

CITY OF CAPE MAY, COUNTY OF CAPE MAY, STATE OF NEW JERSEY

ORDINANCE NO. 308-2016

AN ORDINANCE AMENDING CHAPTER 199 OF
THE CAPE MAY CITY CODE
REGARDING CONSTRUCTION PERMIT FEES

WHEREAS, Chapter 199, entitled Construction Codes, Uniform, of the Cape May City Code (“City Code”) describes the fees which must be paid to the City of Cape May (the “City”) in connection with various construction permits issued by the City and for compliance with zoning, flood damage prevention, and health and safety concerns in connection with the sale of real property; and

WHEREAS, the City adopted Ordinance No. 295-2015, which re-implemented the requirement of a certificate of continued occupancy and which further initiated a new requirement for a certificate of flood damage prevention compliance in addition to modifying fees for construction and other permits; and

WHEREAS, as a result of concerns and subsequent meetings with real estate professionals in the City, the effective date of said ordinance for the certificate of continued occupancy and certificate of flood damage prevention compliance was tolled until September 1, 2016; and

WHEREAS, the City Council of the City of Cape May desires to modify this ordinance to set forth limits and exceptions for certain transactions and to set forth standards for compliance; and

WHEREAS, the amendments in this ordinance satisfy and address the concerns of the real estate professionals and shall take effect prior to the end of the tolling date of September 1, 2016.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Cape May, County of Cape May, State of New Jersey, as follows:

1. Chapter 199 of the Cape May City Code is hereby revised as follows (deleted language is stricken, new language is underscored):

§199-1. Enforcing agency established; composition; public right to do business.

- A. There is hereby established in the City of Cape May a State Uniform Construction Code Enforcing Agency to be known as the Department of Construction and Zoning, consisting of a Construction Official, a Zoning Officer, a Floodplain Manager, a Building Subcode Official, a Plumbing Subcode Official, an Electrical Subcode Official, a Fire Protection Subcode Official, and such other subcode officials for such additional subcodes as the Commissioner of the Department of Community Affairs, State of New Jersey, shall hereafter adopt as part of the State

Uniform Construction Code. The Construction Official shall be the Chief Administrator of the enforcing agency.

- B. Each official position created in Subsection A of this section shall be filled by a person qualified for such position pursuant to P.L. 1975, c. 217, as amended, and N.J.A.C. 5:23; provided that, in lieu of any particular subcode official, an on-site inspection agency may be retained by contract pursuant to N.J.A.C. 5:23. More than one such official position may be held by the same person; provided that the person is qualified pursuant to P.L. 1975, c. 217 and N.J.A.C. 5:23 to hold each such position.
- C. The public shall have the right to do business with the enforcing agency at one office location, except for emergencies and unforeseen or unavoidable circumstances.
- D. All subcode officials, their assistants and staff, and all other personnel working for the Department of Construction and Zoning shall be subject to the procedures and policies of the agency and shall be primarily responsible to the Construction Official.

§199-2. Fees schedule.

- A. Construction permit fees. The fees for any construction permit required pursuant to the State Uniform Construction Code Act, N.J.S.A. 52:27D-119 et seq., and the state regulations promulgated pursuant thereto shall be the sum of all of the applicable subcode fees listed herein. All such fees must be paid in full before any required permit can be issued by the Construction Code Official or appropriate subcode official.

(1) Building subcode fees.

- (a) 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. The new construction fee shall be in the amount of \$0.038 per cubic foot of volume for buildings and structures of all use groups and types of construction as classified in Articles 3 and 4 of the Building Subcode, N.J.A.C. 5:23-3.14; except, however, that the fee shall be \$0.028 per cubic foot of volume for Use Groups A-1, A-2, A-3, A-4, A-5, F-1, F-2, S-1 and S-2, and the fee shall be \$0.0011 per cubic foot for structures on farms, including commercial farm buildings under 5:23-3.2(d), with the maximum fee for such structures on farms not to exceed \$4,443. There shall be a minimum fee of \$65 under this Subsection.
- (b) Fees for renovations, alterations and repairs or any other construction which cannot be computed in cubic feet shall be \$45

per \$1,000 of estimated labor and material cost. The minimum fee shall be \$65. For the purpose of determining estimated cost, the applicant may be required to submit to the Construction Official such cost data as may be available produced by 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.

- (c) Fees for additions shall be computed on the same basis as for new construction for the added portion.
- (d) Fees for combination renovations and additions shall be computed as the sum of the fees computed separately in accordance with Subsection A(1)(a) and (b) above.
- (e) The fee for tents, in excess of 900 square feet or 30 feet in any dimension, shall be \$250.
- (f) The fee for an aboveground swimming pool shall be \$150 for a pool with a surface area greater than 550 square feet; the fee in all other cases shall be \$75. The fee for an in-ground swimming pool shall be \$200 for a pool with a surface area greater than 550 square feet; the fee in all other cases shall be \$100.
- (g) The fee for structural towers, such as antenna towers, shall be a flat fee of \$200.
- (h) Fees for retaining walls shall be as follows: (A) The fee for retaining wall with a surface greater than 550 square feet that is associated with a Class 3 residential structure shall be \$200. (B) The fee for a retaining wall with a surface area of 550 square feet or less that is associated with a Class 3 residential structure shall be \$100. The minimum fee shall be \$100.
- (i) The fee for the construction of a new fence over six feet in height, or renovations, alterations and repairs thereto, shall be based on the same schedule set forth in Subsection A(1)(b) above, with a minimum fee of \$65.
- (j) Fees for minor construction work shall be based upon the estimated cost of the work. The fee shall be computed as set forth in Subsection A(1)(b) above.
- (k) The minimum fee shall be \$65 unless otherwise specified.

