

MEETING AT MUNICIPAL BUILDING, 9508 SECOND AVENUE

AGENDA REGULAR MEETING

TUESDAY

November 6, 2018

4:30 p.m.

Ordinance 1533 – Implement Borough's Housing Plan Element and Fair Share Plan 2nd 3rd and final (1) Krafczek

Ordinance 1534 – Drones 2nd 3rd and final (2) Parzych

Ordinance 1535 – Amusement Games Licensing Law 2nd 3rd and final (3) Kramar

Ordinance – Amending Ordinance 1524 – Plastic Bags (4) Rich INTRO

Ordinance – Amending Salary Ordinance – (5) Krafczek INTRO

Resolution – Purchase 2019 Chevy Tahoe – Police Department – State Contract (6) Parzych

Resolution – Refund Building Sewer Replacement Cost (7) Krafczek

Resolution – Change Order – 95th Street Restroom (8) Kramar

Resolution – Agreement Lutheran Church (9) Gallagher

Resolution – Endorse Housing Element & Fair Share Plan (10) Rich

Resolution – Adopt Spending Plan (11) Gallagher

Resolution – Approve Affirmative Marketing Program (12) Kramar

Resolution – Additional Funds – COAH Attorney (13) Parzych

Motion – Reject the bid Open Space Bikeway Initiative (14) Kramar

Advertise the Rebid – November 9th

Receive bids – November 28th

Award December 4th

Resolution – Closed Session – (15) Lease, Purchase, Sale or Acquisition of Property

Possible Litigation - bulkhead

(11)

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

ORDINANCE NO. 1533

**AN ORDINANCE OF THE BOROUGH OF STONE HARBOR TO IMPLEMENT
THE BOROUGH'S HOUSING PLAN ELEMENT AND FAIR SHARE PLAN**

WHEREAS, pursuant to In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015), the Borough of Stone Harbor (the "Borough") filed a Declaratory Judgment Complaint in the Superior Court, Law Division seeking, among other things, a judicial declaration that its amended Housing Element and Fair Share Plan satisfies its "fair share" of the regional need for low and moderate income housing pursuant to the "Mount Laurel" doctrine; and

WHEREAS, the trial judge appointed Hon. Steven P. Perskie, J.S.C. (Ret.) as Special Master, as is customary in Mount Laurel matters adjudicated in the courts; and

WHEREAS, with assistance from the Special Master, the Borough and Fair Share Housing Center engaged in good faith negotiations which resulted in an amicable resolution regarding the Borough's affordable housing obligations and the compliance techniques necessary for the Borough to satisfy its fair share of the regional need for low- and moderate-income housing units; and

WHEREAS, on December 6, 2017, a settlement agreement was entered into between the Borough and the Fair Share Housing Center setting forth the Borough's affordable housing requirements (the "Settlement Agreement"); and

WHEREAS, the Borough Council on December 5, 2017, adopted Resolution 2017-S-229, accepting the terms of the Settlement Agreement and directing that the Borough take all reasonable and necessary actions to secure an Order approving the Settlement Agreement and ultimately to secure judicial approval of the Borough's fair share plan, as may be amended by the Planning Board of the Borough, pursuant to the Settlement Agreement and subject to the public hearing process set forth in the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.;

WHEREAS, the Settlement Agreement received judicial approval by way of Order of Fairness and Compliance entered January 23, 2018 (Docket No. CPM-L-351-15) and the Borough now wishes to implement the policies and procedures in accordance with the Settlement Agreement; and

WHEREAS, Chapter 560 of the Stone Harbor Code (the "Zoning Ordinance") currently regulates land uses in the Borough; and

WHEREAS, Section 560-18(D)(7) and (8) of the Zoning Ordinance currently set forth the Borough's land use regulations controlling the development and other creation of affordable housing within the Borough; and

WHEREAS, the Borough wishes to repeal Section 560-18(D)(7) and (8) as currently drafted and to adopt the within ordinance to implement the provisions of the Settlement Agreement.

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 560-18(A)(1)(c) is deleted in its entirety.

Section 2. Section 560-18(A)(2)(a) is deleted in its entirety.

Section 3. Section 560-18(D)(1) is amended to delete "...560-18(D)(7) and (8)" and insert "... 560-48...".

Section 4. Section 560-18(D)(7) is deleted in its entirety:

Section 5. Section 560-18(D)(8) is deleted in its entirety:

Section 6. A new Section 560-48 is created, as follows:

560-48 Affordable Housing

A. Affordable Housing Obligations.

1. This Ordinance is intended to assure that low- and moderate-income units ("affordable units") are created with controls on affordability and that low- and moderate-income households shall occupy these units. This Ordinance shall apply except where inconsistent with applicable law.

2. The Borough of Stone Harbor Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. The Fair Share Plan has been adopted by the Planning Board and endorsed by the governing body. The Fair Share Plan describes how Stone Harbor Borough shall address its fair share for low- and moderate-income housing as documented in the Housing Element and outlined in the terms of the settlement agreement between the Borough and Fair Share Housing Center (FSHC).

3. This Ordinance implements the Borough's Fair Share Plan, addresses the requirements of the Court and the terms of the settlement agreement, and also implements a Borough wide requirement that all new multi-family residential development of five (5) or more units shall have a mandatory affordable housing set aside for low- and moderate-income units, subject to certain enumerated conditions.

4. The Borough of Stone Harbor shall track the status of the implementation of the Housing Element and Fair Share Plan. Any plan evaluation report of the Housing Element and Fair Share Plan shall be available to the public at Borough Hall located on 9508 Second Avenue, Stone Harbor, NJ 08247

B. Definitions. The following terms when used in this Section 560-48 shall have the meanings given in this Section:

"Accessory apartment" means a self-contained residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters and a private entrance, which is created within an existing home, or through the conversion of an existing accessory structure on the same site, or by an addition to an existing home or accessory building, or by the construction of a new accessory structure on the same site.

"Act" means the Fair Housing Act of 1985, P.L. 1985, c. 222 (N.J.S.A. 52:27D-301 et seq.)

"Adaptable" means constructed in compliance with the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.

"Administrative agent" means the entity responsible for the administration of affordable units in accordance with this ordinance, N.J.A.C. 5:96, N.J.A.C. 5:97 and N.J.A.C. 5:80-26.1 et seq.

"Affirmative marketing" means a regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to N.J.A.C. 5:80-26.15.

"Affordability average" means the average percentage of median income at which restricted units in an affordable housing development are affordable to low- and moderate-income households.

