

Borough of Stone Harbor
REGULAR MEETING AGENDA
Tuesday March 19, 2024
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 Carney

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 to the Press and the Cape May County Herald on January 4, 2024.

Salute the Flag

Communications:

Public Comment

OLD BUSINESS

Ordinances

- 1660 An Ordinance Amending Chapter 560, Zoning of the Revised General Ordinances of the Borough of Stone Harbor Amending the Zoning Code for Bulkhead and Habitable Story
- 1661 An Ordinance Amending Chapter 560 of the Revised General Ordinances of the Borough of Stone Harbor Creating the Residential D Zoning District

NEW BUSINESS

Ordinances

- 1662 An Ordinance to Establish Requirements for Tree Removal and Replacement in the Borough of Stone Harbor
- 1663 An Ordinance to Exceed the Municipal Budget Appropriation Limits and to Establish a Cap Bank for the Calendar Year 2024
- 1664 An Ordinance to Amend the Revised General Ordinances of the Borough of Stone Harbor Chapter 542 Entitled "Water and Sewers"

Resolutions

- 2024-S-64 Resolution For Introduction and Approval of the 2024 Municipal Budget for the Borough of Stone Harbor
- 2024-S-65 Resolution Establishing Parking Dates and Fees- 2024
- 2024-S-66 Resolution Changing the Location for the Farmer's Market
- 2024-S-67 Resolution Amending the Interlocal Agreement

Motion- To approve IPAWS Memorandum of Agreement MOA Application.

Motion- To readvertise for proposals for Professional Planner.

Motion- To approve the Bill List & authorize the CFO to pay the bills when the funds are available, and the vouchers are properly endorsed.

2024-S-68

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-

- **Matters Relating to the Employment Relationship**
- **Matters Relating to Litigation-** Gallo v. Hafner and Borough of Stone Harbor

Discussion:

Public Comment
Adjournment

**BOROUGH OF STONE HARBOR
CAPE MAY COUNTY, NEW JERSEY
ORDINANCE NO. 1660**

**AN ORDINANCE AMENDING CHAPTER 560, ZONING OF THE
REVISED GENERAL ORDINANCES OF THE BOROUGH OF STONE HARBOR
AMENDING THE ZONING CODE FOR BULKHEAD AND HABITABLE STORY**

WHEREAS, Section 560 of the Zoning Ordinance (the “Ordinance”) of the Borough of Stone Harbor (the “Borough”) currently establishes the definitions, zoning district regulations, general provisions and exceptions for the zoning districts; and

WHEREAS, included in the definitions is the established bulkhead line which the Borough seeks to clarify determination of such bulkhead line; and

WHEREAS, included in the zoning district regulations is the total number of stories allowed to be inhabited without definition in the zoning codes; and

WHEREAS, to eliminate confusion the Borough will clarify story.

Section 1. Section 560-10. Definitions. Is amended (added text underlined and deleted text is ~~stricken~~) as follows:

ESTABLISHED BULKHEAD LINE

The bulkhead line shown on the current Tax Map of the Borough of Stone Harbor or if the current Tax Map does not establish a bulkhead line the most recent tax map illustrating an established bulkhead line for the Borough.

STORY

- A. That portion of a building included between the upper surface of a floor and the ceiling or roof next above, any part of which is above the base flood elevation and which is six feet or more in height, subject to the following exceptions:
- (1) A basement or cellar, no part of which is above base flood elevation, shall not constitute a story;
 - (2) ~~One nonhabitable intermediate level of 69 square feet or less may be permitted, and such intermediate level shall not constitute a story; and~~ One enclosed transition area, that does not exceed the allowable building height and does not exceed 69 square feet to allow access to a deck over the second story may be permitted, and such area shall not constitute a story; and
 - (3) An attic shall not constitute a story.

- B. Any floor level, whether on the ground or elsewhere, regardless of the height thereof, which is to be occupied in whole or in part for the parking or storage of automobiles shall, for the purpose of determining the height limit, be regarded as a story.
- C. The number of stories shall be measured as a vertical line from the roof to the ground beneath a structure, so that sunken living rooms and rooms resulting from split-level construction shall be permitted as long as, on any vertical line from the roof to the ground beneath the structure, there are no more than two floors and two ceilings in addition to the attic.

Section 2. Section 560-13. Residential A Zoning District. Is amended (added text underlined and deleted text is ~~stricken~~) as follows:

(2) Maximum limitations:

TABLE II	
Maximum Limitations	
Building coverage	25%
Lot coverage (impervious)	55%
Lot coverage (with semi-pervious)	70%
Building height	23 feet (flat roof)
	31 feet (peaked roof)
Building height, coastal high hazard areas	24 feet (flat roof)
	32 feet (peaked roof)
Habitable <u>Stories</u>	2
Building length	100 feet

Section 3. Section 560-14. Residential B Zoning District. Is amended (added text underlined and deleted text is ~~stricken~~) as follows:

(2) Maximum limitations:

TABLE II	
Maximum Limitations	
Building coverage	25%
Lot coverage (impervious)	55%
Lot coverage (with semi-pervious)	70%
Building height	23 feet (flat roof) 31 feet (peaked roof)
Habitable <u>Stories</u>	2
Building length	100 feet