(2) Plumbing subcode fees.

- (a) The fee shall be in the amount of \$20 per fixture, piece of equipment or appliance connected to the plumbing system and for each appliance connected to the gas piping or oil piping system, except as indicated in Subsection A(2)(b) below.
- (b) The fee shall be \$92 per special device for the following: grease traps, oil separators, refrigeration units, utility service connections, backflow preventers equipped with test ports (double-check valve assembly, reduced pressure zone and pressure vacuum breaker backflow preventers), steam boilers, hot-water boilers (excluding those for domestic water heating), active solar systems, sewer pumps and interceptors. There shall be no inspection fee charged for gas service entrances.
- (c) The fee for lawn sprinkler systems with backflow preventers shall be \$92.
- (d) The fee for a water heater shall be \$65.
- (e) The minimum fee shall be \$65 unless otherwise specified.
- (f) The fee for domestic boiler backflow and low water cutoff devices shall be \$20.

(3) Electrical fixtures and devices. The fee shall be as follows:

- (a) For the first block consisting of one to 50 receptacles, fixtures or devices, the fee shall be \$65; for each additional block consisting of up to 25 receptacles, fixtures or devices, the fee shall be \$15. For the purpose of computing this fee, receptacles, fixtures or devices shall include lighting fixtures, wall switches, convenience receptacles, sensors, dimmers, alarm devices, smoke and heat detectors, communications outlets, light standards eight feet or less in height, including luminaries, emergency lights, electric signs, exit lights or similar electric fixtures and devices rated 20 amperes or less, including motors or equipment rated less than one horsepower (hp) or one kilowatt (kW).
- (b) For each motor or electrical device rated from one hp or one kW to 10 hp or 10 kW; for each transformer or generator rated from one kW or one kva to 10 kW or 10 kva; for household electric cooking equipment rated up to 16 kW; for each fire, security or burglar alarm control unit; for each receptacle rated from 30 amperes to 50 amperes; for each light standard greater than eight feet in height,

including luminaries; and for each communications closet, the fee shall be \$45.

- (c) For each spa, hot tub, hydro-massage bathtub, underwater lighting fixture; for each motor or electrical device rated from greater than 10 hp or 10 kW to 50 hp or 50 kW; for each transformer or generator rated from greater than 10 kW or 10 kva to 45 kW or 45 kva; for each electric sign rated from greater than 20 amperes to 225 amperes, including associated disconnecting means; for each receptacle rated greater than 50 amperes; and for each utility load management device, the fee shall be \$65.
- (d) For each motor or electrical device rated from greater than 50 hp or 50 kW to 100 hp or 100 kW; and for each transformer or generator rated from greater than 45 kW or 45 kva to 112.5 kW or 112.5 kva, the fee shall be \$130.
- (e) For each motor or electrical device rated greater than 100 hp or 100 kW; and for each transformer or generator rated greater than 112.5 kW or 112.5 kva, the fee shall be \$650.
- (f) The fee charged for electrical work for each permanently installed private swimming pool, as defined in the building subcode, or fountain shall be a flat fee of \$65 which shall include any required bonding and associated equipment such as filter pumps, motors, disconnecting means, switches, required receptacles, and heaters, etc. For public swimming pools, the fee shall be charged on the basis of number of electrical fixtures and rating of electrical devices involved in accordance with Subsection A(3)(a) through (e) above. The fee charged for panelboards shall be charged in accordance with Subsection A(3)(h).
- (g) The fee charged for the installation of single- and multiple-station smoke or heat detectors and fire, burglar or security alarm systems in any one- or two-family dwelling shall be a flat fee of \$80 per dwelling unit. For fire, burglar and security alarm systems and detectors in buildings other than one- or two-family dwellings, the fee shall be charged in accordance with Subsection A(3)(a) and (b) above.
- (h) For each service equipment, panelboard, switchboard, switchgear, motor-control center or disconnecting means rated from 100 amperes or less, the fee shall be \$65. For each service equipment, panelboard, switchboard, switchgear, motor-control center or disconnecting means rated from 110 amperes to 225 amperes, the fee shall be \$125. For each service equipment, panel board,

switchboard, switchgear, motor-control center or disconnecting means rated from 226 amperes to 400 amperes, the fee shall be \$175. For each service equipment, panel board, switchboard, switchgear, motor-control center or disconnecting means rated from 401 amperes to 800 amperes, the fee shall be \$225. For each service equipment, panel board, switchboard, switchgear, motor-control center or disconnecting means rated from 801 amperes and above, the fee shall be \$650.

- (i) For installations consisting of multimeter stacks, the fee shall be based on the ampere rating of the main bus and not upon the number of meters or rating of disconnects on the meter stack. Individual load side panel boards shall be charged in accordance with Subsection A(3)(h) above. There shall be no additional fee charged for the concurrent installation of individual feeder conductors.
- (j) For motors or similar devices requiring concurrent installation of individual controls, relays and switches, the fee shall be based only upon the rating of the motor or device. There shall be no additional fee charged for the concurrent installation of individual circuit components, for example, controllers, starters, and disconnecting means.
- (k) For each replacement of wiring involving one branch circuit or part thereof, the fee shall be \$35, and for electrical work requiring replacement of service entrance conductors or feeder conductors only, the fee shall be in accordance with Subsection A(3)(h) above, based on the designated ampere rating of the overcurrent device of the service or feeder.
- (l) The fee charged for process equipment shall be based on the ampere rating of the overcurrent device protecting the conductor feeding the process equipment or the cutoff device.
- (m) For the purpose of computing these fees, all electrical and communications devices, utilization equipment and motors that are part of premises wiring, except those that are portable plug-in type, shall be counted.
- (n) For photovoltaic systems, the fee shall be based on the designated kilowatt rating of the solar photovoltaic system as follows:

[1] One to 50 kilowatts, the fee shall be \$75.