"Affordable" means, a sales price or rent within the means of a low- or moderate-income household as defined in N.J.A.C. 5:97-9; in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.

"Affordable development" means a housing development all or a portion of which consists of restricted units.

"Affordable housing development" means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable development.

"Affordable housing overlay district" or "Overlay District" means the geographic area designated in Section 560-48(D)(1) below.

"Affordable housing program(s)" means any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality's fair share obligation.

"Affordable unit" means a housing unit proposed or created pursuant to the Act, credited pursuant to N.J.A.C. 5:97-4, and/or funded through an affordable housing trust fund.

"Agency" means the New Jersey Housing and Mortgage Finance Agency established by P.L. 1983, c. 530 (N.J.S.A. 55:14K-1, et seq.).

"Age-restricted unit" means a housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population such that: 1) all the residents of the development where the unit is situated are 62 years or older; or 2) at least 80 percent of the units are occupied by one person that is 55 years or older; or 3) the development has been designated by the Secretary of the U.S. Department of Housing and Urban Development as "housing for older persons" as defined in Section 807(b)(2) of the Fair Housing Act, 42 U.S.C. § 3607.

"Assisted living residence" means a facility licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed for four or more adult persons unrelated to the proprietor and that offers units containing, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

"Certified household" means a household that has been certified by an Administrative Agent as a low-income household or moderate-income household.

"The Department" means the Department of Community Affairs of the State of New Jersey, that was established under the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.).

"DCA" means the State of New Jersey Department of Community Affairs.

"Deficient housing unit" means a housing unit with health and safety code violations that require the repair or replacement of a major system. A major system includes weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and/or load bearing structural systems.

"Developer" means any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land proposed to be included in a proposed development including the holder of an option to contract or purchase, or other person having an enforceable proprietary interest in such land.

"Development" means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change in the use of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1 et seq.

"Inclusionary development" means a development containing both affordable units and market rate units. Inclusionary developments must have a twenty percent set aside of affordable units if the development has five or more units. This term includes, but is not necessarily limited to: new construction, the conversion of a non-residential structure to residential and the creation of new affordable units through the reconstruction of a vacant residential structure.

"Low-income household" means a household with a total gross annual household income equal to 50 percent or less of the median household income.

"Low-income unit" means a restricted unit that is affordable to a low-income household.

"Major system" means the primary structural, mechanical, plumbing, electrical, fire protection, or occupant service components of a building which include but are not limited to, weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement or load bearing structural systems.

"Market-rate units" means housing not restricted to low- and moderate-income households that may sell or rent at any price.

"Median income" means the median income by household size for the applicable county, as adopted annually by the Department.

"Moderate-income household" means a household with a total gross annual household income in excess of 50 percent but less than 80 percent of the median household income.

"Moderate-income unit" means a restricted unit that is affordable to a moderate-income household.

"Non-exempt sale" means any sale or transfer of ownership other than the transfer of ownership between husband and wife; the transfer of ownership between former spouses ordered as a result of a judicial decree of divorce or judicial separation, but not including sales to third parties; the transfer of ownership between family members as a result of inheritance; the transfer of ownership through an executor's deed to a class A beneficiary and the transfer of ownership by court order.

"Random selection process" means a process by which currently income-eligible households are selected for placement in affordable housing units such that no preference is given to one applicant over another except for purposes of matching household income and size with an appropriately priced and sized affordable unit (e.g., by lottery).

"Regional asset limit" means the maximum housing value in each housing region affordable to a four-person household with an income at 80 percent of the regional median as defined by the Department's adopted Regional Income Limits published annually by the Department.

"Rehabilitation" means the repair, renovation, alteration or reconstruction of any building or structure, pursuant to the Rehabilitation Subcode, N.J.A.C. 5:23-6.

"Rent" means the gross monthly cost of a rental unit to the tenant, including the rent paid to the landlord, as well as an allowance for tenant-paid utilities computed in accordance with allowances published by DCA for its Section 8 program. In assisted living residences, rent does not include charges for food and services.

"Restricted unit" means a dwelling unit, whether a rental unit or ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, as may be amended and supplemented, but does not include a market-rate unit financed under UHOP or MONI.

"UHAC" means the Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26.1 et seq.

"Very low-income household" means a household with a total gross annual household income equal to 30 percent or less of the median household income.

"Very low-income unit" means a restricted unit that is affordable to a very low-income household.

"Weatherization" means building insulation (for attic, exterior walls and crawl space), siding to improve energy efficiency, replacement storm windows, replacement storm doors, replacement windows and replacement doors, and is considered a major system for rehabilitation.

C. Affordable Housing Programs. The Borough of Stone Harbor will use the following mechanisms to satisfy its affordable housing obligations:

1. A Rehabilitation program.

(a) The Borough of Stone Harbor and Fair Share Housing Center have agreed upon a rehabilitation program of three (3) units. To satisfy this obligation, the Borough shall either (i) participate in the Cape May County Affordable Housing Program; or (ii) establish and implement its own Rehabilitation Program.

(b) The Borough of Stone Harbor shall dedicate an average of \$8,000 hard costs and \$2,000 administrative costs, totally \$10,000 on average for each unit to be rehabilitated through this program.

(c) If the Borough chooses to establish and implement its own Rehabilitation Program, it shall designate an Administrative Agent to administer said program in accordance with N.J.A.C. 5:91 and N.J.A.C. 5:93. The Administrative Agent shall provide a rehabilitation manual for the owner-occupancy rehabilitation program to be adopted by resolution of the governing body and subject to approval of the Court. Said rehabilitation manual shall be available for public inspection in the Office of the Municipal Clerk and in the office of the Administrative Agent.

2. Percentage of Mandatory Set Asides for All Future Residential Developments.

(a) If the Borough permits the construction of multi-family or single-family attached residential development that is "approvable" and "developable," as defined at N.J.A.C. 5:93-1.3, at a gross residential density of 6 units to the acre or more, the Borough shall require that an appropriate percentage of the residential units be set aside for low and moderate income households. This requirement shall apply to any multi-family or single-family attached residential development, including the residential portion of a mixed-use project, which consists of five (5) or more new residential units, whether permitted by a zoning amendment, a variance granted by the Borough's Land Use Board, or adoption of a Redevelopment Plan or amended Redevelopment Plan in areas in need of redevelopment or rehabilitation. For any such development for which the Borough's land use ordinances (e.g. zoning or an adopted Redevelopment Plan) already permitted residential development as of the effective date of this Agreement, this requirement shall only apply if the Borough permits an increase in approvable and developable gross residential density to at least twice the permitted approvable and developable gross residential density as of the effective date of this Agreement. Nothing in this paragraph precludes the Borough from imposing an affordable housing set aside in a development not required to have a set-aside pursuant to this paragraph consistent with N.J.S.A. 52:27D-311(h) and other applicable law. For inclusionary projects in which the low and moderate income units are to be offered for sale, the appropriate set-aside percentage is 20 percent; for projects in which the low and moderate income units are to be offered for rent, the appropriate set-aside percentage is 15 percent. This requirement does not create any entitlement for a property owner or applicant for a zoning amendment, variance, or adoption of a Redevelopment Plan or amended Redevelopment Plan in areas in need of redevelopment or rehabilitation, or for approval of any particular proposed project. This requirement does not apply to any sites or specific zones otherwise identified in the Settlement Agreement or Fair Share Plan, for which density and set-aside standards shall be governed by the specific standards set forth therein.