Section 4. Section 560-16. Residential C Zoning District. Is amended (added text underlined and deleted text is ~~stricken~~) as follows:

(2) Maximum limitations:

TABLE II	
Maximum Limitations	
Building coverage	40% for lots having an area of 2,200 square feet or less, minus 1% for each 200 square feet of lot area or portion thereof in excess of 2,200 square feet; maximum building coverage shall not be less than 25%
Lot coverage (impervious)	70% for lots having an area of 2,200 square feet or less, minus 1% for each 200 square feet of lot area or portion thereof in excess of 2,200 square feet; maximum building coverage shall not be less than 55%
Lot coverage (with semi-pervious)	85% for lots having an area of 2,200 square feet or less, minus 1% for each 200 square feet of lot area or portion thereof in excess of 2,200 square feet; maximum building coverage shall not be less than 70%
Building height	23 feet (flat roof) 31 feet (peaked roof)
Habitable <u>Stories</u>	2
Building length	100 feet

Section 5. Section 560-18. Business District. Is amended (added text underlined and deleted text is ~~stricken~~) as follows:

(2) Maximum limitations:

Building coverage	100%
Lot coverage	100%
Building height	28 feet
Building length (applicable only to buildings utilized partly or wholly for residential uses)	120 feet
Habitable s Stories	2

Section 6. Section 560-33. Height regulation. Is amended (added text underlined and deleted text is ~~stricken~~) as follows:

560-33. Height regulations.

A. (Reserved)^[1]

[1] *Editor's Note: Former Subsection A, Residential building height, as amended, was repealed 10-152013 by Ord. No. 1432.*

B. Interpretation. Except as otherwise expressly provided, "building height" shall include all appurtenances attached or erected upon any roof or top of a building, such as signs, radio towers, water tanks, elevators, penthouses, parapet walls or structures of any kind, nature or description.

C. Height exceptions. Mechanical structures affixed to and rising above a roof, including, without limitation, chimneys, solar panels and air conditioners, shall be excepted from height limitation; provided that they are built no higher than the minimum height required by building or construction codes or, in absence of such codes, no higher than three feet above the highest point of the roof.

D. Height of decks.

[1] The floor of all decks located above a flat roof shall be no greater than six inches above the height of the roof below.

- [2] The floor of all decks which are not located above a flat roof shall be no higher than the floor of the highest habitable floor in the principal structure.
- [3] Every deck having a floor higher than the highest habitable story of the principal structure shall be situated directly above a fully enclosed habitable area.
- [4] In no event shall any deck having a floor situated above two habitable stories be covered with a roof, fixed awning or other permanent cover.
- [5] On a single-story structure having a pitched roof, the floor of an outside deck shall be no higher than 10 feet above floor level.

E. Proof of compliance with height restrictions required during construction. At specific intervals during the construction of all new construction and/or the renovation/alteration of any structure where such renovation/alteration may potentially change the height of the structure, a site survey prepared by a New Jersey Professional Land Surveyor shall be provided to the Zoning Officer for review and approval as follows:

- [1] Upon completion of the foundation, a survey indicating the elevation to the top of the block, top of the freeboard and finished grade in relation to the top-of-curb height applicable to the property. In addition, all setbacks from property lines shall be indicated.
- [2] Upon completion of the roof framing and sheathing, a survey of the elevation to the highest peak of the roof from the top of the block, top of the freeboard and finished grade in relation to the top-of-curb height applicable to the property. In addition, all setbacks from the property line shall be indicated. This shall include the height and location of any accessory structures on the lot. No framing inspection shall be performed on the property unless and until this provision is complied with.
- [3] Upon application for the final certificate of occupancy, a survey showing the elevation to the highest roof peak from the top of the block, top of the freeboard and finished grade in relation to the top-of-curb height applicable to the property. In addition, the height and location of all structures on the lot, both in size and setbacks from the property lines. Where applicable, grade throughout the property shall also be shown to indicate conformance with the approved grading plan and shall indicate all impervious surfaces along with any underground storage provided in conformance with the code.

Section 7. All ordinances, or parts of ordinances, inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 8. This ordinance shall take effect after final adoption and publication as required by law.

I HEREBY CERTIFY THAT the foregoing ordinance was introduced by the Borough Council of the Borough of Stone Harbor, New Jersey at the Regular Meeting held on February 6th, 2024, and will be considered for second reading and public hearing at the Regular Meeting held on March 19, 2024.