[2] Fifty-one to 100 kilowatts, the fee shall be \$150.

[3] Greater than 100 kilowatts, the fee shall be \$650.

(o) The minimum fee shall be \$65 unless otherwise specified.

(4) Fire subcode fees. For fire protection and hazardous equipment, sprinklers, standpipes, detectors (smoke and heat), underground tanks, pre-engineered suppression systems, gas- and oil-fired appliances, kitchen exhaust systems, incinerators and crematoriums, the fee shall be as follows:

(a) The fee for 20 or fewer heads shall be \$100; for 21 to and including 100 heads, the fee shall be \$175; for 101 to and including 200 heads, the fee shall be \$350; for 201 to and including 400 heads, the fee shall be \$850; for 401 to and including 1,000 heads, the fee shall be \$1,150; for over 1,000 heads, the fee shall be \$1,550.

(b) For fire pumps, the fee shall be based on the GPM rating of the fire pump as follows:

[1] 1-250gpm, the fee shall be \$175.

[2] 251-500gpm, the fee shall be \$250.

[3] 501-1,000gpm, the fee shall be \$350.

[4] Greater than 1,000gpm, the fee shall be \$500.

(c) The fee for each standpipe shall be \$330.

(d) The fee for each independent pre-engineered system shall be \$150.

(e) The fee for each gas- or oil-fired appliance or heating and air conditioning system shall be \$100.

(f) The fee for each kitchen exhaust system shall be \$150.

(g) The fee for each incinerator shall be \$500.

(h) The fee for each crematorium shall be \$500.

(i) For single- and multiple-station smoke or heat detectors and fire alarm systems in any one- or two-family dwellings, there shall be a flat fee of \$65 per dwelling unit. For detectors and fire alarm systems in buildings other than one- or two-family dwellings, the fee shall be charged in accordance with Subsection A(4)(b) above.

- (j) The fee for automatic or manual fire alarm systems shall be for 20 or fewer detectors \$100; for 21 to and including 100 detectors, the fee shall be \$175; for 101 to and including 200 detectors, the fee shall be \$350; for 201 to and including 400 detectors, the fee shall be \$850; for 401 to and including 1,000 detectors, the fee shall be \$1,150; for over 1,000 detectors, the fee shall be \$1,550.
- (k) The fee for fireplaces, wood-burning stoves, and solid-fuel burning appliances shall be \$100 for one- and two-family dwellings. For all other uses, the fee shall be \$45 per \$1000 of estimated cost of work.
- (l) The fee for installation, removal, or abandonment of underground storage tanks shall be \$100 for one- and two-family dwellings. For all other uses, the fee shall be \$200.
- (m) The fee for replacement of an existing transmission means as per N.J.A.C. 5:23-2.17A(c)5v shall be \$75.
- (n) The minimum fee shall be \$65 unless otherwise specified.

(5) Fees for certificates and other permits are as follows:

- (a) The fee for demolition of a one- and two-family dwelling shall be \$200. The fee for demolition of a detached garage shall be \$200. The fee for demolition of a shed shall be \$100. The fee for demolition of all other structures shall be \$400. Partial demolition shall be charged at the rate of \$45 per \$1,000 of estimated cost.
- (b) The fee for a permit to construct a sign over 25 square feet shall be \$8 per square foot of the surface area of the sign; provided, however, that in the case of double-faced signs, the area of the surface of only one side of the sign shall be used for purposes of the fee computation. The minimum fee shall be \$65.
- (c) The fee for a permit for lead hazard abatement work shall be \$200. The fee for a lead abatement clearance certificate shall be \$65.
- (d) Asbestos hazard abatement. There shall be an administrative fee of \$100 for each construction permit and an administrative fee of \$50 for each certificate of occupancy issued following the successful completion of an asbestos hazard abatement project.

(6) The fee for plan review shall be 25% of the amount to be charged for the construction permit and shall be paid before the plans are reviewed. The amount paid for this fee shall be nonrefundable.

(a) There shall be an additional fee of \$65 per subcode for review of any amendment or change to a plan that has already been released or for which the construction permit has been issued.

(7) Fees for certificates of occupancy shall be as follows:

(a) Fee for certificate of occupancy shall be 15% of the construction permit fees; provided, however, that the minimum fee shall be \$150.

~~(b) The fee for a certificate of continued occupancy shall be \$85, plus \$50 for each subcode inspection.~~

~~(e)~~(b) The fee for certificate of occupancy granted pursuant to a change of use shall be \$150.

~~(d)~~(c) The fee for a temporary certificate of occupancy shall be \$100.

~~(e)~~(d) There shall be no fee charged for a certificate of approval issued pursuant to N.J.A.C. 5:23-2.23j.

~~(f)~~(e) The fee for a certificate of compliance shall be \$30.

~~(g) No person or entity shall accept transfer of title and occupy or permit the occupancy of any structure, portions of a structure, or unit therein without receiving from the transferor or from the Construction Official a certificate of continued occupancy.~~

~~(h)~~(f) The fee for inspections and plan review of an elevator shall be as determined by the State of New Jersey, Department of Community Affairs, which shall be responsible for elevator subcode for the City of Cape May. Reports on elevator inspections shall be furnished to the Construction Official.

