.

GARAGE, PUBLIC

Any garage other than a private garage, available to the public, operated for gain and which is used for the equipping, adjusting, storage, rental, repair, greasing, washing, polishing or other cleaning and servicing of automobiles or other motor vehicles, including the supplying of gasoline or oil or other fuel for vehicular propulsion. This term shall include gasoline filling and motor vehicle service stations, but shall not be construed to include motor vehicle showrooms for new or used motor vehicles.

GASOLINE SERVICE STATION

All areas of land and any structure thereon used for the retail sale of motor fuel, lubricants and incidental services, such as car washing and the sale, installation and repair of tires, batteries or other automobile accessories.

GROSS FLOOR AREA

The sum of the gross horizontal areas of the floor or floors of any building which are enclosed and usable for residential purposes or for business or commercial activities which, in the case of the latter, includes customer facilities, showcase facilities, storage and sales facilities. Said areas shall be measured between the inside face of exterior walls or from the center line of walls separating two dwelling units. Said areas shall not include areas below the average level of the adjoining ground, garage space or accessory building space unless such areas are improved for residential purposes.

HOME OCCUPATION

A professional or vocational activity carried on only by a full-time resident of the premises, conducted as an accessory use within the resident's dwelling or in a separate structure, which is accessory to the main building or structure, such as a garage that is located on the same site. The home occupation shall not create the need for off-street parking beyond normal residential needs, shall not generate additional motor vehicle traffic and shall not require any equipment other than that normally used in household, domestic or general office use.

HOME PROFESSIONAL OCCUPATION

The office of a member of a recognized profession when conducted on residential property by the full-time resident thereof. Such occupations shall include doctors, lawyers, architects, engineers, planners, accountants, ministers, dentists and may include other recognized and licensed professional persons.

HOTEL or MOTEL

Any building containing any combination of temporary dwelling units, with no more of the following percentages of such dwelling units being used for nontransient rentals at any given time:

[Added 12-20-2006 by Ord. No. 06-21; amended 12-17-2008 by Ord. No. 08-17]

- A. From January 1, 2009, through December 31, 2009: 35% of the total dwelling units in the hotel or motel.
- B. From January 1, 2010, through December 31, 2010: 30% of the total dwelling units in the hotel or motel.
- C. From January 1, 2011, through December 31, 2011: 25% of the total dwelling units in the hotel or motel.
- D. From January 1, 2012, forward: 20% of the total dwelling units in the hotel or motel.

HOUSEBOAT

Any vessel not designed primarily for residential dwelling units, but designed primarily for pleasure craft, recreation and for independent navigation, whose volume coefficient is less than or equal to 3,000 square feet, and not considered a floating home in accordance with the definition of "floating home."

HOUSEHOLD PETS

Those animals traditionally kept as pets, such as dogs or cats, and excluding such animals traditionally kept as livestock.

JOINT LAND USE BOARD

The designated land use board of the Borough of Seaside Heights, known as the "Land Use Board," and referred to within this chapter as the "Board." Any and all references within this chapter to the Planning Board shall be revised and deemed to be references to the Board.

[Added 12-17-2008 by Ord. No. 08-17]

JUNKYARD

Any area and/or structure used or intended to be used for the conducting and operation of the business of selling, buying, storing or trading in used or discarded metal, glass, paper, cordage or any used or disabled fixtures, vehicles or equipment of any kind.

LANDSCAPING

The provision of lawns, trees, plants, stone and other natural and decorative features in order to improve the visual and climatic condition of the land.

LIMITED BREWERY LICENSE

An establishment holding a state-issued limited brewery license pursuant to N.J.S.A. 33:1-10 entitling the holder, subject to state rules and regulations, to manufacture and bottle, distribute and sell the products authorized by such license.

[Added 4-5-2017 by Ord. No. 17-06]

LOT

A designated parcel, tract or area of land established by plat or otherwise, as permitted by law and to be used, developed or built upon as a unit.

LOT AREA

The total horizontal area of land which is determined by the limits of the lot lines bounding that area and expressed in terms of square feet or acres. Any portion of a lot included in a street right-of-way shall not be included in calculating lot area.

LOT, CORNER

A parcel of land at the intersection of and fronting on two or more intersecting streets.

LOT COVERAGE

The percentage of the lot area occupied by the ground area of principal and accessory buildings, structures, driveways and parking areas.

LOT DEPTH

The mean horizontal distance between the front and rear lot lines, measured in the general direction of the side lines of the lot.

LOT LINE

Any boundary line of a lot.

LOT WIDTH

The horizontal distance between the side lot lines measured at right angles to its depth and at a point which constitutes the rear line of the required front yard space.

MAJOR SUBDIVISION

Any subdivision not classified as a minor subdivision.

MARINA

A dock or base, operated for profit or to which public patronage is invited, providing moorings or marine services primarily for power yachts, launches or other watercraft other than floating homes, and which is also capable of removing any and all crafts moored within the marina, out of water for repair or as a result of emergent conditions.

NONCONFORMING LOT

A lot the area, dimensions or location of which was lawful prior to the adoption, revision or amendment of the zoning ordinance and schedules, but which, by reason of such adoption, revision or amendment, fails to conform to the present requirements of the zone in which the lot is located.

NONCONFORMING STRUCTURE OR BUILDING

A structure or building the size, dimension or location of which was lawful prior to the adoption, revision or amendment of the zoning ordinance and schedules, but which fails, by reason of such adoption, revision or amendment, to conform to the present requirements of the zone in which the building or structure is located.

NONCONFORMING USE

A use or activity which was lawful prior to the adoption, revision or amendment of the zoning ordinance and schedules, but which fails, by reason of such adoption, revision or amendment, to conform to the present requirements of the zone in which it is located by reason of such adoption, revision or amendment.

OPEN PORCH

A roofed piazza or porch which projects beyond a main wall of a building or structure.

PARKING LOT

A paved open area other than a street or other public way, used for the parking of motor vehicles and available to the public, whether for a fee, free or as an accommodation of clients or customers.^[1]

PRELIMINARY APPROVAL

The conferral of certain rights specified herein prior to final approval after elements of the preliminary plan have been reviewed and approved.

PUBLIC GARAGE

Any garage available to the public and conducted or operated for gain.

REAR YARD

An open space situated between the rear property line and the rear setback line and running entirely across the lot to the two side property lines.

RESIDENTIAL DENSITY, GROSS

The total number of dwelling units per gross acre of residential land area, including streets, easements and open space portions of a development.

RESIDENTIAL DENSITY, NET

The resulting number of dwelling units which may be or are developed on a site or lot after public access and required open space are provided.

RESTAURANT

Any establishment the principal use and purpose of which is to sell food for consumption by patrons seated at a table, booth or counter on the premises.

RIGHT-OF-WAY

A strip of land acquired by reservation, dedication, forced dedication, prescription or condemnation and intended to be occupied or which is occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, waterline, sanitary storm sewer and other similar uses and which grants the right of one to pass over the property of another.

ROOMING HOUSE

Any combination of rooming house units in a building in which all units may be used for nontransient rentals at any given time.

[Added 12-20-2006 by Ord. No. 06-21]

SCREENING

A method of visually shielding or obscuring one structure or use from another structure or use by using walls, berms or densely planted vegetation which acts as a visual barrier and a muffler of noise.

SETBACK LINE

The line beyond which a building or structure shall not extend unless otherwise provided for in this chapter.

SIGN

Any sign, billboard, ground sign, wall sign, roof sign, sign painted on the exterior of a building or structure, illuminated sign, projecting sign, temporary sign, flag, pennant or badge, which includes a visual communication of any announcement, declaration, demonstration, display, illustration or insignia used to advertise or promote the interest of any person, firm or corporation when the same is placed out of doors in view of the general public. This shall not include official court or public notices, the flag or an emblem or insignia of a government, a school or a religious group when displayed for official purposes, or any public traffic or directional signs.

SIGN AREA or AREA OF SIGN

The area included within the edges of the sign or within the outer edges of any frame attached thereto, whichever is greater. Where the sign has no clearly defined frame or edge, the "sign area" or "area of a sign" shall be defined by and in terms of four sides (straight sides) which most closely outline such sign or frame.

SIGN, DIRECTIONAL

Any sign which indicates on-site traffic flow or access which carries no advertising message.

STORY

That portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between any floor and the ceiling next above it. A split-level story shall be considered a story if its floor level is six feet or more above the level of the line of the finished floor next below it, except a cellar. A half story is defined as the uppermost story of a building in which a sloping roof replaces the upper part of the wall.

STREET

Any street, avenue, boulevard, road, parkway, viaduct, drive or other way which is an existing state, county or municipal roadway, or which is shown upon a plat heretofore approved pursuant to law, or which is approved by official action as provided by this act, or which is shown on a plat duly filed and recorded in the office of the County Recording Officer prior to the appointment of a Land Use Board and the grant to such Board of the power to review plats; and includes the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, curbs, sidewalks, parking areas and other areas within the street lines.

STRUCTURE

A combination of materials to form a construction for occupancy, use or ornamentation, whether installed on, above or below the surface of a parcel of land, including among other things buildings, stadia, reviewing stands, platforms, stagings, observation towers, radio towers, tanks, trestles, open sheds, shelters, fences over six feet in height and display signs.

[Amended 6-7-2000 by Ord. No. 2000-11]

TRANSIENT RENTAL

A rental for 90 days or less to a tenant having a permanent residence elsewhere.

[Added 12-20-2006 by Ord. No. 06-21]

USE

Any purpose or activity for which land, a building or other structure is designed, arranged or intended or for which it is or may be occupied or maintained.

ZONING OFFICER

The officially established Zoning Officer of the Borough of Seaside Heights.

- [1] *Editor's Note: The former definition of "Planning Board," which immediately followed, was repealed 12-17-2008 by Ord. No. 08-17. This ordinance also provided that all references to the Borough's Planning Board, in this chapter and throughout the Code, be replaced with references to the Borough's Land Use Board. See also definition of "Joint Land Use Board."*

§ 246-6. Authorization to adopt rules and regulations.

The Land Use Board shall adopt and may amend reasonable rules and regulations for its administrative functions and shall furnish a copy thereof to any person upon request. A reasonable fee may be charged.

§ 246-7. Application fees; development review fees; application review escrow account.

[Amended 12-20-2006 by Ord. No. 06-21]

A. Fees shall be as follows:

- (1) The following application fee must accompany the application when filed with the Land Use Board Secretary:
 - (a) Applications concerning residential properties containing one or two dwelling units: \$100.
 - (b) Applications concerning residential properties containing from three to five dwelling units: \$250.
 - (c) Applications concerning business or commercial properties or residential properties containing six or more dwelling units: \$500.
- (2) Special meetings held on a nonscheduled meeting night requested by and/or charged to applicant: \$750.
- (3) Certified list of owners within two-hundred-foot radius: \$10.
- (4) Preparation of transcripts: actual cost of transcript, plus statutorily permitted copying fee per page.
- (5) Administrative change to previously approved site plan by letter request: \$125.
- (6) Letter request determined to be ineligible for administrative change: \$50.

B. Escrows. Each applicant shall submit, prior to any application being deemed complete, certain amounts to be held in escrow according to Schedule B attached hereto and incorporated herein.

§ 246-8. Exemption from payment of fee.

The following are exempt from payment of the initial review fee:

- A. Charitable, philanthropic, fraternal and religious nonprofit organizations holding a tax-exempt status under the Federal Internal Revenue Code of 1954 [26 U.S.C. § 501(c) or (d)].
- B. Agencies of the Seaside Heights Borough government or the Ocean County government.

§ 246-9. Meetings.

- A. The Board shall fix the time and place for holding regular meetings.
- B. Regular meetings shall be held once a month unless canceled for lack of applications.
- C. Special meetings may be called for by the Chairman or at the request of any two members of the Board, which special meeting shall be held on notice to its members and the public in accordance with all statutory legal requirements.

- D. No action shall be taken at any meeting without a quorum being present (that is a majority of the full authorized membership of the Board having power to act).
- E. All action shall be taken by a majority vote of the members present, unless required otherwise by any provision of the Municipal Land Use Law.
- F. All regular and special meetings shall be open to the public. An executive session for the purpose of discussion and study shall not be deemed a regular or special meeting.
- G. Minutes shall be kept of every regular and special meeting and shall be made available for public inspection or used as evidence in a legal proceeding. A reasonable fee for a copy of the minutes may be charged.

§ 246-10. Hearings.

Hearings shall be held by the Land Use Board for all development applications. Notice of such hearing in accordance with the public notice requirements listed below shall be provided for by the applicant/developer/subdivider for all applications.

- A. Public notice shall be given pursuant to N.J.S.A. 40:55D-12. At least 10 days prior to the date of the hearing, a notice of hearing shall be given stating the date, time and place of the hearing and nature of the matters to be considered and identification of the property proposed for development by street address, if any, or by reference to lot and block numbers as shown on the current tax duplicate in the Municipal Tax Assessor's office and the location and times at which maps and exhibits for which approval is sought are available for inspection.

(1) Such notice shall be given as follows:

- (a) By publication in the official newspaper of the Borough of Seaside Heights.
- (b) To all owners of real property as shown on the current tax duplicate located within 200 feet in all directions of the property which is the subject of the hearing, which notice shall be given by serving a copy thereof on the owner, as shown on the current tax duplicate, or his agent in charge of the property, or by mailing a copy thereof by certified mail to the property owner at his address as shown on said current tax duplicate. It is not required that a return receipt be obtained. Notice is deemed complete upon mailing (N.J.S.A. 40:55D-14).
- (c) Notice to a partnership owner may be made by service upon any partner. Notice to a corporate owner may be made by service upon its president, the vice president, secretary or other person authorized by appointment or by law to accept service on behalf of the corporation. Notice to a condominium association, horizontal property regime, community trust or homeowners' association, because of its ownership of common elements or areas located within 200 feet of the property which is the subject of the hearing, may be made in the same manner as to a corporation without further notice to unit owners, co-owners or homeowners on account of such common elements or areas. Where notice is required to be given to owners of all real property as shown on the current tax duplicate and within 200 feet of the subject property, this requirement shall be deemed satisfied by notice to the condominium association in the case of any unit owner whose unit has a unit above or below it.
- (d) To the Clerk of any adjoining municipality or municipalities and to the County Planning Board when the property involved is located within 200 feet of said adjoining municipality or municipalities, which notice shall be given by personal service or certified mail.
- (e) To the County Planning Board when the application for development involves property adjacent to an existing county road or proposed road shown on the Official County Map or a County Master Plan or adjoining other county land.
- (f) To the Commissioner of Transportation of the State of New Jersey when the property abuts a state highway.
- (g) To the Director of the Division of State and Regional Planning in the Department of Community Affairs when the hearing involves an application for development of property which exceeds 150 acres or 500 dwelling units, in which case the notice shall include a copy of any maps or documents required to be on file with the Municipal Clerk, pursuant to N.J.S.A. 40:55D-10b.

(2) Upon written request from the applicant, the Land Use Board Secretary shall obtain from the Municipal Tax Assessor and provide to the applicant a certified list from the current tax duplicate of the names and

addresses of owners within 200 feet of the subject property to whom the applicant is required to give notice for a fee of \$10.

B. Each decision on an application for development shall be reduced to writing as provided in this subsection and shall include findings of fact and conclusions based thereon.

- (1) Failure of a motion to approve an application for development to receive the number of votes required for approval shall be deemed an action denying the application.
- (2) The board may provide such written decision and findings and conclusions either on the date of the meeting at which it takes action to grant or deny approval or, if the meeting at which such action is taken occurs within the final 45 days of the applicable time period for rendering a decision on the application for development, within 45 days of such meeting by the adoption of a resolution of memorialization setting forth the decision and the findings and conclusions thereon. An action resulting from the failure of a motion to approve an application shall be memorialized by resolution as provided above, notwithstanding that the time at which such action occurs is within the applicable time period for rendering a decision on the application.
- (3) The adoption of a resolution of memorialization shall not be construed to alter the applicable time period for rendering a decision on the application for development. Such resolution shall be adopted by a vote of a majority of the members who voted for the action previously taken, and no other member shall vote thereon. The vote of such resolution shall be deemed to be a memorialization of an action of the Board and not to be an action of the Board, except that failure to adopt such a resolution within the forty-five-day period shall result in the approval of the application for development, notwithstanding any prior action taken thereon.
- (4) Whenever a resolution of memorialization is adopted, the date of such adoption shall constitute the date of the decision for purposes of the required mailings, filings and publications.
- (5) A copy of the decision shall be mailed within 10 days of the date of the decision to the applicant or, if represented, then to his attorney without separate charge and to all who request a copy of the decision for a reasonable fee. A copy of the decision shall also be filed in the office of the Municipal Clerk. The Municipal Clerk shall make a copy of such filed decision available to any interested party for a reasonable fee and available for public inspection at reasonable hours.
- (6) A brief notice of the decision shall be published in the official newspaper of the Borough of Seaside Heights by the Secretary of the Land Use Board, and the cost is to be paid by the applicant. The period of time in which an appeal of the decision may be made shall run from the first publication of the decision.

C. Conduct of hearings.

- (1) The Land Use Board shall make and adopt rules governing such hearings. The subject maps and documents shall be available for public inspection at least 10 days before the date of the hearing.
- (2) The officer presiding at the hearing shall have power to administer oaths and issue subpoenas.
- (3) The testimony of all witnesses shall be taken under oath or affirmation, and the right of cross-examination shall be permitted to all interested parties, subject to the discretion of the presiding officer as to reasonable limitations of time and number of witnesses.
- (4) Technical rules of evidence shall not apply, but the Board may exclude irrelevant, immaterial and unduly repetitious evidence.
- (5) A verbatim recording of the proceedings shall be provided either by stenographer or by mechanical or electronic means. Transcripts or duplicate recordings shall be provided on request to any interested party at his expense. Said transcript shall be certified in writing.

§ 246-11. Informal review of concept plan for development.

At the request of the developer, the Land Use Board shall grant an informal review of a concept plan for a development for which the developer intends to prepare and submit an application for development. Any fees for such an informal review shall be a credit toward fees for review of the application for development. Neither the Land Use Board nor the developer shall be bound by such review.

§ 246-12. Vote by Land Use Board member absent from hearing.

A member who was absent from one or more meetings at which a hearing was held shall be eligible to vote, provided that such member has read the transcript or listened to the recording and so certifies in writing.

§ 246-13. Completion of application for development; waiver of requirements for submission.

- A. An application shall be deemed complete when so certified by the Board, for the purpose of commencing the applicable time period for action.
- B. If the Board does not certify the application to be complete within 45 days of the date of its submission, the application shall be deemed complete unless:
 - (1) The application lacks information indicated on a checklist adopted herein and provided to the applicant; and
 - (2) The authorized reviewing Committee or its designee has notified the applicant, in writing, of the deficiencies in the application within 45 days.
- C. The applicant may request a waiver of one or more submission requirements. Such request shall be granted or denied within 45 days.
- D. The applicant shall prove he is entitled to approval of the application.
- E. The Board may require the correction of information and the submission of additional information not specified herein or revisions which are reasonably needed to make an informed decision as to whether the requirements necessary for approval of the application have been met.

§ 246-14. Failure of Board to act within allowed time.

- A. The applicant shall provide notice of the default to all entitled to notice on the application for development by personal service or certified mail.
- B. The applicant shall arrange publication of the notice of default in the official Borough newspaper.
- C. The applicant shall file proof of service and publication as provided by law.

§ 246-15. Notice concerning Master Plan.

The Land Use Board shall give, at least 10 days prior to the date of a hearing:

- A. Public notice of the adoption, revision or amendment of the Master Plan.
- B. Notice by personal service or certified mail to the Clerk of an adjoining municipality when property within 200 feet of such municipality is involved.
- C. Notice by personal service or certified mail to the County Planning Board, including a copy of proposals to be heard. Notice shall also be sent to the county within 30 days of the adoption of proposals, including a copy as adopted.

§ 246-16. Effect of mailing notice.

Any notice made by certified mail pursuant to the provisions contained herein shall be deemed to be complete upon mailing.

§ 246-17. Filing of ordinances.

- A. Development regulations, except for the Official Map, shall not take effect until a copy is filed with the County Planning Board.

- B. A zoning ordinance, or amendment or revision, which is inconsistent with the land use element of the Master Plan shall not take effect until a copy of the required resolution has been filed with the County Planning Board.
- C. The Official Map shall not take effect until it is filed with the County Recorder.
- D. All copies of development regulations, reviews or amendments shall be filed and maintained by the Borough Clerk.

§ 246-18. Enforcement.

The governing body of the Borough of Seaside Heights shall enforce the provisions of this chapter and the New Jersey Municipal Land Use Law on which it is based. In the event of any violations of this chapter and the Land Use Law, the proper local authorities or any interested parties, in addition to other remedies, may institute any appropriate action or proceedings to prevent unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, or to restrain, correct or abate such violation, to prevent the occupancy of said unlawful construction or land use, or to prevent any illegal act, conduct, business or use in or about such premises.

§ 246-19. Exclusive authority of Land Use Board.

