

Borough of Stone Harbor
REGULAR MEETING AGENDA
Tuesday July 18th, 2023
Borough Hall, 9508 Second Avenue, Stone Harbor

Call to Order: Immediately Following Work Session

Roll Call: Councilmember Dallahan Councilmember Foschini, Councilmember Parzych, Councilmember Casper, Councilmember Gensemer, Councilmember Moore

Statement of Public Notice: Adequate notice of the meeting was provided by posting a copy of the time and place on the Municipal Clerk's bulletin board and mailing a copy of same of the Press and the Cape May County Herald on January 4, 2023.

Salute the Flag

Communications:

Approval of Minutes: Work Session and Regular Meeting ~ June 20th

Public Comment

OLD BUSINESS

Ordinance 1644- Creating Chapter 453 of the Code of the Borough of Stone Harbor Entitled "Smoke-Free Environment"- *2nd, 3rd & Final*

Ordinance 1645- Authorizing a new Handicap Space 200 Block of 97th St.- *2nd, 3rd & Final*

Ordinance 1646- Authorizing a new Handicap Space 10018 Sunset Dr. St.- *2nd, 3rd & Final*

Ordinance 1647- Salt Storage - *2nd, 3rd & Final*

Ordinance 1648- Amending Chapter 134, 156, 162, 241, 357, 374 and 405 of the General Ordinances of the Borough of Stone Harbor - *2nd, 3rd & Final*

Ordinance 1649- Removal of Chapter 363 of the General Ordinances of the Borough of Stone Harbor- *2nd, 3rd & Final*

NEW BUSINESS

Ordinance 1651- Amending Chapter 67, Article 1 of the code of the Borough of Stone Harbor, Borough Clerk- *Intro*

Resolution 2023-S-170- Award Contract for the Hotel/ Motel Beach Shed to Reeds at Shelter Haven

Resolution 2023-S-171- Authorize the Purchase of New Fire Fighting Ladder Truck

Resolution 2023-S-172- Appointment of a Volunteer Firefighter

Resolution 2023-S-173- Amending Resolution #2023-S-127 for Local Transportation Project Funds- Sage Application

Resolution 2023-S-174- Authorizing a refund to Buckets Margarita for business registration.

Motion- Appointing Jonathan Lakose to Planning Board- Alt II

Motion- Approve Brown Family Sandcastle special event application

Motion - Approve the Bill List & Authorize the CFO to Pay the bills when the funds are available, and the vouchers are properly endorsed.

Discussion:

Public Comment

Adjournment

BOROUGH OF STONE HARBOR

ORDINANCE # 1644

AN ORDINANCE CREATING CHAPTER 453 OF THE CODE OF THE BOROUGH OF STONE HARBOR ENTITLED, “SMOKE-FREE ENVIRONMENT”

CHAPTER 453 SMOKE-FREE ENVIRONMENT

§ 453-1. Legislative Policy and Findings of Fact.

Borough Council hereby adopts the factual findings and declarations of the New Jersey Legislature as specified in the Smoke-Free Air Act (the "Act") (N.J.S.A. 26:3D-56) as its own:

- a. Tobacco is the leading cause of preventable disease and death in the State and the nation;
- b. Tobacco smoke constitutes a substantial health hazard to the nonsmoking majority of the public;
- c. Electronic smoking devices have not been approved as to safety and efficacy by the federal Food and Drug Administration, and their use may pose a health risk to persons exposed to their smoke or vapor because of a known irritant contained therein and other substances that may, upon evaluation by that agency, be identified as potentially toxic to those inhaling the smoke or vapor;
- d. The separation of smoking and nonsmoking areas in indoor public places and workplaces does not eliminate the hazard to nonsmokers if these areas share a common ventilation system;
- e. The prohibition of smoking at public parks and beaches would better preserve and maintain the natural assets of this state by reducing litter and increasing fire safety in those areas, while lessening exposure to secondhand tobacco smoke and providing for a more pleasant park or beach experience for the public; and
- f. Therefore, subject to certain specified exceptions, it is clearly in the public interest to prohibit the smoking of tobacco products and the use of electronic smoking devices in all enclosed indoor places of public access and workplaces and at all public parks and beaches.
- g. In addition, Borough Council further finds and determines that: Smoke or secondhand smoke, that is, smoke generated from the burning of, inhaling from, exhaling the smoke from, or the possession of a lighted cigar, cigarette, pipe or any other matter or substance which contains tobacco or any other substance that can be smoked, including cannabis, or the inhaling or exhaling of smoke or vapor from an electronic smoking device is harmful and deleterious to the public health, safety and welfare.

§ 453-2. Purpose.

- a. The Smoke-Free Air Act (hereinafter referred to as “Act”) now prohibits smoking in all indoor public places and workplaces and at a public park or beach and further prohibits smoking in any area of any building of, or on the grounds of, any public or nonpublic elementary or secondary school regardless of whether the area is an indoor public place or is outdoors.
- b. Since the Act is binding upon all municipalities in the State of New Jersey, and except, as expressly excepted herein, and in reliance on the Act, the Borough intends to prohibit smoking in the interior of all public buildings and facilities, as well as in and on the exterior of all public buildings and facilities; in the interior of all quasi-public buildings and facilities; in the interior workplace of all business and commercial enterprises, including, but not limited to, bars and food service establishments, offices, retail establishments, grocery stores, convenience stores, and other similar type operations in order to address the health hazards of smoking, including the inhaling and exhaling of smoke, including the

recognized dangers of second-hand smoke, and for the purpose of protecting the public health, safety, and welfare.

