

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

**ORDINANCE NO. 244 - 2011**

**AN ORDINANCE AMENDING CHAPTER 10, ARTICLE XXXVI OF THE CITY CODE TO ESTABLISH A TOURISM UTILITY, ELIMINATE THE TOURISM COMMISSION AND REINSTITUTE THE ADVISORY COMMITTEE ON TOURISM**

WHEREAS, the City of Cape May (the “City”) presently provides recreational and civic programs through its Department of Civic Affairs/Recreation, the duties of which are set forth in Section 10-73 of the Cape May City Code (“City Code”), and which is presently supervised by a Director of Civic Affairs;

WHEREAS, pursuant to City Ordinance No. 243-2011, currently pending adoption, all of the City’s recreational and civic programs, along with tourism, marketing, promotion, business development and other entertainment and artistic events will be managed through a newly created Department of Tourism, Civic Affairs and Recreation;

WHEREAS, the City is also in the process of constructing a new Convention Hall facility that it intended to be a hub for tourism in Cape May and will be utilized for various events aimed at increasing tourism and community activities such as, without limitation, concerts, shows, conventions, seminars, art exhibits, trade shows, craft shows, sporting events and other civic and recreational programs previously conducted at the old Convention Hall facility;

WHEREAS, in order to track, account for and properly budget and pay for the management and operation of Convention Hall as well as for all of the activities and events provided through the City’s Department of Tourism, Civic Affairs and Recreation, with the purposes and objectives of maintaining a self-liquidating/solvent fund, the City Council desires to establish a new Tourism Utility pursuant to the New Jersey Bond Law, N.J.S.A 40A:2-1 et seq., New Jersey Local Budget Law, N.J.S.A. 40A:4.1 et seq. and the New Jersey Fiscal Affairs Law, N.J.S.A 40A:5-1 et seq.;

WHEREAS, the Tourism Utility will be operated as a separate revenue and expense center within City Government and shall at all times be under the jurisdiction and control of the City Council and managed by the Director of Marketing, Communications and Event Sales, and shall not function as a separate authority. The sources of revenue shall be as set forth in this ordinance and as further developed by the City Council, City Manager, and the Director and Assistant Director of Marketing, Communications and Event Sales;

WHEREAS, the purposes and objectives of the Tourism Utility are also to facilitate long-range financial planning with a gradual shift of City expenses incurred for marketing, promotion and the operation of recreational, civic and tourism related programs, activities and initiatives and, if feasible, the servicing of debt incurred for the construction of Convention Hall from the City’s current fund to the Tourism Utility; and

WHEREAS, in connection therewith, the City Council also desires to eliminate the existing Tourism Development Commission, establish a revenue source for the Tourism Utility through licensing fees that are equal to the fees currently received by the Tourism Development Commission, and re-establish the Advisory Committee on Tourism, previously created pursuant to Ordinance No. 1227-2001, as restated and modified hereby.

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 10, Article XXXVI entitled "Tourism Commission", Sections 10-124 through 10-134, inclusive, are hereby deleted in their entirety and replaced with the following:

## ARTICLE XXXVI

### **Tourism Utility**

#### **§ 10-124. Purposes.**

The purpose of this Article is to establish a Tourism Utility to track, account for and properly budget and pay for the management and operation of Convention Hall as well as for all of the activities and events provided through the City's Department of Tourism, Civic Affairs and Recreation, with the purposes and objectives of maintaining a self-liquidating/solvent fund under the authority set forth in the New Jersey Bond Law, N.J.S.A 40A:2-1 et seq., New Jersey Local Budget Law, N.J.S.A. 40A:4.1 et seq. and the New Jersey Fiscal Affairs Law, N.J.S.A 40A:5-1 et seq. This will enable the City to separately account and budget for all tourism, recreational and civic activities and, to the extent available, transfer surplus funds within the Tourism Utility to the current fund as a contribution toward debt service obligations for Convention Hall, thus relieving the burden of the taxpayers in the payment of such debt service as well as in financing the operational aspects of Convention Hall and the tourism, recreational and civic programs developed and managed through the Department of Tourism, Civic Affairs and Recreation.

