

Walt

MEETING AT MUNICIPAL BUILDING, 9508 SECOND AVENUE
PRELIMINARY AGENDA FOR COUNCILMEMBERS

AGENDA REGULAR MEETING

TUESDAY June 2, 2020

ORDINANCE 1568 – Outdoor Dining 2nd 3rd and final (1) Krafczek
(as amended - adding while seated to G.) (1) Krafczek

Resolution – Shared Services – Avalon CFO (2) Parzych

Resolution –Refund Duplicate Tax Payment (3) Moore

Resolution – Shared Services Agreement Uniform Construction Code
Inspections – Conflict of Interest (4) Parzych

Resolution – Farmers Market Dates (new) June 21 – September 6, new fee
original \$500 for 16 weeks, new fee \$375 (5) Gensemer

Resolution – Refund Fire Inspection - \$150 (6) Dallahan

Resolution – Refund Art & Craft Show Vendor Fees – Various (7) Rich

DISCUSSION

Report – Mayor Davies-Dunhour

Report – Office of Emergency Management

(1)

BOROUGH OF STONE HARBOR
COUNTY OF CAPE MAY
STATE OF NEW JERSEY
ORDINANCE NO. 1568

AN ORDINANCE OF THE BOROUGH OF STONE HARBOR, COUNTY OF CAPE MAY, NEW JERSEY ESTABLISHING THE REGULATIONS AND PROCESS FOR OBTAINING AN OUTDOOR DINING LICENSE WITHIN THE BOROUGH OF STONE HARBOR

BE IT ORDINATED BY THE BOROUGH COUNCIL OF THE BOROUGH OF STONE HARBOR, COUNTY OF CAPE MAY, STATE OF NEW JERSEY, AS FOLLOWS:

Section 1a. Section 380 is created as follows:

§ 380 Outdoor Dining.

§ 380 - 1 Intent and purpose.

The intent and purpose of this chapter is to promote outdoor dining in the downtown business district to create a vibrant streetscape consistent with the surrounding landscapes and to provide unique dining experiences in the Borough. This chapter will outline the process for obtaining a license and standards with which to operate. Restaurants licensed in the Borough will be permitted to apply for an additional license to provide additional tables, chairs, and service in areas directly adjacent to the restaurant including portions of the right-of-way.

Outdoor dining with or without the service of or consumption of alcoholic beverages is permitted for businesses licensed to serve food in the downtown business district.

§ 380 - 2 Permitted Subject to Approval.

Outdoor dining shall be permitted provided that the dining establishment has complied with this section, obtained all appropriate licenses for service of food, and other approvals as may be required by the Borough Planning Board, Zoning Board, Zoning Official, Code Enforcement, Health Inspector, or any other Borough Official.

Should the dining establishment be adjacent to the County right-of-way then in addition to Borough approvals, all County approvals and requirements must be met prior to application for a license to the Zoning Officer pursuant to this chapter.

§ 380 - 3 No Grant of Property Rights.

The Borough reserves the right to amend, terminate, or repeal this chapter and accordingly no property rights are granted to any person, persons, or entities by virtue of this chapter. All persons or entities seeking to comply with this section are hereby given express notice that any expenditures of funds, or other costs in reliance on the provisions of this chapter shall be at their own expense. All persons or entities seeking to comply with this chapter are hereby given express notice that they bear the sole risk of loss for any expenditures and costs in the event this section is amended, terminated, or repealed. The foregoing reservations apply to the use of the County right-of-way.

§ 380 - 4 Outdoor Dining Design Standards.

Outdoor dining areas shall be designed and regulated as follows:

- A. The design of outdoor table, chairs, umbrellas, and all other outdoor personal property of the dining establishment shall be aesthetically consistent with the surrounding architecture. Tables, chairs, and umbrellas shall be of sufficient weight and material so as to not be affected by wind and weather.