- c. It is the intention of this section to restrict smoking to private homes, apartments, or residences and to private automobiles or motor vehicles. It is the further intent to restrict smoking to those sections of hotels and motels that are specifically reserved for smoking.
- d. Nothing contained herein shall be construed to supersede or otherwise diminish the provisions of Borough Code § 134-9(C)

§ 453-3. Definitions.

- a. As used in this section, the following words shall have the following meaning unless the context clearly requires a different meaning:

BAR — A business establishment or any portion of a nonprofit entity which is devoted to the selling and serving of alcoholic beverages for consumption by the public, guests, patrons or members on the premises and in which the serving of food, if served at all, is only incidental to the sale or consumption of such beverages.

CIGAR BAR — Any bar, or area within a bar, designated specifically for the smoking of tobacco products, purchased on the premises or elsewhere; except that a cigar bar that is in an area within a bar shall be an area enclosed by solid walls or windows, a ceiling and a solid door and equipped with a ventilation system which is separately exhausted from the nonsmoking areas of the bar so that air from the smoking area is not recirculated to the nonsmoking areas and smoke is not back streamed into the nonsmoking areas.

CIGAR LOUNGE — Any establishment, or area within an establishment, designated specifically for the smoking of tobacco products, purchased on the premises or elsewhere; except that a cigar lounge that is in an area within an establishment shall be an area enclosed by solid walls or windows, a ceiling and a solid door and equipped with a ventilation system which is separately exhausted from the nonsmoking areas of the establishment so that air from the smoking area is not recirculated to the nonsmoking areas and smoke is not back-streamed into the nonsmoking areas.

ELECTRONIC SMOKING DEVICE — An electronic device that can be used to deliver nicotine or other substances to the person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, cigarillo, or pipe.

INDOOR PUBLIC PLACE — A structurally enclosed place of business, commerce or other service-related activity, whether publicly or privately owned or operated on a for-profit or nonprofit basis, which is generally accessible to the public, including, but not limited to: a commercial or other office building; office or building owned, leased or rented by the state or by a county or municipal government; public and nonpublic elementary or secondary school building; board of education building; theater or concert hall; public library; museum or art gallery; bar; restaurant or other establishment where the principal business is the sale of food for consumption on the premises, including the bar area of the establishment; garage or parking facility; any public conveyance operated on land or water, or in the air, and passenger waiting rooms and platform areas in any stations or terminals thereof; health care facility licensed pursuant to P.L. 1971, c. 136 (N.J.S.A. 26:2H-1 et seq.); patient waiting room of the office of a health care provider licensed pursuant to Title 45 of the Revised Statutes; child care center licensed pursuant to P.L. 1983, c. 492 (N.J.S.A. 30:5B-1 et seq.); race track facility; facility used for the holding of sporting events; ambulatory recreational facility; shopping mall or retail store; hotel, motel or other lodging establishment; apartment building lobby or other public area in an otherwise private building; or a passenger elevator in a building other than a single-family dwelling.

PERSON HAVING CONTROL OF A PUBLIC PARK OR BEACH — The person having supervisory authority over a public park or beach or that person's designee, as applicable.

PERSON HAVING CONTROL OF AN INDOOR PUBLIC PLACE OR WORKPLACE — The owner or operator of a commercial or other office building or other indoor public place from whom a workplace or space within the building or indoor public place is leased.

PUBLIC PARK OR BEACH — A state park or forest, a county or municipal park, or a state, county, or municipal beach, but does not include any parking lot that is adjacent to, but outside of, the public park or beach.

SMOKING — The burning of, inhaling from, exhaling the smoke from, or the possession of a lighted cigar, cigarette, pipe or any other matter or substance which contains tobacco, cannabis, or any other matter that can be smoked, or the inhaling or exhaling of smoke or vapor from an electronic smoking device.

TOBACCO RETAIL ESTABLISHMENT — An establishment in which at least 51% of retail business is the sale of tobacco products and accessories, and in which the sale of other products is merely incidental.

WORKPLACE — A structurally enclosed location or portion thereof at which a person performs any type of service or labor.

- b. The following additional definitions shall be included in this section:

PLAYGROUND — An area of land designated by the term "playground" and equipped with recreation equipment specially designed for young children such as swings, sliding boards and other equipment of the same or similar type. The term shall include the definition of "public property or facilities, and public places" defined herein.

PUBLIC PROPERTY OR FACILITIES AND PUBLIC PLACES — All Borough-owned or -controlled parks, public rights-of-way, public streets, beaches, beach accesses, boardwalk, athletic fields, marinas, playgrounds, buildings, and grounds, and shall include the area within the buildings, outside areas, and appurtenances and all other Borough-owned or -controlled facilities.

QUASI-PUBLIC BUILDINGS AND FACILITIES — Any commercial operation which is engaged in the sale or services of goods or services and to which the public is invited during scheduled hours of operation although the same is under private ownership or control.

[Source: Dictionary, Merriam-Webster,

<https://www.merriam-webster.com/dictionary/quasi-public>]

§ 453-4. Smoking Prohibited.