	<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 Carney							

Introduced: February 6, 2024
 First Publication: February 14, 2024
 2nd Reading & Public Hearing: March 19, 2024
 Final Publication: March 27, 2024
 Effective Date: April 8, 2024

 Emily Dillon, Borough Clerk

 Judith Davies-Dunhour, Mayor

**BOROUGH OF STONE HARBOR
CAPE MAY COUNTY, NEW JERSEY
ORDINANCE NO. 1661**

**AN ORDINANCE AMENDING CHAPTER 560 OF THE REVISED GENERAL
ORDINANCES OF THE BOROUGH OF STONE HARBOR CREATING THE
RESIDENTIAL D ZONING DISTRICT**

WHEREAS, Section 560 of the Zoning Ordinance (the "Ordinance") of the Borough of Stone Harbor (the "Borough") currently establishes four residential zoning districts; and

WHEREAS, included in the Borough's Residential C Zoning District regulations are special provisions governing properties having street frontage on Linden Lane; and

WHEREAS, the Stone Harbor Master Plan Reexamination Report adopted June 2019 (the "Master Plan") recommended the creation of a new residential zoning district to regulate and provide for the responsible development and improvement of properties located on Linden Lane; and

WHEREAS, the Borough desires that the Ordinance be revised to implement the recommendations of the Master Plan, all in accordance with the provisions set forth below.

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Stone Harbor, Cape May County, New Jersey, as follows:

Section 1. Section 560-5. Classes of districts. is amended (added text underlined and deleted text is ~~stricken~~) as follows:

For the purposes of this chapter, the Borough is divided into ~~nine~~ ten classes of districts as follows:

- A. Residential A District (§ 560-13).
- B. Residential B District (§ 560-14).
- C. Residential B Parking B-P District (§ 560-15).
- D. Residential C District (§ 560-16).
- E. Residential D District ((§ 560-17).
- F. Business District (§ 560-18).
- G. Waterfront Business District (§ 560-19).
- H. Light Industry District (§ 560-22).
- I. Public Use P District (§ 560-23).
- J. Conservation Management CM District (§ 560-24).

Section 2. Section 560-6. Zoning Map. is amended (added text underlined and deleted text is ~~stricken~~) as follows:

The districts and their boundaries shall be as shown on the Zoning Map, dated June 1, 2006, together with approved revisions, and originally prepared by Remington, Vernick and Walberg Engineers, and as revised from time to time by the Borough Engineer, on file in the office of the

Administrative Officer, hereinafter to be referred to as the "Zoning Map of the Borough of Stone Harbor."

Section 3. Section 560-10 Definitions. is amended to add the following definitions alphabetically:

BUILDING HEIGHT

A. In all residential zones (Residential A, B, B-P, C, and D), "building height" shall be defined as the vertical measurement from design flood elevation as defined in Chapter 300 of the Borough Code to the uppermost point of a building, except as otherwise provided.

B. In all other zones, "building height" shall be defined as the vertical measurement from the curb level to the uppermost point of a building, except as otherwise provided.

Section 4. Section 560-16 D (2) Supplemental regulations. is amended (added text underlined and deleted text is ~~stricken~~) as follows:

- (2) For lots having street frontage only on Bower Court, Stone Court, or Weber Court ~~or Linden Lane~~, the requirements set forth in § **560-16B** above shall be amended as follows, provided that the provisions of § **560-16B** not altered by this subsection shall remain unaffected:
- (a) Minimum lot area: 1,400 square feet.
 - (b) Minimum lot frontage: none.
 - (c) Maximum building height: 15 feet above base flood elevation.
 - (d) Maximum number of stories: one.

Section 5. Section 560-17 is created as follows:

560-17 Residential D Zoning District.

A. Use Regulations. In the Residential D Zoning District, lands, buildings, and premises may be used for the following purposes:

1. Principal Permitted Use: Single Family Dwellings
2. Permitted Accessory Use: Accessory Storage Building (Shed)
3. Conditional Uses: None

B. Area Regulations. Development in the Residential D District shall be subject to the following area regulations.

1. Minimum requirements

TABLE I
Minimum Requirements

Lot Area	925 Square Feet
Lot Frontage	25 Feet
Setbacks (Principal Structure)	
Front Yard	First Floor (up to DFE +10') - 5 Feet Second Floor (Above DFE +10') - 3 Feet from the front face of the structure
Side Yards (each)	5 Feet,
Rear Yard	5 Feet
Setbacks (Accessory Structure)	Side Yard: 3 feet Rear Yard: 3 feet Front Yard: the greater of the front setback to the principal structure on the subject lot or 5 feet.

2. Maximum Limitations

TABLE II
Maximum Limitations

Building Coverage	40%
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Lot Coverage	85%,
Building Height	Prohibited (Flat Roof) 22' (Peaked Roof) with 6"/12" minimum roof slope
Stories	Two
Building Length	30 feet
Second floor area	Not to exceed 30% of the total lot area, subject to item D Supplemental Regulations #3 below

C. Conditional Use Regulations. Not Applicable.

D. Supplemental Regulations

1. No accessory buildings shall be permitted, except that each principal structure shall be permitted one (1) accessory storage building (shed) which (i) shall not exceed one (1) story; (ii) shall not exceed an overall height of eight (8') feet (flat roof) or twelve (12') feet (pitched roof) measured from the curb level to the uppermost point of the roof; and (iii) shall be a minimum of five feet (5') from the principal structure. No cooking facilities, sink, shower, clothes washing or drying machine, or toilet shall be installed in any accessory shed. No accessory shed may be utilized for dwelling purposes.