(b) Furthermore, this section shall not apply to developments containing four (4) or less dwelling units. All subdivision and site plan approvals of qualifying residential developments shall be conditioned upon compliance with the provisions of this section. Where a developer demolishes existing dwelling units and

builds new dwelling units on the same site, the provisions of this section shall apply only if the net number of dwelling units is five (5) or more.

3. Phasing. Inclusionary developments shall be subject to the following schedule, except where an alternate phasing schedule has been incorporated into a development or redevelopment agreement:

Minimum Percentage of Low- and Moderate-Income Units Completed	Maximum Percentage of Market-Rate Units Completed
0	25
10	25 + 1 Unit
75	75
100	90

4. Fractional Units. If 20 percent of the total number of units in a development results in a fraction or decimal, the developer shall be required to provide an additional affordable unit on site. *Example: an 8-unit development requiring an affordable housing set-aside of 1.6 units is proposed. The developer is required to provide two on-site affordable units.*

5. Design. In inclusionary developments, low- and moderate-income units shall be integrated with the market units.

6. Payments-in-lieu and off-site construction. The standards for the collection of Payments-in-Lieu of constructing affordable units or standards for constructing affordable units off-site, shall be in accordance with N.J.A.C. 5:93-8 and the Borough's Affordable Housing Development Fee ordinance.

7. Utilities. Affordable units shall utilize the same type of heating source as market units within the affordable development

D. Affordable Housing Overlay District.

1. An Affordable Housing Overlay District is hereby created, which District shall consist of all properties that are located within the Business District between 93rd Street and 99th Street.

2. Development in the Overlay District shall be subject to the bulk regulations set forth in Section 560-18, except as set forth in this Section 560-48.

3. Affordable housing units shall be permitted in the Overlay District as second (2nd) and third (3rd) floor residential accessory apartments, subject to the following regulations:

(a) Construction in excess of the story and height limitations set forth in Section 560-18 shall require not less than twenty (20%) percent of all for-sale residential units and not less than fifteen (15%) percent of all rental units to be designated as affordable housing units.

(b) The first floor of any building in which affordable housing units exist on the second and third floor shall be operated as a commercial use in accordance with Section 560-18;

(c) Structures housing third floor Affordable Housing Units shall be subject to the following supplemental bulk regulations, which shall control in the event of a conflict with Section 560-18:

- i. Maximum stories: three (3)
- ii. Maximum building height: forty-two (42') feet from top of curb

- iii. Minimum lot area: 4,000 square feet
- iv. Minimum front yard setback:
First and Second Floors: as per §560-18
Third Floor: Ten (10') feet, provided that a railing measuring up to forty-two (42") inches above a third-floor exterior deck shall be subject the minimum front yard setback set forth in §560-18.
- v. Minimum side yard setback: zero (0')
- vi. Minimum rear yard setback: zero (0')
- vii. Affordable housing unit gross floor area (min): 650 sq. ft.
- viii. Affordable housing unit parking: zero (0) spaces

E. Multi-family Residential Set Aside Requirements:

1. All newly constructed multi-family residential developments of five (5) units or more, whether located within or outside in the Affordable Housing Overlay District, shall be required to set aside a percentage of the units as affordable housing as follows:

(a) The set aside for rental developments shall be fifteen (15%) percent of the total units;

(b) The set aside for for-sale developments shall be twenty (20%) percent of the total units.

2. The provisions of this 560-48(E) shall not apply to residential expansions, additions, renovations, replacement, or any other type of residential development that does not result in a net increase in the number of dwelling units by five (5) or more.

F. Accessory Apartments: Accessory apartments are permitted within or outside the Affordable Housing Overlay District, subject to the following regulations:

1. Accessory apartments shall be permitted in a principal building or in an existing permitted accessory building, such as a barn or garage, which principal or accessory structure may be expanded in order to create affordable housing units.

2. No more than ten (10) accessory apartments shall be permitted within the Borough pursuant to this Section 560-48(F);

3. Not less than five (5) accessory apartments approved pursuant to this Section 560-48(F) shall be designated as low-income units, of which one (1) unit will be required to be deed restricted for a very low-income household.

G. New Construction Requirements. The following general guidelines apply to all newly constructed developments that contain low-and moderate-income housing units, including any currently unanticipated future developments that will provide low- and moderate-income housing units.

1. Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:

(a) The fair share obligation shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low income unit.

(b) In each affordable development, at least 50 percent of the restricted units within each bedroom distribution shall be low-income units. If there is only one affordable unit it must be a low income unit.

(c) Thirteen percent (13%) of all affordable units in the Borough shall be designated as very-low income households at 30% of the median income, with at least fifty percent (50%) of all very-low income units being available to families. If an inclusionary development proposes less than 10 total units, a payment in lieu of a very low income unit shall be deposited into the Borough's Affordable Housing Trust Fund based

on the difference in cost between providing a very low income unit and the region's affordability average. Inclusionary developments of 10 or more total units shall be required to provide a minimum of one very low income unit (10%). Very-low income units shall be considered low-income units for the purposes of evaluating compliance with the required low/moderate income unit splits, bedroom distribution, and phasing requirements of this ordinance.

(d) Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:

i. The combined number of efficiency and one-bedroom units shall be no greater than 20 percent of the total low- and moderate-income units.

ii. At least 30 percent of all low- and moderate-income units shall be two bedroom units;

iii. At least 20 percent of all low- and moderate-income units shall be three bedroom units; and

iv. The remaining units may be allocated among two and three bedroom units at the discretion of the developer.

(e) Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the inclusionary development. The standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.

2. Accessibility Requirements:

(a) The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.