~~(i)~~(g) The fee for plan review of a building for compliance under the alternate systems and renewable energy source provisions of the energy code (Green Building) shall be \$345 for one- and two-family dwellings (Group R-3 or R-5 of the building subcode), and for light commercial structures having the indoor temperature controlled from a single point, and \$1,725 for all other structures.

~~(f)~~(h) The fee for an application for a variation in accordance with N.J.A.C. 5:23-2.10 shall be \$825 for Class I structures and \$300 for Class II and Class III structures. The fee for resubmission of an application for a variation shall be \$325 for Class I structures and \$150 for Class II and Class III structures.

~~(k)~~(i) All amounts collected for construction fees shall be rounded to the nearest dollar amount.

~~(l)~~(j) State of New Jersey mandated training fees.

[1] Pursuant to N.J.A.C. 5:23-4.19, in order to provide for the training and certification and technical support programs required by state law, the City of Cape May shall collect a surcharge fee to be based upon the volume of new construction within the municipality. Said fee shall be accounted for and forwarded to the State of New Jersey Department of Consumer Affairs Division of Codes and Standards in the manner herein provided.

[2] Amount. This fee shall be in the amount of \$0.00371 per cubic foot volume of new buildings and additions. Volume shall be computed in accordance with N.J.A.C. 5:23-2.28. The fee for all other construction shall be \$1.90 per \$1,000 of value of construction.

[3] Remitting and reporting. The municipality shall remit fees to the Bureau of Codes and Standards, Department of Community Affairs, on a quarterly basis, in conjunction with report number R-840B, State Training Fee Report, in accordance with N.J.A.C. 5:23-4.5(e). Fees remitted shall be for the quarter. Checks shall be made payable to Treasurer, State of New Jersey.

B. The Construction Official shall, with the advice of the subcode officials, prepare and submit to the City Council a biannual report recommending a fee schedule based on the operating expenses of the agency, and any other expenses of the municipality fairly attributable to the enforcement of the State Uniform Construction Code Act.

C. The enforcing agency shall report annually at the end of each fiscal year to the Bureau of Codes and Standards, and not later than July 31, the total amount of the surcharge fee collected in the fiscal year.

(1) The fee for development-wide inspection of structures after the issuance of a certificate of occupancy pursuant to N.J.A.C. 5:23-2.35 shall be an

amount equal to either the hourly base salary paid to a licensed code official performing the work, multiplied by the number of hours worked, or to the hourly fees charged to the municipality by a professional contracted to provide such services pursuant to N.J.A.C. 5:23-2.35, subject to the accounting procedures and limits set forth below.

- (a) Hourly charges shall be limited only to municipal or consulting professional charges for inspections, review of plans and supporting documents and preparation of reports and documents and shall accurately reflect the hours engaged in these activities.
- (b) The only costs that shall be added to any such charges shall be actual out-of-pocket expenses of any consulting engineer hired for this purpose, including normal and typical expenses incurred in performing inspections and reviewing plans and supporting documents for the required corrective work.
- (c) The developer shall not be billed and no charge shall be made to any escrow amount or deposit for any municipal clerical or administrative functions, overhead expenses, meeting room charges or any other municipal costs and expenses except as provided for in this subsection, nor shall a municipal enforcing agency professional add any charge to his expenses.
- (d) Payments shall be charged to the escrow, and shall be made by the Chief Financial Officer of the municipality, and a final accounting shall be provided, in accordance with the procedure set forth in paragraphs (c) and (d) of N.J.S.A. 40:55D-53.2. Payments shall be made from any such escrow by the Chief Financial Officer only upon approval of the Construction Official.
- (e) The municipality shall place in escrow all monies paid by the developer for this purpose. The escrow shall be held in any account maintained by the municipality in the same manner as that established for the deposit of escrow funds paid by professional review services, inspection fees, and performance and maintenance guarantees as provided for at N.J.S.A. 40:55D-53.1.
- (f) Appeals of any changes levied by the municipality pursuant to this subsection shall be made to the Construction Board of Appeals in accordance with the procedures set forth in N.J.S.A. 40:55D-53.2a and N.J.A.C. 5:23A.

§199-3. Fire limits.

The fire limits of the City are hereby established as follows: All that land and premises located within the City of Cape May known as the Primary Historic District as defined in Chapter 525, Zoning, and as delineated therein. The Construction Official shall prepare and submit to City Council, biannually, a report reevaluating the delineation of the fire limits. This report shall indicate the recommendations of the Construction Official, the Building Subcode Official, and the Fire Subcode Official regarding those areas which would be designated as within the fire limits, with the reasons therefor.

§199-4. Copy filed with state.

A certified copy of this chapter, together with any amendments hereafter adopted, shall be forwarded to the New Jersey State Department of Community Affairs.

§ 199-5. Certificate of Zoning Compliance.