Any power authorized herein to be exercised by the Land Use Board shall not be exercised by any other body except as may be otherwise provided under the New Jersey Municipal Land Use Law.

§ 246-20. Tolling of running of period of approval.

If, during the period of approval, the developer is barred or prevented from proceeding by a legal action or order and the developer is otherwise ready to proceed with the development, the running of the period of approval shall be suspended for the time said legal action is pending or such court order is in effect.

§ 246-21. Conditional approvals subject to pending legal action or other agency approvals.

- A. Approved application pending legal action. The Land Use Board shall process the application and grant approval, if it complies with the provisions of this chapter, conditioned on the removal of such legal barrier to development.
- B. Approved application requiring other agency approval. The Land Use Board shall condition its approval upon the subsequent approval of such other governmental agency, provided that the other agency acts within the time and under the specifics of this chapter and/or applicable New Jersey statutes.

Article II. Joint Land Use Board

§ 246-22. Membership.

- A. The Borough of Seaside Heights hereby establishes a Municipal Land Use Board comprised of nine regular members and two alternate members.
 - (1) For convenience in designating the manner of appointment, membership shall consist of:
 - (a) Class I: the Mayor, or the Mayor's designee in the absence of the Mayor, provided that such person is so designated by the Mayor in writing.
 - (b) Class II: a municipal official other than a member of the governing body, to be appointed by the Mayor.
 - (c) Class III: a member of the governing body appointed by said body.
 - (d) Class IV: other citizens of the Borough of Seaside Heights, appointed by the Mayor. No Class IV member shall hold any other municipal office, position or employment.

- (2) For the purpose of this section, membership on a municipal board or commission whose function is advisory in nature and not required to be established by statute shall not be considered the holding of municipal office.
- B. The terms of office for each class shall be:
- (1) Class I: The term shall correspond to the Mayor's official tenure, or, if the member is the Mayor's designee in the absence of the Mayor, the designee shall serve at the pleasure of the Mayor during the Mayor's official tenure.
 - (2) Class II: The term shall be for one year or terminate with the term of office, whichever comes first.
 - (3) Class III: The term shall be for one year or terminate with the term of office, whichever comes first.
 - (4) Class IV: The term of a Class IV member shall be four years. An unexpired term shall be filled by appointment, as provided for herein, for the remainder of the term.
- C. No member shall be permitted to act on any matter in which he has, directly or indirectly, any personal or financial interest.
- D. Alternate members.
- (1) Two alternates under Class IV membership shall be provided and shall be designated by the Mayor as "Alternate No. 1" and "Alternate No. 2."
 - (2) Alternate members shall serve for two years, except that the term of not more than one alternate shall expire in any one year. An unexpired term shall be filled by appointment, as provided for herein, for the remainder of the term only.
 - (3) The same rules of ethical conduct and rules for removal which apply to regular Land Use Board members shall apply to alternate members.
 - (4) Alternate members may participate in discussions but shall not vote except in the absence or disqualification of a regular member of any class. Votes delayed in order for a regular member to vote shall not be permitted. If a choice must be made as to which alternate shall vote, Alternate No. 1 shall vote.

§ 246-23. Organization.

The Board shall elect a Chairman and Vice Chairman from the Class IV membership, select a Secretary who may or may not be a member or a municipal employee and shall fill such other offices as may be established by ordinance. The Board may employ and fix the compensation of legal counsel, other than the Municipal Attorney, and experts, and other staff and services deemed necessary, but not to exceed, exclusive of gifts or grants, the amount appropriated by the governing body for its use.

§ 246-24. Powers and duties.

- A. The Land Use Board shall exercise its powers according to this chapter in regard to:
- (1) The Master Plan (N.J.S.A. 40:55D-28 et seq.).
 - (2) Subdivision control and site plan review (N.J.S.A. 40:55D-37 et seq.).
 - (3) The Official Map (N.J.S.A. 40:55D-32 et seq.).
 - (4) The Zoning Ordinance, including conditional uses (N.J.S.A. 40:55D-62 et seq. and N.J.S.A. 40:55D-67 et seq.).
 - (5) The capital improvements program (N.J.S.A. 40:55D-29 et seq.).
 - (6) Variances and certain building permits in conjunction with subdivision, site plan and conditional use approval (N.J.S.A. 40:55D-60 et seq.).
- B. The Land Use Board may:

- (1) Participate in the preparation and review of plans or programs required by state or federal law or regulation.
 - (2) Assemble data on a continuing basis as part of a continuous planning process.
 - (3) Perform such other advisory duties as are assigned to it by the governing body for the aid and assistance of the governing body or other governmental agencies.
- C. The Land Use Board shall exercise, to the same extent and subject to the same restrictions, all the powers of a board of adjustment; but the Class I and the Class III members shall not participate in the consideration of applications for development which involve relief pursuant to Subsection d of Section 57 of P.L. 1975, c. 291 (N.J.S.A. 40:55D-70). The Land Use Board expressly has such powers pursuant to the provisions of N.J.S.A. 40:55D-25c and the fact that the Borough of Seaside Heights has a population of 10,000 or less.

§ 246-25. Referral powers.

- A. Within 35 days after referral, the Land Use Board shall submit to the governing body a report on a proposed development regulation, revision or amendment thereto, including identification of provisions in said proposed changes which are inconsistent with the Master Plan and the Board's recommendations. The governing body shall review the report of the Land Use Board, and may disapprove or change any recommendations by a vote of a majority of its full authorized membership and shall record the reasons for not following the Board's recommendations. Failure of the Land Use Board to transmit its report within 35 days shall relieve the governing body from the requirements of this section. Nothing herein shall be construed to diminish the application of the provisions of N.J.S.A. 40:55D-32 to any Official Map or of N.J.S.A. 40:55D-62 to any zoning ordinance.
- B. The governing body may, by ordinance, provide for the reference of any matter to the Land Use Board before final approval of said matter. Such referral shall not extend the time for action, whether or not the Board has submitted its report. Land Use Board recommendations shall not be rejected by any other municipal body except by a majority of the full authorized membership of such other body.

§ 246-26. Citizens Advisory Committee.

The Mayor may appoint one or more persons as a Citizens Advisory Committee to assist or collaborate with the Land Use Board, but such persons forming said Committee shall have no power to vote and shall serve at the pleasure of the Mayor.

§ 246-26.1. (Reserved)

- [1] *Editor's Note: Former § 246-26.1, Right to appeal to Borough Council, added 12-18-2002 by Ord. No. 2002-29, was repealed 12-20-2006 by Ord. No. 06-21.*

Article III. Master Plan

§ 246-27. Preparation.

The Land Use Board shall prepare in accordance with N.J.S.A. 40:55D-28 and, after public hearing, adopt or amend a Master Plan to guide the use of land within the Borough of Seaside Heights in a manner which protects the public health and safety and promotes the general welfare.

§ 246-28. Content of plan.

- A. The Master Plan shall generally comprise a report on land use and development proposals with maps, diagrams and texts that address at least the following:
- (1) A statement of objectives, principles, assumptions, policies and standards upon which physical, economic and social development of the municipality are based.

- (2) A land use plan element which takes into account natural conditions, existing and proposed uses, including standards of population densities and development intensities, showing relationship to the statement cited under Subsection **A(1)** above.
- B. The Land Use Board may include other appropriate elements such as:
- (1) A housing plan element, including proposals for the construction and improvement of housing.
 - (2) A circulation plan designed for the efficient movement of people and goods.
 - (3) A utility service plan for water supply, drainage control, waste treatment and sewer service.
 - (4) A community facilities plan for schools, libraries and police and fire protection, historic sites and cultural facilities.
 - (5) A recreation plan for parks and playgrounds.
 - (6) A conservation plan to utilize and protect natural resources.
 - (7) An economic plan promoting economic development and diversity of employment.
 - (8) An historic preservation plan.
 - (9) Appendixes or separate reports containing technical foundations for the constituent elements.
 - (10) A recycling plan, as specified in the local ordinance.
- C. The Master Plan and its elements may be divided into subplans and subplan elements according to periods of time or staging.
- D. The Master Plan shall include specific policy statements relating to:
- (1) The Master Plans of contiguous municipalities.
 - (2) The County Master Plan.
 - (3) The State Development and Redevelopment Plan, pursuant to P. L. 1985, c. 398. (N.J.S.A 52:18A-196 et seq.)
 - (4) The District Solid Waste Management Plan, pursuant to P.L. 1970, c. 39, (N.J.S.A. 13:1E-1 et seq.) for Ocean County.

Article IV. Official Map

§ 246-29. Establishment.

- A. The governing body may by ordinance adopt or amend an Official Map of the Borough of Seaside Heights, based on the provisions of the Master Plan in accordance with the provisions of N.J.S.A. 40:55D-32 and relevant sections of this chapter.
- B. Prior to the hearing on the adoption or amendment of any Official Map, the governing body shall refer said proposed Official Map or amendment to the Land Use Board pursuant to the requirements of N.J.S.A. 40:55D-26.
- C. The Official Map shall be deemed conclusive with respect to the location and width of streets and public drainageways and the location and extent of flood control basins and public areas, whether or not such streets, ways, basins or areas are improved or unimproved or are in actual physical existence.
- D. Upon receiving an application for development, the Borough of Seaside Heights may reserve for future public use the aforesaid in accordance with N.J.S.A. 40:55D-44.

§ 246-30. Changes and additions.

An ordinance pertaining to the Official Map shall not be approved under the provisions of any law other than as contained herein.

§ 246-31. Effect on issuance of permits for buildings or structures.

- A. To preserve the integrity of the Official Map, no permit shall be issued for any building or structure in the bed of any street, drainageway, flood control basin or public area reserved on the Official Map, except as herein provided.
- B. Whenever land, upon which is located the bed of such a mapped street or public drainageway, flood control basin or public area reserved in the Official Map, cannot yield a reasonable return to the owner unless a building permit is granted, the Land Use Board may, in a specific case, by an affirmative vote of a majority of the full authorized membership of the Board, direct the issuance of a permit for a building or structure thereon in such manner as will minimize the increase of the cost of opening such street or cause a minimum change of the Official Map; and the Board shall impose reasonable requirements to protect the public health, morals, safety and general welfare as a condition of approval.

§ 246-32. Building lot to abut street.

- A. No permit to erect a building or structure shall be issued unless the lot abuts a street giving access to such proposed building or structure and is shown on the Official Map or is an existing state, county or Borough street or a street shown on a plan duly approved by the Land Use Board or a street duly filed in the County Recorder's office prior to the adoption of this chapter.
- B. Before the issuance of a permit, the street shall be certified to be suitably improved or assured under performance guaranty or surety to be improved in accordance with standards and specifications for road improvements set forth herein; and the proposed access must be shown to conform to the standards addressed in N.J.S.A. 40:55D-35.

§ 246-33. Unopened or partially improved streets.

- A. Streets which have never been opened, which are shown on maps filed prior to the date establishing the first Land Use Board in the Borough of Seaside Heights, shall not be considered part of the Official Map unless and until they are approved by the Land Use Board, accepted by the governing body, improved to the standards set forth herein and dedicated by ordinance for general public use. The Borough shall reserve the right to vacate such paper streets.
- B. Streets which have been used by the general public continuously for 20 years prior to the adoption of the Borough of Seaside Heights land use ordinances, which are shown on maps filed prior to the date establishing the first Land Use Board, that have not been constructed to standard shall be constructed to the standards set by this chapter prior to development approval of the adjacent lands.

§ 246-34. Appeals.

- A. Where enforcement of § 246-32 above would cause practical difficulty or unnecessary hardship, or where circumstances of the case do not require the building or structure to be related to a street, the Land Use Board may, upon application or appeal, vary the application of § 246-32 and direct the issuance of a permit subject to conditions that will provide adequate access for fire-fighting equipment and emergency vehicles and that will protect any future street layout shown on the Official Map or on a general circulation plan element of the Borough of Seaside Heights Master Plan.
- B. Applications or appeals pursuant to this section shall be subject to the provisions of N.J.S.A. 40:55D-72 through N.J.S.A. 40:55D-75 and the corresponding provisions of this chapter.

Article V. Zoning

§ 246-35. Zoning Map.

The boundaries of each of the created zones are hereby established as shown on a map prepared for the Borough of Seaside Heights by Birdsall Engineering, and entitled the "Zoning Map in Conformance with the Comprehensive Master Plan of the Borough of Seaside Heights," and which is attached hereto and made a part of this Zoning Ordinance.

§ 246-36. Residential Zone.

- A. Permitted uses. Within the Residential Zone, no building or structure shall be used and no building or structure shall be erected which is intended or designed to be used, in whole or in part, for any industrial, manufacturing, trade or commercial purpose or for any other than the following specified purposes:
[Amended 6-7-2000 by Ord. No. 2000-11; 12-20-2006 by Ord. No. 06-21; 7-18-2012 by Ord. No. 12-06]
- (1) Single-, two-family and multifamily residential dwelling units and accessory buildings, and uses normally auxiliary thereto, but not including hotels, motels or rooming house units.
 - (2) Offices and buildings of professional persons, such as, but not limited to, physicians, dentists, engineers, lawyers, accountants and architects.
 - (3) Public parks and playgrounds.
 - (4) Churches, public and parochial schools and public buildings.
- B. Conditional uses.
[Amended 12-20-2006 by Ord. No. 06-21; 12-16-2009 by Ord. No. 09-12; 7-18-2012 by Ord. No. 12-06]
- (1) In addition to the above-described permitted uses, there shall be permitted in this zone uses of the following nature or necessary accessories to the above-described permitted uses upon obtaining a conditional use permit, subject to such standards and regulations which might reasonably be adopted in order to protect the life, safety and welfare of the public and adjoining residences:
 - (a) Marine commercial service uses.
 - [1] Marine commercial service uses consisting of the following:
 - [a] Dockage.
 - [b] Boat hauling.
 - [c] Automobile parking areas for marine commercial services only.
 - [d] Marine gasoline stations on docks or bulkheads.
 - [e] Offices for marine surveyors, brokers and insurers.
 - [f] Outside storage of boats, but no other outside storage of any kind shall be permitted.
 - [g] Uses similar in character to the above upon a finding to that effect by the Land Use Board.
 - [2] Special regulations for conditional marine service uses. Within the Residential Zone, no marine commercial service use, structure, storage facility, inventory, equipment, automobile parking area or like principal or accessory marine commercial use shall be permitted beyond a distance greater than 500 feet from the nearest frontage along Barnegat Bay.
 - (b) Notwithstanding any other provision of this section, commercial parking lots, provided that the lot area of such parking lot is a minimum of 4,000 square feet.
 - (2) The minimum allowable size of property upon which development may occur within the Residential Zone, in order to protect life and limb, is:
 - (a) For single-family dwellings:
 - [1] Lot area: 2,000 square feet.
 - [2] Lot frontage: 20 feet.

(b) For multifamily dwellings:

[1] Lot area per unit: 1,200 square feet.

[2] Lot frontage: 20 feet.

C. Description of Zone. The following described lands of the Borough of Seaside Heights are to be included in the Residential Zone:

- (1) All those lands lying west of Ocean Terrace and 100 feet east of the Boulevard running from the center line of Hirling Avenue to the center line of Sherman Avenue.
- (2) All of the lands lying from 100 feet west of Ocean Terrace to 100 feet east of the Boulevard and extending from the center line of Grant Avenue southerly to 100 feet from the southerly right-of-way line of Blaine Avenue.
- (3) All those lands lying 100 feet west of Ocean Terrace to a point 100 feet east of the Boulevard and running from the southerly Borough line in a northerly direction to a line 100 feet north of Webster Avenue.
- (4) All lands lying between a point 100 feet east of the right-of-way of Central Avenue and 100 feet west of the right-of-way of the Boulevard from the northerly Borough line southerly to Grant Avenue.
- (5) All lands lying 100 feet east of Central Avenue and 100 feet west of the Boulevard from the southerly Borough line northerly to a point 100 feet north of Franklin Avenue.
- (6) All odd-numbered lots in Lot Nos. 7 through 35 in Block No. 21.
- (7) All odd-numbered lots in Lot Nos. 1 through 31 and 32, 33 and 34 in Block No. 29.
- (8) All of the lots in Block Nos. 30, 31, 70, 71 and 72.
[Amended 6-17-1998 by Ord. No. 98-21]
- (9) Lot Nos. 1 through 5 in Block No. 62.
- (10) Lot Nos. 5 through 10 in Block No. 66.
- (11) Lot Nos. 1 through 10 in Block No. 67.

§ 246-37. Single-Family Zone.

A. Permitted uses. Within the Single-Family Zone, no building or structure shall be used and no building or structure shall be erected which is intended or designed to be used, in whole or in part, for any industrial, manufacturing, trade or commercial purpose or for any other than the following specified purposes:

- (1) Single-family dwelling units and accessory building and uses normally auxiliary thereto.
- (2) Public parks and playgrounds.

B. Conditional uses. In addition to the above described permitted use, there shall be permitted in this zone uses of the following nature or necessary accessories to the above described permitted uses upon obtaining a conditional use permit, subject to such standards and regulations which might reasonably be adopted in order to protect the life, safety and welfare of the public and adjoining residences:

[Amended 7-18-2012 by Ord. No. 12-06]

- (1) Marine commercial uses. Marine commercial services uses consisting of the following:
 - (a) Dockage.
 - (b) Boat hauling.
 - (c) Marine gasoline stations on docks or bulkheads.
 - (d) Outside storage of boats, but no other outside storage of any kind shall be permitted.

- C. The minimum allowable size of property upon which development may occur within the Single-Family Residential Zone in order to protect life and limb is:
- (1) Lot area: 4,000 square feet.
 - (2) Lot frontage: 40 feet.
- D. Description of Zone. The following described lands of the Borough of Seaside Heights are to be included in the Single-Family Residential Zone:
- (1) All those lands lying west of the Route 35 right-of-way south of the border with Dover Township, east of the Barnegat Bay and north of the Public Zone.

§ 246-38. Low-Density Residential Zone.

- A. Permitted uses. Within the Low-Density Residential Zone, no building or structure shall be used and no building or structure shall be erected which is intended or designed to be used, in whole or in part, for any industrial, manufacturing, trade or commercial purpose or for any other than the following specified purposes:
[Amended 6-7-2000 by Ord. No. 2000-11; 8-7-2002 by Ord. No. 2002-18]
- (1) Single- or two-family residential dwelling units and accessory buildings and uses normally auxiliary thereto.
 - (2) Offices and buildings of professional persons, such as but not limited to physicians, dentists, engineers, lawyers, accountants and architects.
 - (3) Public parks and playgrounds.
 - (4) Churches, public and parochial schools and governmental facilities.
- B. Conditional uses. Within the Low-Density Residential Zone, the conditional uses shall be those hereinabove enumerated under the Single-Family Zone.
[Amended 7-18-2012 by Ord. No. 12-06]
- C. The minimum lot size for each dwelling unit or other unit allowed within the Low-Density Residential Zone shall be 1,800 square feet.
- D. Description of Zone. The boundaries for the Low-Density Residential Zone shall be from Dover Township on the north to Porter Avenue on the south and from 100 feet west of Central Avenue on the east to the westerly boundary of the Borough on the west (excluding the area hereinabove enumerated as the Single-Family Zone and excluding the Public Zones as shown on the Zoning Map of the Borough. Also excluded are all areas in the Retail Business Zone.).
[Amended 12-16-2009 by Ord. No. 09-12]

§ 246-39. Retail Business Zone.

- A. Within the Retail Business Zone, no building or structure shall be used and no building shall be erected which is intended or designed to be used, in whole or in part, for any industrial or manufacturing purposes or for any other than the following specified purposes:
[Amended 12-20-2006 by Ord. No. 06-21; 12-17-2008 by Ord. No. 08-17; 4-5-2017 by Ord. No. 17-06; 4-18-2018 by Ord. No. 2018-02]
- (1) Any uses specified in § **246-36** as permitted and regulated in the Residential Zone.
 - (2) Retail sales of goods.
 - (3) Offices of public utilities and dial or switching equipment buildings.
 - (4) Municipal buildings and other governmental and/or public uses, but not including warehouses, workshops, garages or other such uses or activities.
 - (5) Offices and buildings of professional persons, such as but not limited to physicians, dentists, engineers, lawyers, accountants and architects.