(b) All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:

i. An adaptable toilet and bathing facility on the first floor;

ii. An adaptable kitchen on the first floor;

iii. An interior accessible route of travel on the first floor;

iv. An interior accessible route of travel shall not be required between stories within an individual unit;

v. An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and

vi. An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7, or evidence that the Borough of Stone Harbor has collected funds from the developer sufficient to make ten percent (10%) of the adaptable entrances in the development accessible:

a. Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.

b. To this end, the builder of restricted units shall deposit funds within the Borough's Affordable Housing Trust Fund sufficient to install accessible entrances in ten percent (10%) of the affordable units that have been constructed with adaptable entrances.

c. The funds deposited under paragraph B. above shall be used by the Borough of Stone Harbor for the sole purpose of making the adaptable entrance of any affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.

d. The developer of the restricted units shall submit a design plan and cost estimate for the conversion from adaptable to accessible entrances to the Construction Official of the Borough.

e. Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Borough's affordable housing trust fund where the funds shall be deposited into the affordable housing trust fund and appropriately earmarked.

f. Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is site impracticable to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free Subcode, N.J.A.C. 5:23-7.

(c) Maximum Rents and Sales Prices.

i. In establishing rents and sales prices of affordable housing units, the administrative agent shall follow the procedures set forth in UHAC utilizing the regional income limits established by the New Jersey Department of Community Affairs (DCA) or other agency as required by the Court.

ii. The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60 percent of median income, and the average rent for restricted low- and moderate-income units shall be affordable to households earning no more than 52 percent of median income.

iii. The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units.

iv. At least thirteen percent (13%) of all low- and moderate-income dwelling units shall be affordable to households earning no more than 30 percent of median income.

v. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70 percent of median income, and each affordable development must achieve an affordability average of 55 percent for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different prices for each bedroom type, and low-income ownership units must be available for at least two different prices for each bedroom type.

vi. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units other than assisted living facilities, the following standards shall be used:

- | | |
|---|--|
| household; | a. A studio shall be affordable to a one-person |
| one and one-half person household; | b. A one-bedroom unit shall be affordable to a |
| three-person household; | c. A two-bedroom unit shall be affordable to a |
| four and one-half person household; and | d. A three-bedroom unit shall be affordable to a |
| six-person household. | e. A four-bedroom unit shall be affordable to a |

vii. In determining the initial rents for compliance with the affordability average requirements for restricted units in assisted living facilities, the following standards shall be used:

- household;
- a. A studio shall be affordable to a one-person household;
 - b. A one-bedroom unit shall be affordable to a one and one-half person household; and
 - c. A two-bedroom unit shall be affordable to a two-person household or to two one-person households.

viii. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95 percent of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28 percent of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.

ix. The initial rent for a restricted rental unit shall be calculated so as not to exceed 30 percent of the eligible monthly income of the appropriate household size as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.

x. The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.

xi. The rent of low- and moderate-income units may be increased annually based on the percentage increase in the Housing Consumer Price Index for the United States. This increase shall not exceed nine percent in any one year. Rents for units constructed pursuant to low- income housing tax credit regulations shall be indexed pursuant to the regulations governing low- income housing tax credits.

xii. Utilities. Tenant-paid utilities that are included in the utility allowance shall be so stated in the lease and shall be consistent with the utility allowance approved by DCA for its Section 8 program.

H. Affirmative Marketing Requirements.

1. The Borough of Stone Harbor shall adopt by resolution an Affirmative Marketing Plan, subject to approval of the Court, compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.

2. The affirmative marketing plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The affirmative marketing plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward Housing Region 4 and covers the period of deed restriction.

3. The affirmative marketing plan shall provide a regional preference for all households that live and/or work in Housing Region 4.

4. The Administrative Agent designated by the Borough of Stone Harbor shall assure the affirmative marketing of all affordable units consistent with the Affirmative Marketing Plan for the municipality.

5. In implementing the affirmative marketing plan, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants

on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

6. The affirmative marketing process for available affordable units shall begin at least four months prior to the expected date of occupancy.

7. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner, unless otherwise determined or agreed to by the Borough.

I. Occupancy Standards.

1. In referring certified households to specific restricted units, to the extent feasible, and without causing an undue delay in occupying the unit, the Administrative Agent shall strive to:

- (a) Provide an occupant for each bedroom;
 - (b) Provide children of different sex with separate bedrooms;
- and
- (c) Prevent more than two persons from occupying a single bedroom.

2. Additional provisions related to occupancy standards (if any) shall be provided in the municipal Operating Manual.

J. Control Periods for Restricted Ownership Units and Enforcement Mechanisms.

1. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this Ordinance until the Borough of Stone Harbor elects to release the unit from such requirements however, and prior to such an election, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented, for at least 30 years.

2. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.

3. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the administrative agent shall determine the restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value.

4. At the time of the first sale of the unit, the purchaser shall execute and deliver to the Administrative Agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first non-exempt sale after the unit's release from the requirements of this Ordinance, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.

5. The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.

6. A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit meets all code standards upon the first transfer of title that follows the expiration of the applicable minimum control period provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

K. Price Restrictions for Restricted Ownership Units, Homeowners Association Fees and Resale Prices. Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, including.

1. The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.

2. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.

3. The method used to determine the condominium association fee amounts and special assessments shall be indistinguishable between the low- and moderate-income unit owners and the market unit owners.

4. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom

L. Buyer Income Eligibility.

1. Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50 percent of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80 percent of median income.

2. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33 percent of the household's certified monthly income.

M. Limitations on indebtedness secured by ownership unit; subordination.

1. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the administrative agent shall determine in writing that the proposed indebtedness complies with the provisions of this section.

2. With the exception of original purchase money mortgages, during a control period neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95 percent of the maximum allowable resale price of that unit, as such price is determined by the administrative agent in accordance with N.J.A.C. 5:80-26.6(b).

N. Section 11. Control Periods for Restricted Rental Units.

1. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Ordinance until the Borough of Stone Harbor elects to release the unit from such requirements pursuant to action taken in compliance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, and prior to such an election, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented, for at least 30 years.

2. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Cape May. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.

3. A restricted rental unit shall remain subject to the affordability controls of this Ordinance, despite the occurrence of any of the following events;

- (a) Sublease or assignment of the lease of the unit;
- (b) Sale or other voluntary transfer of the ownership of the unit;
- or
- (c) The entry and enforcement of any judgment of foreclosure.

O. Price Restrictions for Rental Units; Leases.

1. A written lease shall be required for all restricted rental units, except for units in an assisted living residence, and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the Administrative Agent.