Smoking shall be prohibited:

- a. In all workplaces, indoor public places, public property or facilities and public places and on all public grounds adjacent to or upon which any public building is located or constructed including any parking area or parking lot associated therewith. This includes, but not limited to, Borough Hall, Police Department, Fire Department, Beach Patrol Building, Recreation Building, Public Works Building and related facilities, and all buildings and grounds under the supervision and control of the Stone Harbor Board of Education.
- b. In all parks, playgrounds, pavilions, the beach and the approaches thereto; all recreation fields under the supervision and control of the Borough.
- c. In all Borough motor vehicles and equipment.
- d. In all public rest rooms.
- e. In food service establishments, including those licensed for the sale and consumption of alcoholic beverages.
- f. The owner-operator of any business which has a designated private off-street parking area for the convenience of its customers may, at the option of the owner or operator, prohibit smoking in such parking area and, unless prohibited by such owner-operator, smoking shall be permitted. If smoking is prohibited, then appropriate signage shall be posted to that effect.

§ 453-5. Exceptions.

This section shall not prohibit smoking or apply to any of the following:

- a. Any cigar bar or cigar lounge that, in the calendar year ending December 31, 2004, generated 15% or more of its total annual gross income from the on-site sale of tobacco products and the rental of on-site humidors, not including any sales from vending machines, and is registered with the local board of health in the municipality in which the bar or lounge is located. The registration shall remain in effect for one year and shall be renewable only if: (1) in the preceding calendar year, the cigar bar or lounge generated 15% or more of its total annual gross income from the on-site sale of tobacco products and the rental of on-site humidors, and (2) the cigar bar or cigar lounge has not expanded its size or changed its location since December 31, 2004; [Source: State statute]
- b. Any tobacco retail establishment, or any area the tobacco retail establishment provides for the purposes of smoking; [Source: State statute]
- c. Any tobacco business when the testing of a cigar or pipe tobacco by heating, burning, or smoking is a necessary and integral part of the process of making, manufacturing, importing, or distributing cigars or pipe tobacco; [Source: State statute]
- d. Private homes, private residences, and private automobiles; provided, however, that the owner or managing agent or any rental property licensed by the Borough may prohibit, by lease or otherwise, smoking in the rental unit and on the adjacent grounds and property. Any such prohibition, if enacted, shall be the responsibility of the owner or the Managing Agent to enforce in the same manner as other landlord-tenant matters are adjudicated in New Jersey but an owner or managing agent shall have no private right of enforcement under this section. (See § 453-6 below, Violations, Fines, etc.) The Borough shall have no power or authority to enforce any such private restriction or prohibition applicable to rental properties or units.
- e. The owner-operator of any business which has a designated private off-street parking area for the convenience of its customers may, at the option of the owner or operator, prohibit smoking in such parking area and, unless prohibited by such owner-operator, smoking shall be permitted. If smoking is prohibited, then appropriate signage shall be posted to that effect.
- f. Any business or commercial enterprise, including bars and/or food service establishments may, in the discretion of the owner-operator, designate a section of its exterior private property where smoking is permitted for the convenience of the owner or employees. Any such area must be clearly marked and identified, and it shall be an area where customers and patrons do not generally transact business or consume food or drink. Such area shall be clearly marked by appropriate signage designating it as a smoking permitted zone.
- g. When so requested by one or more employees, the Department Head in charge of each municipal building or facility shall designate an exterior space where employees may smoke during breaks. Such area shall be clearly delineated, and smoking shall be confined to that specific area and none other. The location shall be remote from areas where the public come to transact business and may be changed by the Department Head from time to time as circumstances require. The designated location shall be approved by the Department/Division Head and the Business Administrator, and such location may be changed from time to time as deemed necessary. In accordance with § 453-4c. above, smoking is prohibited in all Borough motor vehicles and equipment.
- h. Smoking shall be permitted in any area or location except where it is expressly prohibited by this section.

§ 453-6. Violations, Fines, Penalties; Enforcement.

- a. The person having control of an indoor public place or workplace shall order any person smoking in violation of this section to comply with the provisions of this section. A person, after being so ordered, who smokes in violation of this section is subject to a fine of not less than \$250 for the first offense, \$500 for the second offense

and \$1,000 for each subsequent offense. A penalty shall be recovered in accordance with the provisions of Subsections c and f of this section.

- b. The Borough Council, as the Local Board of Health or the board, body, or officers exercising the functions of the local board of health according to law, upon written complaint or having reason to suspect that an indoor public place or workplace covered by the provisions of this section is or may be in violation of the provisions of this section, shall, by written notification, advise the person having control of the place accordingly, and order appropriate action to be taken. A person receiving that notice who fails or refuses to comply with the order is subject to a fine of not less than \$250 for the first offense, \$500 for the second offense, and \$1,000 for each subsequent offense. In addition to the penalty provided herein, the court may order immediate compliance with the provisions of this act and this section.
- c. A penalty recovered under the provisions of this act/chapter shall be recovered by and in the name of the local board of health. When the plaintiff is a local board of health, the penalty recovered shall be paid by the local board into the treasury of the municipality where the violation occurred.
- d. The Superior Court or a municipal court shall have jurisdiction over proceedings to enforce and collect any penalty imposed because of a violation of this act/chapter if the violation has occurred within the territorial jurisdiction of the court, except that the Superior Court shall have exclusive jurisdiction over violations that occur in an indoor public place or public park or beach that may be issued against a state or local government entity pursuant to Subsection b of this section. The proceedings shall be summary and in accordance with the "Penalty Enforcement Law of 1999," P.L. 1999, c. 274 (N.J.S.A. 2A:58-10 et seq.). Process shall be in the nature of a summons and shall issue only at the suit of the local board of health, as plaintiff.
- e. The penalties provided in Subsections a and b of this section shall be the only civil remedy for a violation of this section, and there shall be no private right of action against a party for failure to comply with the provisions of this section.
- f. A penalty may be imposed and recovered for a violation at a public park or beach and, if so imposed and recovered, it shall be done in accordance with the provisions of this section, and shall involve the person having control of a public park or beach, the Department of Health or the local board of health or the board, body, or officers exercising the functions of the local board of health according to law, and the courts, as provided in this section, except that any penalty recovered for a violation at a public park or beach that is recovered by and in the name of the Commissioner of Health or by and in the name of the local board of health shall be paid 50% to the Treasury of the State and be dedicated to smoking cessation programs administered by the State Department of Health, and 50% shall be paid to the treasury of the municipality where the violation occurred.
- g. Borough Council is hereby authorized to appoint one or more individuals to enforce this section on its behalf. Such appointees may include the Chief of Police and any individual(s) so designated by the Chief.