- (6) Contractors' and builders' offices.
 - (7) Clubs, lodges, association buildings, meeting rooms and halls.
 - (8) Restaurants, and taverns and bars which have restaurant facilities on-premises and whose primary purpose is to regularly and principally provide restaurant meals to the public as an integral part of their operation.
 - (9) Bus terminals.
 - (10) Miniature golf concessions.
 - (11) Marine sales offices.
 - (12) Hobby shops, inclusive of tracks and other related amenities.
 - (13) Hotels and motels.
 - (14) Limited brewery and craft distillery (Boulevard only).
 - (15) Banks.
 - (16) Bakeries.
 - (17) Book stores.
 - (18) Pharmacies.
 - (19) Antique and gift shops.
 - (20) Furniture stores.
 - (21) Clothing and accessories stores.
 - (22) Real estate offices.
 - (23) Grocery stores.
 - (24) Delicatessens.
 - (25) Barbershops and hair and nail salons.
 - (26) Music and art studios.
 - (27) Scooter and moped rentals.
- B. No heavy manufacturing of any nature shall be permitted in said zone, and no outdoor storage of goods or materials shall be permitted. In no event shall storage of objectionable materials be permitted, including bottled fuel or the operation of any activity from which would emanate objectionable noise, smell, smoke, dust, glare or effluent which may adversely affect or impair the normal use of any property located in any zone.
- C. Any use not enumerated is not permitted.
- D. Lot standards; landscaping.
[Amended 12-17-2008 by Ord. No. 08-17]
- (1) The minimum lots standards for retail business areas shall be:
 - (a) Lot area: 4,000 square feet.
 - (b) Lot frontage: 40 feet.
 - (c) For hotel and motel units, lot area per unit: 500 square feet.
 - (2) Landscaping shall be provided where possible along street and lot lines. Where a commercial use abuts a Residential Zone, a solid landscaped screen of trees or hedge-type material not less than four feet high shall be planted and maintained.

E. Description of Zone. The following described lands of the Borough of Seaside Heights are to be included within the Retail Business Zone:

- (1) Beginning at the center line of Grant Avenue, at Ocean Terrace, southerly to Porter Avenue, including all lands between Ocean Terrace and a line 100 feet west of the right-of-way of Ocean Terrace.
- (2) All Block Nos. 13, 14.01, 14.02, 15, 16 and 77.
- (3) Lot Nos. 11, 13, 15, 17, 19, 21, 23 and 25 in Block No. 12.
- (4) All even-numbered lots in Block No. 21.
- (5) All odd-numbered lots in Block No. 20.
- (6) Lot Nos. 2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26, 28, 30, 33, 34, 35, 36 and 37 in Block No. 29.
- (7) Lot Nos. 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29 and 31 through 34 in Block No. 28.
- (8) All lots 100 feet either side of the right-of-way line of Sumner Avenue between Ocean Terrace and the Boulevard in Block Nos. 6.01 and 7.01.
- (9) Lot Nos. 59 through 68 in Block No. 33.01.
- (10) All lots situated within 100 feet of the right-of-way of the Boulevard and Central Avenue from Porter Avenue northerly to the Dover Township line.^[1]

[1] Editor's Note: Former Subsections F through J, all of which immediately followed this subsection and were added 8-7-2002 by Ord. No. 2002-18, were repealed 12-20-2006 by Ord. No. 06-21. These subsections all provided regulations for buildings located on the boulevard or for buildings located on properties between the south side of Grant Avenue and the north side of Porter Avenue.

§ 246-40. Resort Recreational Zone.

A. Within the Resort Recreational Zone, no building or structure shall be used and no building or structure shall be erected which is intended or designed to be used, in whole or in part, for any industrial or manufacturing purpose or for any other than the following specified purposes:

[Amended 12-20-2006 by Ord. No. 06-21; 12-17-2008 by Ord. No. 08-17; 7-18-2012 by Ord. No. 12-06]

- (1) Any uses specified in § 246-36 as permitted and as regulated in the Residential Zone and also any uses specified as permitted and as regulated in the Retail Business Zone.
- (2) Carousels, roller coasters, merry-go-rounds, Ferris wheels or other mechanical rides, miniature golf courses, exhibits and any other amusement games, devices or rides.
- (3) Games of chance and other forms commonly played by individuals for enjoyment.
- (4) Mechanical rides, provided that the same are approved by the New Jersey Department of Labor and Industry.
- (5) Nonmechanical rides and other forms of entertainment, such as but not limited to water slides, skateboards tracks and miniature golf courses.
- (6) Restaurants, and taverns and bars which have restaurant facilities on-premises and whose primary purpose is to regularly and principally provide restaurant meals to the public as an integral part of their operation, and nightclubs with dancing and entertainment, but only as an incidental part of the restaurant operation.
- (7) Retail stores which are primarily oriented to boardwalk activities.
- (8) Parks and playgrounds.

A1. Conditional uses.

[Added 7-18-2012 by Ord. No. 12-06]

- (1) Rooming houses, provided they are located on a minimum lot size of 40 feet by 100 feet and have a lot area per unit of no less than 500 square feet.

(2) Commercial parking lots, provided that the lot area of a parking lot is a minimum of 4,000 square feet.

B. Description of Zone. The following described lands of the Borough of Seaside Heights are to be included within the Resort Recreational Zone:

- (1) Lot Nos. 1 through 10 in Block No. 2.02.
- (2) Lot Nos. 1 through 10 in Block No. 3.02.
- (3) Lot Nos. 1 through 10 in Block No. 4.02.
- (4) Lot Nos. 1 through 10 in Block No. 5.02.
- (5) Lot Nos. 1 through 10 in Block No. 6.02.
- (6) Lot Nos. 1 through 10 in Block No. 7.02.
- (7) Lot Nos. 1 through 10 in Block No. 8.02.
- (8) Lot Nos. 1 through 58 in Block No. 33.01, 33.02, and 33.03.
- (9) All lots in Block Nos. 55, 56, 57, 58, 59, 60, 61 and 69.
- (10) Lot No. 1.03 in Block No. 99.01.
[Added 4-15-2015 by Ord. No. 15-03; amended 6-7-2017 by Ord. No. 17-13]
- (11) Lot No. 1.08 in Block No. 99.02.
[Added 3-1-2017 by Ord. No. 17-03]
- (12) Lot No. 1.05 in Block No. 99.01.
[Added 9-6-2017 by Ord. No. 17-17]
- (13) Lot No. 1.06 in Block No. 99.01.
[Added 9-6-2017 by Ord. No. 17-18]

§ 246-41. Resort Recreational Zone A.

Within the Resort Recreational Zone A, all of those uses and requirements set forth under the Resort Recreational Zone shall be included and allowed, together with adult bookstores and establishments of adult entertainment as defined in Chapter 8 of the Borough Code.

A. Adult bookstores and establishments of adult entertainment as defined in Chapter 8 of the Borough Code.

- (1) The Mayor and Council recognize the rights inherent in the U.S. Constitution which guarantee freedom of expression, as well as the position of the Courts in protecting that freedom by invalidating any attempt by local ordinance to restrict particular uses based upon their content. However, the Mayor and Council also recognize their duty to protect the health, safety and welfare of the citizens of Seaside Heights from the adverse impact that these certain uses have on property values of adjoining and proximate residential and commercial properties. Of particular concern is the potential concentration of adult bookstores and establishments that provide adult entertainment, which are distinguished from conventional bookstores and entertainment establishments by the fact that they are required to exclude access to minors by virtue of age under the pornography statutes of the State of New Jersey.
- (2) In order to control the location and prevent the concentration of adult uses and thereby protect the public welfare and support the rebuilding of the municipality, adult bookstores and establishments of adult entertainment as defined in Chapter 8 of the Borough Code will be permitted in Resort Recreational A Zones within the Borough where conventional bookstores and entertainment establishments are also permitted uses, except that a conditional use permit shall first be obtained from the Land Use Board for such adult bookstore or establishment of adult entertainment. The Land Use Board may issue a conditional use permit only after an applicant has demonstrated compliance with the following standards and conditions:
 - (a) The applicant shall include a complete statement setting forth all of the particulars of the structure and the proposed use thereof.

- (b) The Mayor and Council are determined that a minimum 100 feet distance will be required between the proposed adult bookstore or establishment of adult entertainment and any existing or future adult bookstore or establishment of adult entertainment to achieve adequate dispersion of adult uses. For purposes of measurement, the required distance of separation shall be measured between the nearest property lines and along public streets so that the Borough's Tax Maps may be used.
- (3) Advertisements, displays or other promotional materials shall not be shown or exhibited so as to be visible to the public from pedestrian sidewalks or walkways or from other areas public or semipublic. All building openings and trees, windows, etc. for adult uses shall be located, covered or screened in such a manner as to prevent a view into the interior from any public or semipublic area.
- (4) One identification sign bearing the name of the adult bookstore or establishment of adult entertainment and hours of business and customer age restrictions is permitted in accordance with Chapter **191** of the Borough Code.
- B. Tattooing, branding and body piercing establishments.
[Added 6-16-1999 by Ord. No. 99-16^[1]]
[1] Editor's Note: This ordinance also provided for the redesignation of former Subsection B as Subsection D.
- C. Retail or wholesale establishments selling or trading firearms.
[Added 6-16-1999 by Ord. No. 99-16]
- D. Description of Zone. The following described lands of the Borough of Seaside Heights are to be included within the Resort Recreational A Zone:
 - (1) Block 33.01, Lots 15 through 68 as shown on the Borough's Tax Map.
 - (2) Block 33.02, Lots 1 through 10 as shown on the Borough's Tax Map.
 - (3) Block 33.03, Lot 1.01 as shown on the Borough's Tax Map.

§ 246-42. Public Zone.

- A. There is hereby created a zone whose avowed purpose shall be to provide areas where wells, pumping stations, sewage treatment plants, public parking areas, landscaped vistas and other generalized public purposes can be accommodated without disruption of the daily activities of residence and businesses alike. This zone shall be subject to the limitation that it provide some form of benefit, whether it is tangible or intangible, to the public.
- B. Description of Zone. The following described lands of the Borough of Seaside Heights are to be included within the Public Zone:
 - (1) All beaches lying east of the boardwalk.
 - (2) All lands lying west of Bay Boulevard except Block Nos. 78, 79 and 80.
 - (3) All of Block No. 62, except Lot Nos. 1 through 5.
 - (4) All of Block Nos. 63, 64 and 65.
 - (5) All of Block No. 66, except Lot Nos. 5 through 10.
 - (6) All of Block No. 67, except Lot Nos. 1 through 10.
 - (7) All of Block No. 68.

§ 246-42.1. Redevelopment Overlay (RO) Zone.

[Added 1-20-2016 by Ord. No. 16-03]

- A. Establishment of overlay zone; applicability.
 - (1) This section establishes development standards and regulations for the establishment of uses, structures, and lots in the Redevelopment Overlay (RO) Zone.

(2) The application of the RO Zone is:

- (a) The RO Zone applies to Block 28, Lots 7, 21, 23 and 27 as shown on the map on file in the office of the Municipal Clerk of the Borough of Seaside Heights.
- (b) The RO Zone provides development standards that apply to new construction of redevelopment projects.
- (c) Existing regulations in the underlying zone shall apply to all remodeling of, or additions to, an existing structure where there will be no change in occupancy and/or where the developer of the site does not wish to utilize the RO Zone development standards.
- (d) Planning Board site plan review is required for all new development and major renovation of existing development in the RO Zone.

B. Specific purposes. The specific purposes of this overlay zone are to provide age-restricted senior housing while revitalizing and redeveloping dilapidated commercial properties on a major thoroughfare.

C. Definitions. As used in this section, the following terms shall have the meanings indicated:

BUILDING FRONTAGE

The measurement, in linear feet, of the building or buildings that front onto a major arterial street, not including driveways and pedestrian courtyards between buildings.

DEVELOPMENT SITE

A parcel or group of contiguous parcels that are proposed for development as one project.

GROUND FLOOR

The lowest level within a building that is accessible from and within three feet above or two feet below the grade of the street.

REDEVELOPMENT PROJECTS

Redevelopment projects shall provide age-restricted senior housing facilities.

D. Development standards.

Bulk Standards Seaside Heights Redevelopment Zone

Bulk Standards	Residential Multistory
Use	Age-restricted senior housing
Minimum lot area	17,500 square feet
Maximum density	25 units per 10,000 square feet
Maximum floor area ratio	3.20
Minimum lot width	75 feet
Minimum lot depth	75 feet
Minimum building front yard setback	10 feet
Minimum roof eave front yard setback	7 feet
Minimum porch front yard setback	5 feet
Minimum stairs and ADA ramps front yard setback	0 feet
Minimum rear yard setback	10 feet
Minimum side yard setback	10 feet
Maximum building height	4 stories
Maximum building coverage	80%
Maximum lot coverage	90%
Minimum accessory building setback	5 feet
Minimum parking spaces (on site and on street)	0.5 per unit

§ 246-43. Riparian lands.

Lands boarding the Borough and lying underwater in Barnegat Bay or the Atlantic Ocean, commonly known as "riparian lands," if in the future such lands are put to use, shall be in the district or zone of the Borough land bordering said riparian land. Any use of the said riparian lands shall be governed by the ordinances of the Borough controlling the Borough property bordering in that land.

§ 246-44. Additional regulations.

A. Setback requirements.

[Amended 4-15-1998 by Ord. No. 98-10; 6-7-2000 by Ord. No. 2000-11]

- (1) Every building or structure hereinafter erected in the Borough of Seaside Heights shall conform to the following requirements with respect to setbacks for front, side and back yards:
 - (a) The front setback line is hereby fixed, and no building or structure shall be constructed any closer than 10 feet from the front property line.
 - (b) The rear setback line is hereby fixed, and no building or structure shall be constructed any closer than three feet from the rear property line.
 - (c) The side setback lines are hereby fixed, and no building or structure shall be constructed any closer than three feet from the side property lines.
 - (d) In the event that any building or structure is to be erected on a parcel of property contiguous to two thoroughfares or streets, then and in that event the provisions hereinabove set forth regarding front setbacks shall be applicable to both thoroughfares and streets; that is to say, no building or structure shall be constructed any closer than 10 feet from the property line on either thoroughfare or street.
- (2) Exceptions to setback requirements.
[Amended 9-1-2004 by Ord. No. 04-14; 7-17-2013 by Ord. No. 13-17]
 - (a) The setback requirements of Subsection **A(1)** above shall not be applicable to the property which is immediately contiguous to and adjoining the main thoroughfare of the boardwalk of the Borough of Seaside Heights, located between the North line of the Borough and the center line of Porter Avenue. Any building or structure fronting the main boardwalk thoroughfare may be constructed on the front and side property lines, except where those property lines face on a street, street end or public accessway.
 - (b) Every part of a required setback space shall be unobstructed from its lowest level to the sky except for the ordinary projection of sills, belt courses, chimneys, flues, buttresses, ornamental features and eaves. However, none of the aforementioned exceptions shall extend into any setback space more than 18 inches, nor shall any projection extend past the property line.
 - (c) An overhang, defined as a projecting upper part of a building, as a roof shall be permitted on the boardwalk, so long as no overhang shall project more than seven feet over the boardwalk and the lowest portion of all overhangs must be between seven feet and 12 feet above the level of the boardwalk.

B. Fences.

[Amended 12-20-2000 by Ord. No. 2000-24]

- (1) All fences on the front property line or on the side lot lines from the front property line to the front building setback line shall be no more than four feet high. All fences along the rear property line and along the side property lines from the rear property line to the front building setback line shall be no more than six feet high.
- (2) All fences shall be constructed in a workmanlike manner, adequately support all components, run in a straight line, be plumb and be constructed so support components are located on the constructing property owners' property.
- (3) Fences may not be constructed in a public right-of-way.
- (4) Barbed wire, canvas, cloth, electrically charged, expandable and collapsible fences are prohibited.

C. As to the front setback only, all stairways, open porches, overhangs, cantilevers and counters. All stairways, open porches, overhangs and cantilevers on any building shall not extend more than four feet beyond the

building line. This requirement as it pertains to overhangs and cantilevers shall be in effect for all areas of this municipality, with the exception of properties which adjoin and face the boardwalk and street ends adjoining the boardwalk. In the boardwalk and street end areas, overhangs shall not extend seven feet beyond the building line. Balconies, decks and porches are not permitted on the boardwalk. Finished counters shall not extend beyond 12 inches from the building line and shall not physically touch the boardwalk.

[Amended 4-15-1998 by Ord. No. 98-10; 7-7-1999 by Ord. No. 99-18]

- D. Vaults. Vaults may be built east of Ocean Terrace throughout the Borough on the street ends or sides adjoining street ends. These vaults may extend under the setback areas and shall in no event exceed 10 feet from the main building or encroach over the property line, whichever is the lesser. No vault or part thereof shall be constructed within 35 feet of the right-of-way line of Ocean Terrace. Strict supervision of construction over vaults by the Construction Official shall be required throughout construction.
- E. Building or structure height.
[Amended 6-7-2000 by Ord. No. 2000-11; 8-4-2004 by Ord. No. 04-10; 12-16-2009 by Ord. No. 09-12; 2-20-2013 by Ord. No. 13-08]
- (1) No dwelling, building or structure of whatever composition, construction, type or style, regardless of its intended use or purpose, shall be erected to a height exceeding 40 feet, which height shall be measured from the highest elevation of the finished curb of the property to the top of the roof beam. The provisions of this subsection shall not apply in the Single-Family and Low-Density Residential Zones.
 - (2) Towers, turrets, minarets, elevator shafts, rooftop air-conditioning units, chimneys or other such auxiliary structures annexed to buildings or dwellings shall be permitted for purposes of decoration and mechanical requirements only and shall be limited to 10 feet in height above the roofline.
 - (3) The height provisions of this chapter shall not be applicable to churches or other houses of worship.
 - (4) Building height in the Single-Family Zone and Low-Density Residential Zone. No dwelling, building or structure of whatever composition, construction type or style, regardless of its intended use or purpose, shall be erected to a height exceeding 27 feet. The height in these two zones shall be measured from the applicable ABFE or BFE flood elevation, plus one foot, as established by Ordinance No. 13-04,^[1] to the highest point on the structure.
[1] Editor's Note: See Ch. 99, Flood Damage Prevention.
 - (5) There is no height limitation on rides that are erected in Blocks 33.01, 33.02, 33.03 and 69 of the Resort Recreation Zone.
- F. Floating homes and floating home marinas are hereby prohibited in all zones within the Borough of Seaside Heights. No marina shall permit the in-water or out-of-water storage of any floating home. No person, firm or corporation shall operate or cause to be operated a floating home marina or rent, hold out for rent or sell any site or space for the location of a floating home. No marina shall use or permit to be used more than 5% of the total number of approved boat slips or moorage sites for houseboats.

§ 246-45. Abandonment.

Any structure left unoccupied, neglected and not properly cared for, for a period of 12 consecutive months, shall be considered abandoned. Any abandoned structure shall not be occupied until it is made to comply with all zoning laws of the Borough, including but not limited to parking, front and rear yard setbacks, bulk density, use and building height.

§ 246-46. Expiration of variances.

Any variance from the terms of this chapter hereafter granted by the Land Use Board permitting the erection or alteration of any structure or structures, or permitting a specified use of any premises, shall expire by limitation unless such construction or alteration shall have been actually commenced on each and every structure permitted by said variance, or unless such permitted use has actually been commenced, within one year from the date of publication of the notice of the judgment or determination of the Land Use Board; except, however, that the running of the period of limitation herein provided shall be tolled from the date of filing an appeal from the decision of the Land Use Board to the governing body, or to a court of competent jurisdiction, until the termination in any manner of such appeal or proceeding.

§ 246-47. Appeals; interpretations; variances.

- A. The Land Use Board shall have such powers as are granted by law to:
- (1) Hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by an administration official or agency based on or made in the enforcement of the Zoning Ordinance.
 - (2) Hear and decide requests for an interpretation of the Zoning Map or Zoning Ordinance or for decisions upon the special questions upon which such Board is authorized by the Zoning Ordinance to pass.
 - (3) Where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property or by reason of exceptional topographic conditions or by reason of other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation in this Zoning Ordinance would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of such property, grant upon an application or an appeal relating to such property a variance from such strict application so as to relieve such difficulties or hardship; provided, however, that no variance shall be granted upon this subsection to allow a structure or use in a district restricted against such structure or use.
 - (4) Grant a variance to allow a structure or use in a district restricted against such structure or use in particular cases and for special reasons, but only by the affirmative vote of at least 2/3 of the full authorized membership of the Board.
- B. No variance or other relief may be granted under the provisions of this section unless such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and Zoning Ordinance. Any application under any subsection of this section may be referred to any appropriate person or agency for its report, provided that such reference shall not extend the period of time within which the Land Use Board shall act.
- C. It shall be unnecessary for the owners of any preexisting single- or two-family dwelling to obtain a variance from side or rear setback requirements of the Seaside Heights Zoning Ordinance if, and only if:
- (1) Said single- or two-family dwelling complied with the setback requirements in effect at the time that the dwelling or dwellings were constructed.
 - (2) Any proposed addition to the single- or two-family dwelling or dwellings shall comply with the present front, side or rear setback requirements in effect at the time of said application.
 - (3) Any vertical expansion shall comply with the present setback requirements.
 - (4) This section shall not act as a waiver to any other requirements of the Seaside Heights Zoning Ordinance or ordinances.

§ 246-48. Additional powers.

The Land Use Board shall, in addition to the powers specified herein, have power given by law to direct issuance of a permit pursuant to N.J.S.A. 40:55D-34 for a building or structure in the bed of a mapped street or public drainageway, flood control basin or public area reserved on the Official Map.

§ 246-49. Time limit for decision.