2. No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.

3. Application fees (including the charge for any credit check) shall not exceed five percent of the monthly rent of the applicable restricted unit and shall be payable to the Administrative Agent to be applied to the costs of administering the controls applicable to the unit as set forth in this Ordinance.

P. Tenant Income Eligibility.

1. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:

(a) Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30 percent of median income.

(b) Low-income rental units shall be reserved for households with a gross household income less than or equal to 50 percent of median income.

(c) Moderate-income rental units shall be reserved for households with a gross household income less than 80 percent of median income.

2. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35 percent (40 percent for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:

(a) The household currently pays more than 35 percent (40 percent for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;

(b) The household has consistently paid more than 35 percent (40 percent for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;

(c) The household is currently in substandard or overcrowded living conditions;

(d) The household documents the existence of assets with which the household proposes to supplement the rent payments; or

(e) The household documents proposed third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.

3. The applicant shall file documentation sufficient to establish the existence of the circumstances in (b) 1 through 5 above with the Administrative Agent, who shall counsel the household on budgeting.

Q. Administration.

1. The position of Municipal Housing Liaison (MHL) for the Borough of Stone Harbor is established by this ordinance. The Borough shall make the actual appointment of the MHL by means of a resolution.

(a) The MHL must be either a full-time or part-time employee of Stone Harbor.

(b) The person appointed as the MHL must be reported to the Court and thereafter posted on the Borough's website.

(c) The MHL must meet all the requirements for qualifications, including initial and periodic training.

(d) The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Borough of Stone Harbor, including the following responsibilities which may not be contracted out to the Administrative Agent:

i. Serving as the municipality's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;

ii. The implementation of the Affirmative Marketing Plan and affordability controls.

iii. When applicable, supervising any contracting Administrative Agent.

iv. Monitoring the status of all restricted units in the Borough's Fair Share Plan;

v. Compiling, verifying and submitting annual reports as required;

vi. Coordinating meetings with affordable housing providers and Administrative Agents, as applicable; and

vii. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered or approved by the Affordable Housing Professionals of New Jersey (AHPNJ).

2. The Borough of Stone Harbor shall designate by resolution of the Borough Council, subject to the approval of the Court, one or more Administrative Agents to administer newly constructed affordable units in accordance with N.J.A.C. 5:91, N.J.A.C. 5:93 and UHAC.

3. An Operating Manual shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body. The Operating Manuals shall be available for public inspection in the Office of the Municipal Clerk and in the office(s) of the Administrative Agent(s).

4. The Administrative Agent shall perform the duties and responsibilities of an administrative agent as are set forth in UHAC, including those set forth in N.J.A.C. 5:80-26.14, 16 and 18 thereof, which includes:

(a) Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by the Affordable Housing Professionals of New Jersey (AHPNJ);

(b) Affirmative Marketing;

(c) Household Certification;

(d) Affordability Controls;

(e) Records retention;

(f) Resale and re-rental;

(g) Processing requests from unit owners; and

(h) Enforcement, though the ultimate responsibility for retaining controls on the units rests with the municipality.

(i) The Administrative Agent shall have authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.

5. The fees of the Administrative Agent shall be paid by the owners for the affordable units for which the services of the Administrative Agent are required.

R. Enforcement of Affordable Housing Regulations.

1. Upon the occurrence of a breach of any of the regulations governing the affordable unit by an Owner, Developer or Tenant the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, municipal fines, a requirement for household recertification, acceleration of all sums due under a mortgage, recoupment of any funds from a sale in the violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.

2. After providing written notice of a violation to an Owner, Developer or Tenant of a low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the municipality may take the following action against the Owner, Developer or Tenant for any violation that remains uncured for a period of 60 days after service of the written notice:

(a) The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation, or violations, of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is found by the court to have violated any provision of the regulations governing affordable housing units the Owner, Developer or Tenant shall be subject to one or more of the following penalties, at the discretion of the court:

i. A fine of not more than \$10,000.00 or imprisonment for a period not to exceed 90 days, or both. Each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not as a continuing offense;

ii. In the case of an Owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Borough of Stone Harbor Affordable Housing Trust Fund of the gross amount of rent illegally collected;

iii. In the case of an Owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the court.

(b) The municipality may file a court action in the Superior Court seeking a judgment, which would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any judgment shall be enforceable as if the same were a judgment of default of the First Purchase Money Mortgage and shall constitute a lien against the low- and moderate-income unit.

3. Such judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating Owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating Owner shall have the right to possession terminated as well as the title conveyed pursuant to the Sheriff's sale.

4. The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating Owner shall be personally responsible for and to the extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any,

shall be placed in escrow by the municipality for the Owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the Owner shall make a claim with the municipality for such. Failure of the Owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the Owner or forfeited to the municipality.

5. Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.

6. If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the municipality may acquire title to the low- and moderate-income unit by satisfying the First Purchase Money Mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the First Purchase Money Mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.

7. Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the Owner to accept an offer to purchase from any qualified purchaser which may be referred to the Owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.

8. The Owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the Owner

S. Appeals. Appeals from all decisions of an Administrative Agent designated pursuant to this Ordinance shall be filed with the Superior Court of New Jersey, Cape May County.

Section 7. 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 8. 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 9. This Ordinance shall take effect twenty (20) days after final passage and publication as provided by law.

APPROVED:

Judith Davies-Dunhour, Mayor

ATTEST:

Suzanne C. Stanford, Borough Clerk

12

**AN ORDINANCE AMENDING CHAPTER V OF THE REVISED GENERAL ORDINANCES OF THE
BOROUGH OF STONE HARBOR, 2005**

ORDINANCE NO. 1534

(REGULATION OF UNMANNED AIRCRAFT)

ARTICLE V

405.12 Purpose and Intent

The operation of unmanned aircraft such as model aircraft and civil unmanned aircraft systems, commonly known as drones, can at times pose a hazard to full-scale aircraft in flight and to persons and property on the ground. Imposing community-based safety requirements on the operation of model aircraft and imposing restrictions on the operation of both model aircraft and civil unmanned aircraft systems consistent with federal aviation rules and state law is necessary to mitigate such risks and to protect the public from the hazards associated with the operation of unmanned aircraft.

405.13 Definitions.

For purposes of this chapter:

(a) "Civil unmanned aircraft system" shall mean an unmanned aircraft or unmanned aircraft system operated by any person for any purposes other than strictly hobby or recreational purposes, including, but not limited to, commercial purposes or in furtherance of, or incidental to, any business or media service or agency.