- A. The purpose of this section is to require an inspection of buildings, structures, or units prior to the transfer of title to determine compliance with Chapter 525 (Zoning Ordinance).
- B. Transfer of building, structures, or units. No person or entity shall sell or transfer title to any building, structure, portion of structure, or unit in a structure until such person or entity shall have first requested and obtained a certificate of zoning compliance certifying the following:
 - (1) That there has not been a change of use;
 - (2) Designation of the unit(s) or structures covered by the certificate of zoning compliance;
 - (3) That the building, structure, part of the structure, or unit(s) in the structure, as the case may be, are in compliance with the provisions of Chapter 525 (Zoning Ordinance).
- C. Exceptions: A certificate of zoning compliance shall not be required:
 - (1) Where a certificate of occupancy has been issued in connection with new construction within two years of a transfer; in such case where a portion of a new structure or unit(s) therein is transferred within two years subsequent to the issuance of a certificate of occupancy, a certificate of zoning compliance shall not be required
 - (2) Where title to a building or structure is being transferred without consideration to an entity owned or controlled by the transferor or to a person related to the transferor;

- (3) Where the buyer signs a certification stating that the buyer does not intend to utilize the structure or building for human occupancy and intends to demolish the structure or building within 90 days after transfer (which time period will be tolled if demolition is unable to occur between Memorial Day and Labor Day); or
- (4) Where title to a building or structure is being transferred by reason of foreclosure or deed in lieu of foreclosure to lender, a holding company related lender or its designated loan servicer; however, a sheriff's sale transferring the building or structure to an unrelated third party shall not be exempt.

§ 199-6. Certificate of Flood Damage Prevention Compliance.

- A. The purpose of this section is to require an inspection of buildings, structures, or units prior to the transfer of title to determine compliance with City Code Section 258-17E (Flood Damage Prevention), but only with respect to the minimum number of flood vents. ~~Chapter 258 (Flood Damage Prevention Ordinance).~~
- B. Transfer of building, structures, or units. No person or entity shall sell or transfer title to any building, structure, portion of structure, or unit in a structure until such person or entity shall have first requested and obtained a certificate of flood damage prevention compliance certifying the following:
 - (1) Designation of the unit(s) or structures covered by the certification of flood damage prevention compliance;
 - (2) That the building, structure, part of the structure, or unit(s) in the structure, as the case may be, are in compliance with the provisions of ~~Chapter 258~~City Code Section 258-17E (Flood Damage Prevention Ordinance), but only with respect to the minimum number of flood vents.
- C. An applicant for a certificate of flood damage prevention compliance must submit a flood elevation certificate to the Floodplain Manager before a flood damage prevention certificate may issue. A flood elevation certificate previously issued on or after January 1, 2010 shall be accepted for all structures contained on the property at the time of issuance.
- D. A certificate of flood damage prevention compliance shall be valid for two years from the date of issuance.
- C-E. If, after an inspection, a certificate of flood damage prevention compliance may not be issued because of non-compliance with this §199-6, notice shall be given to the applicant detailing the violations. All noted violations shall be abated prior to closing; but title may be transferred before the noted violations are abated

if the buyer signs an acknowledgment of the deficiencies, assumes the risk, and agrees to undertake compliance pursuant to this section within 30 business days after closing. If buyer fails to abate the violation within the specified time period, buyer shall be subject to fines and penalties for noncompliance.

F. Exceptions: A certificate of flood damage prevention compliance shall not be required:

- (1) Where a certificate of occupancy has been issued in connection with new construction within two years of a transfer; in such case where a portion of a new structure or unit(s) therein is transferred within two years subsequent to the issuance of a certificate of occupancy; ~~a certificate of flood damage prevention compliance and flood elevation certificate shall not be required~~
- (2) Where title to a building or structure is being transferred without consideration to an entity owned or controlled by the transferor or to a person related to the transferor;
- (3) Where the buyer signs a certification stating that the buyer does not intend to utilize the structure or building for human occupancy and intends to demolish the structure or building within 90 days after transfer (which time period will be tolled if demolition is unable to occur between Memorial Day and Labor Day); or
- (4) Where title to a building or structure is being transferred by reason of foreclosure or deed in lieu of foreclosure to lender, a holding company related lender or its designated loan servicer; however, a sheriff's sale transferring the building or structure to an unrelated third party shall not be exempt.

D.G. If a flood code compliance certificate has issued within two years to any single unit in a condominium complex containing more than one dwelling unit in a single structure, no other unit within that structure shall be required to obtain a certificate of flood damage prevention compliance.

§ 199-7. Certificate of Continued Occupancy,

- A. The purpose of this section is to require an inspection of buildings, structures, or units prior to the transfer of title to determine (i) that there are no violations of law or orders of the construction official, and (ii) that no unsafe or unsanitary conditions have been found.
- B. Transfer of building, structures, or units. No person or entity shall sell or transfer title to any building, structure, portion of structure, or unit in a

structure until such person or entity shall have first requested and obtained a certificate of continued occupancy certifying as follows:

- (1) That there has been no construction, enlargement, repair, alteration, renovation, reconstruction or demolition of any part of the building, structure, or unit without a construction permit in violation of N.J.A.C. 5:23-2.14 and that there are no open construction permits; and
- (2) That the building, structure or unit is not in violation of N.J.A.C. 5:23-2.32(a), such that the building or structure has not become unsafe or unsanitary, does not contain deficient or blocked exitway facilities, does not constitute a fire hazard or is not otherwise dangerous to human life or the public welfare.

C. A certificate of continued occupancy shall be valid for two one years from the date of issuance and shall expire on the date of transfer (subject to any obligation to correct any deficiencies post-closing).

D. If, after an inspection, a certificate of continued occupancy may not be issued because of the failure to comply with this §199-7, notice shall be given to the applicant detailing the violations. All noted violations shall be abated prior to closing; but title may be transferred before the noted violations are abated, if the buyer signs an acknowledgment of the deficiencies, assumes the risk, and agrees to undertake compliance pursuant to this section within 30 days after closing. If buyer fails to abate the violation within the specified time period, buyer shall be subject to fines and penalties for noncompliance.

