

AGENDA
REGULAR MEETING
Subject to change, additions or deletions

TUESDAY **July 20, 2021**

Dock Hearing – Channel Marine – 8533 Sunset Drive

ORDINANCES

Bond Ordinance 1589 Various 2nd, 3rd and final (1) Krafczek
Bond Ordinance 1590 Water & Sewer 2nd, 3rd and final (2) Moore
Ordinance 1591 Amend Affordable Housing 2nd 3rd and final (3) Parzych

Ordinance – Creating Residential D Zoning District INTRO (4) Krafczek
Ordinance – 5G INTRO (5) Moore
Ordinance – Water & Sewer Changes INTRO (6) Moore

Resolution – Approve Affordable Housing Spending Plan (7) Parzych

Resolution –Refund \$4.00 Parking Meter – Wack (8) Dallahan

Resolution – Approve Proposal – Mott MacDonald - 93rd Street Pump (9) Parzych

Resolution – Change Order #4 –Schiavone Construction – Paddle Ball Courts (10) Gensemer

Resolution – Jitney (11) Gensemer

Resolution – State Grant Program – Stone Harbor Police (12) Dallahan

Resolution – Award Bid – Lifeguard Station (13) Dallahan

Resolution – Audit 2020 (14) Krafczek

Resolution –possible - Mayor to sign Development Agreement Villa Maria

DISCUSSION:

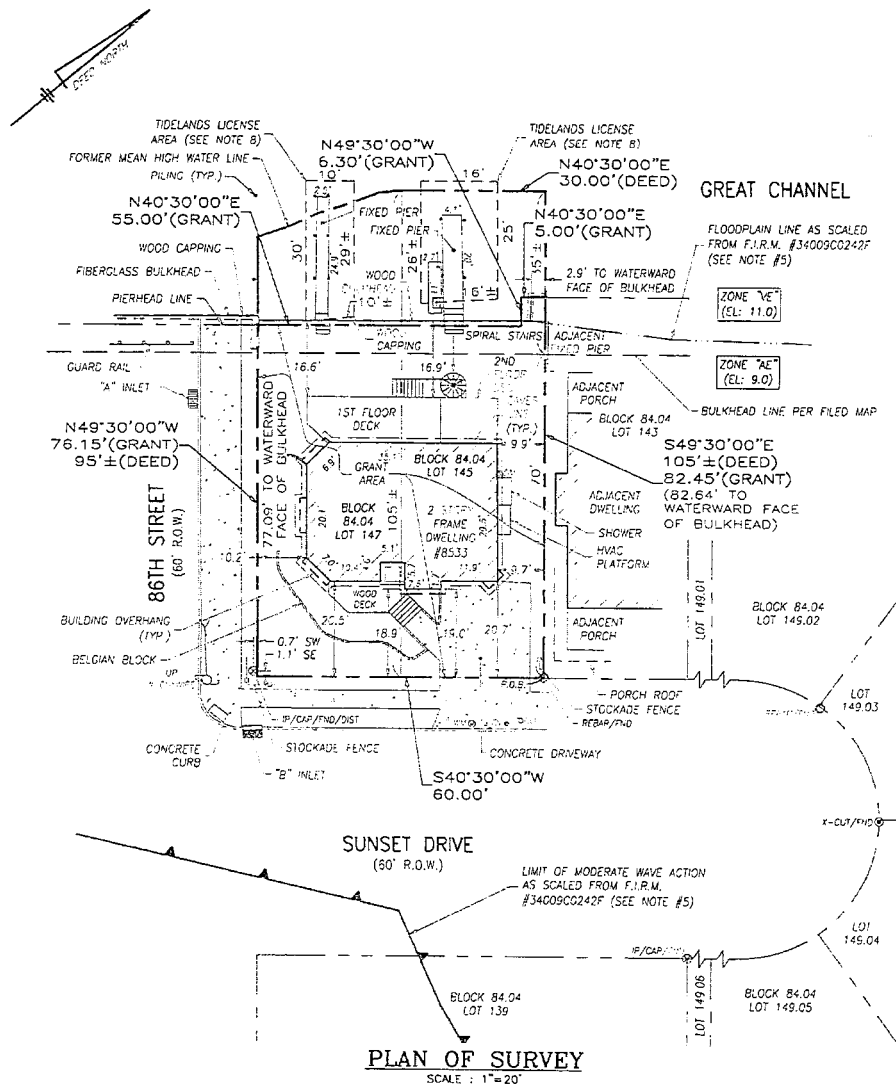


STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF LAND RESOURCE PROTECTION
Mail Code 501-02A, P.O. Box 420, Trenton, New Jersey 08625-0420
Telephone: (609) 777-0454 or Fax: (609) 777-3656
www.nj.gov/dep/landuse