(b) "Emergency responder" shall mean any person who is an officer, employee, or member of a fire department or fire protection or firefighting agency of the federal government, the state of New Jersey, a Borough, county, district, or other public or municipal corporation or political subdivision of this state, or of a sheriff's department, police department, marine safety department, or a private fire department, or of a disaster medical response entity sponsored or requested by this state, whether that person is a volunteer or partly paid or fully paid, while he or she is actually engaged in providing emergency services.

(c) "Model aircraft" shall mean an unmanned aircraft or unmanned aircraft system operated by any person strictly for hobby or recreational purposes.

(d) "Person" shall mean any natural person, corporation, company, firm, association, organization, copartnership, joint venture, trust, business trust, syndicate, estate, receiver, society, club, fraternal organization, any group or combination acting as a unit, and officer, agent, employee and servant of any of the foregoing.

(e) "Public unmanned aircraft system" shall mean an unmanned aircraft or unmanned aircraft system operated by any public agency for government related purposes.

(f) "Unmanned aircraft" shall mean an aircraft, including, but not limited to, an aircraft commonly known as a drone, that is operated without the possibility of direct human intervention from within or on the aircraft.

(g) "Unmanned aircraft system" shall mean an unmanned aircraft and associated elements, including, but not limited to, any communication links and components that control the unmanned aircraft.

405.14 Use of unmanned aircraft for filming or still photography production.

No person shall use an unmanned aircraft within borough limits to engage in the business or the activity of filming, still photography production, taking or producing motion pictures on movie film or electronic video tape for educational, entertainment or other commercial purposes without first obtaining a permit pursuant to the appropriate federal, state, and municipal authorities.

405.15 Operational requirements.

The following shall apply to the operation of any model aircraft or civil unmanned aircraft system within borough boundaries:

- (a) No person shall operate any model aircraft or civil unmanned aircraft system in a manner that is prohibited by any federal statute or regulation governing aeronautics.
- (b) No person shall operate any model aircraft or civil unmanned aircraft system in violation of any temporary flight restriction or notice to airmen issued by the Federal Aviation Administration.
- (c) No person shall operate any model aircraft or civil unmanned aircraft system in a careless or reckless manner so as to endanger the life or property of another. The standard for what constitutes careless and reckless operation under this subsection shall be the same as the standard set forth in any federal statutes or regulations governing aeronautics, including but not limited to Federal Aviation Rule 91.13.
- (d) No person shall operate any model aircraft or civil unmanned aircraft system to capture, record or transmit any visual image or audio recording of any person or private real property located in the borough under circumstances in which the subject person or owner of the subject real property has a reasonable expectation of privacy (including, but not limited to, inside a residence, inside a private office, and inside a hotel room). This provision is intended to supplement, rather than duplicate, the prohibition against trespassing into the air space above the land of another person in order to capture any type of visual image or sound recording of a person engaging in a private, personal, or familial activity in a manner that is offensive to a reasonable person, pursuant to .
- (e) No person shall operate any model aircraft or civil unmanned aircraft system in a manner designed, intended or which serves to harass, stalk, vex, annoy, disturb, frighten, intimidate, injure, threaten, victimize or place in extreme mental or emotional distress any particular person, whether that person is located on public or private property. The conduct described in this subsection includes, but is not limited to, using a model aircraft or civil unmanned aircraft system to follow and film, video-record, live-stream or photograph a person who has not consented to such activity.
- (f) No person shall operate any model aircraft or civil unmanned aircraft system within the airspace overlaying any Open Space or Recreation/playground, or a Borough beach (with the exception of over the ocean), without a valid Remote Pilot Certificate (RPC) issued by the FAA pursuant to 14 C.F.R. Part 107. An operator may present a copy of his or her RPC to the borough, along with other information, on forms provided by the Borough of Stone Harbor police department.
- (g) No person shall operate any model aircraft or civil unmanned aircraft system within the airspace overlaying any Borough owned buildings' including but not limited to Borough Hall, Borough police station, Borough Fire Station, Public Works Building and Yard and Borough Pump Stations.
- (h) No person shall operate any model aircraft or civil unmanned aircraft system in a manner that interferes with a parade or motorcade.
- (i) No person shall operate any model aircraft or civil unmanned aircraft system in a manner that interferes with the operation, support, or enabling of emergency services by an emergency responder.
- (j) No person shall operate any model aircraft or civil unmanned aircraft system which contains, or has affixed or attached to it, a weapon, gun, firearm, handgun, rifle, bb device, assault weapon, bomb, grenade, rocket, rocket-propelled projectile, any device or container assembled for the purpose of causing an explosion, or any other weapon.
- (k) No person shall use any model aircraft or civil unmanned aircraft system for the purposes of molesting any wildlife.

(l) No person shall operate any model aircraft or civil unmanned aircraft system within the airspace overlaying the environmentally sensitive area known as "Stone Harbor Point".

405-16 Exemption for Borough use.

This chapter shall not apply to an unmanned aircraft that is operated by or on behalf of the Borough in compliance with all federal laws and regulations and applicable Borough policies.

405.17 Violations.

Violations of this chapter may be enforced by any means available to the Borough, including, but not limited to, criminal enforcement, civil action, and administrative citation.

- (a) A person who violates this ordinance shall be subject to a penalty of not more than five hundred (\$500.00) dollars for the first offense and not more than one thousand (\$1,000.00) dollars and/or imprisonment not to exceed thirty (30) days, for each subsequent offense.

APPROVED:

Judith M. Davies-Dunhour, Mayor

ATTEST:

Suzanne C. Stanford, Borough Clerk

(3)

BOROUGH OF STONE HARBOR
COUNTY OF CAPE MAY, NEW JERSEY
ORDINANCE NO.1535

AN ORDINANCE to adopt the Amusement Games Licensing Law (Chapter 109, P.L. 1959) N.J.S.A. 5:8 – 78 et seq. providing for licensing of, the conduct, operation, location and playing of certain amusement games in the Borough of Stone Harbor, County of Cape May and State of New Jersey. Fixing the fees for said licenses, and providing penalties for the violation thereof.

The Borough Council of the Borough of Stone Harbor, in the County of Cape May and State of New Jersey, do ordain as follows:

Section 1 – It is hereby determined, declared and found that the Borough of Stone Harbor, in the County of Cape May and State of New Jersey constitutes a seashore resort with parts thereof customarily constituting an amusement or entertainment area according to the customary understanding of said terms in the community.