E. Exceptions: A certificate of continued occupancy shall not be required:

- (1) Where a certificate of occupancy has been issued in connection with new construction within two years of a transfer;
- (2) Where title to a building or structure is being transferred without consideration to an entity owned or controlled by the transferor or to a person related to the transferor;
- (3) Where the buyer signs a certification stating that the buyer does not intend to utilize the structure or building for human occupancy and intends to demolish the structure or building within 90 days after transfer (which time period will be tolled if demolition is unable to occur between Memorial Day and Labor Day); or
- (4) Where title to a building or structure is being transferred by reason of foreclosure or deed in lieu of foreclosure to lender, a holding

company related lender or its designated loan servicer; however, a sheriff's sale transferring the building or structure to an unrelated third party shall not be exempt.

§ 199-8. Miscellaneous Fees.

A. Fees for miscellaneous zoning reviews in connection with applications for building and zoning permits shall be as follows:

(1) New buildings:

(a) One- and two-family dwellings: \$125.

(b) All other buildings: \$200.

(2) Additions and accessory buildings:

(a) One- and two-family dwellings: \$55.

(b) Garages: \$55.

(c) Storages sheds and decks: \$45.

(d) All other buildings: \$100.

(3) Signs, fences, pools, satellite antennas, driveways, sidewalks, curb cuts, and other reviews not listed: \$45.

(4) Fees for official letters in reply to a zoning inquiry shall be \$50 for zoning verification.

(5) The fee for a Certificate of Zoning Compliance shall be \$75.

(6) The fee for a Certificate of Compliance with Flood Damage Prevention Ordinance shall be \$75.

~~(6)~~(7) The fee for a Certificate of Continued Occupancy shall be \$85, plus \$50 for each subcode inspection.

(8) Cape May City permits. All other City permits shall have a flat fee of \$65, which flat fee shall be in addition to any other fees as set forth in this Chapter applicable zoning review fees as set forth in Subsection D above.

B. All applications for a Certificate of Zoning Compliance, a Certificate of Compliance with Flood Damage Prevent Ordinance and Certificate of Continued Occupancy shall be submitted not less than 15 business days prior to the transfer of title.

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

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

4. This Ordinance shall take effect within twenty (20) days of final passage and publication as provided by law.

ATTEST:

CITY OF CAPE MAY, a municipal corporation
of the State of New Jersey

Louise Cummiskey, City Clerk

BY: _____
Dr. Edward J. Mahaney, Jr., Mayor

NOTICE

This Ordinance was introduced at a regular meeting of the City Council of the City of Cape May, held on July 19, 2016 and will be further considered for final passage during a meeting of the City Council, to be held at the Cape May City Hall Auditorium, 643 Washington Street, Cape May New Jersey, on August 16, 2016, 7:00 P.M. at which time a Public Hearing will be held.

Louise Cummiskey, City Clerk

Roll Call	Ayes	Nays	Absent	Abstain
Dr. Mahaney				
Mr. Furlin				
Mr. Meier				
Ms. Pessagno				
Ms. Swain				

Introduced:	July 19, 2016
First Publication:	July 27, 2016
2 nd Reading & Adoption:	August 16, 2016
Final Publication:	August 24, 2016

CITY OF CAPE MAY, COUNTY OF CAPE MAY, STATE OF NEW JERSEY

ORDINANCE NO. 309-2016

**AN ORDINANCE OF THE CITY OF CAPE MAY
TO ADOPT A NEW CAPE MAY CITY ZONING MAP**

WHEREAS, Polistina Associates, LLC created a Zoning Map for the City of Cape May (the "Zoning Map") dated August 1, 2016;

WHEREAS, the Cape May City Council desires to adopt the Zoning Map and update Chapter 525, Section 6 of the Cape May City Code accordingly; and

WHEREAS, the Planning Board of the City of Cape May has unanimously approved the Zoning Map.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Cape May, County of Cape May, State of New Jersey, as follows:

1. Article II of Chapter 525 of the Code of the City of Cape May is hereby amended as follows (inserted language is underlined, deleted language is strikethrough):

§ 525-6. Zoning Map and exhibits.

- A. The districts listed in § 525-5 are bounded and defined as shown on the map prepared by ~~Remington, Vernick and Walberg Engineers~~ Polistina Associates, LLC dated March 15, 2005 (revised July 19, 2005) August 1, 2016, entitled "Zoning Map City of Cape May," hereby designated as the Zoning Map of Cape May, subject to the following exception(s):
- (1) ~~Properties known as Block 1160, Lot 4.01 and Block 1160, Lot 4.02 shall be designated as and included in the R-5 zone.~~
 - (2) ~~Properties known as Block 1012, Lot 15 and Block 1012, Lot 16 shall be designated as and included in the C-3 zone.~~
 - (3) ~~Properties known as Block 1014, Lot 11 and Block 1014, Lot 12 shall be designated as and included in the R-2 zone.~~
 - (4) ~~The Property known as Block 1028, Lot 1.01 shall be designated as and included in the C-2 zone.~~
 - (5) ~~Properties known as Block 1062, Lot 8, Block 1062, Lot 9 and Block 10.01 shall be designated as and included in the C-2 zone.~~
 - (6) ~~Properties known as Block 1061, Lot 97 and Block 1061, Lot 98 shall be designated as and included in the C-6 zone.~~

~~(7) All lots which front on Cape May Avenue in Blocks 1105, 1106, 1119, 1120, 1134, 1135, 1150 and 1151 shall be designated and included in the R-1B Zone.~~

B. The Zoning Map shall be located and available for inspection in the office of the Zoning Official. Other maps, charts and interpretive materials which may be prepared and utilized in conjunction with this chapter are intended as supplemental guides. In the event of any uncertainty or discrepancy, the Zoning Map located in the office of the Zoning Official and the text of this chapter shall prevail.