§ 453-7. Rules and Regulations.

Borough Council is empowered to adopt rules and regulations to aid in the efficient and orderly enforcement of this section. Such rules and regulations shall be adopted by resolution.

APPROVED:

Judith Davies Dunhour - Mayor

ATTEST:

Borough Clerk

BOROUGH OF STONE HARBOR

COUNTY OF CAPE MAY, NEW JERSEY

ORDINANCE NO. 1645

**AN ORDINANCE AMENDING CHAPTER 520
OF THE REVISED GENERAL ORDINANCES
OF THE BOROUGH OF STONE HARBOR 2005
(ADDING HANDICAPPED PARKING SPACE)**

Section 1. Chapter 520-29 (A) is hereby amended as follows:

[add the following language to the schedule of handicapped parking spaces]

97th Street - An angled parking spot to be designated as handicap is located approx. 90 ft east of 3rd Ave. it is the first spot east of the private parking lot. It will be an 8ft wide space with a dedicated access area between the space and parking lot entrance.

Section 3. If any portion of this ordinance is determined to be invalid by a Court of competent jurisdiction, that determination shall have no effect upon the remainder of this Ordinance, which shall remain valid and operable.

Section 4. All Ordinances or parts of Ordinances inconsistent with this Ordinance, to the extent of such inconsistencies only, be and the same are hereby repealed.

Section 5. This Ordinance shall take effect immediately upon publication as provided by law.

APPROVED:

Judith M. Davies-Dunhour, Mayor

ATTEST:

Borough Clerk

BOROUGH OF STONE HARBOR
COUNTY OF CAPE MAY, NEW JERSEY

ORDINANCE NO. 1646

**AN ORDINANCE AMENDING CHAPTER 520
OF THE REVISED GENERAL ORDINANCES
OF THE BOROUGH OF STONE HARBOR 2005
(ADDING HANDICAPPED PARKING SPACE)**

Section 1. Chapter 520-29 (A) is hereby amended as follows:

[add the following language to the schedule of handicapped parking spaces]

Adjacent to property commonly referred to as 10018 Sunset Drive, for Margaret Crisman.

Section 3. If any portion of this ordinance is determined to be invalid by a Court of competent jurisdiction, that determination shall have no effect upon the remainder of this Ordinance, which shall remain valid and operable.

Section 4. All Ordinances or parts of Ordinances inconsistent with this Ordinance, to the extent of such inconsistencies only, be and the same are hereby repealed.

Section 5. This Ordinance shall take effect immediately upon publication as provided by law.

APPROVED:

Judith M. Davies-Dunhour, Mayor

ATTEST:

Borough Clerk

**BOROUGH OF STONE HARBOR
COUNTY OF CAPE MAY
STATE OF NEW JERSEY**

ORDINANCE NO. 1647

**AN ORDINANCE OF THE BOROUGH OF STONE HARBOR, COUNTY OF
CAPE MAY, NEW JERSEY ESTABLISHING REQUIREMENTS OF
PRIVATELY OWNED SALT STORAGE FACILITIES TO PREVENT SALT
EXPOSURE TO STORMWATER**

BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF STONE
HARBOR, COUNTY OF CAPE MAY, NEW JERSEY, THAT CHAPTER 470-4 BE
AMENDED AS FOLLOWS:

470-4-S. Privately-Owned Salt Storage

(1) The purpose of this ordinance section is to prevent stored salt and other solid de-icing materials from being exposed to stormwater. This section establishes requirements for the storage of salt and other solid de-icing materials on properties not owned or operated by the Borough of Stone Harbor, to protect the environment, public health, safety and welfare, and to prescribe penalties for failure to comply.

(2) For the purpose of this ordinance, 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 consistent 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.

(a) “De-icing materials” means any granular or solid material such as melting salt or any other granular solid that assists in the melting of snow.

(b) “Impervious surface” means a surface that has been covered with a layer of material so that it is highly resistant to infiltration by water.

(c) “Storm drain inlet” means the point of entry into the storm sewer system.

(d) “Permanent structure” means a permanent building or permanent structure that is anchored to a permanent foundation with an impermeable floor, and that is completely roofed and walled (new structures require a door or other means of sealing the access way from wind driven rainfall).