2. A pitched roof with or without dormers may be located within the front yard setback of any second floor area (greater than 10' above Design Flood Elevation); provided that (i) any roof located in the second floor front yard setback area shall have a maximum pitch of 6"/12"; (ii) no more than two dormers shall be permitted; (iii) dormers shall be subject to a minimum front yard setback of five (5') feet; and (iv) the combined width of dormers shall not exceed forty (60%) percent of the building total frontage.

3. This section applies to second floor. Front decks on the 2nd floor shall be permitted as long as said decks do not extend beyond the front face of the structure. Flat roofs to accommodate any front facing decks shall be at design flood plus 10' and no higher, inclusive of decks.

The area allocated to stairways or stairways with elevator shall be included as habitable area for the first floor only. Above the first floor, a maximum exemption in habitable area per floor shall be 100 square feet for stairs only or 125 square feet for stairs and elevator.

4. All new construction and all renovations that result in the addition of a second story shall require that all wires shall be placed underground in accordance with Section 560-47.

5. Any nonconforming structure has to be brought into compliance with all Borough Codes in order to add a second floor.

Section 6. 560-38 D. Supplemental area regulations. is amended (added text underlined and deleted text is ~~stricken~~) as follows:

D. Setback exceptions.

(1) Notwithstanding the setback requirements set forth in Article IV above, the following shall be permitted in yard spaces in all zoning districts unless otherwise noted:

(a) Landings/stairs.

- [1] For all residential buildings having an elevation at or above design flood elevation, as defined in Chapter 300, stairs or steps leading to a first-floor entrance landing or porch shall be permitted in yard spaces in all zoning districts, provided that (i) no such stairs or steps shall be located less than five feet from a front property line or less than 3 1/2 feet from a side or rear property line, except in the Residential C and Residential D Zoning Districts, where no such stairs or steps shall be located less than two feet from a side property line; and (ii) stairs or steps located in a front yard setback shall not exceed 25% of the building length as defined in § 560-10.
- [2] For all residential buildings having an elevation below design flood elevation as defined in Chapter 300, stairs or steps leading directly to a first-floor entrance landing or a porch shall be permitted in yard spaces in all zoning districts, provided that (i) no such stairs or steps shall be located less than five feet from a property line, except in the Residential C and Residential D Zoning Districts, where no such stairs or steps shall be located less than two feet from a side property line; and (ii) stairs or steps located in a front yard setback shall not exceed 25% of the building length as defined in § 560-10.
- [3] This § 560-38D(1)(a) shall not permit landings to be located in any front yard setback.
- [4] Landings not exceeding five feet in length or five feet in width shall be permitted in side yard and rear yard setbacks; provided that no such landing shall (i) be located less than five feet from a property line, except in the Residential C and Residential D Zoning Districts, where no such

landing shall be located less than two feet from a side or rear property line; nor (ii) be elevated above design flood elevation.

- (b) Outside shower enclosures, which shall not exceed four feet by eight feet in length and width, shall not exceed seven feet in height, and shall not encroach more than four feet into the yard space; provided that no shower enclosure shall be less than six feet from a side property line in the Residential A and Residential B Zoning Districts nor less than two feet from a side property line in the Residential C and Residential D Zoning Districts. Outside showers are prohibited in front yards.
- (c) Trash receptacle enclosures which shall not exceed four feet in height; provided that encroachments into side yards or front yards shall not exceed four feet; and further provided that no trash receptacle enclosure shall be closer to the front or side property lines than five feet in the Residential A and Residential B Zoning Districts nor closer than two feet in the Residential C and Residential D Districts.
- (d) Bay windows, chimneys, and window seats having no floor area; provided that they do not extend more than 20 inches into the yard space; and further provided that the windows, chimneys, and window seats having no floor area shall not exceed 10 feet in width and shall be separated from each other by a minimum horizontal distance of 10 feet. Should bay windows, chimneys, and window seats having no floor area not have footings or foundations, they shall not be counted as lot coverage or building coverage. Any and all bay windows, chimneys, and window seats which have footings or foundations shall be counted as lot coverage and building coverage and shall comply with all applicable setback requirements. The purpose of the aforesaid deviations from the setback requirements is to permit aesthetic enhancement to structures in the case of bay windows and window seats and for proper ventilation in the case of chimneys. This section shall supersede and control to the extent its provisions conflict with the definitions of "lot coverage" and "building coverage." / Not permitted in Residential D District.
- (e) Eaves; provided that they do not extend more than 20 inches into any yard space; and further provided that eaves extending from bay windows and/or window seats permitted under § 560-38D(4) may extend an additional eight inches into a side yard space. In no event shall any eave extend to within three feet of any property line.
- (f) Heating, air-conditioning and circulating equipment; provided that they do not encroach more than five feet into any yard space; and further provided that they are no closer than two feet to any side, rear, or front property line.
- (g) Fences; provided that no fence shall exceed four feet in height, with the exception of fences enclosing swimming pools subject to § 560-43.
- (h) Lampposts, which shall be of a single-globe type only, at a height not to exceed seven feet above grade. The light intensity shall not exceed the lumen output of a standard one-hundred-watt frosted incandescent lamp or 1,750 lumens, whichever is higher.