#### **§ 10-125. Tourism Utility.**

A. The Tourism Utility is hereby created effective January 1, 2012, for the purpose set forth in Section 10-124 pursuant to New Jersey Bond Law, N.J.S.A 40A:2-1 et seq., New Jersey Local Budget Law, N.J.S.A. 40A:4.1 et seq. and the New Jersey Fiscal Affairs Law, N.J.S.A 40A:5-1 et seq.

B. Commencing in the year beginning January 1, 2012, the Tourism Utility shall be funded with the following revenue sources:

1. All fees received from the rental and use of Convention Hall or any portions thereof, including the main hall, catering kitchen and/or community rooms;

2. All proceeds from the sale of tickets for events at Convention Hall sponsored and promoted by the City as well as any revenue sharing from any events which are sponsored and promoted by third parties;

3. Any administrative fees or surcharges for the printing, processing and sale of tickets for any events at Convention Hall which are sponsored and promoted by third parties;

4. All rent received from the leasing of commercial stores located within Convention Hall;

5. All concession fees derived from the use of Convention Hall or any portion thereof and any surrounding areas;

6. All advertising fees in the form of sponsorships, print, digital or other forms of ads and broadcasting rights for any events that are promoted and/or developed through the Department of Tourism, Civic Affairs and Recreation, whether inside Convention Hall or elsewhere in the City;

7. The transfer of any surplus funds presently held by the Tourism Development Commission and the City's Recreation Dedicated Fund, net of any accrued expenses which as of January 1, 2012 have not yet been paid, but subject to completion and verification through the City's final 2011 audit;

8. All fees received by the City for recreational and civic programs conducted within Convention Hall and elsewhere in the City;

9. The sum of \$50.00 per year from the mercantile licensing fees received for each mercantile license subject to the provisions of Section 10-126;

10. The amount of occupancy tax received by the City pursuant to Chapter 457 that exceeds the sum of \$1,000,000.00 in the year 2012 (increased by 2% per year for each subsequent year);

By way of example, the threshold amount for 2013 shall be \$1,020,000.00 (\$1,000,000.00 increased by 2%). If the total occupancy tax in 2013 is \$1,080,000.00, the amount contributed to the Tourism Utility fund is \$60,000.00 (\$1,080,000.00 - \$1,020,000.00). If the total amount collected is \$1,020,000.00 or less, no contribution shall be made to the Tourism Utility fund.

11. Any other revenues received in connection with programs and events developed through the Department of Tourism, Civic Affairs and Recreation such as, without limitation, fees for the use of technology

infrastructure, the sale of merchandise, the rental of equipment and any other sources of revenue in connection therewith; and

12. Such other amounts as may be appropriated by the City in the budgetary process to the extent necessary to balance the Tourism Utility budget.

C. A schedule of user fees and charges for all of the revenue sources set forth in subsection B shall be established and revised from time to time by a resolution of City Council. In the event that a fee or charge has not been established or an event or program is developed for which a fee or charge has not yet been approved by the City Council, the City Manager shall have the authority to establish the fee or charge subject to the review and approval or modification by City Council; provided that any such modification shall be on a prospective basis only.

D. The Tourism Utility shall be charged with all expenses incurred by the City in operating and managing the Department of Tourism, Civic Affairs and Recreation, which shall include without limitation all expenses that are related to the management and operation of Convention Hall (except for debt service which will only be paid through the Tourism Utility at the discretion of the City Council if there is a surplus in the Tourism Utility fund).

1. It is the intent, however, of the City Council to gradually increase the amount and percentages of appropriate expenses to be transferred to the Tourism Utility in order to provide long-term assurances that the Tourism Utility will be and remain self-liquidating and solvent.

2. The methodology of allocating expenses to the Tourism Utility will be reviewed periodically and revised as appropriate by the City Council as the Tourism Utility progresses through its formative years.

E. The Tourism Utility shall be under the operation and control of the Director of Marketing, Communications and Event Sales through the Department of Tourism, Civic Affairs and Recreation, and under the financial control of the City Treasurer, all of which shall be subject to the direction and supervision of the City Manager.