A fabric frame structure is a permanent structure if it meets the following specifications:

1. Concrete blocks, jersey barriers or other similar material shall be placed around the interior of the structure to protect the side walls during loading and unloading of de-icing materials;
2. The design shall prevent stormwater run-on and run through, and the fabric cannot leak;
3. The structure shall be erected on an impermeable slab;
4. The structure cannot be open sided; and

5. The structure shall have a roll up door or other means of sealing the access way from wind driven rainfall.

(e) "Person" means any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

(3) Deicing Material Storage Requirements:

(a) Temporary outdoor storage of de-icing materials in accordance with the requirements below is allowed between October 15th and April 15th, but no longer than 30 days without prior written approval from the Department of Public Works:

1. Materials shall be placed on a flat, impervious surface in a manner that prevents stormwater run-through;
2. Materials shall be placed at least 50 feet from surface water bodies, storm drain inlets, and/or ditches or other stormwater conveyance channels;
3. Materials shall be formed in a cone-shaped storage pile;
4. All storage piles shall be covered as follows:

- a. The cover shall be waterproof, impermeable, and flexible;
- b. The cover shall extend to the base of the pile(s);
- c. The cover shall be free from holes or tears;
- d. The cover shall be secured and weighed down around the perimeter to prevent removal by wind;
- e. Weight shall be placed on the cover(s) in such a way that minimizes the potential of exposure as materials shift and runoff flows down to the base of the pile.

(1) Sandbags lashed together with rope or cable and placed uniformly over the flexible cover, or poly-cord nets provide a suitable method. Items that can potentially hold water (e.g., old tires) shall not be used.

5. The site shall be free of all de-icing materials between April 16th and October 14th.

(b) De-icing materials should be stored in a permanent structure if a suitable storage structure is available. For storage of solid deicing materials in a permanent structure, such storage may be permanent, and thus not restricted to October 15 April 15.

(c) The property owner shall designate a person(s) responsible for operations at the site where these materials are stored, and who shall document that weekly inspections are conducted to ensure that the conditions of this ordinance are met.

(4) This ordinance does not apply to facilities where the stormwater discharges from salt storage activities are regulated under another NJPDES permit.

(5) This ordinance shall be enforced by the Code Official of the Borough during the course of ordinary enforcement duties.

(6) Any person(s) who is found to be in violation of the provisions of this ordinance shall have 72 hours to complete corrective action. Repeat violations and/or failure to complete corrective action shall result in fines of up to One Hundred Dollars (\$100) per offense at the discretion of the Public Works Committee.

APPROVED:

Judith Davies-Dunhour, Mayor

ATTEST:

Borough Clerk

**BOROUGH OF STONE HARBOR
COUNTY OF CAPE MAY, NEW JERSEY**

ORDINANCE 1648

**AN ORDINANCE AMENDING SECTIONS 134, 156, 162, 241, 357, 374,
AND 405 OF THE GENERAL CODE OF THE BOROUGH OF STONE
HARBOR**

WHEREAS, the Borough Council, in response to inquiries from the Public Safety Committee, conducted a review of the Borough Code as it relates to the Stone Harbor Police Department's ability and authority to address offenses and/or situations occurring within the Borough that represent a breach of peace to the community; and

WHEREAS, the Borough Council has determined that the purposes of the aforesaid code sections would be advanced by providing clarification regarding the same; and deems it to be in the best interest of the Borough employees, the citizens of Stone Harbor and the general public welfare to amend the within ordinance to permanently supplement the aforesaid code section as previously adopted;

NOW, THEREFORE, BE IT ORDAINED by the Borough Council, the Governing Body of the Borough of Stone Harbor, New Jersey as follows:

Section 1. Chapter 134 governing "Alcoholic Beverages" is hereby amended at §134-12 and §134-16 to include the following language in those subsections regarding violations:

"A violation of this section, in combination with conduct by the offender that either causes terror and/or alarm to others, incites violence, hinders or obstructs any Borough employee in performance of its duties, is unreasonably loud and/or boisterous, offends the sensibilities of the public given the time and pace of the conduct, and/or otherwise has a deleterious impact on public order, shall constitute a breach of the peace."

Section 2. Chapter 156 governing "Paid Beaches" is hereby amended at §156-8 to include the following language regarding violations:

"A violation of this section, in combination with conduct by the offender that either causes terror and/or alarm to others, incites violence, hinders or obstructs any Borough employee in performance of its duties, is unreasonably loud and/or boisterous, offends the sensibilities of the public given the time and pace of the conduct, and/or otherwise has a deleterious impact on public order, shall constitute a breach of the peace."

Section 3. Chapter 162 governing "Bicycles, Skateboards, Roller-Skates and Segways" is hereby amended at §162-12 is hereby amended to include the following language regarding violations:

"A violation of this section, in combination with conduct by the offender that either causes terror and/or alarm to others, incites violence, hinders or obstructs any Borough employee in performance of its duties, is unreasonably loud and/or boisterous, offends the sensibilities of the public given the time and pace of the conduct, and/or otherwise has a deleterious impact on public order, shall constitute a breach of the peace."

Section 4. Chapter 241 governing "Curfew" is hereby amended at §241-4 to include the following language regarding violations:

"A violation of this section, in combination with conduct by the offender that either causes terror and/or alarm to others, incites violence, hinders or

obstructs any Borough employee in performance of its duties, is unreasonably loud and/or boisterous, offends the sensibilities of the public given the time and pace of the conduct, and/or otherwise has a deleterious impact on public order, shall constitute a breach of the peace.”