(i) Arbors and trellises, provided that:

- [1] No arbor or trellis shall exceed eight feet in height, five feet in width (inside dimension) or five feet in depth.
- [2] Arbors and/or trellises greater than four feet in height and located on a single lot or parcel shall be separated by a minimum distance of 25 feet.
- [3] Arbors and trellises shall not be placed in the site triangle on any corner lot.
- [4] Any fence, latticework, bench or decorative structure attached to, extending from or running with an arbor or trellis shall not exceed four feet in height, if these structures are contained within a required yard setback.

(2) Notwithstanding the foregoing, no provision of this § 560-38D shall permit the construction of improvements in any required yard space which is adjacent to any beach or bay waters.

Section 7.

Zone Change and Zoning Map Amendment. **(NOT TO BE PLACED IN THE CODE)**

The Zoning Map of the Borough of Stone Harbor, New Jersey is hereby amended to conform to the following changes.

Zone Change	General Location	Block & Lot
Residential C to Residential D	LINDEN LANE	BLOCK 84.03, LOT 82, 84, 86, 88, 90, 91.02, 92, 94, 95.02, 96, 97.02, 98, 99.03, 100, 101.02, 101.03, 102, 103.02, 103.03, 104, 105.02, 105.03, 106, 107.02, 108, 109.03, 110, 112, and 114

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, be and the same are hereby repealed.

Section 10. This Ordinance shall take effect twenty (20) days after final passage and publication as provided by law.

I HEREBY CERTIFY THAT the foregoing ordinance was introduced by the Borough Council of the Borough of Stone Harbor, New Jersey at the Regular Meeting held on February 6th, 2024, and was further considered for second reading and public hearing at the Regular Meeting held on March 19, 2024 and approved 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 Carney							

Introduced: February 6, 2024

First Publication: February 14, 2024

2nd Reading & Public Hearing: March 19, 2024

Final Publication: March 27, 2024

Effective Date: April 8, 2024

Emily Dillon, Borough Clerk

Judith Davies-Dunhour, Mayor

BOROUGH OF STONE HARBOR
CAPE MAY COUNTY, NEW JERSEY

ORDINANCE NO. 1662

**AN ORDINANCE TO ESTABLISH REQUIREMENTS FOR TREE REMOVAL AND
REPLACEMENT IN THE BOROUGH OF STONE HARBOR**

SECTION I. Purpose:

An ordinance to establish requirements for tree removal and replacement in the Borough of Stone Harbor to reduce soil erosion and pollutant runoff, promote infiltration of rainwater into the soil, and protect the environment, public health, safety, and welfare. Reference is made to the New Jersey Urban and Community Forestry Program.

SECTION II. Definitions:

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 ordinance 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 use of the word "shall" means the requirement is always mandatory and not merely directory.

A. "Applicant" means any "person", as defined below, who applies for approval to remove trees regulated under this ordinance.

B. "Critical Root Radius (CRR)" – means the zone around the base of a tree where the majority of the root system is found. This zone is calculated by multiplying the diameter at breast height (DBH) of the tree by 1.5 feet (18 inches). For example: a tree with a 6" (0.5 feet) DBH would have a $CRR = 0.5' \times 1.5' = 0.75'$.

C. "Diameter at Breast Height (DBH)" means the diameter of the trunk of a mature tree generally measured at a point four and a half feet above ground level from the uphill side of the tree. For species of trees where the main trunk divides below the 4 ½ foot height, the DBH shall be measured at the highest point before any division.

D. "Hazard Tree" means a tree or limbs thereof that meet one or more of the criteria below. Hazard Tree Determination shall be made by the Director of Public Works or his assigned designee. Trees that do not meet any of the criteria below and are proposed to be removed solely for development purposes are not hazard trees. .

1. Has an infectious disease or insect infestation;

2. Is dead or dying;
3. Obstructs the view of traffic signs or the free passage of pedestrians or vehicles, where pruning attempts have not been effective;
4. Is causing obvious damage to structures (such as building foundations, sidewalks, etc.); or
5. Is determined to be a threat to public health, safety, and/or welfare by a certified arborist or Licensed Tree Expert (LTE).

E. "Person" means any individual, resident, corporation, utility, company, partnership, firm, or association.

F. "Planting strip" means the part of a street right-of-way between the public right-of-way and the portion of the street reserved for vehicular traffic or between the abutting property line and the curb or traveled portion of the street, exclusive of any sidewalk.

G. "Resident" means an individual who resides on the residential property or contractor hired by the individual who resides on the residential property where a tree(s) regulated by this ordinance is removed or proposed to be removed.

H. "Street Tree" means a tree planted in the sidewalk, planting strip, and/or in the public right-of-way adjacent to (or specified distance from) the portion of the street reserved for vehicular traffic. This also includes trees planted in planting strips within the roadway right-of-way, i.e., islands, medians, pedestrian refuges.

I. "Tree" means a woody perennial plant, typically having a single stem or trunk growing to a considerable height and bearing lateral branches at some distance from the ground.

K. "Tree Caliper" means the diameter of the trunk of a young tree, measured six (6) inches from the soil line. For young trees whose caliper exceeds four (4) inches, the measurement is taken twelve (12) inches above the soil line.