- A. The Land Use Board shall render its decision not later than 120 days after:
- (1) The date an appeal is taken from the decision of an administrative officer; or
 - (2) The date of the submission of a complete application for development to the Board pursuant to the provisions of N.J.S.A. 40:55D-70b.
- B. Failure of the Board to render a decision within such one-hundred-twenty-day period or within such further time as may be consented to by the applicant shall constitute a decision favorable to the applicant.

Article VI. Site Plan Review and Approval

§ 246-50. Purpose and application of provisions.

- A. Site plan review is provided for in the Municipal Land Use Law (N.J.S.A. 40:55D-37). Such review makes it possible for Planning Boards to determine developmental impacts with regard to topography, vegetation, drainage, floodplains, marshes and waterways. Additionally, site plans show the location of existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utilization, landscaping, structures, signs, lighting and screening.
- B. In short, a site plan allows the Land Use Board to assess the project in order to ensure the compatibility and determine the impact of proposed uses.
- C. Except as hereinafter provided, compliance with preliminary and final site plan review will be required, and no building permit or certificate of occupancy shall be issued, for any new construction and for any conversion, enlargement, alteration or addition to any existing building or structure, and for all changes in use (other than a change from one permitted use to another permitted use where no addition, conversion, enlargement or alteration is take place), with the exception of single-family and two-family detached dwelling unit buildings. Review shall be required before any excavation, removal or addition of soil on lands contemplated for development, unless the developer submits a site plan to the Land Use Board and final approval is granted pursuant to a resolution of the Land Use Board. No certificate of occupancy shall be authorized unless all construction conforms to the approved site plan.
 - (1) All other provisions requiring site plan review shall not apply for the first addition to any building or structure, as long as it does not exceed 300 square feet. All other provisions concerning side line setbacks, etc., of the Code of the Borough of Seaside Heights must be met prior to such construction. The provisions of this section shall not apply to any premises holding a liquor license.
 - (2) In situations where no addition or enlargement is to take place to the building or structure, site plan approval shall not be required when there is only a change from one permitted use to another permitted use, unless that change of use involves the holder or proposed holder of a liquor license. In addition, all such changes of use shall conform to the minimum zoning requirements of the new use, which shall include, but not be limited to, square footage, setback requirements, parking requirements, etc.
- D. Site plan approval shall not limit the requirements for submission of an application to the Land Use Board for subdivision, conditional use approvals and for any and all variances that may be required either by ordinance or pursuant to state statute.
- E. Each application for site plan approval, when required pursuant to Section 8 of P.L. 1968, c. 285 (N.J.S.A. 40:27-6.6), shall be submitted by the applicant to the Ocean County Land Use Board for review or approval as required by the aforesaid section, and the Land Use Board shall condition any approval that it grants upon timely receipt of a favorable report on the application by the Ocean County Planning Board or approval by the Ocean County Planning Board by its failure to report thereon within the required time.
- F. The Land Use Board, when acting upon applications for preliminary site plan approval, shall have the power to grant such exceptions for the requirements for site plan approval as may be reasonable and within the general purpose and intent of the provisions herein and within the provisions of N.J.S.A. 40:55D-1 et seq. if the literal enforcement of one or more provisions of this chapter is impractical or will exact undue hardship because of peculiar conditions pertaining to the land in question.
- G. The Land Use Board shall have the power to review and approve or deny conditional uses or subdivisions simultaneously with the review for site plan approval without the developer being required to make further application to the Land Use Board or the Land Use Board being required to hold further hearings. The longest time for action by the Land Use Board, whether it is for subdivision, conditional use or site plan approval, shall apply. Whenever approval of a conditional use is requested by the developer pursuant to the Municipal Land Use Act, notice of the hearing on the plat shall include reference to the request for such conditional use.

§ 246-51. Standards for approval.

The Land Use Board shall grant approval of a site plan application if the detailed drawings, specifications and estimates based upon the application for approval conform to the standards established herein.

- A. The details of the site plan are in accordance with the standards of the Borough of Seaside Heights Zoning Ordinance and any and all other ordinances of the Borough of Seaside Heights which may be in existence at the time of the application and are in harmony with the officially adopted Comprehensive Master Plan of the Borough of Seaside Heights.
- B. The application is in compliance with the requirements of the Municipal Land Use Act, N.J.S.A. 40:55D-1 et seq., and any subsequent amendments thereto.
- C. There is satisfactory provision for pedestrian and vehicular traffic movement within and adjacent to the site, with particular emphasis on the provision and layout of parking areas, off-street loading and unloading, movement of people, goods and vehicles from access roads within the site, between buildings and between buildings and vehicles. The Land Use Board shall ensure that all parking spaces are usable and are safely and conveniently arranged. Access to the site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow in these roads and to permit vehicles a rapid and safe ingress and egress to the site.
- D. There is provision for off-tract water, sewer, drainage and street improvements, if required, which are necessitated by land development without any contributions for the cost of the same to be computed in accordance with N.J.S.A. 40:55D-42 and relevant provisions of the Code of the Borough of Seaside Heights. Particular emphasis shall be given to the adequacy of existing systems and the need for improvements, both on-site and off-site, to adequately carry runoff and sewage and to maintain an adequate supply of water at sufficient pressure.
- E. Adequate provision has been made for the design and layout of buildings and parking areas so as to provide aesthetically pleasing design and efficient arrangement. Particular attention shall be given to safety and fire protection, impact on surrounding development and contiguous and adjacent buildings and lands, and satisfactory provisions for adequate lighting to ensure safe movement of persons and vehicles and for security purposes. Lighting standards shall be of a type approved by the Land Use Board. Directional lights shall be arranged so as to minimize glare and reflection on adjacent properties. Particular attention shall be given to the location, power, direction and time of any outdoor lighting so as to avoid any adverse effect upon any properties an any adjoining residential districts by impairing the established character or the potential use of properties in such districts.
- F. Satisfactory provision has been made to provide shielding for electric or electronic equipment so that there is no interference with any radio or television reception at the lot line or beyond the operator's dwelling unit in case of multifamily dwellings as a result of the operation of such equipment.
- G. Satisfactory provision has been made to ensure that no use shall produce a strong, dazzling light or a reflection of a strong dazzling light or glare beyond its lot line. Exterior lighting shall be shielded, buffered and directed so that glare, direct light or reflection will not become a nuisance to adjoining properties, adjoining dwelling units, adjoining districts or streets.
- H. Buffering shall be located around the perimeter of the site to minimize headlights of vehicles, noise, light from structures, the movement of people and vehicles and to shield activities from adjacent properties when necessary. Each permitted use shall provide and maintain attractively landscaped grounds and suitable screening in order to safeguard the character of adjacent districts. Buffer areas shall be measured horizontally and be either perpendicular to straight lot and street lines or radial to curved lot and street lines. Buffer areas shall be maintained and kept clear of all debris, rubbish, weeds and tall grass. No structure, activity, storage of materials or parking of vehicles shall be permitted in the buffer area, and all buffer areas shall be planted and maintained with grass or ground cover, together with a dense screen of trees, shrubs or other plant materials, meeting the following requirements:
 - (1) Plant materials used in screen planting shall be at least four feet in height when planted and of such density that all of the glare of automobile headlights emitted from the premises is obscured throughout the full course of the year. Plant materials shall be of a species common to the area, shall be of nursery stock and shall be free of insects and disease.
 - (2) Buffer areas shall be permanently maintained, and plant material which does not live shall be replaced no later than the next growing season.
 - (3) The screen planing shall be so placed that at maturity the plant material will be no closer than three feet from any street or property line.
 - (4) The buffer area shall not be broken unless specifically approved by the Land Use Board.

- I. Landscaping shall be provided as part of the overall site plan design and integrated into building arrangements, topography, parking and buffering requirements. Landscaping shall include trees, bushes, shrubs, ground cover, perennials, annuals, plants, sculpture, art and the use of building and paving materials in an imaginative manner.
- J. Signs shall be designed so as to be aesthetically pleasing, harmonious with other signs on the site and located so as to achieve their purpose without constituting hazards to vehicles and pedestrians.
- K. No use shall produce heat perceptible beyond its lot lines. No use shall be permitted which would cause the temperature to rise or fall in Barnegat Bay or the Atlantic Ocean.
- L. The sound level of any operation (other than the operation of motor vehicles or other transportation facilities in public highways, operations involved in the construction or demolition of structures, emergency alarm signals or time signals) shall not exceed the levels and operations as specified within the chapter of this Code designated as "Noise."^[1]

[1] *Editor's Note: See Ch. 154, Peace and Good Order, § 154-3.*

- M. Odors shall not be discernible at the lot line or beyond.
- N. No materials or waste shall be deposited upon a lot in such form or manner that such materials may be transferred off the lot by natural causes or forces, nor shall any substance which can contaminate a stream, watercourse or underground aquifer or otherwise render such stream, watercourse or underground aquifer undesirable as a source of water supply or recreation, or which will destroy aquatic life, be permitted. All materials or waste which might cause fumes or dust or which constitute a fire explosion hazard or which may be edible or otherwise attractive to rodents or insects shall be stored indoors and enclosed in an appropriate container adequate to eliminate such hazards. All disposal systems shall meet municipal specifications as to installation and construction.
- O. Environmental elements relating to soil or erosion, preservation of trees, protection of watercourses and resources, noise, topography, soil and animal life shall be reviewed, and the design of the plan shall minimize any adverse impact on these elements.
- P. Driveway openings for each application requiring site plan approval shall be as follows:
 - (1) No greater than 16 feet of curb cut in length per 100 feet of lot frontage; corner lot property shall only use property along one street to determine the amount of frontage for parking lot purposes.
 - (2) No greater than 16 feet of driveway shall be allowed on each street if the same piece of property is bounded by two noncontiguous streets.
- Q. Design requirements. Parking lots shall be designed to provide the following:
 - (1) Driveway openings shall be as follows:
 - (a) No greater than 16 feet of curb cut in length per 100 feet of lot frontage; corner lot property shall only use property along one street to determine the amount of frontage for parking lot purposes.
 - (b) No greater than 16 feet of driveway shall be allowed on each street if the same piece of property is bounded by two noncontiguous streets.
 - (c) Notwithstanding the above, there shall be no more than two driveway openings servicing any one project.
 - (2) Where possible, access drives shall not be located closer than 20 feet from the nearest right-of-way of an intersection street.
 - (3) Parking stalls shall not be located so as to require a vehicle to back into any portion of the public right-of-way in order to enter or exit the parking stall.
 - (4) All parking areas for four or more vehicles shall have artificial lighting that will provide a minimum lighting level of 0.5 horizontal footcandle throughout the parking area and access drives. For multifamily uses, such lights shall be operated from dusk to dawn and for all other uses when the site or structure is occupied. Freestanding light poles shall be no higher than the height of the highest principal building plus five feet. Shielding shall be required where necessary to prevent glare upon adjacent properties or streets.

- (5) All parking spaces provided pursuant to this chapter shall be suitably graded, surfaced, drained and maintained in good condition.
- (6) The following regulations and rules shall apply concerning off-street parking in each and every district in the Borough of Seaside Heights.
[Amended 8-7-2002 by Ord. No. 2002-18]
- (a) Hotels, motels and rooming houses: parking spaces for at least one motor vehicle for every one rental unit in such hotels, motels and rooming houses.
 - (b) Apartment houses, efficiency motel units, and residential condominium developments: parking spaces for two motor vehicles for every one living unit in such apartments, efficiency motel units, and residential condominium developments. One-family homes shall also require parking spaces for two motor vehicles and two-family homes shall require parking spaces for four motor vehicles.
 - (c) Retail business uses shall supply parking at one parking space per 500 square feet of gross floor area.
 - (d) Bars, cocktail lounges, nightclubs, restaurants with bars: one parking space for each 100 square feet of gross floor area.
 - (e) Automotive service station: five parking spaces for each service bay, exclusive of vehicle service area. In no instance shall there be fewer than five off-street parking spaces.
 - (f) Business offices: one parking space for each 150 square feet of gross floor area.
 - (g) Any other uses requiring site plan approval shall supply parking at one parking space per 500 feet of gross floor area.
 - (h) Except where multiple parking spaces serve only one dwelling unit or where valet parking is provided, each parking space shall have direct access to a driveway or public street and cars may not be parked so as to require removal of one vehicle in order to relocate another.
- (7) Parking spaces are to be designed so that in all instances there is a minimum of four feet between parked vehicles and any building on an adjoining lot or an adjoining public sidewalk. This four-foot-wide pedestrian access aisle shall not be part of the parking area and shall be unobstructed.
[Amended 8-7-2002 by Ord. No. 2002-18^[2]]
- ^[2] *Editor's Note: Former Subsection Q(8), regarding pedestrian access aisles, which subsection immediately followed this subsection, was repealed 8-7-2002 by Ord. No. 2002-18.*

§ 246-52. Application contents and requirements.

- A. An application shall be made upon forms to be supplied by the Land Use Board for site plan approval, and a completed application shall be submitted to the Land Use Board Secretary of the Borough of Seaside Heights, together with a site plan as herein required. The site plan shall be submitted in 17 copies at least 28 days prior to the scheduled public meeting of the Board. The time for the Board's review shall not begin to run until the submission of a complete application with the required fee. Unless the applicant is informed, in writing, by the reviewing board within 45 days of the actual submission of the application that it is incomplete, said application shall be deemed complete as of the date it was submitted. All site plans and supporting documents shall comply with the requirements hereinafter set forth and shall contain the following information and data:
- (1) A properly completed site plan information form.
 - (2) The required fee as provided by § 246-54.
[Amended 8-7-2002 by Ord. No. 2002-18]
 - (3) A site plan at a scale of one inch equals 20 feet.
 - (4) A plan certified by a New Jersey licensed architect or engineer, including accurate lot lines certified by a registered land surveyor.
 - (5) Plans submitted on one of the following standard sheet sizes: 15 inches by 21 inches; 24 inches by 36 inches; 30 inches by 42 inches. In the event that one sheet is not sufficient to contain the entire territory, the

map may be divided into sections to be shown on separate sheets of equal sizes, with reference on each sheet to the adjoining streets.

- B. Each site plan submitted to the Board for approval shall have the following information shown thereon or annexed thereto:
- (1) Size, height, location and arrangement of all existing and proposed buildings, structures and signs in accordance with the requirements of this chapter, including a rendering of each building or a typical building and sign showing front elevations and a proposed site of all structures, and including:
 - (a) Boundaries of the tract.
 - (b) North arrow.
 - (c) Date.
 - (d) Graphic Scale.
 - (e) Zone districts in which the lot or lots are located.
 - (f) Existing and proposed streets and street names.
 - (g) Accurate location and sizes of all buildings on properties adjacent and across the street.
 - (h) Title of plans.
 - (i) Existing and proposed streams and easements.
 - (j) Total building coverage in acres and percent of lot.
 - (k) Total number of parking spaces.
 - (l) All dimensions needed to conform to the Zoning Ordinance, such as but not limited to buildings, lot lines, parking spaces, setbacks and yards.
 - (m) A small key map giving the general location of the parcel in relation to the remainder of the municipality.
 - (n) A small key map giving the location of the site in relation to all remaining lands in the applicant's ownership.
 - (2) One copy of said plan shall consist of a translucent tracing and shall be of a size of no more than 30 inches by 42 inches, and all information appearing thereon shall be in black India ink.
 - (3) A scale of 20 feet to the inch. All distances shall be in feet and decimals of a foot, and all bearings shall be given to the nearest ten seconds. The error of closure shall not exceed 1 to 10,000.
 - (4) The names of all owners of record of all adjacent properties and the block and parcel numbers of the properties.
 - (5) Existing school, zoning and special district boundaries. Such features shall be shown on a separate map or as a key map on a special detailed map itself.
 - (6) Boundaries of the property, building or setback lines and lines of existing streets, lots, reservations, easements and areas dedicated to public use.
 - (7) A copy of any covenant or deed restrictions that are intended to cover all or any part of the tract.
 - (8) Location of existing buildings which shall remain and all other structures, such as walls, fences, culverts, bridges, roadways, etc., with spot elevations of such structures. The outline of such structures shall be indicated by a dashed line, and those that shall remain shall be shaded.
 - (9) Location of all storm drainage structures and utility lines, whether publicly or privately owned, with pipe sizes, grades and direction of flow; and if any existing utility lines are underground, the estimated location of said already existing underground utility lines shall be shown.

- (10) Existing contours at intervals of one foot where slopes are less than 5% and at intervals of five feet when 5% or more, referenced to a datum as provided by the Land Use Board Engineer to be indicated by a dashed line. Where any change in contours is proposed, finish grades should be shown as solid lines.
- (11) Location of existing rock outcrops, highpoints, watercourses, depressions, ponds, marshes, wooded areas, single trees not in wooded areas with a diameter of six inches or more as measured three feet above the base of the trunk and other significant existing features, including previous flood elevations of watercourses and pond and marsh areas as determined by survey.
- (12) The title of the development; the North point, scale, name and address of the record owner, engineer, architect and land planner or surveyor preparing the site development plan.
- (13) A survey prepared by a licensed surveyor of the State of New Jersey shall accompany the site plan and shall show the boundaries of the parcel and the limits of all proposed streets, recreation areas and other property to be dedicated to public use. The site plan may be accompanied by such other exhibits of an architectural or planning nature submitted by the applicant or as may be required by the rules of the Land Use Board.
- (14) All proposed easements and public and community areas and all proposed streets with profiles indicating grade and cross sections showing width of roadways, location and width of sidewalks and location and size of utility lines, according to the standards and specifications of the Borough of Seaside Heights.
- (15) The proposed use or uses of land in buildings and proposed location of buildings, including proposed grades. Such features should be indicated on a separate drawing where deemed desirable and necessary by the Land Use Board Engineer.
- (16) All means of vehicular access and egress to and from the site onto public streets, showing size and location of driveways, curb cuts and sidewalks, and proposed circulation plans including access streets, curbs, aisles and lanes, easements, fire lanes, driveways, parking spaces, loading areas, loading berths or docks, pedestrian walks and all related facilities for the movement and storage of goods, vehicles and persons on the site in accordance with applicable requirements of this chapter. Said proposed circulation plans should include the location of lights, lighting standards and signs and driveways within the tract and within 100 feet of the tract. Sidewalks shall be provided from each building entrance/exit along expected paths of pedestrian travel, such as but not limited to access to parking lots, driveways, other buildings on the site and across common yard spaces between buildings where pedestrian traffic can be expected to be concentrated. Plans shall be accompanied by cross sections of streets, aisles, lanes, curbing and driveways which shall adhere to applicable requirements of this chapter and applicable design standards in the Subdivision Ordinance.^[1]
[1] Editor's Note: See Article VII, Subdivision Review.
- (17) The location of proposed water lines, valves and hydrants and of all sewer lines or alternative means of water supply or sewage disposal and treatment in conformance with the applicable standards of the Borough of Seaside Heights and the Ocean County Municipal Utilities Authority. Said plan shall include proposed grades, sizes, capacities and types of materials to be used, including any drainage easements acquired or required across adjoining properties.
- (18) The proposed location and direction of illumination, amount of illumination expressed in average horizontal footcandles, hour and time or proposed outdoor lighting and conformance with applicable standards of the Borough of Seaside Heights and as may be applied by the Land Use Board of the Borough of Seaside Heights. Proposed lighting facilities shall be included, showing the direction and reflection of the lighting. All utilities shall be installed underground.
- (19) The proposed screening, and landscaping, including planting plan, in conformance with the applicable standards of the Borough of Seaside Heights and the Land Use Board of the Borough of Seaside Heights. Said plan shall also include a depiction of existing and proposed wooded areas and buffer areas. The landscaping plan, including seeded and/or sodded areas, grading, retaining walls, fencing, signs, recreation area, shrubbery, trees and buffer areas shall be in accordance with applicable requirements of this chapter. These plans shall show the location and type of any man-made improvements and the location and species of plant materials for all planted and landscaped areas.
- (20) A proposed stormwater drainage system in conformance with the applicable standards of the Borough of Seaside Heights and the Land Use Board of the Borough of Seaside Heights.

(21) Such other information or data as may be required by the Land Use Board in order to determine that the details of the site plan are in accordance with the standards of the ordinances of the Borough of Seaside Heights and all other general law.

- C. All applications for site plan approval shall be submitted to the County Planning Board for its review and recommendations and, where applicable, approval. Applicants shall furnish proof of such submission at the time of the submission of their application to the municipal reviewing board by presenting a copy of a site plan with an indication from the county that it has been filed with the county. Any application for site approval shall not be deemed complete in the absence of proof that it has been filed with the County Planning Board. If the County Planning Board has failed to grant or deny approval of the site plan at the time of approval of an applicant's application, such approval shall be conditioned on approval of said site plan by the County Planning Board.
- D. No application for site plan approval shall be deemed complete in the absence of proof that a plan for soil erosion and sedimentation control has been submitted to the relevant reviewing authority, pursuant to the requirements of N.J.S.A. 4:24-39 et seq., or proof that such a plan is not required by said statute for the particular application. If the reviewing authority has failed to grant or deny certification of the erosion plan at the time of approval of an applicant's site plan, approval shall be conditioned on certification of the applicant's erosion plan.
- E. No application for site plan approval shall be deemed complete in the absence of proof that the site plan has been submitted for approval by the necessary governmental units in charge of sewerage and sanitary water supply, the Army Corps of Engineers, if applicable; the State Department of Environmental Protection, if applicable; Fire Commissioners; and, where required, local and state boards of health. If any of the reviewing authorities have failed to grant or deny certification at the time of approval of an applicant's site plan, approval shall be conditioned on certification of the applicant's plan by each such governmental unit.
- F. Checklist for Site Plan Development Review. All applicants for site plan review must complete the Checklist that is provided to them by the appropriate municipal official, and all site plans must conform to the requirements of said Checklist. Said Checklist is hereby made a part of this Code and published more fully as Appendix to the Code of the Borough of Seaside Heights.^[2]
^[2] *Editor's Note: The Checklist is on file in the Borough offices.*

§ 246-53. Public hearings.