**§ 10-126. Tourism Fee.**

In replacement of the assessment previously made for certain mercantile licenses issued by the City annually under Section 10-129 (now repealed), there shall be an increase to all licensing fees for each license issued by the City pursuant to Chapter 139, Article I, Amusement Games, and Article II, Automatic Amusement Devices; Chapter 151, Artists in Public, Licensing of; Chapter 310, Article II, Mercantile Licenses and Permits; Chapter 379, Article I, Peddlers, Hawkers and Vendors, and Article II,

Solicitors and Canvassers; and Chapter 469, Tours, Licensing of, in the amount of \$50, which shall be deposited into the Tourism Utility fund. In the event a person is required to obtain more than one license under the above chapters and articles for operating a business or activity from the same location, only one \$50 increase shall be charged.

**§ 10-127. Advisory Committee on Tourism.**

A. The Advisory Committee on Tourism, previously established by Ordinance 1227-2001, is hereby amended, restated and codified in this Section.

B. The purposes of the Advisory Committee on Tourism are to assist and advise the City Council and the Director of Marketing, Communications and Event Sales in coordinating public/private programs related to tourism within the City and exploring means and methods for accomplishing the objectives of the Department of Tourism, Civic Affairs and Recreation, but with a primary focus on tourism.

C. The Advisory Committee on Tourism shall consist of one representative from each of the following groups, as selected and designated by such groups but subject to the approval of the City Council:

Cape May Motel Hotel and Lodging Association  
Center for Community Arts  
Chamber of Commerce of Greater Cape May  
Corinthian Yacht Club  
Cottagers Association  
Friends of Cape May Jazz  
Greater Cape May Historical Society  
Historic Accommodations of Cape May  
Mid-Atlantic Center for the Arts and Humanities  
Nature Center of Cape May  
Taxpayers Association of Cape May  
United States Coast Guard  
Victorian Guest Accommodations  
Village Greene Civic Association  
Washington Street Mall Management Company, Inc. (BID)

The term of each member from the above groups shall be two years, and no person shall service more than two consecutive terms. Each group shall provide its designee to the City Clerk on or before December 1 for confirmation and approval by City Council at its reorganization meeting to be held the following January.

In addition, the Director and Assistant Director of Marketing, Communications and Event Sales shall serve as *ex officio* members with vote. The City Council shall also appoint on an annual basis a member of

City Council at its annual reorganization meeting to serve as a liaison to the Advisory Committee on Tourism, without vote. The Director of Marketing, Communications and Event Sales shall also be the Chairperson.

D. The Advisory Committee on Tourism shall meet not less than six times per year based on a calendar established by the chairperson, and shall conduct all of its meetings under the strict requirements of the New Jersey Open Public Meetings Act, even though it is not a public body as defined therein.

E. The Advisory Committee on Tourism shall act in an advisory capacity only and make recommendations to the City Council with respect to means and methods of promoting tourism and marketing the City as an ideal location to hold business meetings, conventions, tradeshows, sporting events, cultural and performing arts productions and, in connection therewith, it shall report to the City Council as often as necessary to provide timely and informative findings and recommendations.

F. The Advisory Committee on Tourism shall follow Roberts Rules of Order. A majority of the members shall be required to constitute a quorum.

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

\_\_\_\_\_  
Diane L. Weldon, City Clerk

BY: \_\_\_\_\_  
Dr. Edward J. Mahaney, Jr., Mayor

## NOTICE OF ADOPTION

The foregoing Ordinance was considered on second reading by the City Council of the City of Cape May, New Jersey, and, after public hearing, was adopted finally on December 6, 2011.

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Diane L. Weldon, City Clerk

<b>Roll Call</b>	<b>Ayes</b>	<b>Nays</b>	<b>Absent</b>	<b>Abstain</b>
<b>Fiocca</b>		<b>x</b>		
<b>Murray</b>		<b>x</b>		
<b>Swain</b>	<b>x</b>			
<b>Wichterman</b>	<b>x</b>			
<b>Mahaney</b>	<b>x</b>			

Introduced: November 1, 2011  
First Publication: November 9, 2011  
2nd Reading & Adoption: December 6, 2011  
Final Publication: December 14, 2011  
Effective Date: January 3, 2012