L. "Tree removal" means to kill or to cause irreparable damage that leads to the decline and/or death of a tree. This includes, but is not limited to, excessive pruning, application of substances that are toxic to the tree, over-mulching or improper mulching, and improper grading and/or soil compaction within the critical root radius around the base of the tree that leads to the decline and/or death of a tree. Removal does not include responsible pruning and maintenance of a tree, or the application of treatments intended to manage invasive species.

SECTION III. Regulated Activities:

Application review and approval can be conducted along with existing business practices and permit application review such as, but not limited to, site plan approvals, building permit approvals, planning board application approval

A. Optional Application Process:

1. Any person planning to remove a street tree, as defined as Tree removal, with DBH of 2.5” or more or any non-street tree with DBH of 6” or more on their property shall submit a Tree Removal Application to the Construction Official. No tree shall be removed until Borough officials have reviewed and approved the removal.

B. Tree Replacement Requirements

1. Any person who removes one or more street tree(s) with a DBH of 2.5” or more, unless exempt under Section IV, shall be subject to the requirements of the Tree Replacement Requirements Table below.
2. Any person, who removes one or more tree(s), as defined as Tree removal, with a DBH of 6” or more per acre, unless otherwise detailed under Section IV, shall be subject to the requirements of the Tree Replacement Requirements Table.

The species type and diversity of replacement trees shall be in accordance with Appendix A.

Replacement tree(s) shall:

1. Be replaced in kind with a tree that has an equal or greater DBH than tree removed **or** meet the Tree Replacement Criteria in the table below;
2. Be planted within twelve (12) months of the date of removal of the original tree(s) or at an alternative date specified by the Borough;
3. Be monitored by the applicant for a period of two (2) years to ensure their survival and shall be replaced as needed within twelve (12) months in an ongoing manner, that is, if an initial planting does not survive and a replacement tree is planted, that new tree would require a two (2) year monitoring period and a replacement within 12 months if it fails to survive; and
4. Shall not be planted in temporary containers or pots, as these do not count towards tree replacement requirements.

Tree Replacement Requirements Table:

Category	Tree Removed (DBH)	Tree Replacement Criteria (See Appendix A)	Application Fee
1	DBH of 2.5" (for street trees) or 6" (for non-street trees) to 12.99"	Replant 1 tree with a minimum tree caliper of 1.5" for each tree removed	\$50
2	DBH of 13" to 22.99"	Replant 2 trees with minimum tree calipers of 1.5" for each tree removed	\$100
3	DBH of 23" to 32.99"	Replant 3 trees with minimum tree calipers of 1.5" for each tree removed	\$300
4	DBH of 33" or greater	Replant 4 trees with minimum tree calipers of 1.5" for each tree removed	\$500

C. Replacement Alternatives:

1. If the Borough determines that some or all required replacement trees cannot be planted on the property where the tree removal activity occurred, then the applicant shall do one of the following:
 - a. Plant replacement trees in a separate area(s) approved by the Borough.
 - b. Pay an additional fee of \$1000 per tree removed. This fee shall be placed into a fund dedicated to tree planting and continued maintenance of the trees.

SECTION IV. Exemptions:

All persons shall comply with the tree replacement standard outlined above, except in the cases detailed below. Proper justification shall be provided, in writing, to the Borough by all persons claiming an exemption. Proper Notification may include photographs or a statement from a Certified Arborist or Licensed Tree Expert.

- A. Residents who remove less than four (4) trees per acre that fall into category 1, 2, or 3 of the Tree Replacement Requirements Table within a five-year period. The number of trees removed is a rolling count across a five-year period. For example, if 3 trees from category 1 are removed in July 2023, the 'count' resets to zero in July 2028. However, if 1 tree from category 1 is removed in July 2023 and another in July of 2025 the first tree will come off the count in July 2028 and the second in July 2030. If the property transfers ownership during the five year period, the requirement remains with the property and the new owner.
- B. Tree farms in active operation, nurseries, fruit orchards, and garden centers;
- C. Properties used for the practice of silviculture under an approved forest stewardship or woodland management plan that is active and on file with the Borough;

- D. Any trees removed as part of a Borough or state decommissioning plan. This exemption only includes trees planted as part of the construction and predetermined to be removed in the decommissioning plan.
- E. Any trees removed pursuant to a New Jersey Department of Environmental Protection (NJDEP) or U.S. Environmental Protection Agency (EPA) approved environmental clean-up, or NJDEP approved habitat enhancement plan;
- F. Approved game management practices, as recommended by the State of New Jersey Department of Environmental Protection, Division of Fish, Game and Wildlife;
- G. Hazard trees may be removed with no fee or replacement requirement.

SECTION V. Enforcement:

This ordinance shall be enforced by the Code Enforcement Official of Stone Harbor during the course of ordinary enforcement duties.

SECTION VI. Violations and Penalties:

Any person(s) who is found to be in violation of the provisions of this ordinance shall be subject to a fine of \$1,000 and violators will be required to plant additional trees in addition to the fine.

SECTION VIII. Severability:

Each section, subsection, sentence, clause, and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause, and phrase, and finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause or reason shall not affect any other portion of this Ordinance.