- A. A public hearing shall be held on all applications for site plan approval involving uses which, on the submitted complete application, are filed pursuant to § 246-52 hereof.
 [Amended 12-3-1997 by Ord. No. 97-13]
- B. If an applicant desires a certified shorthand court reporter, the cost of taking testimony and transcribing the same and providing a copy of the complete transcript to the Board shall be at the sole expense of the applicant, who shall also arrange for the reporter's attendance.

§ 246-54. Fees.

There shall be submitted to the Land Use Board Secretary with each site plan application, in order to defray the cost of legal and engineer review and all of the costs to review the site plan, the following fees:

- A. Each applicant, at the time of submission, shall pay a basic administration application fee of \$50.
- B. In addition, each applicant shall deposit by cash or certified check with the Land Use Board Secretary, to be held in escrow by the Borough of Seaside Heights, an amount to cover the cost of professional services and review, including legal and engineering and other incidental expenses connected with processing, reviewing and checking all materials. Said sum shall be in accordance with the schedule set forth in § 246-61.
 [Amended 12-3-1997 by Ord. No. 97-13]
- C. Sums paid pursuant to Subsection B above not utilized in the review and inspection process shall be returned to the applicant. If additional sums are deemed necessary, the applicant shall be notified of the required additional amount, and such sum shall be paid prior to the Board taking final action on the application.
- D. Each applicant who shall submit a plan for site approval shall agree, in writing, to pay all reasonable costs for professional review of the said site plan submission map and for inspection of improvements required by the

Board. Such costs must be paid in full before any occupancy of the premises is permitted or certificate of occupancy issued.

- E. A fee of \$300 is hereby established for an application for the extension of a final site plan approval.

§ 246-55. Distribution of site plan.

The Land Use Board Secretary shall distribute the site plan application for review and report, and approval where required, as follows:

- A. One copy to the Municipal Planner.
- B. One copy to the Municipal Engineer.
- C. One copy to the Land Use Board Engineer.
- D. One copy for the permanent files of the Board.
- E. One copy for the Director of Public Works.
- F. One copy to the Municipal Health Officer.
- G. One copy to the Municipal Fire Subcode Official.
- H. One copy to the Construction Official.
- I. Nine copies to the Land Use Board (two additional copies may be provided to the alternate members).

§ 246-56. Time limit for decision.

- A. Upon submission to the Land Use Board Secretary of a complete application for a site plan for 10 acres of land or less, the Land Use Board shall grant or deny preliminary approval within 45 days of the date of such submission or within such further time as may be consented to by the developer, except that if the application for site plan approval also involves an application for relief pursuant to N.J.S.A. 40:55D-60, the Land Use Board shall grant or deny approval within 120 days of the submission of a complete application, and such other information as is reasonably necessary to the making of an informed decision, to the Land Use Board Secretary, or within such further time as may be consented to by the applicant.
- B. Upon the submission of a complete application and such other information as is reasonably necessary to the making of an informed decision for a site plan of more than 10 acres, the Land Use Board shall grant or deny preliminary approval within 120 days of the date of such submission or within such further time as may be consented to by the applicant.
- C. Failure of the Land Use Board to reach a decision within the specified time periods or extensions thereof shall result in the approval of the site plan as submitted.
- D. If the Land Use Board requires any substantial amendment in the layout of improvements proposed by the development that have been the subject of a hearing, an amended application for development shall be submitted and proceeded upon, as in the case of the original application for development. The Land Use Board shall, if the proposed development complies with this chapter, grant site plan approval.
- E. Nothing herein contained shall be construed to limit the right of a developer to submit a sketch plat to the Land Use Board for informal review, and neither the Land Use Board nor the developer shall be bound by any discussions or statements made during such review, provided that the right of the developer at any time to submit a complete application for site plan approval shall not be limited by his submittal of a sketch plat. Time for the Planning Board's decision shall not begin to run until the submission of a complete application.

§ 246-57. Rights under preliminary approval.

- A. Preliminary approval of a site plan, except as provided in Subsection **B** of this section, shall confer upon the applicant the following rights for a three-year period from the date of the preliminary approval:

- (1) That the general terms and conditions on which preliminary approval was granted shall not be changed, including but not limited to use requirements; layout and design standards for streets, curbs and sidewalks; lot size; yard dimensions and off-tract improvements; natural resources to be preserved on the site; vehicular and pedestrian circulation, parking and loading; screening, landscaping and location of structures; and exterior lighting both for safety reasons and streetlighting, except that nothing herein shall be construed to prevent the municipality from modifying by ordinance such general terms and conditions of preliminary approval as relate to the public health and safety.
 - (2) That the applicant may submit for final approval on or before the expiration date of preliminary approval the whole or a section or sections of the preliminary site plan.
 - (3) That the applicant may apply for and the Land Use Board may grant extensions on such preliminary approval for additional periods of at least one year but not to exceed a total extension of two years, provided that if the design standards have been revised by ordinance, such revised standards may govern.
- B. In the case of a site plan for an area of 50 acres or more, the Land Use Board may grant the rights referred to in Subsection **A** above for such period of time longer than three years as shall be determined by the Land Use Board to be reasonable, taking into consideration the number of dwelling units and nonresidential floor area permissible under preliminary approval, economic conditions and the comprehensiveness of the development. The applicant may thereafter apply for and the Land Use Board may thereafter grant an extension to preliminary approval for such additional period of time as shall be determined by the Land Use Board to be reasonable, taking into consideration the number of dwelling units and nonresidential floor area permissible under preliminary approval, the potential number of dwelling units and nonresidential floor area of the section or sections awaiting final approval, economic conditions and the comprehensiveness of the development, provided that if the design standards have been revised by ordinance, such revised standards may govern.

§ 246-58. Final approval.

- A. The Land Use Board shall grant final approval if the detailed drawings, specifications and estimates of the application for final approval conform to the standards established by ordinance for final approval and the conditions of preliminary approval, provided that in the case of a planned development, the Land Use Board may permit minimal deviations from the conditions of preliminary approval necessitated by change of conditions beyond the control of the developer since the date of preliminary approval, without the developer being required to submit another application for development for preliminary approval.
- B. Final approval shall be granted or denied within 45 days after submission of a complete application to the Land Use Board or within such further time as may be consented to by the applicant. Failure of the Land Use Board to act within the period prescribed shall constitute final approval of the application for final approval as submitted, and a certificate of the Secretary of the Land Use Board as to failure by the Land Use Board to act shall be issued on request of the applicant, and it shall be sufficient in lieu of the written endorsement or other required evidence of approval.
- C. A complete application for final approval shall consist of the following:
- (1) A properly completed final site plan approval form.
 - (2) The required fee.
 - (3) A site plan in final form, including all the information shown on the preliminary plan, conditions of preliminary approval, along with all of the various items required by § **246-52** of this chapter.
[Amended 12-3-1997 by Ord. No. 97-13]

§ 246-59. Effect of final approval.

- A. The zoning requirements applicable to the preliminary approval first granted and all other rights conferred upon the developer pursuant to § **246-57** of this chapter entitled "Rights under preliminary approval," whether conditional or otherwise, shall not be changed for a period of two years after the date of final approval. If the developer has followed the standards prescribed for final approval, the reviewing board may extend such period of protection for extensions of one year, but not to exceed three such extensions. Notwithstanding any other provisions of this chapter, the granting of final approval terminates the time period of preliminary approval pursuant to § **246-57** of this chapter for the section of the development granted final approval.
[Amended 12-3-1997 by Ord. No. 97-13]

- B. In the case of site plan for a planned development of 50 acres or more or conventional site plan for 150 acres or more, the Land Use Board may grant the rights referred to in Subsection **A** of this section for such period of time longer than two years as shall be determined by the Land Use Board to be reasonable, taking into consideration the number of dwelling units and nonresidential floor area permissible under final approval, economic conditions and the comprehensiveness of the development. The developer may thereafter apply for and the Land Use Board may thereafter grant an extension of final approval for such additional periods of time as shall be determined by the Land Use Board to be reasonable, taking into consideration the number of dwelling units and nonresidential floor area permissible under final approval, the number of dwelling units and nonresidential floor area remaining to be developed, economic conditions and the comprehensiveness of the development.

§ 246-60. Off-tract improvements.

- A. Improvements to be constructed at sole expense of applicant. In cases where reasonable and necessary need for an off-tract improvement or improvements is necessitated or required by the proposed development application and where no other property owners receive a special benefit thereby, the Board may require the applicant, as a condition of approval, at the applicant's expense, to provide for and construct such improvements as if such were on-tract improvements in the manner provided hereinafter and as otherwise provided by law.
- B. Other improvements.
- (1) In cases where the need for an off-tract improvement is necessitated by the proposed development application and where the Board determines that properties outside the development will also be benefited by the improvement, the Board shall forthwith forward to the governing body a list and description of all such improvements, together with its request that the governing body determine and advise the Board of the procedure to be followed in the construction or installation thereof. The Board shall withhold action upon the development application until receipt of the governing body's determination or until the expiration of 90 days after the forwarding of such list and description to the governing body in the event no formal determination has been made.
 - (2) The governing body, within 90 days after receipt of said list and description, shall determine and advise the Board whether:
 - (a) The improvement or improvements are to be constructed or installed by the municipality:
 - [1] As a general improvement, the cost of which is to be borne at general expense, except as hereinafter otherwise provided as to a contribution thereto by the applicant; or
 - [2] As a local improvement, all or part of the cost of which is to be specially assessed against properties benefited thereby in proportion to benefits conferred by the improvements in accordance with law, except as hereinafter otherwise provided as to a contribution thereto by the applicant.
 - (b) The improvement or improvements are to be constructed or installed by the applicant under a formula for partial reimbursement as hereinafter set forth.
 - (3) If the governing body shall determine that the improvement or improvements shall be constructed or installed under Subsection **B(2)(a)[1]** hereinabove, the Board shall estimate, with the aid of the Municipal Engineer or such other person as has pertinent information or expertise, the amount, if any, by which the total cost thereof will exceed the total amount by which all properties, including the proposed development, will be specially benefited thereby, and the applicant shall be liable to the municipality for such excess. Further, the governing body shall adopt an ordinance authorizing and providing for the financing of the improvement or improvements in a manner consistent with the obligation of the applicant for any excess of total cost over total benefits conferred, as set forth above.
 - (4) If the governing body shall determine that the improvement or improvements shall be constructed or installed under Subsection **B(2)(a)[2]** hereinabove, the Board shall, as provided in Subsection **B(3)** hereinabove, estimate the difference between the total costs to be incurred and the total amount by which all properties are to be benefited thereby, including the development property. The Board shall estimate the amount the development property will be specially benefited by the improvement, and the applicant shall be liable to the municipality therefor, as well as for the amount of any special assessments against the development property for benefits conferred by the improvement or improvements. Further, the governing body shall adopt an ordinance authorizing and providing for the financing of the improvement or improvements and the assessment of benefits arising therefor in a manner consistent with the obligation of the applicant with respect thereto, and the proceedings under such ordinance shall be in accordance with

law, except to the extent modified by the obligation of the applicant for an excess of total cost over total benefits conferred, as set forth above.

- (5) If the governing body shall determine that the improvement or improvements are to be constructed or installed by the applicant under Subsection **B(2)(b)** hereinabove, the Board shall, in like manner, estimate the amount of such excess, and the applicant shall be liable to the municipality therefor, as well as for the amount of any special assessments against the development property for benefits conferred by the improvement or improvements. However, the applicant shall be entitled to be reimbursed by the municipality for the amount of any special assessments against property other than the development property for benefits conferred by the improvement or improvements, such reimbursement to be made if, as and when the special assessments against such other property are received by the municipality. Further, the governing body shall adopt an ordinance authorizing and providing for the assessment against all properties, including the development property, of benefits conferred by the improvement or improvements, and proceedings under said ordinance shall be in accordance with law. However, any such assessment against the development property shall be marked paid and satisfied in consideration of the construction or installation of the improvement or improvements by the applicant.
 - (6) If the governing body shall not adopt an ordinance or resolution within said time, the final development proposal shall nevertheless be designed, and the Board shall thereupon grant or deny final approval.
- C. Performance guaranties. The applicant shall be required to provide, as a condition for final approval of his development application, a performance guaranty running to the municipality as follows:
- (1) If the improvement is to be constructed by the applicant under Subsection **B(2)(b)** hereinabove, a performance bond with surety in an amount equal to the estimated cost of the improvement or, as to any part of said improvement that is to be acquired or installed by the municipality under said Subsection **A**, a cash deposit equal to the estimated cost of such acquisition or installation by the municipality.
 - (2) If the improvement is to be constructed by the municipality as a general improvement under Subsection **B(2)(a)[1]** hereinabove, a cash deposit equal to the amount of the excess of the estimated cost of the improvement over the estimated total amount by which all properties, including the development property, will be specially benefited thereby.
 - (3) If the improvement is to be constructed by the community as a local municipality improvement under Subsection **B(2)(a)[2]** hereinabove, a cash deposit equal to the amount referred to in the preceding Subsection **C(2)** immediately above, plus the estimated amount by which the development property will be specially benefited by the improvement.
- D. Refund of deposit where improvements are not authorized within five years. In any case in which an applicant shall deposit money with the municipality for the completion of an improvement that is to be constructed pursuant to this chapter by the municipality, the applicant shall be entitled to a full refund of such deposit if the governing body of the municipality shall not have enacted an ordinance authorizing the improvement within five years after the date all other development improvements are completed.
- E. Deposit of funds. All moneys paid by an applicant pursuant to this chapter shall be paid over to the Municipal Treasurer, who shall provide a suitable depository therefor. Such funds shall be used only for the improvements for which they are deposited, or improvements serving the same purpose.
- F. Redetermination of assessment upon completion of improvement. Upon completion of off-tract improvements required pursuant to this chapter, the applicant's liability hereunder shall be recalculated in accordance with the actual, as compared with the estimated, cost of the improvements. To the extent that such recalculation shall increase the amount of any cash deposit made by the applicant hereunder, the applicant shall forthwith pay the amount of such increase to the municipality. To the extent that it shall decrease the amount thereof, the municipality shall forthwith refund the amount of such decrease to the applicant. In cases where improvements are specially assessed against all benefited properties, recalculation shall be made by the municipal assessing authority in the course of the special assessment proceedings. In other cases, it shall be made by the Municipal Engineer.

§ 246-61. Inspection fees and performance guaranty.

- A. After site plan approval has been granted but prior to the issuance of a building permit, the applicant shall tender to the Borough of Seaside Heights a fee, in cash or other security approved by the Land Use Board Attorney, in a sum equal to 5% of the Land Use Board Engineer's estimated costs for on-site improvements which directly or

indirectly affect public streets and lands within the Borough of Seaside Heights and off-site improvements, including but not limited to streets, curbs, aisles, lanes, driveways, parking spaces, boating areas, lighting, sidewalks, landscaping, walls, fences, storm drainage, sanitary sewerage and water. The purpose for said fee shall be to cover the cost of the inspection of said improvements.

- B. All the aforementioned improvements shall be subject to inspection and approval by the Construction Code Official, who shall be notified by the applicant at least 48 hours prior to the start of construction. The Construction Code Official may require the assistance of the Land Use Board Engineer in effecting inspection approval. No underground installation, subgrade and/or stages of paving or other work normally done in stages shall be poured, installed, covered, backfilled or removed until inspected and approved. Distribution supply lines installed by public utility companies operating under regulations of the Public Utilities Commission of New Jersey are exempt from this inspection requirement.
- C. A certificate of occupancy shall not be issued until all the required improvements have been installed and approved and are functioning properly to that building or portion of a building for which a certificate of occupancy is requested in accordance with the provisions of this chapter. No certificate of occupancy shall be issued for any building or portion of a building where other improvements remain to be constructed on or off the site in order to complete the entire project until the performance guaranty, letter of credit or other form of guaranty acceptable to the approving planning body has been posted in a form approved by the Land Use Board Attorney, in an amount determined by the Board Engineer to be sufficient to assure completion of all the remaining improvements. Said guaranty shall also be in a form guaranteeing completion of the said remaining improvements within one year. The Board may require a three-year maintenance bond for any or all off-site improvements in the form and manner designated above.
- D. Final approval and authority to issue a certificate of occupancy shall rest solely within the jurisdiction of the approving board. Such action shall only be granted during a regularly scheduled meeting of the board.

§ 246-62. Performance guaranties and improvement costs.

- A. Performance guaranties shall be posted prior to the granting of final developmental approval.
- B. Performance guaranties shall be submitted in favor of the Borough of Seaside Heights in an amount not to exceed 120% of the cost of installation for improvements it may deem necessary or appropriate, including streets, grading, pavement, gutters, curbs, sidewalks, streetlighting, shade trees, surveyor's monuments, water mains, culverts, storm sewers, sanitary sewers or other means of sewage disposal, drainage structures, erosion control and sedimentation control devices, public improvements of open space and, in the case of site plans, other on-site improvements and landscaping. Ten percent of the total performance guaranty shall be in cash, deposited with the Municipal Clerk, and the remaining 110% shall be in a form acceptable to the Municipal Attorney. Such guaranties may be usable at any point by the municipality for the nonperformance of the applicant. Such guaranties shall run for a period of 18 months, subject to extension by the Borough Council for an additional period of 18 months.
- C. If the required improvements are not completed or corrected in accordance with the performance guaranties within the time limit or extension, the obligor and surety shall be liable thereon to the Borough for all reasonable costs of improvements not installed, and, upon receipt of the proceeds thereof, the Borough shall install such improvements.
- D. Prior to acceptance of a performance guaranty by the Borough Council, the Borough Council shall receive:
 - (1) A letter from the Municipal Engineer stating that the proposed bond covers all items required.
 - (2) A list of the items covered and their cost.
 - (3) A letter of approval from the Municipal Attorney as to bond form.
 - (4) A letter from the Municipal Engineer and Land Use Board stating that the plans meet all specifications.
- E. Following acceptance of a performance guaranty by the Borough Council, a letter so stating shall be sent to the Land Use Board prior to signing of final plats for the development.
- F. Prior to release of a performance guaranty in full or in part in accordance with N.J.S.A. 40:55D-53, the Borough Council shall receive:
 - (1) A recommendation from the Land Use Board.

- (2) As-built plans of all utilities and roads approved by the Municipal Engineer.
- (3) A statement from the developer/subdivider that there are no liens or other legal encumbrances on any of the improvements or utilities to be deeded.
- (4) Deeds, free and clear from all encumbrances, for all streets, public easements, drainage easements or other dedicated lands.
- (5) An acceptable maintenance guaranty as outlined below.

§ 246-63. Maintenance guaranty.

- A. All improvements required by the Land Use Board shall, prior to the release of performance guaranties, be covered by a maintenance guaranty running in favor of the Borough of Seaside Heights in the amount of 15% of the estimated cost of improvements, as determined by the Municipal Engineer. Said bond shall run for a period of two years following acceptance by the municipality and shall provide for proper repair and/or replacement during this period. In the event that all improvements have been completed prior to granting of final approval by the Land Use Board, the maintenance bond shall be posted before final plat approval. Maintenance bonds will be approved as to form by the Municipal Attorney.
- B. In the event that other governmental agencies or public utilities will automatically own the utilities to be installed or the improvements are covered by a performance or maintenance guaranty to another governmental agency, no performance or maintenance guaranty shall be required by the municipality for such utilities or improvements.

§ 246-64. Acceptance of roads.

- A. The Borough Council shall not accept any roadway or other improvement until the maintenance guaranty has been posted and all deficiencies corrected or repaired. The municipality may, however, agree to perform limited services if requested, in writing, by the subdivision developer and if held harmless for any damages resulting from such action.
- B. A deed for any roadway or improvement shall be submitted to the Borough Council prior to being recorded after the twenty-four-month period and upon certification from the Municipal Engineer that no further maintenance is required. The deed will be approved by the Municipal Attorney and recorded at the expense of the subdivider.

§ 246-65. Enforcement.

The continued maintenance of all site improvements shall be enforced by the Zoning Officer, who shall notify the property owner that a violation exists and that 60 days is given to correct the violation.

Article VII. Subdivision Review

§ 246-66. Intent.

