

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

ORDINANCE NO. 534-2024

AN ORDINANCE AMENDING CHAPTER 310 OF THE CODE OF THE CITY OF CAPE MAY, CONCERNING LICENSING AND PERMITS TO INCLUDE PERMITTING FOR LIMITED USE OF PUBLIC PROPERTY IN THE CITY OF CAPE MAY

WHEREAS, Section 310 of the City of Cape May Municipal Code provides for general licensing and permits for certain activities within the City of Cape May; and

WHEREAS, the City Council of the City of Cape May as determined that it is in the best interests of the public health, safety, and general welfare to encourage the responsible use of these spaces and establish a permitting process for individuals or entities intending to utilize public property in connection with recreational activities within the City of Cape May.

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

SECTION 1. Section 310 of the Code of the City of Cape May is hereby amended to include the following **NEW SECTION** Article VI:

Article VI – Permits for Use of Public Property

§ 310-57 Scope.

- A. Any person, entity, or organization desiring to conduct any organized recreational event or other gathering for commercial purposes in or upon any public grounds, park, or beach in the City of Cape May, must first apply for, and obtain a permit from the City of Cape May, Department of Civic Affairs/Recreation in accordance with the requirements of this chapter. For the avoidance of any doubt, this Section is intended to apply to smaller gatherings and uses on public property for commercial purposes (including but not limited to a fitness class, aerobics class, yoga class, surfing class, art class, or other recreational event) in which a fee will be charged but due to its limited size and scope may otherwise be exempt from Article V (Special Events).
- B. This Section is intended to cover small commercial recreational uses and events, which due to their limited duration, scope of use, and anticipated/actual attendance, are unlikely to (i) require the expenditure of City resources in the form of the Police Department, Fire Department, Department of Public Works, Recreation Department and/or Emergency Medical Services salaries, wages, or other expense, or (ii) otherwise substantially impact use or enjoyment by other members of the public, substantially impede, alter, or impact pedestrian or vehicular traffic. If any such proposed activity is found to require such expenditures or substantially impact public use, the application may be reviewed pursuant to Article V regarding Special Events.
- C. This Ordinance shall not apply to Convention Hall events, or any event otherwise covered by another section of the City Code, including but not limited to Section 520 regarding Weddings.

§ 310-58 Application for Permit.

A person, entity, or organization seeking issuance of a permit hereunder shall file the application with the Department of Civic Affairs/Recreation on a form to be provided by the City for that purpose, on which form the applicant shall furnish the following information:

1. Name, address and telephone number of the applicant.
2. Name, address, and telephone number of the person, persons, corporation, or association sponsoring the activity.
3. Description of the proposed event.
4. Estimated number of participants and/or other people that could reasonably be anticipated to attend the event.
5. Date(s) and hours for which the permit is desired. If recurring dates are contemplated, the applicant shall indicate the same in their request. Any requests for recurring dates must be within the same calendar year. (Note: Use of any area of the beach from Memorial Day Weekend through Labor Day between the hours of 10AM and 5PM requires beach tags and this Section is not intended to establish any exception from that general requirement).
6. Proposed location for which the permit is desired along with proposed sketch that would show the area to be used, including any temporary signs or items to be utilized in connection with the event. (Note: Use of public facilities is on a first come, first serve basis and the City reserves the ability to grant, deny, modify, restrict, or rescind the proposed use and/or location if deemed necessary for the protection of the public health, safety, and general welfare).
7. Confirmation of tax exempt status, if applicable.
8. Completed Release, Indemnification, and Hold Harmless Agreement in favor of the City along with a Certificate of Insurance naming the City as additional insured in connection with the use of public facilities.
9. Any other information which the City shall find reasonably necessary to a fair determination as to whether a permit should be issued hereunder.

Application must be submitted no later than fourteen (14) business days prior to any such event. All information required by this section must be submitted in order for the application to be deemed complete for processing.

§ 310-59 Fees.

- A. The applicant shall pay a nonrefundable application processing fee with each application as follows:
 1. \$25.00 for any nonprofit organization pursuant to both state and federal law with proof of tax-exempt status;
 2. \$100.00 for all other applicants.

§ 310-60 Review of Application and Decision.

The Department of Civic Affairs/Recreation shall review applications pursuant to this Section and present a recommendation to the City Manager. In the event that any concerns that the event to be held requires additional investigation, the City may direct that the application be referred to the appropriate departments for additional feedback and/or the

applicant to provide additional information. The City Manager will make the determination regarding the final issuance of the permit and may include such special conditions deemed necessary for the protection of public health, safety, and general welfare.

§ 310-61 Standards for Permit Issuance.

The standards for the issuance of a permit pursuant to this Chapter shall include the following findings:

1. That the proposed event will not unreasonably interfere with or detract from the general public enjoyment of the public property to be utilized.
2. That the proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety, and recreation.
3. That the proposed activity or uses that are reasonably anticipated will not be likely to include violence, crime, or disorderly conduct.
4. That the facilities desired have not been reserved for other use at the date and hour requested in the application.
5. Payment of all fees applicable pursuant to this Section.