Section 2. It shall be unlawful for any person, firm or corporation to own or operate within the Borough of Stone Harbor any amusement game or games, as said terms are defined by said Amusement Game Licensing Law" (Chapter 109, P.L. 1959), whether said game or games are of skill or chance, or both, or whether said game or games be played and operated with or without numbers, names, symbols, without first having obtained a license from the Borough Council of the Borough of Stone Harbor to do so. Said license shall be issued pursuant to and subject to the provisions of "Amusement Games Licensing Law" (Chapter 109, P.L. 1959), and shall be limited to Permissible Amusement Games Certification No. 2 as provided by amusement games regulations issued by the Office of Amusement Games Control of the Department of Law and Public Safety of the State of New Jersey, and consisting of arcade games wherein a single player, upon payment of fee, is permitted to play a machine or device to obtain a prize or attain a score upon the basis of which a prize is awarded. No other game shall be permitted or licensed.

Section 3. Each applicant for such a license shall file with the Borough Clerk a written application, in such form as prescribed by and in accordance with said "Amusement Games Licensing Law" as amended and supplemented, and the rules and regulations promulgated by the Amusement Games Control Commissioner of the State of New Jersey.

Section 4. The fees for the type of licenses to be issued hereunder shall be \$200.00 for each 50 units or less. Said fees shall accompany the application for said licenses. In addition, each applicant shall pay a fee of \$2.00 for finger printing and issuance of identification cards under the rules and regulations promulgated by the Amusement Games Control Commissioner, for each licensee and each employee of said licenses.

Section 5. The Mayor and Council of the Borough of Stone Harbor shall have and exercise control and supervision over all amusement games held, operated or conducted under such licenses, with all the powers authorized or granted to it under the "Amusement Games Licensing Law" and the amendments and supplements thereto and the rules and regulations of the State Amusement Games Control Commissioner.

Section 6. In the event that any license shall violate any of the provisions of this Ordinance or of the "Amusement Games Licensing Law", as amended and supplemented, or the rules and regulations promulgated heretofore and hereafter by the State Commissioner of Amusement Games Control, or the terms of such license, disciplinary proceedings shall be held before the Borough Council of the Borough of Stone Harbor as provided by the rules and regulations promulgated heretofore and hereafter by the State Commissioner of Amusement Games Control. After a hearing pursuant to said rules and regulations, the Mayor and Council may suspend or revoke the license on the charges for proper cause, or may dismiss the charges.

Section 7. In the event any licensee shall violate any of the provisions of this Ordinance of the "Amusement Games Licensing Law" or the rules and regulations promulgated by the State Amusement Control Commissioner, for the terms of such license, such licensee shall be a disorderly person, and if convicted as such, shall in addition to suffering any other penalties which may be imposed, forfeit any license issued to said licenses under this Ordinance.

Section 8. Any person, firm or corporation violating any of the provisions of this Ordinance, shall upon conviction by subject by the Municipal Court of the Borough of Stone Harbor to a penalty not to exceed

\$200.00, or imprisonment not to exceed 90 days, or both, in the discretion of the Municipal Court and the same shall be in addition to the powers of suspension or revocation of any such license as provided for herein by the Borough Council of the Borough of Stone Harbor.

Section 9. If any section, paragraph, clause or provisions of this Ordinance shall be judged invalid by a court of competent jurisdiction, such adjudication shall apply only to this section, paragraph, clause or provisions so adjudged, and the remainder of this Ordinance shall be deemed valid and effective.

Section 10. All other ordinances or parts thereof inconsistent herewith are hereby repealed, by only to the extent of such inconsistencies.

Section 11. This Ordinance shall take effect immediately upon its final passage and publication in accordance with law.

APPROVED:

Judith M. Davies-Dunhour, Mayor

ATTEST:

Suzanne C. Stanford, Borough Clerk

(4)

BOROUGH OF STONE HARBOR
COUNTY OF CAPE MAY, NEW JERSEY

ORDINANCE NO.

AN ORDINANCE AMENDING ORDINANCE 1524 – PERTAINING TO ENVIRONMENTALLY ACCEPTABLE PACKAGING AND PRODUCT.

19.-01 DEFINITIONS

(n) Reusable carryout bag” means a carryout bag that is specifically designed and manufactured for multiple reuse, and meets the following criteria:

(1) displays in a highly visible manner on the bag exterior, language describing the bag’s ability to be reused and recycled;

2. has a handle;

3. is constructed out of any of the following materials:

a. Cloth, other washable fabric, or other durable materials whether woven or non-woven; or

b. 100% recycled PET Plastic and recyclable

c. has a minimum lifetime of 125 uses, which for purposes of this subsection, means the capability of carrying a minimum of 22 pounds 125 times over a distance of at least 175 feet.

19.02 SINGLE-USE CARRYOUT BAGS

c. Any Business Establishment providing single use carry out bags shall use reusable bags or paper bags made from a minimum of ~~40%~~ 80% post-consumer recycled content.

APPROVED:

Judith M. Davies-Dunhour, Mayor

ATTEST:

Suzanne C. Stanford, Borough Clerk

(5)

BOROUGH OF STONE HARBOR
CAPE MAY COUNTY

ORDINANCE NO.

An Ordinance establishing and fixing salary ranges for certain positions within the Borough of Stone Harbor, New Jersey, County of Cape May.

BE IT ORDAINED by the Members of Council of the Borough of Stone Harbor, in the County of Cape May and State of New Jersey as follows:

Section 1. That the salary and wage ranges for certain positions within the Borough of Stone Harbor for the year 2018 and 2019 are hereby fixed at the following amounts:

	<u>MIN</u>	<u>MAX</u>
Administrator	90,000	150,000
Police Chief	90,000	150,000
Police Captain	68,000	120,000
Director of Public Works	57,000	95,000
Water Plant Operator	3,000	6,000
Collector System Operator	2,500	5,000
Supervisor, Public Works	40,000	64,000
Administrative Assistant	30,000	60,000
Director of Finance/Chief Financial Officer	68,000	115,000
Payroll Coordinator	15,000	30,000
Tax/Utility Collector	48,000	80,000
Tax/Utilities Collector Clerk	25,000	45,000
Deputy/Assistant Tax Collector	25,000	50,000
Accounting Assistant	40,000	64,000
Tax Assessor	28,000	80,000
Deputy Tax Assessor	1,000	5,000
Borough Clerk	57,000	115,000
Deputy Borough Clerk	40,000	64,000
U.C.C. Official	57,000	95,000
Zoning Officer	20,000	40,000
Code Enforcement	20,000	40,000
Tech Ass't UCC Official	20,000	45,500
U.F.C. Official	48,000	80,000
U.F.C. Inspector Full Time/EMT	25,000	45,500
U.F.C Inspector Part Time	13/hr	18/hr
Plumbing Subcode Official	2,600	15,000
Electrical Subcode Official	15,000	22,000
Fire Subcode Official	2,600	7,800
Fire/Plumbing Inspectors part time	2,600	6,600
OEM Coordinator	4,000	8,000
Senior Deputy OEM Coordinator	3,000	8,000
Building Inspector	5,000	15,000
Receptionist	15,000	35,000
Safety/Right to Know Officer	1,000	6,000
Claims Coordinator	3,000	5,000
Recreation Director	40,000	50,000
Tourism/Special Events Director	50,000	60,000