Section 5. Chapter 357 governing “Littering” is hereby amended at §357-10 to include the following language regarding violations:

“A violation of this section, in combination with conduct by the offender that either causes terror and/or alarm to others, incites violence, hinders or obstructs any Borough employee in performance of its duties, is unreasonably loud and/or boisterous, offends the sensibilities of the public given the time and pace of the conduct, and/or otherwise has a deleterious impact on public order, shall constitute a breach of the peace.”

Section 6. Chapter 374 governing “Noise” is hereby amended at §374-11(B) to include the following language:

“A violation of this section, in combination with conduct by the offender that either causes terror and/or alarm to others, incites violence, hinders or obstructs any Borough employee in performance of its duties, is unreasonably loud and/or boisterous, offends the sensibilities of the public given the time and pace of the conduct, and/or otherwise has a deleterious impact on public order, shall constitute a breach of the peace.”

Section 7. Chapter 405 governing “Peace and Good Order” is hereby amended at §405-4, §405-7 and §405-9 to include the following language regarding violations:

“A violation of this section, in combination with conduct by the offender that either causes terror and/or alarm to others, incites violence, hinders or obstructs any Borough employee in performance of its duties, is unreasonably loud and/or boisterous, offends the sensibilities of the public given the time and pace of the conduct, and/or otherwise has a deleterious impact on public order, shall constitute a breach of the peace.”

Section 8. If any portion of this ordinance is determined to be invalid by a Court of competent jurisdiction, that determination shall have no effect upon the remainder of this Ordinance, which shall remain valid and operable.

Section 9. All Ordinances or parts of Ordinances inconsistent with this Ordinance, to the extent of such inconsistencies only, are hereby repealed.

Section 10. This Ordinance shall take effect immediately upon final passage and publication as provided by law.

APPROVED:

Judith Davies Dunhour - Mayor

ATTEST:

Borough Clerk

**BOROUGH OF STONE HARBOR
COUNTY OF CAPE MAY, NEW JERSEY**

ORDINANCE 1649

**AN ORDINANCE REPEALING SECTIONS 363
OF THE GENERAL CODE
OF THE BOROUGH OF STONE HARBOR**

WHEREAS, Chapter 363 of the General Code of the Borough of Stone Harbor entitled “Loitering” was adopted by the Borough Council of the Borough of Stone Harbor as Sec. 4-6 of the 1982 Revised General Ordinances; and

WHEREAS, Chapter 363 prohibits conduct, as specified therein, within the Borough of Stone Harbor and prescribes penalties for violations of the same; and

WHEREAS, the Borough Council has determined that provisions contained within Chapter 363 are pre-empted by State law and/or are otherwise unenforceable and to avoid the possibility that the Borough would be enforcing a unconstitutional ordinance, the governing body has determined it to be appropriate to repeal the same in its entirety,

NOW, THEREFORE, BE IT ORDAINED by the Borough Council, the Governing Body of the Borough of Stone Harbor, New Jersey as follows:

Section 1. Chapter 363 of the General Code of the Borough of Stone Harbor governing “Loitering” is hereby repealed in its entirety.

Section 2. The above-referenced averments are incorporated herein by reference.

Section 3. If any portion of this ordinance is determined to be invalid by a Court of competent jurisdiction, that determination shall have no effect upon the remainder of this Ordinance, which shall remain valid and operable.

Section 4. All Ordinances or parts of Ordinances inconsistent with this Ordinance, to the extent of such inconsistencies only, are hereby repealed

Section 5. This Ordinance shall take effect immediately upon final passage and publication as provided by law.

APPROVED:

Judith Davies Dunhour - Mayor

ATTEST:

Borough Clerk

**BOROUGH OF STONE HARBOR
COUNTY OF CAPE MAY, NEW JERSEY**

ORDINANCE 1651

**AN ORDINANCE AMENDING CHAPTER 67, ARTICLE 1 OF THE CODE
OF THE BOROUGH OF STONE HARBOR, BOROUGH CLERK**

WHEREAS, the Borough Council has determined that it is in the best interest of the Borough to update the Municipal Code regarding duties associated with the position of the Borough Clerk; and

WHEREAS, these updates will further clarify the scope of the Clerk’s duties and more closely reflect the statutory requirements of a Municipal Clerk as set forth in N.J.S.A. 40A:9-133 – et seq.;

NOW THEREFORE, BE IT HEREBY ORDAINED by the Borough Council of the Borough of Stone Harbor, County of Cape May, State of New Jersey, that Article 1 of Chapter 67 of the Borough Code governing Officers and Employees, entitled Borough Clerk, be updated as follows:

SECTION 1.

The following sections of Chapter 67 are hereby amended in their entirety to read as follows:

§ 67-1Appointment; term; qualifications.

There shall be a Clerk of the Borough of Stone Harbor appointed by the Governing Body for a term of three years. Prior to his appointment the Borough Clerk shall be qualified by training and experience to perform the duties of his office. The Borough Clerk shall be a Registered Municipal Clerk with the State of New Jersey or shall receive such certification prior to re-appointment. In the event of a vacancy in the office of the Municipal Clerk, an appointment shall be made by the Governing Body within 90 days of the occurrence of the vacancy for a new term, not for the unexpired term. The Clerk filling the vacancy need not hold a Registered Municipal Clerk Certificate and shall be appointed for a one-year term starting on the date of the vacancy. Two subsequent one -year terms may be approved by the Director of the Division of Local Government Services in the Department of Community Affairs. The Acting Municipal Clerk cannot exceed three years in that capacity. Time served in the capacity of Acting Municipal Clerk cannot be credited for the purpose of seeking tenure pursuant to Section 7 of P.L. 1985, c. 174 (C.40A:9-133.7)

SECTION 2. Severability and Effectiveness Clause

- a) If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, invalid, or unenforceable by a court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance.
- b) Any Ordinance or Code Section inconsistent with the terms of this Ordinance is hereby repealed to the extent of such inconsistency.