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

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

4. This Ordinance shall take effect within twenty (20) days of final passage and publication as provided by law.

ATTEST:

CITY OF CAPE MAY, a municipal
corporation of the State of New Jersey

Louise Cummiskey, City Clerk

BY: _____
Dr. Edward J. Mahaney, Jr., Mayor

NOTICE

This Ordinance was introduced at a regular meeting of the City Council of the City of Cape May, held on August 16, 2016 and will be further considered for final passage during a meeting of the City Council, to be held at the Cape May City Hall Auditorium, 643 Washington Street, Cape May, New Jersey, on September 20, 2016 at 7:00 P.M. at which time a Public Hearing will be held.

Louise Cummiskey, City Clerk

Roll Call	Ayes	Nays	Absent	Abstain
Dr. Mahaney				
Mr. Furlin				
Mr. Meier				
Ms. Pessagno				
Ms. Swain				

Introduced: August 16, 2016
First Publication: August 24, 2016
2nd Reading & Adoption: September 20, 2016
Final Publication: September 28, 2016

CITY OF CAPE MAY, COUNTY OF CAPE MAY, STATE OF NEW JERSEY

RESOLUTION NO. 184-08-2016

**RESOLUTION REGARDING CITY OF CAPE MAY
CITY-WIDE FALL ANNUAL SIDEWALK SALE**

MOTION:

SECOND:

WHEREAS, the merchants in the City of Cape May hold an annual city-wide fall sidewalk sale; and

WHEREAS, the City Council of the City of Cape May desires to set the dates and times for the annual fall sidewalk sale.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cape May, that the dates and times for the 2016 fall sidewalk sale shall be September 15th through September 18th between the hours of 9:00 A.M. to 7:00 P.M.

I hereby certify the foregoing to be an original resolution adopted by the City Council of the City of Cape May at a meeting held on August 16, 2016.

Louise Cummiskey, City Clerk

Roll Call	Ayes	Nays	Absent	Abstain
Dr. Mahaney				
Mr. Meier				
Ms. Pessagno				
Ms. Swain				
Mr. Furlin				

cc: All Departments
Bulletin Board
WSM Management Co., Inc.
Mall Merchants Association
Cape May Chamber of Commerce

Files/annual tickler files/Fall/sidewalk sale resolution

CITY OF CAPE MAY, COUNTY OF CAPE MAY, STATE OF NEW JERSEY

RESOLUTION NO. 185-08-2016

CANCELLATION OF REAL ESTATE TAXES

Block 1061 Lot 47, 811 St. John Street

MOTION:

SECOND:

WHEREAS, the property known as Block 1061, Lot 47, located at 811 St. John Street, Cape May, New Jersey, was previously assessed as a taxable improvement; and

WHEREAS, pursuant to the Agreement of Sale dated November 18, 2015, by and between the City of Cape May and Brenda E. Robinson, Trustee of Brenda E. Robinson Living Trust, the City of Cape May purchased said property. Settlement was held on February 5, 2016, thereby deeming the property to be "tax exempt;" and

WHEREAS, all property taxes through the first quarter 2016 have been paid in full; and

WHEREAS, the taxes billed for the second, third and fourth quarter 2016 and the first and second quarter 2017 shall be cancelled as a result of the sale and purchase of the property by the City of Cape May municipal government; and

WHEREAS, the Tax Assessor has requested the property known as Block 1061, Lot 47, and more commonly known as 811 St. John Street, Cape May, New Jersey be reclassified from a R3 property to a City owned exempt property.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Cape May that the property known as Block 1061, Lot 47 and more commonly known as 811 St. John Street, Cape May, New Jersey be reclassified from a R3 property to a City owned exempt property, and the second, third and fourth quarter 2016 taxes and the first and second quarter 2017 taxes in the total amount of \$3,185.00 shall be cancelled.

I hereby certify the foregoing to be an original resolution adopted by the City Council of the City of Cape May at a meeting held on August 16, 2016.

Louise Cummiskey, City Clerk

cc: County Board of Taxation
Tax Collector
Tax Assessor

Roll Call	Ayes	Nays	Absent	Abstain
Meier				
Pessagno				
Swain				
Furlin				
Mahaney				

CITY OF CAPE MAY, COUNTY OF CAPE MAY, STATE OF NEW JERSEY

RESOLUTION NO. 186-08-2016

**RESOLUTION ENABLING THE OPENING OF AN ACCOUNT WITH THE
STATE OF NEW JERSEY, DEPARTMENT OF ENVIRONMENTAL PROTECTION,
GREEN ACRES PROGRAM**

MOTION:

SECOND:

WHEREAS, the New Jersey Department of Environmental Protection, Green Acres Program (the "State"), provides loans and/or grants to municipal and county governments and grants to nonprofit organizations for assistance in the acquisition and development of lands for outdoor recreation and conservation purposes;

WHEREAS, the City of Cape May (the "City") desires to further the public interest by obtaining a loan of \$500,000.00 from the State to fund the following project:

#0502-14-006

Lafayette Street Park Development Phase I

WHEREAS, the State shall determine if an application is complete and in conformance with the scope and intent of the Green Acres Program, and notify the applicant of the amount of the funding; and

WHEREAS, the applicant is willing to use the State's funds in accordance with such rules, regulations and applicable statutes, and is willing to enter into an agreement with the State for the above named project.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cape May, County of Cape May, State of New Jersey, as follows:

1. That the Mayor of the City of Cape May, Dr. Edward J. Mahaney, Jr., or the successor to the office of the Mayor, is hereby authorized to:

- (a) Make application for such a loan and/or grant,
- (b) Provide additional application information and furnish such documents as may be required,
- (c) Act as the authorized correspondent of the above names application.