- B. Additional signage or advertisements will not be permitted in the outdoor dining area. Signage previously approved shall remain unaffected.
- C. No table shall be greater thirty (30") inches by sixty (60") inches and shall seat no more than six (6) patrons at a sitting.
- D. The design and layout of the outdoor dining areas shall not cause any damage to Borough or County property, including any landscaping.
- E. The dining establishment will be responsible for maintaining the area surrounding the tables to the highest standards of cleanliness. No trash, bus trays, or other refuse will be permitted to be stored in the outdoor dining area.
- F. Dining establishments may begin seating patrons at 7:00 a.m. and continue until 10:00 p.m. All tables and chairs must be cleaned up and stored out of view of the public no later than 12:00 midnight. And not returned until 7:00 am.
- G. Alcohol is permitted to be consumed while seated at tables whether served by the establishment or brought by the patrons where alcohol has been previously approved and consistent with the restaurant's approvals. Loitering in the dining area while consuming alcohol is not permitted.
- H. Dining establishments licensed to serve alcohol by the New Jersey Division of Alcoholic Beverage Control that are seeking to provide and allow for the consumption of alcohol in the outdoor dining area must strictly comply with this chapter and all other applicable laws of the Borough and State of New Jersey.
- I. Dining establishments not licensed to serve alcohol by the New Jersey Division of Alcoholic Beverage Control, that are seeking to allow patrons to consume alcoholic beverages in the outdoor dining area must strictly comply with this chapter and all other applicable laws of the Borough and State of New Jersey. In addition, no one visibly intoxicated shall be permitted to consume alcohol.
- J. Music is permitted provided noise levels are consistent with § 374-9 F, the Borough's noise ordinance.
- K. No additional outdoor lighting is permitted, with the exception of small candles or table lights, other than previously approved signs and light fixtures.
- L. Barriers, whether permanent or temporary, are not permitted without site plan approval pursuant to § 345.
- M. Food shall be purchased inside the establishment or through wait staff served at tables. Outside sales will not be permitted.
- N. The layout of outdoor tables, chairs, umbrellas and all other property shall not in any way interfere with pedestrian or vehicular safety, or with necessary access by fire, police, and ambulance personnel. A six foot (6') clear sidewalk must be maintained at all times in an area where the cross slope of the sidewalk does not exceed 2% or is consistent with the pedestrian path. Umbrellas must provide a clear seven foot (7') beneath the surrounding edge of the umbrella.
- O. The layout of the outdoor dining area, and all items therein, shall be arranged in a manner providing no less than six (6) feet of unobstructed paved passageway for pedestrians walking through the outdoor dining area. The purpose of this section is to provide pedestrians a minimum of six (6) feet of free passage at all times and under all conditions on paved areas. The minimum six (6) foot passageway shall be completely free of obstructions, including but not limited to trash and recycling receptacles, benches, trees, poles, and any other sidewalk installations.
- P. The outdoor dining area shall be permitted between the curb and building adjacent to the dining establishment. In no event shall the dining area or pedestrian passageway enter or cross a Borough or County street.

§ 380 - 5 Borough Approval of Outdoor Dining License.

Any dining establishment seeking a license for outdoor dining pursuant to this section shall apply to the Zoning Officer of the Borough annually in conjunction with the submission of an application for mercantile license. Approval must be obtained from the Zoning Officer and all additional approvals for consumption of alcohol at the outdoor dining areas must also be obtained, when applicable, before the dining establishment may begin to set up any outdoor dining areas.

§ 380 - 6 Application and Information to be Provided.

The application for outdoor dining area license shall be on Borough forms, filled out completely, and submitted to the Zoning Officer of the Borough in accordance with the schedule set by the Borough. The following items and information shall be provided:

- A. Scaled layout of the proposed tables, chairs, and any other items necessary for outdoor dining. The plan shall include dimensions of the tables and chairs along with the pedestrian pathway and any other Borough owned facilities within the dining area, including but not limited to: light poles, benches, trash/recycling receptacles, trees, planters, and any other Borough owned property.
- B. Whether the dining establishment seeks to allow for the consumption of alcoholic beverages in the outdoor dining area, and if so, whether the dining establishment is licensed and approved by the New Jersey Division of Alcoholic Beverage Control to serve alcohol in the outdoor dining area.
- C. A detailed narrative, supported by a plan of relevant information, describing the method of serving tables, the proposed hours of outdoor service, where alcohol will be consumed at the outdoor dining area and how it will be served, and the method of outdoor litter control and trash/recycling handling.
- D. Specifications for tables and chairs that include the style, color, size, and material to be used in the outdoor dining area.
- E. A description of the adjacent buildings/businesses and how they will be affected by the outdoor dining area.
- F. A non-refundable two hundred (200) dollar application fee paid to the Borough at the time the application is being made.
- G. Proof that the County has approved the outdoor dining area in the County right-of-way, where applicable.
- H. Proof of approval from the New Jersey Division of Alcoholic Beverage Control, when applicable.

§ 380 - 7 Processing Criteria for Review of Application and Continued use of License.

Applications for outdoor dining shall be reviewed by the Zoning Officer of the Borough on a case by case basis. Where necessary the Zoning Officer shall confer with the Police, Fire Department, Construction Official, City Clerk, or Borough Engineer should the application warrant it. The following factors shall be used to determine approval for or continued licensure:

- A. Pedestrian safety.
- B. Level of pedestrian traffic in the area.
- C. Vehicular safety.
- D. Level of vehicular traffic in the area.
- E. Public safety
- F. Management plan for clean-up, litter control, and trash/recycling handling.
- G. Impact on existing landscape.
- H. Potential interference with police or fire safety.
- I. Interference with use and impact on adjacent property owners.
- J. Present and past deviation from compliance with the terms of this section and other provisions pertaining to outdoor dining areas.
- K. Adequacy of the design plan submitted pursuant to this chapter.
- L. Compliance with County and State requirements.

§ 380 - 8 Insurance and Hold Harmless Agreement.

No outdoor dining license shall be issued before the Borough receives proof of the following requirements.

A. Insurance. Each applicant must supply the Borough with a certificate of insurance to hold harmless the Borough, showing the limits of not less than one million (\$1,000,000) dollars bodily injury and property damage, combined single limit of liability; and for any establishments that are permitted to allow or sell alcoholic beverages, the applicant shall also provide for liquor liability insurance with not less than two million (\$2,000,000) dollars bodily injury and property damage, combined single limit of liability. The Borough shall be added to the liability insurance policy of the permit applicant as an additional insured. The policy or policies of insurance must be with a company or companies authorized to do business in the State of New Jersey and shall be delivered to the Borough, with evidence of payment of premiums thereafter. If the dining establishment abuts a County right-of-way, in addition to the above, the County shall be added as an additional insured. The Borough shall be designated by the applicant to be notified by the insurance company in the event of cancellation of insurance for any reason.

B. Hold Harmless. Permit applicants shall agree to save, hold, and keep harmless and indemnify the Borough from and for any and all payments, expenses, costs, attorney fees and from any and all claims and liability for losses or damage to property or injuries to persons occasioned wholly or in part by or resulting from any acts or omissions by the permit applicant or the permit applicant's agents, employees, guests, licensees, invitees, assignees, or successors; or for any cause or reason whatsoever arising out of or by reason of the use by the permit applicant and the conduct of the permit applicant's business within that portion of the outdoor dining area for which a permit was issued to the respective applicant. An application by a permit applicant pursuant to this section shall be deemed conclusive evidence of the permit applicant's agreement to indemnify the Borough as aforesaid. However, in addition, the applicant shall execute a hold harmless agreement in a form supplied by the Borough. If the dining establishment abuts the County right-of-way, in addition to the above, an application by a permit applicant pursuant to this section shall be deemed conclusive evidence of the permit applicant's agreement to also indemnify the County. Further, the applicant shall also execute a hold harmless agreement in a form supplied by the Borough indemnifying the Borough and the County.

§ 380 - 9 Revocation of License.

The Borough reserves the right to revoke the dining establishment's license if it is determined that the establishment has failed to meet the requirements of this chapter or the conditions of their approval. In addition, if it is determined by the Police or Fire Department that there is an issue concerning public safety that is not immediately addressed, the license may be also be revoked.