SECTION VIII. Effective Date:

This Ordinance shall be in full force and effect from and after its adoption and any publication as may be required by law.

Adoption Date: _____

Approved By: _____

Appendix A

Approved list of Replacement tree Species for **The Borough of Stone Harbor**

<u>Scientific Name</u>	<u>Common Name</u>
Quercus palustris	Pin oak
Quercus alba	White oak
Quercus rubra	Red oak
Tilia americana	American linden
Carya ovata, glabra	Hickories
Platanus americana	American sycamore
Quercus prinus	Chestnut oak
Nyssa sylvatica	Black gum
Liriodendron tulipifera	Tuliptree
Acer saccharum	Sugar maple
Acer rubrum	Red maple

These are the more common street varieties that are acceptable. If other trees are requested to be used, they will need to be shown to not be on the NJ invasive list and approved by the Code Enforcement Official.

I HEREBY CERTIFY THAT the foregoing ordinance will be introduced by the Borough Council of the Borough of Stone Harbor, New Jersey at the Regular Meeting held on March 19th, 2024, and will be considered for second reading and public hearing at the Regular Meeting held on April 2, 2024.

	<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 Carney							

Introduced: March 19, 2024

First Publication: March 27, 2024

2nd Reading & Public Hearing: April 2, 2024

Final Publication: April 10, 2024

Effective Date: April 30, 2024

Emily Dillon, Borough Clerk

Judith Davies-Dunhour, Mayor

**BOROUGH OF STONE HARBOR
CAPE MAY COUNTY, NEW JERSEY
ORDINANCE NO. 1664**

**AN ORDINANCE TO AMEND THE REVISED GENERAL ORDINANCES
OF THE BOROUGH OF STONE HARBOR,
CHAPTER 542 ENTITLED "WATER AND SEWERS"**

WHEREAS, the Mayor and Council of the Borough of Stone Harbor have decided to amend the existing water and sewer fee schedule, and to combine that fee schedule into one section within the Borough Code;

BE IT ORDAINED, by the Mayor and Council of the Borough of Stone Harbor in the County of Cape May and State of New Jersey that Chapter 542 "Water and Sewers" of the General Ordinances of the Borough of Stone Harbor, 2005, is hereby amended as follows:

SECTION 3. The Following Section Shall Be Amended:

§ 542-27. Schedule of Water and Sewer Rates.

A. Rate for excess water/sewer. [Amended 3-18-2008 by Ord. No. 1307; 8-5-2008 by Ord. No. 1319]

~~(1) Regular service. The rate for all water/sewer furnished in excess of the quarterly allowance set forth — above shall be as follows:
(a) \$5.50 for each additional 1,000 gallons up to 50,000 gallons, or any part thereof.
(b) \$6.50 per 1,000 gallons over 50,000 to 80,000 gallons, on any part thereof.
(c) \$7.50 per 1,000 gallons over 80,000 gallons~~

(1) Regular service. The rate for all water/sewer furnished in excess of the quarterly allowance set forth above shall be as follows:

- (a) \$6.50 for each additional 1,000 gallons up to 50,000 gallons, or any part thereof.
- (b) \$7.50 per 1,000 gallons over 50,000 to 80,000 gallons, on any part thereof.
- (c) \$8.50 per 1,000 gallons over 80,000 gallons

SECTION 4. All ordinances or parts of ordinances in conflict or inconsistent with any part of this Ordinance are hereby repealed to the extent that they are in conflict or inconsistent.

SECTION 5. If any section, provision, or part of provision of this Ordinance shall be held to be unenforceable or invalid by any court, such holding shall not affect the validity of this Ordinance, or any part thereof, other than the part so held unenforceable or invalid.

SECTION 6. This Ordinance shall take effect twenty (20) days after final passage and publication as provided by law.

I HEREBY CERTIFY THAT the foregoing ordinance will be introduced by the Borough Council of the Borough of Stone Harbor, New Jersey at the Regular Meeting held on March 19th, 2024, and will be considered for second reading and public hearing at the Regular Meeting held on April 2, 2024.

	<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 Carney							

Introduced: March 19, 2024
 First Publication: March 27, 2024
 2nd Reading & Public Hearing: April 2, 2024
 Final Publication: April 10, 2024
 Effective Date: April 30, 2024

 Emily Dillon, Borough Clerk

 Judith Davies-Dunhour, Mayor

BOROUGH OF STONE HARBOR

Cape May County, New Jersey

RESOLUTION

2024-S-65

RESOLUTION ESTABLISHING PARKING DATES AND FEES-2024

WHEREAS, §391-7 of the Revised General Ordinances 2005 of the Borough of Stone Harbor states that Borough Council will set the dates in which parking fees will be required within designated locations; and

WHEREAS, those dates are set within the summer season, 10:00am to 9:00pm, seven days a week; and

WHEREAS, the fees for the parking zones in the Borough of Stone Harbor will be set forth as follows:

Parking Fees	\$1.00 Per Hour (.25 for 15 minutes)
--------------	--------------------------------------

All parking lots will have hours from 10:00AM- 9:00PM with the exception of parking Lot located at Beach will have hours limited to 10:00AM-5:00PM.