	MIN	MAX
Recreation Manager	25,000	35,000
Prosecutor	15,000	20,400
Court Administrator	48,000	80,000
Deputy Court Administrator	30,000	45,000
Judge	25,000	35,000
Lifeguard Captain	17,000	38,000
Lifeguard Lieutenant	100.00/diem	200.00/diem
Lifeguard	75.00/diem	150.00/diem
Lifeguard Bonus	6.00/diem	10.00 diem
Beach Taggers	8.38/hr	18.00/hr
Secretary/Clerk	20,000	36,000
Clerk/Typist	20,000	36,000
Mayor		14,350
Plus \$150.00 for each approved wedding or civil union		
Council members		10,250
Hourly rated employees	minimum wage	40.00/hr
Beach Tag Supervisor	11,000	20,000
Zoning Board Secretary	1,500	3,000
Planning Board Secretary	200	350 per meeting
Planning Board Employee Rep	1,200	2,000
Zoning Officer		200 per meeting
WEB Administrator	500	2,000
Recycling Coordinator	500	2,000

Section 2. That Salaries, wages and compensation shall be paid in equal bi-weekly installments.

Section 3. This Ordinance shall become effective within the time prescribed by law and shall become void immediately after December 31, 2019.

APPROVED:

Judith M. Davies-Dunhour Mayor

ATTEST:

Suzanne C. Stanford, Borough Clerk

BOROUGH OF STONE HARBOR

CAPE MAY COUNTY, NEW JERSEY

(16)

RESOLUTION

Purchase 2019 Chevrolet Tahoe -- Police Department

WHEREAS, there is a need to purchase a new vehicle for the Police Department; and

WHEREAS, this vehicle can be purchased from Day Chevrolet, Inc. 2511 Fire Road, Suite B8, Egg Harbor Twp, N.J. 08234 through State Contract #A89938; and

WHEREAS, the maximum amount of the purchase is \$ 35,975.54 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 State contract in accordance with 40A:11-12 of the Local Public Contracts Law.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Stone Harbor, in the County of Cape May 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 with State Contract #A89938 for the purchase of the aforementioned Police Department vehicle.
3. That all Borough officers and/or employees required to approve said Purchase Order are hereby directed to do so forthwith.

Offered by Seconded by.....

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 theday of, 2018

Borough Clerk

The above resolution approved this day of....., 2018

Mayor

BOROUGH OF STONE HARBOR

CAPE MAY COUNTY, NEW JERSEY

RESOLUTION

(1)

Council Meeting: November 6, 2018

REFUND BUILDING SEWER REPLACEMENT COST

WHEREAS, GFY of Collier County 1, LLC applied for a 6" replacement building sewer costing \$969.00 which was paid by PPA Realty Group for the jobsite located at Block 96.04 Lot 119, A.K.A. 9815-9825 Third Ave; and

WHEREAS, during the installation the Utilities Department determined that they will utilize the 4" building sewer that is already stubbed into the property; and

WHEREAS, the Utilities Collector requests a refund to PPA Realty Group in the amount of \$969.00; and

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Stone Harbor, in the County of Cape May and State of New Jersey that a refund check in the amount of \$969.00 be issued to PPA Realty Group, 134 West Main Street, Leola PA 17540; and

BE IT FURTHER RESOLVED that the Tax/Utilities Collector make the proper adjustment in her records.

Offered by Seconded by.....

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 day of, 2018

The above resolution approved this day of....., 2018

Borough Clerk

Mayor

BOROUGH OF STONE HARBOR

CAPE MAY COUNTY, NEW JERSEY

(8)

RESOLUTION

WHEREAS, the Borough of Stone Harbor is currently under contract with R. Maxwell Construction Company, Inc. 206 W. Delilah Road, Pleasantville, N.J. 08232 for the 95th Street Bathroom Renovations, D & A Project # SH-C-003; and

WHEREAS, it is the recommendation of the Borough Engineer, Marc DeBlasio of DeBlasio & Associates to authorize Change Order No. 1 – reason for change – As requested by the Borough, replace the originally specified hand dryer and faucets with Dyson Air Blades, an increase of \$17,595.00.

Increase in Contract Amount .	\$ 17,595.00
Original Contract Amount	\$ 350,000.00
Amended Contract Amount	\$ 367,595.00

NOW, THEREFORE, BE IT RESOLVED, this 6th day of November, 2018 by the Borough Council of the Borough of Stone Harbor, in the County of Cape May, and the State of New Jersey, that the preamble of this Resolution is hereby incorporated by reference and that the aforementioned Change Order No. 1 – final be and hereby is authorized;

BE IT FURTHER RESOLVED that the Mayor and the Borough Clerk be and hereby are authorized to execute Change Order No. 1 to increase the contract value by \$ 17,595.00 for an amended contract amount of \$ 367,595.00.

Offered by Seconded by.....

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 theday of, 2018

The above resolution approved this day of....., 2018

Borough Clerk

.....
Mayor

(15)

BOROUGH OF STONE HARBOR

CAPE MAY COUNTY, NEW JERSEY

RESOLUTION

**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 of Stone Harbor 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 related to purchase, lease, sale or acquisition of real property with public funds.*
2. Possible Litigation/ Attorney-Client Privilege

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Stone Harbor, assembled in public session on November 6, 2018 that an Executive Session closed to the public shall be held on November 6, 2018 at or about 4:30 P.M. in the Borough Hall of the Borough of Stone Harbor, 9508 Second Avenue, Stone Harbor, New Jersey, for the discussion of matters relating to the specific items designated above.

Official action may be taken as a result of said executive session.

It is anticipated that, in accordance with law and in a timely manner, the deliberations conducted in closed session may be disclosed to the public upon the determination of the Borough Council that the public interest will no longer be served by such confidentiality.

Offered by Seconded by.....

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 day of, 2018

The above resolution approved this day of....., 2018

Borough Clerk

Mayor