- A. Subdivision review is provided for in the Municipal Land Use Law (N.J.S.A. 40:55D-37). Such review makes it possible for the Land Use Board to ensure development which is consistent with the Zoning Ordinance and Master Plan. It permits the Board to review developmental layout, street design, water drainage and sewerage adequacy, flood hazards and protection/conservation measures. It also makes possible provisions for off-tract improvements and, in the case of planned developments, promotes flexibility.
- B. In short, subdivision review establishes rules and standards for the division of land within the Borough in order to promote health, safety, convenience and general welfare.

§ 246-67. Approval required.

Any applicant wishing to divide or resubdivide land within the Borough shall apply for and obtain the approval of the Land Use Board in accordance with the procedures outlined herein.

§ 246-68. Submission.

[Amended 12-3-1997 by Ord. No. 97-13]

An applicant for subdivision of land shall submit to the Board Secretary four copies of an application and 12 copies of a sketch plat containing the information outlined in § 246-78 of this article two weeks prior to a regular meeting of the Land Use Board.

§ 246-69. Classification.

The Subdivision Committee of the Land Use Board shall review the plat prior to the regular meeting and shall classify the subdivision as a minor, exempt or major subdivision. Subdivisions failing to receive a unanimous vote as minor or exempt shall be considered major.

§ 246-70. Report of Subdivision Committee.

The Subdivision Committee shall report its recommendations and comments on each application to the Land Use Board at its next regular meeting. The Board shall have the right to approve or change the classification by majority vote.

§ 246-71. Minor subdivisions.

If classified as a minor subdivision, the Land Use Board shall have the authority to approve immediately or to forward copies of the plat to city offices or consultants for review. Upon completion of that review and within 45 days of receipt of the completed application, the Board will approve, conditionally approve or reject the request. If approved, a notation to that effect shall be made upon the plat and shall be signed by the Land Use Board Chairman and Municipal Clerk and returned to the applicant. If rejected, the reasons shall be noted upon all copies of the application form, and one copy shall be returned to the applicant.

§ 246-72. Filing with County Recording Office.

If approved as a minor subdivision, a plat drawn in compliance with the Map Filing Law, Chapter 141 of the Laws of 1960 (N.J.S.A. 46:23-9.9 et seq.), or a deed clearly describing the approved minor subdivision shall be filed with the Board Secretary within 190 days of the date on which the resolution of approval is adopted. Unless such a plat or deed is filed, the minor subdivision shall expire. Any such plat or deed accepted for filing shall have been signed by the Chairman and Secretary of the Land Use Board. The Land Use Board may extend the one-hundred-ninety-day period for filing a minor subdivision plat or deed if the developer proves to the reasonable satisfaction of the Land Use Board that the developer was barred or legally prevented, directly or indirectly, from filing because of delays in obtaining legally required approvals from other governmental or quasi-governmental entities and that the developer applied promptly for and diligently pursued the required approvals. The length of the extension shall be equal to the period of delay caused by the wait for the required approvals, as determined by the Land Use Board. The developer may apply for the extension either before or after what would otherwise be the expiration date.

§ 246-73. Extension of approval.

The Land Use Board shall grant an extension of minor subdivision approval for a period determined by the Board, but not exceeding one year from what would otherwise be the expiration date, if the developer proves to the reasonable satisfaction of the Board that the developer was barred or prevented, directly or indirectly, from proceeding with the development because of delays in obtaining legally required approvals from other governmental entities and that the developer applied promptly for and diligently pursued the required approvals. A developer shall apply for the extension before what would otherwise be the expiration date of minor subdivision approval or the 91st day after the developer received the last legally required approval from other governmental entities, whichever occurs later.

§ 246-74. Lands resulting from minor subdivision.

Any lands, lots or parcels resulting or remaining from minor subdivision may not be submitted as a minor subdivision for 24 months from the date of initial approval.

§ 246-75. Minor subdivision submission.

- A. The applicant shall submit 12 copies of a plat signed and sealed by a licensed land surveyor and based upon an accurate certified survey at a scale of one inch equals 50 feet. It shall include:
- (1) A key map showing the entire subdivision in relation to the surrounding area and roadway system.
 - (2) All existing structures within the parcel to be subdivided and within 200 feet of said parcel.
 - (3) The name and address of the owner and the names of all adjoining property owners as disclosed by the most recent municipal tax records.
 - (4) The Tax Map sheet, block and lot numbers.
 - (5) All existing and proposed streets and easements (including public utility easements) within or adjoining the proposed subdivision shall be clearly indicated.
 - (6) The dimensions of all proposed lot lines of all new lots being created and parcels being retained and any existing lot lines to be eliminated by the proposed subdivision shall be clearly indicated.
 - (7) The location, size and direction of flow of all streams, brooks, lakes, watercourses, drainage structures and drainage ditches in the area to be subdivided and within 200 feet of the proposed subdivision.
 - (8) North arrow, the scale at which the plat is drawn and the date of preparation.
 - (9) The acreage of the entire tract and of new parcels being proposed.
 - (10) The number of new lots being created.
 - (11) The name and address of the owner, subdivider and person preparing the plat.
 - (12) The classification of the zoning district or districts in which the proposed subdivision is located and a table listing conformance or nonconformance with zoning regulations in the districts.
 - (13) The location of any proposed open space or recreation areas.

- B. The submission shall be accompanied by a certification from the City Tax Collector that all taxes are paid to date.

§ 246-76. Major subdivisions.

[Amended 12-3-1997 by Ord. No. 97-13]

If a sketch plat submitted in accordance with the requirements of § 246-56 is classified as a major subdivision, a notation to that effect shall be made on the plat, and it shall be returned to the applicant for compliance with §§ 246-76 through 246-85.

§ 246-77. Preliminary submission.

[Amended 12-3-1997 by Ord. No. 97-13]

An applicant for preliminary major subdivision review and approval shall submit 10 copies of a preliminary plat clearly drawn and accurately reproduced at a scale of one inch equals 50 feet designed and drawn by a professional engineer and land surveyor, along with three copies of a completed application for preliminary approval and the appropriate fee (See Article VI, § 246-54) to the Municipal Clerk at least three weeks prior to the regular Land Use Board meeting. The Board Secretary shall keep one copy and submit the others to the Secretary of the Land Use Board.

§ 246-78. Required information for preliminary plat.

The preliminary plat shall show or be accompanied by the following information:

- A. All of the information requested in §§ **246-51** and **246-52** of this chapter. In the event that site plan and subdivision approval are sought simultaneously, information need not overlap.
[Amended 12-3-1997 by Ord. No. 97-13]
- B. Proposed street pattern in the subdivided area, distance to nearest existing developed area and relationship of parcel to existing roadways.
- C. Profiles and cross sections of proposed streets and of existing roadways abutting the subdivision. Cross sections shall show type and width of paving, location and type of curb, location of sidewalks, existing or proposed sight triangles at intersections and radii curblines.
- D. Elevation contours on a one-foot contour interval referenced to United States Geological Survey datum (1929).
- E. Boundaries of floodplain and wetlands areas as shown on Flood Insurance Rate Maps and State Department of Environmental Protection CAFRA Maps.
- F. The location and extent of drainage or conservation easements and stream encroachment lines.
- G. Plans and computations for storm drainage systems and retention facilities.
- H. Location of underground or surface utilities.
- I. Soil borings as may be required by the engineer.
- J. A list of off-tract improvements required for subdivision completion.
- K. Sanitary sewer and water design and calculations. The application and preliminary plan shall be accompanied by a letter of intent stating the following information: type of structures to be erected, nature of commercial use (if any), approximate date of construction start and estimated number of lots on which final approval will be requested.
- L. A landscape plan conforming to district regulations in which the subdivision is located.

§ 246-79. Preliminary review and approval process.

- A. Upon receipt of the plat and accompanying exhibits from the applicant, the Board Secretary will distribute copies of the preliminary plat and attached exhibits to the City Engineer, City Conservation Official, City Planner, County Planning Board and any other official or agency who or which may be affected by the proposed subdivision.
- B. Officials and agencies cited in Subsection **A** above shall forward reviews and recommendations, in writing, to the Land Use Board within 30 days of receipt. During the same time period, the Subdivision Committee shall review the plat for completeness and shall notify the developer of its findings within 45 days. In reviewing the subdivision request, the Land Use Board shall be guided by standards set forth within various zoning districts (see §§ **246-36** through **246-43**) and by the additional standards established in § **246-44**.
[Amended 12-3-1997 by Ord. No. 97-13]
- C. After all comments have been received and after a public hearing pursuant to § **246-53** of Article **VI** of this chapter, and if no substantial amendments have resulted from the review hearing, the Land Use Board shall:
[Amended 12-3-1997 by Ord. No. 97-13]
 - (1) For subdivisions of 10 or fewer lots, grant or deny preliminary approval within 45 days of the date of submission of a completed application or within such further time as may be consented to by the developer.
 - (2) For subdivisions of 10 or more lots, grant or deny preliminary approval within 95 days of the date of receipt of a completed application or within such further time as may be consented to by the developer.
 - (3) In both Subsection **C(1)** and **(2)** of this section, approval shall be conditional upon receipt of the required county approval and may be conditioned upon the receipt of approvals from various state and/or federal agencies.
- D. If the Land Use Board requires any substantial amendment in the layout of the improvements proposed by the developer that have been the subject of a hearing, an amended application shall be submitted and proceeded

upon as in the case of the original application for development.

- E. In the case of planned developments, the Land Use Board shall find that the development conforms to the design, density, recreational and environmental standards established by ordinance for planned developmental districts.
- F. The disclosure requirements set out in the Municipal Land Use Law, Chapter 336 of the Laws of 1977 (1978), N.J.S.A. 40:55D-48.1, 40:55D-48.2 and 40:55D-48.3, shall be complied with.

§ 246-80. Effect of preliminary approval.

- A. The general terms and conditions on which preliminary approval was granted shall not be changed, except that the municipality may by ordinance modify such general terms and conditions as relate to public health and safety.
- B. The applicant may submit for final approval, on or before the expiration date of preliminary approval, the whole or a section or sections of the preliminary subdivision plat or site plan, as the case may be.
- C. The applicant may apply for and the Land Use Board may grant extensions on such preliminary approval for additional periods for at least one year but not to exceed a total extension of two years, provided that if the design standards have been revised by ordinance, such revised standards may govern.
- D. In the case of a subdivision of or a site plan for an area of 50 acres or more, the Land Use Board may grant the above rights for such period of time longer than three years as shall be determined by the Land Use Board, taking into consideration the number of dwelling units and nonresidential floor area permissible under preliminary approval, economic conditions and the comprehensiveness of the development.
- E. The applicant may apply for thereafter and the Land Use Board may thereafter grant an extension to preliminary approval for such additional period of time as shall be determined by the Land Use Board to be reasonable, taking into consideration the number of dwelling units and nonresidential floor area permissible under preliminary approval, the potential number of dwelling units and nonresidential floor area of the section or sections awaiting final approval, economic conditions and the comprehensiveness of the development, provided that if the design standards have been revised, such revised standards may govern.
- F. If the Land Use Board acts favorably upon a preliminary plat, the Chairman and Secretary of the Board shall affix their signatures to the plat, with a notation that it has received preliminary approval, and shall return the same to the subdivider for compliance with final approval requirements. Where approval is granted, the Chairman and the Secretary of the Board shall affix their signatures to the plat only where all conditions required for approval have been met.

§ 246-81. Final submission.

[Amended 12-3-1997 by Ord. No. 97-13]

An application for final approval shall be submitted to the Land Use Board within three years from the date on which the resolution of preliminary approval is adopted. The application, in triplicate, and appropriate fee (see Article VI, § 246-54) shall be accompanied by one original tracing, one translucent cloth copy and 10 black-and-white prints at a scale of one inch equals 50 feet and shall be submitted to the Board Secretary at least three weeks prior to the regular meeting of the Land Use Board.

§ 246-82. Final plat details.

Final submission plats shall be drawn in ink on translucent tracing cloth or its equivalent and shall comply with all provisions of the Map Filing Law, N.J.S.A. 46:23-9.9 et seq. The final plat shall show or be accompanied by only that information and those details specified in the aforementioned New Jersey Map Filing Law or in the following list:

- A. The date, location and name of the subdivision, name of the owners, graphic scale and reference meridian.
- B. Tract boundary lines, right-of-way lines of street names, easements and other rights-of-way, land to be reserved or dedicated to public use, lot lines and other site lines, all with accurate dimensions, bearings or deflection angles, and the radii, arcs and central angles of all curves. Distances and bearings shall be on North American Datum of 1927 or North American Datum of 1983, as specified by the engineer.

- C. The purpose of any easement or land reserved or dedicated to public use shall be designated, and the proposed use of sites other than residential shall be noted.
- D. All natural and artificial watercourses, streams, shorelines, water boundaries and encroachment lines shall be shown. Final stormwater outfalls in retention basins or other receiving bodies of water shall be identified by coordinates based on the datum specified in Subsection **B** above.
- E. Each block shall be numbered, and the lots within each block shall be numbered consecutively, beginning with Number 1.
- F. Minimum building setback lines on all lots and other sites.
- G. The location and description of all monuments.
- H. The names of owners of adjoining land parcels.
- I. Certification by a licensed land surveyor as to the accuracy of details of the plat.
- J. Certification that the applicant is the owner or equitable owner of the land or a representative thereof or that the owner has given consent under an option agreement.
- K. An updated certification from the Tax Collector that there are no delinquent taxes charged to the property involved in the subdivision.
- L. The preliminary plat, engineering details, cross sections and profiles of streets and plan and profiles of storm drainage systems, approved by the engineer, shall be required to accompany the final plat, with all conditions of preliminary approval met and reviewed by the engineer prior to final plot submission.
- M. Plans and profiles of sanitary sewers and water mains will be required to accompany the final plat.
- N. When approval of a plat is required by an officer or body of the municipality, county or state, approval shall be certified on the plat prior to its filing in the office of the Board Secretary.
- O. All approvals and permits from other agencies.

§ 246-83. Required information for final plat.

The final plat shall include all of the information requested in of this article and shall additionally incorporate all changes or modifications required by the Land Use Board, including conditions of preliminary approval. The plat shall be accompanied by the following:

- A. A letter from the applicant stating that no changes other than those noted on the plat have occurred.
- B. A letter from the Municipal Engineer indicating that the applicant has completed the installation of all improvements in accordance with the requirements of this chapter or posted with the City Clerk a performance guaranty in an amount sufficient to cover the cost of all improvements required as estimated by the applicant's engineer and approved by the Municipal Engineer.
- C. A letter from the Fire Department signed by the Chief stating that waterlines and fire hydrants are adequate for fire protection.
- D. A letter from the Municipal Tax Collector certifying that all taxes have been paid to date.
- E. A letter from the Board Secretary indicating the amount, form and content of the maintenance guaranty accepted by City Council and that fees estimated by the City Engineer required for construction inspection costs other than those relating to building permit have been paid (see Article **VI**, § **246-54**).
[Amended 12-3-1997 by Ord. No. 97-13]

§ 246-84. Final review and approval process.

The Land Use Board shall grant final approval if the detailed drawings, specifications and estimates of the application for final approval conform to the standards established by this chapter for final approval, the conditions of preliminary

approval and, in the case of a major subdivision, the standards prescribed by the Map Filing Law, Chapter 141 of the Laws of 1960 (N.J.S.A. 46:23-9.9 et seq.), provided that, in the case of a planned unit development, planned unit residential development or residential cluster, the Land Use Board may permit minimal deviations from the conditions of preliminary approval necessitated by change of conditions beyond the control of the developer since the date of the preliminary approval without the developer being required to submit another application for development for preliminary approval.

- A. Final approval shall be granted or denied within 45 days after submission of a complete application to the administrative officer or within such further time as may be consented to by the applicant.
- B. If the Land Use Board approves, a notation to that effect shall be made on each plat and signed by the Chairman and Secretary of the Land Use Board.
- C. Whenever review or approval of the application by the County Planning Board is required by Section 5 of Chapter 285 of the Laws of 1968 (N.J.S.A. 40:27-6.3), in the case of a subdivision, the Land Use Board shall condition any approval that it grants upon timely receipt of a favorable report on the application by the County Planning Board or approval by the County Planning Board by its failure to report thereon within the required time period.

§ 246-85. Filing of major subdivisions.

Final approval of a major subdivision shall expire 95 days from the date of signing the plat unless within such period the plat shall have been duly filed by the developer with the County Clerk. At the expiration of the 95 days, the Land Use Board Secretary shall check with the County Clerk to ascertain whether such filing has occurred, if the County Clerk has not notified the Land Use Board Secretary of such filing. The Land Use Board may, for good cause shown, extend the period for recording for an additional period not to exceed 190 days from the date of the signing of the plat. The Land Use Board may extend the ninety-five-day or one-hundred-ninety-day period if the developer proves to the reasonable satisfaction of the Land Use Board that the developer was barred or prevented, directly or indirectly, from filing because of delays in obtaining legally required approvals from other governmental or quasi-governmental entities and that the developer applied promptly for and diligently pursued the required approvals. The length of the extension shall be equal to the period of delay caused by the wait for the required approvals, as determined by the Land Use Board. The developer may apply for an extension either before or after the original extension date.

§ 246-86. Effect of final approval.

Once a plat has been approved and filed within the prescribed time period, the terms and conditions of that approval shall not be changed for a period of two years from the date of approval. The Land Use Board may extend the two-year limit for a period of one year. Such extensions shall not be granted more than three times.

§ 246-87. Nonconforming uses and structures.

- A. A nonconforming use or structure existing at the passage of this chapter may be continued on the lot or in the structure so occupied, and any such structure may be restored or repaired in the event of partial destruction.
- B. A prospective purchaser, mortgagee or any person interested in land which includes a nonconforming use or structure may apply, in writing, for the issuance of a certificate certifying that the use or structure existed prior to the adoption of this chapter. The applicant shall have the burden of proof. The applicant shall apply for said certificate within one year of the passage of this chapter or at any time to the Board of Adjustment.

§ 246-88. Standards governing nonconforming uses and structures.

- A. Reversion prohibited. A nonconforming use, once converted to a conforming use, shall not revert to the nonconforming use or to another nonconforming use.
- B. The expansion of a nonconforming use requires a use variance and shall be by resolution of the Land Use Board.

- C. Review of plan required. All changes pertaining to nonconforming uses shall require the review of a plan in order to make an informed determination that the existing site conditions are adequate to serve the use and meet the minimum requirements for the public safety; said plan shall be approved by resolution of the Board.

§ 246-89. Standards governing nonconforming lots.

A nonconforming lot shall not be reduced in area or dimensions.

Article VIII. Enforcement; Penalties

[Added 1-21-1998 by Ord. No. 98-3]

§ 246-90. Enforcement.

The provisions of this chapter shall be enforced by the Code Enforcement Officer who shall issue citations in accordance with § 246-91 of this chapter for violation of the provisions of the Borough's zoning and land use regulations.

§ 246-91. Violations and penalties.

- A. Any person violating or failing to comply with any other provision of this chapter shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$1,000, by imprisonment not to exceed 90 days or by community service of not more than 90 days, or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. 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.
- B. The violation of any provisions of this chapter shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

Article IX. ZONING PERMITS

[Added 7-3-2018 by Ord. No. 2018-12]

§ 246-92. Permit required.

- A. Zoning permits shall hereafter be secured from the Zoning Officer prior to construction, erection or alteration of any building or structure or part of a structure or use of a building or structure or land. A zoning permit shall also be required prior to the construction of any improvements or ground coverings which increase impervious surface coverage upon a lot. All requests for zoning permits shall be made in writing by the owner or his authorized agent and shall include a statement of the use or intended use of the building or structure or land and shall be accompanied by a plan of the lot delineating thereon the exact size, shape and location of all proposed structures and such other information as may be necessary for the enforcement of this chapter. There shall be a fee for processing said zoning permit, which fee shall accompany the application and be in accordance with the following fee schedule:

Type of Permit	Fee
New single-family (S/F) dwelling	\$100
S/F dwelling addition under 150 square feet	\$50
S/F dwelling addition over 150 square feet	\$100
Accessory building	\$50
Pool/pool heater	\$50
Deck	\$50
Generator or air conditioning	\$50
Commercial tent	\$50

Type of Permit	Fee
Multifamily, per unit	\$50
New two-family dwelling	\$150
House raise	\$50
Zoning permit update	\$50
Siding/roofs minimum required 115 miles per hour	\$35
Fence	\$50
Sign	\$50
Aboveground tank (S/F)	\$50
Shed under 200 square feet	\$75
Verification letter	\$200
Other (nonspecified)	\$30

- B. Any change to an original zoning permit (i.e., alteration of use, structure, property) shall require a new zoning permit and new fee.
- C. Any zoning permit issued in conjunction with a building permit shall expire within one year from the date of issuance of the zoning permit if the authorized work or use is not commenced within that time. If the authorized work is abandoned for a period of six months after commencement of the work or use, the zoning permit shall be considered void.
- D. Zoning permits shall not be required before the issuance of a building permit by the Construction Official in the case of reroofing, residing, window changes, fireplaces, wood/coal stoves or interior renovation of a single-family dwelling, provided that there is no increase of living area or cubic content of the structure and only one subcode under the Uniform Construction Code is involved. If a change of the structure or use would result from the issuance of the building permit, a zoning permit shall be required prior to the issuance of the building permit.
- E. Prior to the issuance of the certificate of occupancy by the Construction Official, a final review of the zoning requirements shall be made by the Zoning Officer.
- F. Prior to the issuance of a certificate of occupancy by the Construction Official, exclusive of one-family dwellings and sites involving no prior approvals from the Planning Board, a zoning permit must be applied for and approved by the Zoning Officer. Information required prior to the zoning permit being issued shall include, but not be limited to:
 - (1) A recent certified survey of the site, including all structures.
 - (2) Intended use.
 - (3) Parking availability.