SECTION 3. Effective Date

This Ordinance shall take effect 20 days from the time of final adoption and publication in accordance with law.

APPROVED:

Mayor

ATTEST:

Borough Clerk

BOROUGH OF STONE HARBOR

Cape May County, New Jersey

RESOLUTION

2023-S-170

**AWARDING A CONTRACT
FOR THE HOTEL BEACH SHED 2023**

WHEREAS, one (1) bid was received by the Stone Harbor Administrator on July 13, 2023, on the Borough's request for proposals for the aforementioned project in accordance with the specifications prepared by the Borough of Stone Harbor, which specifications are hereby incorporated herein and made a part hereof by reference, all in accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-1 *et seq.*; and

WHEREAS, The Reeds at Shelter Haven, Inc. of 9601 Third Avenue, Stone Harbor, NJ 08247, submitted the highest responsible and conforming bid in the amount of \$12,000 for the use of the 96th Street beach for the remainder of year 2023; and

WHEREAS, no bids were received for the 98th Street Beach; and

WHEREAS, the Borough Administrator and the Borough CFO have recommended that the contract be awarded to The Reeds at Shelter Haven, Inc., and the bid has been found to be responsible and in conformity by the Borough Solicitor; and

WHEREAS, pursuant to the bid specifications, the total due for Year 2023 is \$ 12,000, prorated for the remainder of the season; and where (1) check totaling \$12,000 was received in the form of a Cashier's Check; and

WHEREAS, this Resolution, and the incorporated proposal shall constitute a contract and that the Mayor and Clerk be and are hereby authorized and directed to execute said contract on behalf of the Borough.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Stone Harbor, County of Cape May, State of New Jersey, duly assembled in public session this 18th day of July, 2023 as follows;

1. That the preamble of this Resolution is hereby incorporated herein by reference;
2. That a contract for the aforementioned project be and the same is hereby awarded to The Reeds at Shelter Haven, Inc, in the amount of \$12,000 for year 2023 for 96th St beach only;
3. That the Mayor and Clerk are hereby authorized and directed to execute the contract for same in accordance with the bid submitted and incorporated herein as stated above.
4. That the Borough Administrator is hereby directed and authorized to issue an appropriate Notice of Award and Notice to Proceed as called for within the contract.
5. That the Borough Clerk is authorized to return the bonds of the unsuccessful bidders.

	<u>MOTION</u>	<u>SECOND</u>	<u>AYE</u>	<u>NAY</u>	<u>RECUSE</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Councilmember Dallahan							
Councilmember Foschini							
Councilmember Parzych							
Councilmember Casper							
Councilmember Gensemer							
Councilmember Moore							

The above resolution was duly adopted by the Borough Council of the Borough of Stone Harbor, New Jersey, at a meeting of said Council duly held on the 18th day of July, 2023

.....
Borough Clerk

The above resolution approved this 18th day of July, 2023

.....
Mayor

BOROUGH OF STONE HARBOR
Cape May County, New Jersey
RESOLUTION

2023-S-171

**AUTHORIZING THE PURCHASE OF A NEW
FIRE FIGHTING LADDER TRUCK**

WHEREAS, there is a need to purchase a new Ladder Fire Truck for the Stone Harbor Fire Department; and

WHEREAS, this vehicle can be purchased from HGAC Contract FS12-19 (Fire & Safety Services, Ltd.200 Ryan Street, South Plainfield, N.J. 07080) as approved by Resolution 2014-S-96; and

WHEREAS, the maximum amount of the purchase is \$1,657,540.48 and funds are available for said purchase as evidenced by the Chief Financial Officer’s Certificate attached hereto; and

WHEREAS, public bids are not required when the purchase is under a cooperative purchasing program in accordance with 40A:11-12 of the Local Public Contracts Law; and

WHEREAS, there is a trade-in Allowance for 2010 Pierce 75-foot ladder truck of \$330,000; and

WHEREAS, there is a prepayment of the Chassis/Ladder of \$27,752.24; and

WHEREAS the resulting net amount for the new ladder truck will be \$1,299,788.24,

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Stone Harbor, in the County of Cape May on this 18th day of July 2023 as follows:

- 1. The preamble of this Resolution is hereby incorporated by reference as if set forth here at length.
- 2. The Chief Financial Officer is hereby authorized and directed to prepare a Purchase Order for approval and forward same upon approval to the appropriate party in accordance cooperative purchasing program FS12-19 for the purchase of the aforementioned Fire Department vehicle.
- 3. That all Borough officers and/or employees required to approve said Purchase Order are hereby directed to do so forthwith.