NOW, THEREFORE, BE IT RESOLVED by the Members of Council of the Borough of Stone Harbor in the County of Cape May and the State of New Jersey that parking fees will be required from Wednesday, May 1, 2024 through Monday, September 30, 2024.

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 March 5th, 2024, 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 Carney							

Attest: Emily Dillon Clerk

Mayor Judith Davies-Dunhour

BOROUGH OF STONE HARBOR

Cape May County, New Jersey

RESOLUTION

2024-S-66

**RESOLUTION AUTHORIZING THE LOCATION FOR THE
STONE HARBOR FARMERS MARKET**

WHEREAS, the Borough of Stone Harbor will hold a weekly “Farmer’s Market” on Sundays beginning May 26, 2024 through September 1, 2024; and

WHEREAS, the Farmers Market is in the interests of the citizens of the Borough of Stone Harbor inasmuch as it will generate some revenue and it will provide convenient access to certain goods that are not readily accessible to Borough residents and visitors; and

WHEREAS, all vendors must complete the Stone Harbor Farmers Market Application, read Farmer’s Market Rules & Regulations and return completed form and payment check along with photocopies of appropriate permits, insurance certificates and licenses to the Borough before they will be allowed to participate in the Farmers Market; and

WHEREAS, per resolution 2024-S-54 the location for the Farmers Market was relocated to the 94th Street Lot; and

WHEREAS, the Borough Council has decided it to be in the best interest of the Borough to rescind that change and locate the Farmer’s Market at the 95th Street and Second Avenue Water Tower Lot.

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Stone Harbor, in the County of Cape May and State of New Jersey, duly assembled in public session this 20th day of February, 2024 that this Resolution is hereby approved.

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 March 19th, 2024, 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 Carney							

Emily Dillon, Borough Clerk

Judith Davies-Dunhour, Mayor

BOROUGH OF STONE HARBOR

Cape May County, New Jersey

RESOLUTION

2024-S-67

**A RESOLUTION AMENDING THE INTERLOCAL SERVICES AGREEMENT WITH
WILDWOOD CATHOLIC HIGH SCHOOL TO INCLUDE THE USE OF
THE RECREATION FIELDS FOR BASEBALL**

WHEREAS, N.J.S.A. 40:8A-1 *et seq.*, authorizes municipalities and school districts to enter into agreements for the purposes of exchanging, sharing and cooperating with regard to services common to said communities through Interlocal Services Agreements ; and

WHEREAS, the Borough created an interlocal agreement with the Wildwood Catholic High School per resolution 2023-S-175 for services relating to the use of recreational playing fields of the Borough of Stone Harbor for use by its High School soccer teams for the Fall of 2023 and Spring of 2024 for games and practices; and

WHEREAS, the Wildwood Catholic High School has requested to amend the agreement to include use of the Borough's field for their baseball team and the Borough of Stone Harbor has certain lands, equipment, and personnel available to meet the needs of the Wildwood Catholic High School in this area; and

WHEREAS, in consideration of this Agreement and in an effort to supplement the costs of maintenance of Borough facilities, Wildwood Catholic agrees to pay the Borough the sum of \$750.00 for maintaining the fields/courts.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Stone Harbor, County of Cape May, State of New Jersey that the preamble of this Resolution is hereby incorporated by reference;

BE IT FURTHER RESOLVED this 19th day of March, 2024 the Borough of Stone Harbor and Wildwood Catholic High School hereby agree, under the authority of N.J.S.A. 40:8A-1 *et seq.*, as follows:

1. Such access and use shall be conditioned upon coordination with and approval by the Recreation Director of the Borough of Stone Harbor with the understanding that the activities of the Borough of Stone Harbor Recreation Department take precedence.
2. The Wildwood Catholic High School shall provide to the Borough of Stone Harbor written proof of liability insurance for the aforementioned use of the property of the Borough of Stone Harbor as required by the Atlantic County Joint Insurance Fund; and shall, additionally, hold harmless and indemnify the Borough of Stone Harbor for any and all losses, damages, and claims of whatever nature that may arise out of or in

connection with the use of the property by the Wildwood Catholic High School, its sports/recreation participants, agents, contractors, officers and/or employees.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized and directed to execute this Resolution as the amended Interlocal Services Agreement between the Borough of Stone Harbor and the Wildwood Catholic High School, pursuant to N.J.S.A. 40:8A-1 *et seq.*

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 March 19th, 2024, 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 Carney							

Emily Dillon, Borough Clerk

Judith Davies-Dunhour, Mayor

BOROUGH OF STONE HARBOR

Cape May County, New Jersey

RESOLUTION

2024-S-68

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

WHEREAS, the Borough Council of the Borough of Stone Harbor 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 Borough Council of the Borough 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, Leas 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.
- _____ (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 Borough Council of the Borough of Stone Harbor, assembled in public session on march 19, 2024, that an executive session closed to the public shall be held on this date 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 determination of the Borough Council that the public interest will no longer be served by such confidentiality.

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 March 19th , 2024, 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 Carney							

Emily Dillon, Borough Clerk

Judith Davies-Dunhour, Mayor