§ 246-93. Administration and enforcement.

The provisions of this chapter shall be administered and enforced by the Zoning Officer. The Zoning Officer shall not issue any permit for any structure or use which does not conform to the provisions of the Borough ordinances. It shall be the duty of the Zoning Officer, upon the filing with him of any plans for the construction, alteration or repair of any structure, to require the owner or agent of the owner of such structure or land to certify, in writing, the use or intended use of any structure or land so to be constructed, altered or repaired, and he shall thereupon determine if such structure or use is permitted by the provisions of the Borough ordinances. In case he shall determine that such structure or use, or both, is nonconforming, he shall notify such owner or agent, in writing, to that effect, stating in what respect such building or use is a nonconforming structure or use.

§ 246-94. Violations and penalties.

Any owner, contractor or agent or any person, firm or corporation who shall build, construct, erect, structurally alter, enlarge, rebuild or repair any building or structure or commence said work without having first obtained a zoning permit as required by this chapter and in violation thereof shall, upon conviction thereof, be subject to a fine not to exceed \$1,000 or imprisonment for a term of not to exceed 90 days, or both. The continuation of such violation for

each successive day shall constitute a separate punishable offense. In addition to fines and penalties, the violation of any provision of this chapter shall be subject to abatement or other injunctive relief by order of a court of competent jurisdiction.

2. Disposition List

Chapter DL. Disposition List

The following is a chronological listing of legislation of the Borough of Seaside Heights adopted since the republication of the Code, indicating its inclusion in the Code or the reason for its exclusion. [Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).] Information regarding legislation which is not included in the Code nor on this list is available from the office of the Borough Clerk. The last legislation reviewed for the 1997 republication of the Code was Ord. No. 97-7, adopted 5-21-1997.

§ DL-1. Disposition of legislation.

Enactment	Adoption Date	Subject	Disposition
Ord. No. 97-8	8-20-1997	Bond	NCM
Ord. No. 97-9	8-20-1997	Bond	NCM
Ord. No. 97-10	10-15-1997	Cable television franchise	Ch. 49
Ord. No. 97-11	10-15-1997	Administrative offices amendment	Ch. 5
Ord. No. 97-12	12-17-1997	Bond	NCM
Ord. No. 97-13	12-3-1997	Adoption of Code	Ch. 1 , Art. II
Ord. No. 97-14	12-3-1997	Utilities amendment	Ch. 219
Ord. No. 97-15	12-3-1997	Licensing of retail food establishments amendment	Ch. 180
Ord. No. 97-16	12-17-1997	Parking amendment	Ch. 146
Ord. No. 97-17			Withheld
Ord. No. 97-18	12-17-1997	Peace and good order amendment	Ch. 146
Ord. No. 97-19			Withheld
Ord. No. 98-1	1-21-1998	Salaries	See Ch. 184
Ord. No. 98-2	1-21-1998	Utilities amendment	Ch. 219
Ord. No. 98-3	1-21-1998	Zoning and land use amendment	Ch. 246
Ord. No. 98-4			Not adopted
Ord. No. 98-5	2-4-1998	Beaches amendment	Ch. 33
Ord. No. 98-6	2-18-1998	Garage sales	Ch. 103
Ord. No. 98-7	3-4-1998	Property maintenance amendment	Ch. 171
Ord. No. 98-8	3-18-1998	Municipal Court amendment	Ch. 70
Ord. No. 98-9	4-15-1998	Sales of Code book amendment	Ch. 1 , Art. I
Ord. No. 98-10	4-15-1998	Zoning and land use amendment	Ch. 246
Ord. No. 98-11	7-1-1998	Shopping carts	Ch. 189
Ord. No. 98-12	5-20-1998	Parking amendment	Ch. 146
Ord. No. 98-13	5-20-1998	Licensing of retail food establishments amendment	Ch. 180
Ord. No. 98-14	5-20-1998	Mercantile establishments amendment	Ch. 122
Ord. No. 98-15		Unfit buildings amendment	Not adopted
Ord. No. 98-16	6-3-1998	Police Department amendment	Ch. 166
Ord. No. 98-17	6-3-1998	Police Department amendment	Ch. 166
Ord. No. 98-18		Authorization of purchase of property	Not adopted
Ord. No. 98-19	6-17-1998	Authorization of purchase of property	NCM

Enactment	Adoption Date	Subject	Disposition
Ord. No. 98-20	6-17-1998	Fees amendment	Ch. 92
Ord. No. 98-21	6-17-1998	Zoning and land use amendment	Ch. 246
Ord. No. 98-22	6-17-1998	Drug-free park and recreational zone	Ch. 80
Ord. No. 98-23	6-17-1998	Police Department amendment	Ch. 166
Ord. No. 98-24	7-15-1998	Salaries	See Ch. 184
Ord. No. 98-25	8-5-1998	Administrative offices amendment	Ch. 5
Ord. No. 98-26	7-15-1998	Mobile structures for business and residential use amendment	Ch. 127
Ord. No. 98-27	8-5-1998	Bond	NCM
Ord. No. 98-28	8-5-1998	Shopping carts amendment	Ch. 189
Ord. No. 98-29	10-7-1998	Bond	NCM
Ord. No. 98-30	10-21-1998	Salaries	See Ch. 184
Ord. No. 98-31	10-21-1998	Agreement amendment	NCM
Ord. No. 98-32	10-21-1998	Police Department amendment	Ch. 166
Ord. No. 98-33	11-4-1998	Parking amendment	Ch. 146
Ord. No. 98-34	11-4-1998	Flood hazard areas	Superseded by Ord. No. 06-13
Ord. No. 98-35	12-2-1998	Appropriation	NCM
Ord. No. 98-36	12-16-1998	Alcoholic beverages amendment	Ch. 17
Ord. No. 98-37	12-16-1998	Utilities amendment	Ch. 219
Ord. No. 99-1	1-20-1999	Salaries	See Ch. 184
Ord. No. 99-2	1-20-1999	Lease agreement	NCM
Ord. No. 99-3	2-17-1999	Shopping carts amendment	Ch. 189
Ord. No. 99-4	2-17-1999	Mutual aid agreement	NCM
Ord. No. 99-5	3-17-1999	Appropriation	NCM
Ord. No. 99-6	3-17-1999	Bond amendment	NCM
Ord. No. 99-7	3-17-1999	Garbage; solid waste disposal amendment	Ch. 107
Ord. No. 99-8	3-17-1999	Mercantile establishments amendment	Ch. 122
Ord. No. 99-9	3-17-1999	Purchase of land	NCM
Ord. No. 99-10	3-17-1999	Construction inspection fees	Ch. 68
Ord. No. 99-11	5-5-1999	Property maintenance amendment	Ch. 171
Ord. No. 99-12	5-5-1999	Mercantile establishments amendment	Ch. 122
Ord. No. 99-13	5-19-1999	Communications facilities franchise	Ch. 63
Ord. No. 99-14	5-19-1999	Alcoholic beverages amendment	Ch. 17
Ord. No. 99-15	5-19-1999	Beaches amendment	Ch. 33
Ord. No. 99-16	6-16-1999	Zoning and land use amendment	Ch. 246
Ord. No. 99-17	7-7-1999	Parking amendment	Ch. 146
Ord. No. 99-18	7-7-1999	Zoning and land use amendment	Ch. 246
Ord. No. 99-19	7-7-1999	Parking amendment	Ch. 146
Ord. No. 99-20	7-7-1999	Salaries	See Ch. 184
Ord. No. 99-21	7-7-1999	Licensing of retail food establishments amendment	Ch. 180
Ord. No. 99-22		Tattooing amendment	Not adopted
Ord. No. 99-23		Regulation of body piercing amendment	Not adopted
Ord. No. 99-24	7-23-1999	Regulation of body piercing amendment	Ch. 47
Ord. No. 99-25	7-23-1999	Tattooing amendment	Ch. 208

Enactment	Adoption Date	Subject	Disposition
Ord. No. 99-26	8-4-1999	Parking amendment	Ch. 146
Ord. No. 99-27	10-6-1999	Bond	NCM
Ord. No. 99-28	10-20-1999	Parking amendment	Ch. 146
Ord. No. 99-29	11-3-1999	Property maintenance amendment	Ch. 171
Ord. No. 99-30	12-1-1999	Special improvement district	Vetoed
Ord. No. 99-31	12-15-1999	Bond	NCM
Ord. No. 99-32	12-15-1999	Salaries	See Ch. 184
Ord. No. 99-33	12-15-1999	Administrative offices amendment	Ch. 5
Ord. No. 99-34	12-15-1999	Beaches amendment	Ch. 33
Ord. No. 99-35	12-15-1999	Parking amendment	Ch. 146
Ord. No. 99-36	12-22-1999	Special improvement district	Ch. 197
Ord. No. 2000-1	1-19-2000	Salaries	See Ch. 184
Ord. No. 2000-2	2-16-2000	Mercantile establishments amendment	Ch. 122
Ord. No. 2000-3	2-16-2000	Property maintenance amendment	Ch. 171
Ord. No. 2000-4	2-16-2000	Certificates of occupancy: general provisions amendment; rental property	Ch. 55 , Art. I; Ch. 55 , Art. II (repealed by Ord. No. 15-02)
Ord. No. 2000-5	3-1-2000	Beaches amendment	Ch. 33
Ord. No. 2000-6	4-19-2000	Administrative offices amendment	Ch. 5
Ord. No. 2000-7		Mercantile establishments amendment	Not adopted
Ord. No. 2000-8	5-17-2000	Parking amendment	Ch. 146
Ord. No. 2000-9	5-17-2000	Salaries	See Ch. 184
Ord. No. 2000-10	5-17-2000	Alcoholic beverages amendment	Ch. 17
Ord. No. 2000-11	6-7-2000	Zoning and land use amendment	Ch. 246
Ord. No. 2000-12	6-21-2000	Police Department amendment	Ch. 166
Ord. No. 2000-13	7-5-2000	Salaries	See Ch. 184
Ord. No. 2000-14	7-19-2000	Alcoholic beverages amendment	Ch. 17
Ord. No. 2000-15		Parking amendment	Not adopted
Ord. No. 2000-16	8-2-2000	Mercantile establishments amendment	Ch. 122
Ord. No. 2000-17		Parking amendment	Not adopted
Ord. No. 2000-18	8-2-2000	Certificates of occupancy: general provisions amendment; rental property amendment	Ch. 55 , Art. I; Ch. 55 , Art. II (repealed by Ord. No. 15-02)
Ord. No. 2000-19	9-20-2000	Boards and Commissions amendment	Ch. 40
Ord. No. 2000-20	10-18-2000	Utilities amendment	Ch. 219
Ord. No. 2000-21	11-1-2000	Salaries	See Ch. 184
Ord. No. 2000-22	12-20-2000	Five-year tax exemption and abatement	Ch. 98
Ord. No. 2000-23	12-20-2000	Utilities amendment	Ch. 219
Ord. No. 2000-24	12-20-2000	Construction inspection fees amendment; zoning amendment	Ch. 68 ; Ch. 246
Ord. No. 2000-25	12-20-2000	Mercantile establishments amendment	Ch. 122
Ord. No. 2000-26	12-20-2000	Regulation of body piercing amendment	Ch. 47
Ord. No. 2000-27	12-20-2000	Vehicles and traffic amendment	Ch. 223
Ord. No. 2000-28	12-20-2000	Fees amendment	Ch. 92
Ord. No. 2001-1	2-7-2001	Bond	NCM
Ord. No. 2001-2	2-7-2001	Mercantile establishments amendment	Ch. 122
Ord. No. 2001-3	2-7-2001	Bicycles and skateboards amendment	Ch. 36

Enactment	Adoption Date	Subject	Disposition
Ord. No. 2001-4	2-7-2001	Licensing of retail establishments amendment	Ch. 180
Ord. No. 2001-5	2-7-2001	Parking amendment	Ch. 146
Ord. No. 2001-6	2-7-2001	Special Improvement District amendment	Ch. 197
Ord. No. 2001-7	3-7-2001	Bond	NCM
Ord. No. 2001-8	3-7-2001	Salaries	See Ch. 184
Ord. No. 2001-9	4-4-2001	Salaries	See Ch. 184
Ord. No. 2001-10	5-2-2001	Property maintenance amendment	Ch. 171
Ord. No. 2001-11	6-6-2001	Parking amendment	Ch. 146
Ord. No. 2001-12	8-15-2001	Volunteer Fire Department LOSAP	Ch. 237
Ord. No. 2001-13	9-5-2001	Vehicles and traffic amendment	Ch. 223
Ord. No. 2001-14	9-19-2001	Mercantile establishments amendment	Ch. 122
Ord. No. 2001-15	11-21-2001	Mercantile establishments amendment	Ch. 122
Ord. No. 2001-16		Parking amendment	Not passed
Ord. No. 2001-17	11-21-2001	Vehicles and traffic amendment	Ch. 223
Ord. No. 2001-18		Street performers	Not passed
Ord. No. 2001-19	12-20-2001	Police Department amendment	Ch. 166
Ord. No. 2001-20	12-20-2001	Sale of property	NCM
Ord. No. 2001-21	12-20-2001	Utilities amendment	Ch. 219
Ord. No. 2002-1	2-6-2002	Utilities amendment	Ch. 219
Ord. No. 2002-2		Bond	Not passed
Ord. No. 2002-3		Bond	Not passed
Ord. No. 2002-4	2-6-2002	Salaries	See Ch. 184
Ord. No. 2002-5	2-20-2002	Bond	NCM
Ord. No. 2002-6	2-20-2002	Bond	NCM
Ord. No. 2002-7	3-6-2002	Police Department amendment	Ch. 166
Ord. No. 2002-8	3-6-2002	Administrative offices amendment	Ch. 5
Ord. No. 2002-9		Parking amendment	Not passed
Ord. No. 2002-10	4-3-2002	Parking amendment	Ch. 146
Ord. No. 2002-11	5-1-2002	Street performers	Ch. 200
Ord. No. 2002-12	5-1-2002	Police Department amendment	Ch. 166
Ord. No. 2002-13	5-1-2002	Salaries	See Ch. 184
Ord. No. 2002-14	5-15-2002	Parking amendment	Ch. 146
Ord. No. 2002-15	6-19-2002	Alcoholic beverages amendment	Ch. 17
Ord. No. 2002-16	6-19-2002	Parking amendment	Ch. 146
Ord. No. 2002-17	7-3-2002	Mercantile establishments amendment	Ch. 122
Ord. No. 2002-18	8-7-2002	Zoning and land use amendment	Ch. 246
Ord. No. 2002-19	7-3-2002	Inspection of public records amendment	Ch. 176
Ord. No. 2002-20	8-7-2002	Parking amendment	Ch. 146
Ord. No. 2002-21	8-7-2002	Administrative offices amendment	Ch. 5
Ord. No. 2002-22	8-7-2002	Salaries	See Ch. 184
Ord. No. 2002-23	8-21-2002	Parking amendment	Ch. 146
Ord. No. 2002-24	10-2-2002	Mercantile establishments amendment	Ch. 122
Ord. No. 2002-25	10-2-2002	Cable television amendment	Ch. 49
Ord. No. 2002-26	12-4-2002	Appropriation	NCM
Ord. No. 2002-27	12-18-2002	Administrative offices amendment	Ch. 5

Enactment	Adoption Date	Subject	Disposition
Ord. No. 2002-28	12-18-2002	Boards and commissions amendment	Ch. 40 (footnote only)
Ord. No. 2002-29	12-18-2002	Zoning and land use amendment	Ch. 246
Ord. No. 03-01	2-19-2003	Salaries	See Ch. 184
Ord. No. 03-02	3-5-2003	Parking amendment	Ch. 146
Ord. No. 03-03	2-19-2003	Vehicles and traffic amendment	Ch. 223
Ord. No. 03-04	2-19-2003	Certificates of occupancy: general provisions amendment	Ch. 55 , Art. I
Ord. No. 03-05	2-19-2003	Property maintenance amendment	Ch. 171
Ord. No. 03-06	2-19-2003	Special improvement district amendment	Ch. 197
Ord. No. 03-07	3-5-2003	Alcoholic beverages amendment	Ch. 17
Ord. No. 03-08	3-19-2003	Salaries amendment	See Ch. 184
Ord. No. 03-09	3-19-2003	Parking amendment	Ch. 146
Ord. No. 03-10	4-2-2003	Acquisition of land	NCM
Ord. No. 03-11	4-16-2003	Car raffle license locations amendment	Ch. 51
Ord. No. 03-12	5-21-2003	Alcoholic beverages amendment	Ch. 17
Ord. No. 03-13		Certificates of occupancy amendment	Not adopted
Ord. No. 03-14	5-21-2003	Parking amendment	Ch. 146
Ord. No. 03-15	5-21-2003	Car raffle lease agreements	NCM
Ord. No. 03-16	6-18-2003	Police Department amendment	Ch. 166
Ord. No. 03-17	6-18-2003	Certificates of occupancy: general provisions amendment and rental property amendment	Ch. 55 , Art. I ; Ch. 55 , Art. II (repealed by Ord. No. 15-02)
Ord. No. 03-18	6-18-2003	Fees amendment	Ch. 92
Ord. No. 03-19	6-18-2003	Special events	Ch. 193
Ord. No. 03-20	6-18-2003	Construction inspection fees amendment	Ch. 68
Ord. No. 03-21	7-2-2003	Mercantile establishments amendment	Ch. 122
Ord. No. 03-22	8-20-2003	Alcoholic beverages amendment	Ch. 17
Ord. No. 03-23	8-20-2003	Fees amendment	Ch. 92
Ord. No. 03-24	8-20-2003	Salaries	See Ch. 184
Ord. No. 03-25		Peace and good order amendment	Not adopted
Ord. No. 03-26	8-20-2003	Animals amendment	Ch. 29
Ord. No. 03-27	10-1-2003	Administrative offices amendment	Ch. 5
Ord. No. 03-28	10-1-2003	Bond	NCM
Ord. No. 03-29	10-15-2003	Bond	NCM
Ord. No. 03-30	10-15-2003	Parking amendment	Ch. 146
Ord. No. 03-31	12-17-2003	Payroll Clerk; Account Clerk	Ch. 5 , Art. XXXV ; Ch. 5 , Art. XXXVI
Ord. No. 03-32		Police Department amendment	Not adopted
Ord. No. 03-33	12-17-2003	Alcoholic beverages amendment	Ch. 17
Ord. No. 03-34	12-17-2003	Salaries	See Ch. 184
Ord. No. 03-35		Mercantile licenses amendment	Not adopted
Ord. No. 03-36	12-17-2003	Administrative Clerk amendment; Violations Clerk	Ch. 5 , Art. XIV ; Ch. 5 , Art. XXXVII
Ord. No. 03-37	12-17-2003	Boards and Commissions amendment	Ch. 40
Ord. No. 03-38	12-17-2003	Police Department amendment	Ch. 166
Ord. No. 04-01		Salaries	See Ch. 184
Ord. No. 04-02		Salaries	See Ch. 184