	<u>MOTION</u>	<u>SECOND</u>	<u>AYE</u>	<u>NAY</u>	<u>RECUSE</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Councilmember Dallahan							
Councilmember Foschini							
Councilmember Parzych							
Councilmember Casper							
Councilmember Gensemer							
Councilmember Moore							

The above resolution was duly adopted by the Borough Council of the Borough of Stone Harbor, New Jersey, at a meeting of said Council duly held on the 18th day of July, 2023

.....
Borough Clerk

The above resolution approved this 18th day of July, 2023

.....
Mayor

BOROUGH OF STONE HARBOR
Cape May County, New Jersey

RESOLUTION

2023-S-172

APPOINTING VOLUNTEER FIREFIGHTER

WHEREAS, the Stone Harbor Fire Chief, Roger W. Stanford has recommended to the Public Safety Committee the appointing of the following as a Volunteer firefighter for the Borough of Stone Harbor; and

WHEREAS, the Public Safety Committee recommends that Borough Council make this appointment.

NOW, THEREFORE, BE IT RESOLVED by the Members of Council of the Borough of Stone Harbor, in the County of Cape May and State of New Jersey on this 18th day of July, 2023 that

Demetrios Haralampoudis

is hereby appointed as a Volunteer firefighter in the Stone Harbor Volunteer Fire Company #1.

I HEREBY CERTIFY THAT the foregoing resolution was duly adopted by the Borough Council of the Borough of Stone Harbor, New Jersey at the Regular Meeting held on July 18th, 2023, with the voting record as indicated below.

	<u>MOTION</u>	<u>SECOND</u>	<u>AYE</u>	<u>NAY</u>	<u>RECUSE</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Councilmember Dallahan							
Councilmember Foschini							
Councilmember Parzych							
Councilmember Casper							
Councilmember Gensemer							
Councilmember Moore							

.....
Borough Clerk

.....
Mayor Judith- Davies Dunhour

BOROUGH OF STONE HARBOR
Cape May County, New Jersey
RESOLUTION

2023-S-173

**APPROVAL TO SUBMIT GRANT APPLICATION- LOCAL TRANSPORTATION PROJECT
FUNDS & EXECUTE GRANT AGREEMENT WITH NJ DEPARTMENT OF
TRANSPORTATION
2023-Reconstruction of 96th Street-00168
(Third Avenue to Second Avenue)**

WHEREAS, the New Jersey Department of Transportation accepts applications for the Local Transportation Project Fund Program; and

WHEREAS, this program is available to all counties and municipalities in the State of New Jersey; and

WHEREAS, subject to funding appropriation, the Local Transportation Projects Fund is established to address specific focused local transportation issues throughout the State; and

WHEREAS, these projects are approved at the discretion of the Commissioner; and

WHEREAS, this grant program does not require a local match; and

WHEREAS, the Borough of Stone Harbor carefully considers grant programs that assist the Borough in achieving projects and programs that are priorities for the community; and

WHEREAS, the Borough of Stone Harbor wishes to apply for to the Local Transportation Project Fund Program for a grant for 96th Street from Third Avenue to Second Avenue for the FY2023 NJDOT Local Transportation Fund (State Project # LTPF-2023- Reconstruction of 96th Street-00168); and

WHEREAS, the Borough of Stone Harbor previously approved this application in Resolution 2023-S-127 at a Council Meeting on May 16, 2023;

NOW, THEREFORE, BE IT RESOLVED that Borough Council of Stone Harbor formally approves a Local Transportation Project Fund Program grant application.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to submit an electronic grant application identified as LTPF-2023-Reconstruction of 96th Street-00168 to the New Jersey Department of Transportation on behalf of Stone Harbor Borough.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to sign the grant agreement on behalf of Stone Harbor Borough and that their signature constitutes acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

	<u>MOTION</u>	<u>SECOND</u>	<u>AYE</u>	<u>NAY</u>	<u>RECUSE</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Councilmember Dallahan							
Councilmember Foschini							
Councilmember Parzych							
Councilmember Casper							
Councilmember Gensemer							
Councilmember Moore							

The above resolution was duly adopted by the Borough Council of the Borough of Stone Harbor, New Jersey, at a meeting of said Council duly held on the 18th day of July, 2023

.....
Borough Clerk

The above resolution approved this 18th day of July, 2023

.....
Mayor

BOROUGH OF STONE HARBOR
Cape May County, New Jersey

RESOLUTION

2023-S-174

RESOLUTION AUTHORIZING A REFUND TO BUCKETS MARGARITA

WHEREAS, Buckets Margarita’s To Go, 9627 Third Avenue, Stone Harbor paid \$100.00 for 2023 Business Registration on May 24, 2023; and

WHEREAS, while processing the Business Registration it was discovered that the business does not require a Business Registration Fee since a Liquor License exists on the premise; and

WHEREAS, the Borough Clerk’s office has requested a refund of \$100.00 to be sent to Buckets Margarita’s To Go and the request was approved by the CFO;

NOW, THEREFORE, BE IT RESOLVED, on July 18th, 2023 by the Mayor and Council of the Borough of Stone Harbor, in the County of Cape May that \$100.00 be refunded to Buckets Margarita’s To Go and that the proper officers make the proper adjustments in their records.

I HEREBY CERTIFY THAT the foregoing resolution was duly adopted by the Borough Council of the Borough of Stone Harbor, New Jersey at the Regular Meeting held on June 20th, 2023, with the voting record as indicated below.

	<u>MOTION</u>	<u>SECOND</u>	<u>AYE</u>	<u>NAY</u>	<u>RECUSE</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Councilmember Dallahan							
Councilmember Foschini							
Councilmember Parzych							
Councilmember Casper							
Councilmember Gensemer							
Councilmember Moore							

.....
Borough Clerk

.....
Mayor