2. That the Mayor of the City of Cape May, Dr. Edward J. Mahaney, Jr., or the successor to the office of the Mayor, is hereby authorized to execute an agreement and any amendment thereto with the State known as, #0502-14-006 -Lafayette Street Park Development Phase I.

3. That the applicant has its matching share of the project, if a match is required, in the amount of \$0.00.

4. In the event the State's funds are less than the total project cost specified above, the applicant has the balance of funding necessary to complete the project.

5. The applicant agrees to comply with all applicable federal, state, and local laws, ruled, and regulations in its performance of the project.

6. This resolution shall take effect immediately.

I, Louise Cummiskey, do hereby certify that the foregoing is a true copy of a resolution adopted by the Cape May City Council at a meeting held on August 16, 2016.

IN WITNESS WHEREOF, I hereunder set my hand and the official seal of this body this ___ day of August, 2016

Louise Cummiskey, City Clerk

Roll Call	Ayes	Nays	Absent	Abstain
Dr. Mahaney				
Ms. Swain				
Ms. Pessagno				
Mr. Meier				
Mr. Furlin				

CITY OF CAPE MAY, COUNTY OF CAPE MAY, STATE OF NEW JERSEY

RESOLUTION NO. 187-08-2016

A RESOLUTION PROVIDING FOR A MEETING NOT OPEN TO THE PUBLIC IN ACCORDANCE WITH THE PROVISIONS OF THE NEW JERSEY OPEN PUBLIC MEETINGS ACT, N.J.S.A. 10:4-12

MOTION:

SECOND:

WHEREAS, the City Council of the City of Cape May is subject to certain requirements of the Open Public Meetings Act, N.J.S.A 10:4-6, et seq., and

WHEREAS, the Open Public Meetings Act, N.J.S.A. 10:4-12, provides that an Executive Session, not open to the public, may be held for certain specified purposes when authorized by Resolution, and

WHEREAS, it is necessary for the City Council of the City to discuss in a session not open to the public certain matters relating to the item or items authorized by N.J.S.A. 10:4-12b and designated below:

- _____ (1) Matters Required by Law to be Confidential: Any matter which, by express provision of Federal law or State statute or rule of court shall be rendered confidential or excluded from the provisions of the Open Public Meetings Act.
- _____ (2) Matters Where the Release of Information Would Impair the Right to Receive Funds: Any matter in which the release of information would impair a right to receive funds from the Government of the United States.
- _____ (3) Matters Involving Individual Privacy: Any material the disclosure of which constitutes an unwarranted invasion of individual privacy such as any records, data, reports, recommendations, or other personal material of any educational, training, social service, medical, health, custodial, child protection, rehabilitation, legal defense, welfare, housing, relocation, insurance and similar program or institution operated by a public body pertaining to any specific individual admitted to or served by such institution or program, including but not limited to information, relative to the individual's personal and family circumstances, and any material pertaining to admission, discharge, treatment, progress or condition of any individual, unless the individual concerned (or, in the case of a minor or incompetent, his guardian) shall request in writing that the same be disclosed publicly.
- _____ (4) Matters Relating to Collective Bargaining Agreement: Any collective bargaining agreement, or the terms and conditions which are proposed for inclusion in any collective bargaining agreement, including the negotiation of the terms and conditions thereof with employees or representatives of employees of the public body.
- _____ (5) Matters Relating to the Purchase, Lease or Acquisition of Real Property or the Investment of Public Funds: Any matter involving the purchase, lease or acquisition of real property with public funds, the setting of banking rates or investment of public funds, where it could adversely affect the public interest if discussion of such matters were disclosed.

_____ (6) Matters relating to Public Safety and Property: Any tactics and techniques utilized in protecting the safety and property of the public, provided that their disclosure could impair such protection. Any investigations of violations or possible violations of the law.

X (7) Matters Relating to Litigation, Negotiations and the Attorney-Client Privilege: any pending or anticipated litigation or contract negotiation in which the public body is, or may become a party. Any matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the attorney to exercise his ethical duties as a lawyer.

X (8) Matters Relating to the Employment Relationship: Any matter involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance or promotion or disciplining of any specific prospective public officer or employee or current public officer or employee employed or appointed by the public body, unless all the individual employees or appointees whose rights could be adversely affected request in writing that such matter or matters be discussed at a public meeting – Police Chief Position.

_____ (9) Matters Relating to the Potential Imposition of a Penalty: Any deliberations of a public body occurring after a public hearing that may result in the imposition of a specific civil penalty upon the responding party or the suspension or loss of a license or permit belonging to the responding party bears responsibility.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cape May, assembled in public session on August 16, 2016, that an Executive Session closed to the public shall be held on this date beginning at 7:00 P.M. in the City Hall Building of the City of Cape May, 643 Washington Street, Cape May for the discussion of matters relating to the specific items designated above.

It is anticipated that the deliberations conducted in closed session may be disclosed to the public upon the determination of the City Council that the public interest will no longer be served by such confidentiality.

I hereby certify the foregoing to be an original resolution adopted by the City Council of the City of Cape May at a meeting held on August 16, 2016.

Louise Cummiskey, City Clerk

Roll Call	Ayes	Nays	Absent	Abstain
Mahaney				
Swain				
Furlin				
Pessagno				
Meier				