Enactment	Adoption Date	Subject	Disposition
Ord. No. 04-03	4-7-2004	Parking amendment	Ch. 146
Ord. No. 04-04		Bond	NCM
Ord. No. 04-05	4-21-2004	Personnel policy amendment	Ch. 158
Ord. No. 04-06		Salaries	See Ch. 184
Ord. No. 04-07	5-19-2004	Special events amendment	Ch. 193
Ord. No. 04-08		Redevelopment plan amendment	NCM
Ord. No. 04-09	7-21-2004	Alcoholic beverages amendment	Ch. 17
Ord. No. 04-10	8-4-2004	Zoning and land use amendment	Ch. 246
Ord. No. 04-11		Redevelopment plan amendment	NCM
Ord. No. 04-12	8-4-2004	Inspection of public records amendment	Ch. 176
Ord. No. 04-13	8-18-2004	Parking amendment	Ch. 146
Ord. No. 04-14	9-1-2004	Zoning and land use amendment	Ch. 246
Ord. No. 05-01		Salaries	See Ch. 184
Ord. No. 05-02		Exceed budget cap	NCM
Ord. No. 05-03	2-2-2005	Inspection of public records amendment	Ch. 176
Ord. No. 05-04	2-16-2005	Certificates of occupancy amendment	Ch. 55
Ord. No. 05-05	2-16-2005	Animals amendment	Ch. 29
Ord. No. 05-06	2-16-2005	Mercantile establishments amendment	Ch. 122
Ord. No. 05-07	2-16-2005	Peace and good order amendment	Ch. 154
Ord. No. 05-08	3-2-2005	Alcoholic beverages amendment	Ch. 17
Ord. No. 05-09	3-2-2005	Beaches amendment	Ch. 33
Ord. No. 05-10		Appropriation	NCM
Ord. No. 05-11		Interlocal services agreement	NCM
Ord. No. 05-12		Appropriation	NCM
Ord. No. 05-13		Appropriation	NCM
Ord. No. 05-14		Transfer of portion of water system	NCM
Ord. No. 05-15	6-15-2005	Alcoholic beverages amendment	Ch. 17
Ord. No. 05-16	7-6-2005	Alcoholic beverages amendment	Ch. 17
Ord. No. 05-17	7-20-2005	Utilities amendment	Ch. 219
Ord. No. 05-18		Bond	NCM
Ord. No. 05-19	8-17-2005	Residency restrictions for certain sex offenders	Ch. 154 , Art. II
Ord. No. 05-20	11-15-2005	Police Department amendment	Ch. 166
Ord. No. 05-21		Salaries	See Ch. 184
Ord. No. 06-01		Exceed budget appropriation	NCM
Ord. No. 06-02	3-15-2006	Utilities amendment	Ch. 219
Ord. No. 06-03		Bond	NCM
Ord. No. 06-04		Salaries	See Ch. 184
Ord. No. 06-05	4-19-2006	Beaches amendment	Ch. 33
Ord. No. 06-06	4-19-2006	Bicycles and skateboards amendment	Ch. 36
Ord. No. 06-07	5-3-2006	Signs amendment	Ch. 191
Ord. No. 06-08	5-3-2006	Vehicles and traffic amendment	Ch. 223
Ord. No. 06-09			Not adopted
Ord. No. 06-10	5-17-2006	Police Department amendment	Ch. 166
Ord. No. 06-11		Appropriation	NCM
Ord. No. 06-12	6-21-2006	Vehicles and traffic amendment	Ch. 223

Enactment	Adoption Date	Subject	Disposition
Ord. No. 06-13	9-20-2006	Flood damage prevention amendment	Ch. 99
Ord. No. 06-14	10-4-2006	Volunteer Fire Department amendment	Ch. 236
Ord. No. 06-15	12-20-2006	Stormwater management: minimum stormwater management requirements and controls for major development	Ch. 199 , Art. I
Ord. No. 06-16	12-20-2006	Parking amendment	Ch. 146
Ord. No. 06-17	12-20-2006	Certificates of occupancy: general provisions amendment; rental property amendment	Ch. 55 , Art. I ; Ch. 55 , Art. II (repealed by Ord. No. 15-02)
Ord. No. 06-18	12-20-2006	Fees amendment	Ch. 92
Ord. No. 06-19	12-20-2006	Property maintenance amendment	Ch. 171
Ord. No. 06-20	12-20-2006	Utilities amendment	Ch. 219
Ord. No. 06-21	12-20-2006	Zoning and land use amendment	Ch. 246
Ord. No. 06-22	12-20-2006	Juvenile curfew	Ch. 72
Ord. No. 06-23	12-20-2006	Construction equipment, hours of operation amendment	Ch. 66
Ord. No. 06-24		Salaries	See Ch. 184
Ord. No. 06-25		Bond	Not adopted
Ord. No. 07-01		Exceed budget cap	NCM
Ord. No. 07-02		Salaries	See Ch. 184
Ord. No. 07-03	2-21-2007	Administrative offices amendment	Ch. 5
Ord. No. 07-04		Bond	NCM
Ord. No. 07-05	4-4-2007	Peace and good order: general provisions amendment	Ch. 154 , Art. I
Ord. No. 07-06	4-4-2007	Utilities amendment	Ch. 219
Ord. No. 07-07		Bond	NCM
Ord. No. 07-08		Bond	NCM
Ord. No. 07-09		Salaries	See Ch. 184
Ord. No. 07-10	12-19-2007	Administrative offices amendment	Ch. 5
Ord. No. 07-11	12-19-2007	Animals amendment	Ch. 29
Ord. No. 07-12	12-19-2007	Municipal Court amendment	Ch. 70
Ord. No. 07-13	12-19-2007	Police Department amendment	Ch. 166
Ord. No. 07-14	12-19-2007	Utilities amendment	Ch. 219
Ord. No. 07-15	12-19-2007	Certificates of occupancy: rental property amendment	Ch. 55 , Art. II (repealed by Ord. No. 15-02)
Ord. No. 08-01		Exceed budget; establish cap bank	NCM
Ord. No. 08-02	2-20-2008	Administrative offices amendment	Ch. 5
Ord. No. 08-03	2-20-2008	Stormwater management: minimum stormwater management requirements and controls for major development amendment	Ch. 199 , Art. I
Ord. No. 08-04	5-21-2008	Stormwater management: minimum stormwater management requirements and controls for major development amendment	Ch. 199 , Art. I
Ord. No. 08-05	5-21-2008	Police Department amendment	Ch. 166
Ord. No. 08-06	5-21-2008	Utilities amendment	Ch. 219
Ord. No. 08-07	5-21-2008	Parking amendment	Ch. 146
Ord. No. 08-08	5-21-2008	Amusement games and devices amendment	Ch. 25

Enactment	Adoption Date	Subject	Disposition
Ord. No. 08-09		Bond	NCM
Ord. No. 08-10		Bond	NCM
Ord. No. 08-11	7-2-2008	Police Department amendment	Ch. 166
Ord. No. 08-12	7-2-2008	Beaches amendment	Ch. 33
Ord. No. 08-13	10-15-2008	Parking amendment	Ch. 146
Ord. No. 08-14	10-15-2008	Peace and good order: general provisions amendment	Ch. 154 , Art. I
Ord. No. 08-15	10-15-2008	Construction inspection fees amendment	Ch. 68
Ord. No. 08-16	12-17-2008	Parking amendment	Ch. 146
Ord. No. 08-17	12-17-2008	Zoning and land use amendment	Ch. 246
Ord. No. 08-18	12-17-2008	Mercantile establishments amendment	Ch. 122
Ord. No. 08-19		Exchange of lands	NCM
Ord. No. 08-20		Bond	NCM
Ord. No. 08-21		Bond	NCM
Ord. No. 08-22	12-17-2008	Certificates of occupancy: general provisions amendment; rental property amendment	Ch. 55 , Art. I; Ch. 55 , Art. II (repealed by Ord. No. 15-02)
Ord. No. 09-01		Exceed municipal budget; establish cap bank	NCM
Ord. No. 09-02		Salaries	See Ch. 184
Ord. No. 09-03	2-18-2009	Parking amendment	Ch. 146
Ord. No. 09-04	2-18-2009	Utilities amendment	Ch. 219
Ord. No. 09-05		Exchange of lands	NCM
Ord. No. 09-06	6-3-2009	Recycling	Ch. 178
Ord. No. 09-07	6-3-2009	Mercantile establishments amendment	Ch. 122
Ord. No. 09-08	6-3-2009	Parking amendment	Ch. 146
Ord. No. 09-09	6-3-2009	Bond	NCM
Ord. No. 09-10	9-16-2009	Easement vacation	NCM
Ord. No. 09-11	12-2-2009	Beaches amendment	Ch. 33
Ord. No. 09-12	12-16-2009	Zoning and land use amendment	Ch. 246
Ord. No. 09-13	12-16-2009	Stormwater management: minimum stormwater management requirements and controls for major development amendment	Ch. 199 , Art. I
Ord. No. 09-14	12-16-2009	Construction inspection fees amendment	Ch. 68
Ord. No. 10-01	1-20-2010	Exceed municipal budget; establish cap bank	NCM
Ord. No. 10-02	1-20-2010	Salaries	See Ch. 184
Ord. No. 10-03	1-20-2010	Police Department amendment	Ch. 166
Ord. No. 10-04	3-3-2010	Certificates of occupancy: general provisions amendment	Ch. 55 , Art. I
Ord. No. 10-05	3-3-2010	Parking amendment	Ch. 146
Ord. No. 10-06	3-17-2010	Construction inspection fees amendment	Ch. 68
Ord. No. 10-07	4-7-2010	Parking amendment	Ch. 146
Ord. No. 10-08	5-5-2010	Parking amendment	Ch. 146
Ord. No. 10-09		Salaries	See Ch. 184
Ord. No. 10-10		Bond	NCM

Enactment	Adoption Date	Subject	Disposition
Ord. No. 10-11	7-21-2010	Administrative offices amendment	Ch. 5
Ord. No. 10-12		Salaries	See Ch. 184
Ord. No. 10-13		Bond	NCM
Ord. No. 10-14		Bond	NCM
Ord. No. 10-15		Bond	NCM
Ord. No. 10-16	9-15-2010	Five-year tax exemption and abatement amendment	Ch. 98
Ord. No. 11-01		Exceed budget; establish cap bank	NCM
Ord. No. 11-02		Salaries	See Ch. 184
Ord. No. 11-03	2-16-2011	Parking amendment	Ch. 146
Ord. No. 11-04	3-2-2011	Construction inspection fees amendment	Ch. 68
Ord. No. 11-05	5-18-2011	Administrative office amendment	Ch. 5
Ord. No. 11-06		Salaries	See Ch. 184
Ord. No. 11-07		Transfer of property	NCM
Ord. No. 11-08		Bond	NCM
Ord. No. 11-09		Bond	NCM
Ord. No. 11-10		Acquisition of property	Not adopted
Ord. No. 11-11		Bond	NCM
Ord. No. 11-12		Salaries	See Ch. 184
Ord. No. 11-13	12-21-2011	Utilities amendment	Ch. 219
Ord. No. 11-14	12-21-2011	Parking amendment	Ch. 146
Ord. No. 11-15		Bond	NCM
Ord. No. 12-01		Exceed budget; cap bank	NCM
Ord. No. 12-02	3-21-2012	Fees amendment; special events amendment; street performers amendment	Ch. 92 ; Ch. 193 ; Ch. 200
Ord. No. 12-03		Salaries	See Ch. 184
Ord. No. 12-04	4-4-2012	Signs amendment	Ch. 191
Ord. No. 12-05	4-4-2012	Animals amendment	Repealed by Ord. No. 16-11
Ord. No. 12-06	7-18-2012	Zoning and land use amendment	Ch. 246
Ord. No. 12-07	7-18-2012	Parking amendment	Ch. 146
Ord. No. 12-08	7-18-2012	Bicycles and skateboards amendment	Ch. 36
Ord. No. 12-09	7-18-2012	Peace and good order: general provisions amendment	Ch. 154 , Art. I
Ord. No. 12-10			Not adopted
Ord. No. 12-11	9-19-2012	Garbage; solid waste disposal amendment	Ch. 107
Ord. No. 12-12	9-19-2012	Stormwater management: containerized yard waste	Ch. 199 , Art. II
Ord. No. 12-13		Salaries	See Ch. 184
Ord. No. 12-14	12-19-2012	Utilities amendment	Ch. 219
Ord. No. 13-01		Exceed budget; cap bank	NCM
Ord. No. 13-02	1-16-2013	Police Department amendment	Ch. 166
Ord. No. 13-03	1-16-2013	Alcoholic beverages amendment	Ch. 17
Ord. No. 13-04	1-16-2013	Flood damage prevention amendment	Ch. 99
Ord. No. 13-05	2-6-2013	Beaches amendment	Ch. 33
Ord. No. 13-06	2-6-2013	Parking amendment	Ch. 146

Enactment	Adoption Date	Subject	Disposition
Ord. No. 13-07	2-20-2013	Alcoholic beverages amendment	Ch. 17
Ord. No. 13-08	2-20-2013	Zoning and land use amendment	Ch. 246
Ord. No. 13-09			Not adopted
Ord. No. 13-10	3-20-2013	Alcoholic beverages amendment	Ch. 17
Ord. No. 13-11		Bond	NCM
Ord. No. 13-12	5-15-2013	Parking amendment	Ch. 146
Ord. No. 13-13	6-19-2013	Bicycles and skateboards amendment	Ch. 36
Ord. No. 13-14		Bond	NCM
Ord. No. 13-15		Bond	NCM
Ord. No. 13-16	7-17-2013	Flood damage prevention amendment	Ch. 99
Ord. No. 13-17	7-17-2013	Zoning and land use amendment	Ch. 246
Ord. No. 13-18	7-17-2013	Signs amendment	Ch. 191
Ord. No. 13-19	7-17-2013	Mercantile establishments amendment	Ch. 122
Ord. No. 13-20			Not adopted
Ord. No. 13-21	7-17-2013	Utilities amendment	Ch. 219
Ord. No. 13-22	8-21-2013	Construction inspection fees amendment	Ch. 68
Ord. No. 13-23		Land exchange	NCM
Ord. No. 13-24			Not adopted
Ord. No. 13-25		Land exchange	NCM
Ord. No. 13-26	12-4-2013	Parking amendment	Ch. 146
Ord. No. 13-27		Map amendment	NCM
Ord. No. 13-28	12-18-2013	Construction zone: privacy fencing	Ch. 69 , Art. I
Ord. No. 13-29	12-18-2013	Construction inspection fees amendment	Ch. 68
Ord. No. 13-30	12-18-2013	Cable television franchise	Ch. 49
Ord. No. 14-01		Exceed budget; cap bank	NCM
Ord. No. 14-02		Salaries	See Ch. 184
Ord. No. 14-03		Bond	NCM
Ord. No. 14-04	3-5-2014	Parking amendment	Ch. 146
Ord. No. 14-05		Bond	NCM
Ord. No. 14-06	4-16-2014	Alcoholic beverages amendment	Ch. 17
Ord. No. 14-07	4-16-2014	Certificates of occupancy amendment	Ch. 55
Ord. No. 14-08	4-16-2014	Construction inspection fees amendment	Ch. 68
Ord. No. 14-09	4-16-2014	Parking amendment	Ch. 146
Ord. No. 14-10	4-16-2014	Garbage; solid waste disposal amendment	Ch. 107
Ord. No. 14-11	5-7-2014	Parking amendment	Ch. 146
Ord. No. 14-12		Bond	NCM
Ord. No. 14-13			Not adopted
Ord. No. 14-14			Not adopted
Ord. No. 14-15	7-16-2014	Beaches amendment	Ch. 33
Ord. No. 14-16	10-15-2014	Parking amendment	Ch. 146
Ord. No. 14-17		Land exchange	NCM
Ord. No. 14-18	10-15-2014	Parking amendment	Ch. 146
Ord. No. 14-19			Not adopted
Ord. No. 14-20		Salaries	See Ch. 184

Enactment	Adoption Date	Subject	Disposition
Ord. No. 14-21	12-3-2014	Police Department amendment	Ch. 166
Ord. No. 14-22			Not adopted
Ord. No. 14-23	12-30-2014	Five-year tax exemption and abatement amendment	Ch. 98
Ord. No. 15-01		Exceed budget; cap bank	NCM
Ord. No. 15-02	2-18-2015	Certificates of occupancy: rental property	Ch. 55 , Art. II
Res. No. 2015-125	4-1-2015	Cable television franchise amendment	Ch. 49
Ord. No. 15-03	4-15-2015	Zoning and land use amendment	Ch. 246
Ord. No. 15-04		Conveyance of public lands	NCM
Ord. No. 15-05		Acceptance of fee simple interest in land	NCM
Ord. No. 15-06	5-6-2015	Administrative offices amendment	Ch. 5
Ord. No. 15-07	6-3-2015	Administrative offices amendment	Ch. 5
Ord. No. 15-08	5-20-2015	Bicycles and skateboards amendment	Ch. 36
Ord. No. 15-09	6-17-2015	Administrative offices amendment	Ch. 5
Ord. No. 15-10	7-1-2015	Administrative offices amendment	Ch. 5
Ord. No. 15-11		Salaries	NCM
Ord. No. 15-12		Exchange of land	NCM
Ord. No. 15-13		Dissolving Redevelopment Agency	NCM
Ord. No. 15-14		Bond	NCM
Ord. No. 15-15	10-7-2015	Utilities amendment	Ch. 219
Ord. No. 15-16		Acquisition of real property	NCM
Ord. No. 15-17		Bond	NCM
Ord. No. 15-18			Not adopted
Ord. No. 15-19	12-2-2015	Signs amendment	Ch. 191
Ord. No. 16-01		Exceed budget; cap bank	NCM
Ord. No. 16-02	1-20-2016	Payment of claims amendment	Ch. 150
Ord. No. 16-03	1-20-2016	Zoning and land use amendment	Ch. 246
Ord. No. 16-04	1-20-2016	Beaches amendment	Ch. 33
Ord. No. 16-05		Bond	NCM
Ord. No. 16-06		Bond	NCM
Ord. No. 16-07	4-6-2016	Contracts: limits on award	Ch. 65.1, Art. I
Ord. No. 16-08		Bond	NCM
Ord. No. 16-09	5-18-2016	Stormwater management: private storm drain inlet retrofitting	Ch. 199 , Art. V
Ord. No. 16-10			Not adopted
Ord. No. 16-11	7-20-2016	Animals amendment	Ch. 29
Ord. No. 16-12	8-17-2016	Animals amendment	Ch. 29
Ord. No. 16-13		Intermunicipal agreement	NCM
Ord. No. 16-14	9-7-2016	Utilities amendment	Ch. 219
Ord. No. 17-01	2-1-2017	Hotel and motel room occupancy tax	Ch. 110
Ord. No. 17-02	2-15-2017	Beaches amendment	Ch. 33
Ord. No. 17-03	3-1-2017	Zoning and land use amendment	Ch. 246
Ord. No. 17-04	2-15-2017	Administrative offices amendment	Ch. 5
Ord. No. 17-05		Exceed budget; cap bank	NCM
Ord. No. 17-06	4-5-2017	Zoning and land use amendment	Ch. 246
Ord. No. 17-07	4-5-2017	Nepotism	Ch. 130

Enactment	Adoption Date	Subject	Disposition
Ord. No. 17-08	4-5-2017	Beaches amendment	Ch. 33
Ord. No. 17-09	4-5-2017	Animals amendment	Ch. 29
Ord. No. 17-10	4-19-2017	Special events and filming permits amendment	Ch. 193
Ord. No. 17-11	4-19-2017	Boardwalk and beaches amendment	Ch. 33
Ord. No. 17-12	4-19-2017	Payment of claims amendment	Ch. 150
Ord. No. 17-13	6-7-2017	Zoning and land use amendment	Ch. 246
Ord. No. 17-14	5-17-2017	Boardwalk and beaches amendment	Ch. 33
Ord. No. 17-15	5-17-2017	Streets and sidewalks amendment	Ch. 203
Ord. No. 17-16	5-17-2017	Unmanned aircraft	Ch. 217
Ord. No. 17-17	9-6-2017	Zoning and land use amendment	Ch. 246
Ord. No. 17-18	9-6-2017	Zoning and land use amendment	Ch. 246
Ord. No. 17-19	12-6-2017	Five-year tax exemption and abatement amendment	Ch. 98
Ord. No. 17-20	12-6-2017	Boardwalk and beaches amendment	Ch. 33
Ord. No. 17-21	12-20-2017	Payment of claims amendment	Ch. 150
Ord. No. 17-22	12-27-2017	Utilities amendment	Ch. 219
Ord. No. 2018-01	3-7-2018	Payment of Claims Amendment	Ch. 150
Ord. No. 2018-02	4-18-2018	Zoning and Land Use Amendment	Ch. 246
Ord. No. 2018-03	5-2-2018	Parking Amendment	Ch. 146
Ord. No. 2018-04	5-2-2018	Boardwalk and Beaches Amendment	Ch. 33
Ord. No. 2018-05			Not adopted
Ord. No. 2018-06			Not adopted
Ord. No. 2018-07		Salaries	See Ch. 184
Ord. No. 2018-08	5-16-2018	Parking Amendment	Ch. 146
Ord. No. 2018-09	5-16-2018	Parking Amendment	Ch. 146
Ord. No. 2018-10		Exceed budget; cap bank	NCM
Ord. No. 2018-11	5-16-2018	Construction Inspection Fees Amendment	Ch. 68
Ord. No. 2018-12	7-3-2018	Zoning and Land Use Amendment	Ch. 246
Ord. No. 2018-13	8-1-2018	Garbage; Solid Waste Disposal Amendment	Ch. 107
Ord. No. 2018-14		Bond	NCM
Ord. No. 2018-15	7-3-2018	Alcoholic Beverages Amendment	Ch. 17
Ord. No. 2018-16	7-18-2018	Rental Property: Bonding Requirements for Repeated Improper Conduct	Ch. 179 , Art. I
Ord. No. 2018-17	8-15-2018	Alarms Amendment	Ch. 13
Ord. No. 2018-18		Bond	NCM
Ord. No. 2018-19	9-19-2018	Rental Property: Rental to Minors	Ch. 179 , Art. II
Ord. No. 2018-20	11-7-2018	Utilities Amendment	Ch. 219
Ord. No. 2018-21	11-7-2018	Fees Amendment	Ch. 92