§ 310-62 General Terms and Conditions.

By accepting a permit issued pursuant to this section, the applicant acknowledges and agrees to the following:

1. The applicant is deemed to have inspected the property to be utilized and by accepting the permit, agrees that the property is in satisfactory condition. The applicant accepts the property in AS-IS condition.
2. The City shall not be liable for injury or damage to any person or property arising out of the use of the property. The applicant must provide a Certificate of Insurance naming the City of Cape May as an additional insured in accordance with requirements of the Municipal Joint Insurance Fund (as may be amended from time to time), as well as sign an Indemnification and Hold Harmless Agreement. Refusal of signature will terminate any and all agreements of property usage. The applicant is liable for any loss, injury or damage to any person or property caused by any alleged or actual negligence of the applicant or the applicant's directors, officers, employees, volunteers, vendor guests and invitees and shall supply their own coverage for their event
3. The applicant may not assign or sublet the permit.
4. Promptly comply with all laws, orders, rules and requirements of governmental authorities.
5. Maintain the property in good repair and appearance.
6. Maintain the property in a neat, clean, safe and sanitary condition, free of all garbage.
7. Do nothing to destroy, deface, damage or remove any part of the property.
8. Keep nothing in the property which may be flammable, dangerous or explosive or which might increase the danger of fire or other casualty.
9. Applicant will be responsible for all guests and their actions during the use.
10. Applicant is responsible for general clean-up of the property used, including removal of all food, decorations (as applicable) and trash. In other words, the applicant and their activities shall "leave no trace" when concluded.
11. The City reserves the right to exercise its police powers over any area covered by the permit. The applicant shall, upon the City's request, remove and/or relocate any

facilities or operations when such removal is necessitated by any activity of the City or determination by the City that the same is in the best interest of public health and safety, or when so directed by the Cape May City Manager, Beach Patrol, or other City official. In other words, the applicant must always yield to the direction of City officials.

§ 310-63 Liability; Insurance; Revocation of Permit

- A. Liability. A permit holder shall be bound by all applicable City ordinances, rules, orders, and regulations. The person or persons to whom the permit is issued shall be liable for all loss, damage, or injury sustained by any person in connection with applicant's activities by reason of the negligence of the person or persons to whom such permit shall have been issued.
- B. Indemnification, Hold Harmless & Insurance. The applicant will be required to submit a Hold Harmless Agreement to the Department of Civic Affairs/Recreation prior to the event and evidence of liability insurance in an amount required by the City's Municipal Joint Insurance Fund, naming the City as an additional insured.
- C. Revocation. The City Manager shall have the authority to revoke a permit upon a finding of violation of any rule or ordinance or upon good cause shown.

§ 310-64 Violations.

A person commits a violation of this section if they:

- A. Commence or conduct an event regulated by this chapter without a permit; or
- B. Fail to comply with any requirement or provision of a permit of this Chapter.

For the violation of any provision of this Article II, the maximum penalty, upon conviction of the violation, shall be the penalty stated in Chapter 1, Article III, Penalty; the minimum penalty, upon conviction of a violation of any provision of this Article II, shall be a fine of not less than \$100. Each day that violation of any provision of this article exists shall be deemed a separate offense.

§ 310-65 Exclusions; Waiver of Requirements.

The City Manager and Code Enforcement have the authority to enforce and interpret these provisions. The City Manager may otherwise waive the requirements of this section based upon a showing of good cause. All City-sponsored events shall be exempt from provisions of this Chapter. The City of Cape May reserves its right to amend, terminate or repeal this chapter, and accordingly no property rights are granted to any person or entity by virtue of this chapter.

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

SECTION 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.


SECTION 4. This Ordinance shall become effective 20 days after final passage and publication, according to law.

ATTEST:



 Erin C. Burke, City Clerk

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

BY: 

 Zachary M. Mullock, Mayor

NOTICE

Ordinance 534-2024 was introduced at a Work Session meeting of the City Council of the City of Cape May, held on June 5, 2024 and was further considered for final passage during a Work Session Meeting of the City Council, held at the Cape May City Hall Auditorium, 643 Washington Street, Cape May, New Jersey, on July 2, 2024 at 3:00 P.M. at which time a Public Hearing was held.



 Erin C. Burke, City Clerk

| Roll Call | Ayes | Nays | Absent | Abstain | Motion | Second |
|-----------|------|------|--------|---------|--------|--------|
| Yeager | X | | | | | |
| Meier | X | | | | | |
| McDade | X | | | | X | |
| Baldwin | X | | | | | X |
| Mullock | X | | | | | |

Introduced: June 5, 2024
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 2nd Reading & Adoption: July 2, 2024
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 Effective Date: July 30, 2024