§ 380 - 10 Amendments.

Borough Council may amend this ordinance by resolution during times of economic uncertainty or when extenuating circumstances require it.

Section 2. All ordinances, or parts of ordinances, inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 3. This ordinance shall take effect after final adoption and publication as required by law.

APPROVED:

Judith Davies-Dunhour, Mayor

ATTEST:

Suzanne C. Stanford, Borough Clerk

BOROUGH OF STONE HARBOR

CAPE MAY COUNTY, NEW JERSEY

(2)

RESOLUTION

**A RESOLUTION AUTHORIZING AN AGREEMENT FOR SHARED SERVICES FOR
CHIEF FINANCIAL OFFICER SERVICES FOR THE MUNICIPALITIES OF THE
BOROUGH OF STONE HARBOR AND THE BOROUGH OF AVALON**

WHEREAS, N.J.S.A. 40A:65-1 provides in part that two or more municipalities may enter into an agreement to provide or receive any service that each local unit participating in the agreement is empowered to provide or receive in its own jurisdiction; and

WHEREAS, the Borough of Stone Harbor and the Borough of Avalon have negotiated and agreed upon the terms and conditions of such an agreement; and

WHEREAS, a written agreement, specifying those terms and conditions, has been prepared and has been reviewed, which agreement is entitled "Shared Services Agreement for Chief Financial Officer (CFO) Services; and

WHEREAS, the Borough Council of the Borough of Stone Harbor is desirous of ratifying this agreement and authorizing its execution.

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Stone Harbor that the Agreement entitled "Shared Services Agreement for Chief Financial Officer (CFO) Services for a Term of Three (3) Years" expiring on June, 2023, be and hereby is ratified.

BE IT FURTHER RESOLVED on this 2nd day of June, 2020, that the Mayor and Borough Clerk be and are hereby duly authorized, empowered and directed to execute this Agreement with the Borough of Avalon for the shared Chief Financial Officer services.

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, 2020

The above resolution approved this day of....., 2020

Borough Clerk

.....
Mayor

(3)

BOROUGH OF STONE HARBOR

CAPE MAY COUNTY, NEW JERSEY

RESOLUTION

COUNCIL MEETING - JUNE 2, 2020

REFUND DUPLICATE TAX PAYMENT

WHEREAS, Chas A & Carolyn M DeLone refinanced their mortgage and their mortgage bank paid the May 1st property tax installment for Block 92.04 Lot 151, A.K.A. 376 93RD Street; and

WHEREAS, Mr. DeLone forgot to cancel his online bill payment for the May 1st property tax installment and has requested a refund; 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 \$1,709.97 be issued to Chas A & Carolyn M DeLone, 19 Downing Cir, Downingtown PA 19335; and

BE IT FURTHER RESOLVED that the Tax 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, 2020

The above resolution approved this day of....., 2020

Borough Clerk

.....
Mayor

BOROUGH OF STONE HARBOR

CAPE MAY COUNTY, NEW JERSEY

(4)

RESOLUTION

A RESOLUTION AUTHORIZING A SHARED SERVICES AGREEMENT BY AND BETWEEN THE CITY OF NORTH WILDWOOD AND THE BOROUGH OF STONE HARBOR FOR UNIFORM CONSTRUCTION CODE INSPECTIONS IN INSTANCES OF CONFLICTS OF INTEREST

WHEREAS, the Uniform Shared Services and Consolidation Act, N.J.S.A. 40A:65-1, et seq., authorizes municipalities to enter into agreements for the exchange and sharing of services; and

WHEREAS, the Regulations for the New Jersey Uniform Construction Code (the "Regulations") are found in the New Jersey Administrative Code at N.J.A.C. 5:23-1.1, et seq; and

WHEREAS, the Regulations, at N.J.A.C. 5:23-4.5 (j), define various scenarios as a conflict of interest for local construction officials and sub-code inspectors and indicate that in the event of a conflict of interest the affected official or inspector shall not perform an inspection; and

WHEREAS, the Stone Harbor Construction Official has advised the North Wildwood Construction Official of anticipated conflicts of interest situations arising and, therefore, has requested that the North Wildwood Construction Official and North Wildwood sub-code inspectors conduct inspections in Stone Harbor when the Stone Harbor Construction Official or sub-code inspectors otherwise are prevented from conducting inspections by reason of the existence of a conflict of interest situation; and

WHEREAS, Stone Harbor Borough Council has determined that the exchange and sharing of Uniform Construction Code inspection services with the City of North Wildwood as proposed, is fair and equitable and serves the best interest and the health and welfare of the residents of each community.

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Stone Harbor, on this 2nd day of June, 2020, as follows:

1. The preamble of this Resolution is hereby adopted and incorporated by reference by the Borough of Stone Harbor;
2. The aforementioned Shared Services Agreement is hereby authorized;
3. The Mayor and all other necessary officials are hereby authorized to execute the Shared Services Agreement and any ancillary documents to effectuate the purposes thereof, when it is finalized in form acceptable to the Borough Solicitor;
4. A copy of the Shared Services Agreement shall be kept on file in the Borough Clerk's Office and shall be duly filed with the New Jersey Department of Community Affairs-Division of Local Government Services;
5. A copy of this Resolution, duly adopted and certified, shall be provided to the City Clerk of the City of North Wildwood.

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, 2020

The above resolution approved this day of, 2020

Borough Clerk

Mayor

(15)

BOROUGH OF STONE HARBOR

CAPE MAY COUNTY, NEW JERSEY

RESOLUTION

**A RESOLUTION AUTHORIZING AN ADJUSTED FEE AND DATE FOR THE
"STONE HARBOR FARMERS MARKET"**

WHEREAS, the Borough of Stone Harbor will hold a weekly "Farmer's Market" on Sundays; and

WHEREAS, the dates and fees have been adjusted due to the COVID 19 Pandemic, and the Market will begin June 21 through September 6, 2020 at the Water Tower Parking Lot in Stone Harbor; 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.

WHEREAS, it has been recommended that the fee for the Farmers Market be set at \$ 375.00 per space for the season.

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 2nd day of June 2020 that the date and fee adjustments set for the Stone Harbor Farmers Market be approved.

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, 2020

The above resolution approved this day of....., 2020

Borough Clerk

.....
Mayor

BOROUGH OF STONE HARBOR

CAPE MAY COUNTY, NEW JERSEY

RESOLUTION

(6)

WHEREAS, Marita Needles 8525 Sunset Drive, Stone Harbor, N.J. 08247 completed the registration form and wrote a check in the amount of \$150.00 to register 8525 Sunset Drive for a Fire Inspection; and

WHEREAS, they have notified the Bureau of Fire Prevention that they are not permitted to rent as they had planned and have requested a refund; and

WHEREAS, the Fire Official has requested that a refund of \$150.00 be sent to Marita Needles.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Stone Harbor, in the County of Cape May that at the request of the Fire Official \$150.00 be refunded to Marita Needles and that the proper officers make the proper adjustments in their 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 theday of, 2020 .

The above resolution approved this day of....., 2020

Borough Clerk

.....
Mayor

BOROUGH OF STONE HARBOR

CAPE MAY COUNTY, NEW JERSEY

(1)

RESOLUTION

WHEREAS, the following list of vendors have paid site fees for the 2020 Stone Harbor Arts & Crafts Festival that was scheduled for August 1st and 2nd, 2020; and

WHEREAS, the festival has been cancelled due to restrictions due to the COVID-19 Pandemic; and

WHEREAS, the Tourism Director has requested refunds to be sent totaling \$14,600 to the attached list of vendors.

NOW, THEREFORE, BE IT RESOLVED, on this 2nd day of June, 2020, by the Mayor and Council of the Borough of Stone Harbor, in the County of Cape May that the attached list of vendors be refunded and that the proper officers make the proper adjustments in the 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, 2020

The above resolution approved this day of, 2020

Borough Clerk

.....
Mayor