PERMIT

In accordance with the laws and regulations of the State of New Jersey, the Department of Environmental Protection hereby grants this permit to perform the activities described below. This permit is revocable with due cause and is subject to the terms, conditions, and limitations listed below and on the attached pages. For the purpose of this document, "permit" means "approval, certification, registration, authorization, waiver, etc." Violation of any term, condition, or limitation of this permit is a violation of the implementing rules and may subject the permittee to enforcement action.		Approval Date June 21, 2021
		Expiration Date June 20, 2026
Permit Number(s): 0510-09-0012.1 LUP210001	Type of Approval(s): WFD Individual Permit-SFH/Duplex (Waterward) Water Quality Certificate	Governing Rule(s): N.J.A.C. 7:7-1.1(a) N.J.S.A. 58:10A-1
Permittee: David & Megan Gorelick 533 Country Club Drive Wilmington, DE 19803		Site Location: Block(s) & Lot(s): [84.04, 145] [84.04, 147] Municipality: Stone Harbor Borough County: Cape May
Description of Authorized Activities: This document authorizes the removal of existing in-water structures and using non-polluting materials, the reconstruction of approximately 65 linear feet of vinyl replacement bulkhead in the same location so that the waterward face of the new bulkhead is in line with the waterward face of the existing bulkhead; construction of an 8' x 31.5' fixed pier with a 3' x 20' ramp leading to an "L" shaped floating dock made up of an 8' x 26' section and an 8' x 21.5' section dock; installation of three (3) associated mooring piles; all in association with a residential development on the parcel(s) referenced above. This project is authorized under and in conditional compliance with the applicable Coastal Zone Management Rules (N.J.A.C. 7:7-1.1 et seq.), as amended on February 20, 2020, provided that all conditions to follow are met. The Department has determined that the herein approved activities meet the requirements of the (FHACA/CZM) rules. This approval does not obviate the local Floodplain Administrator's responsibility to ensure all development occurring within their community's Special Flood Hazard Area is compliant with the local Flood Damage Prevention Ordinance, and minimum NFIP standards, regardless of any state-issued permits. FEMA requires communities to review and permit all proposed construction or other development within their SFHA in order to participate in the NFIP. Note: This permit does not authorize construction of or legalize any structures on the upland portion of the subject property.		
Prepared by: Alison Astalos		Received and/or Recorded by County Clerk:
If the permittee undertakes any regulated activity, project, or development authorized under this permit, such action shall constitute the permittee's acceptance of the permit in its entirety as well as the permittee's agreement to abide by the requirements of the permit and all conditions therein.		
This permit is not valid unless authorizing signature appears on the last page.		



NOTES:

1. SURVEY PERFORMED WITHOUT BENEFIT OF A TITLE REPORT, PROPERTY SUBJECT TO ANY EASEMENTS OR RESTRICTION OF RECORD.
2. SURVEY BASED ON DEED BOOK 1370 PAGE 294.
3. LOT AND BLOCK NUMBERS REFER TO STONE HARBOR BOROUGH TAX MAPS, SHEET #6.
4. PROPERTY CORNERS WERE FOUND AS TWO OF SURVEY.
5. PROPERTY LIES IN ZONE "AE" (EL. 9.0) AND ZONE "VE" (EL. 11.0) AS SHOWN ON F.I.R.M. #34009C0242F, EFFECTIVE DATE 10/05/2017.
6. LOT AREA: 4,500.3 SF (0.102561 AC)
7. THE SURVEYOR RESERVES THE RIGHT TO REVISE THIS PLAN IF MORE INFORMATION BECOMES AVAILABLE.
8. TIDELANDS LICENSE (09-0330-12) AREAS ARE PLOTTED AS HYDROBEDS IN DEED BOOK 2708 PAGE 348.
9. TIDELANDS GRANT ISSUED BY THE STATE OF NEW JERSEY, DATED 05/07/2016, FILED IN DEED BOOK 3075, PAGE 294.

TO: DAVID GORELICK AND MEGAN GORELICK
TO: BANK, ITS SUCCESSORS AND/OR ASSIGNS AS THEIR INTEREST MAY APPEAR
REGARDING THIS ACQUOITY

IN CONSIDERATION OF THE FEE PAID FOR MAKING THIS SURVEY, I HEREBY DECLARE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, THIS MAP OR PLAN IS THE RESULT OF A FIELD SURVEY MADE BY ME OR UNDER MY DIRECT SUPERVISION IN ACCORDANCE WITH THE RULES AND REGULATIONS PRELIMINARY BY THE STATE BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS N.J.A.C. 13:40-5.1 AND SURVEYOR'S PREPARATION OF LAND SURVEYS.

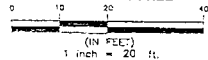
THE INFORMATION SHOWN HEREON CORRECTLY REPRESENTS THE CONDITIONS FOUND AS OF THE DATE OF THE FIELD SURVEY 05/19/2020 EXCEPT SUCH IMPROVEMENTS OR EASEMENTS, IF ANY, LOCATED HEREON THE SURFACE OR NOT VISIBLE.

THIS DECLARATION IS GIVEN SOLELY TO THE ABOVE NAMED PARTIES FOR THIS TRANSACTION ONLY. NO RESPONSIBILITY IS ASSUMED BY THE SURVEYOR FOR USE OF THIS SURVEY FOR ANY OTHER PURPOSE, INCLUDING BUT NOT LIMITED TO USE OF SURVEY WITHOUT NOTICE OF PROPERTY, OR BY ANY PERSON NOT LISTED ABOVE EXCEPT AS FOLLOWS:

A. TO THE TITLE INSURER SO IT MAY INSURE TITLE TO THE PREMISES SHOWN HEREON.

B. TO THE MORTGAGE HOLDER THE DECLARATION SHALL SURVIVE TO ITS SUCCESSORS OR ASSIGNS.

GRAPHIC SCALE



Dante Guzzi Engineering Associates

203 South Main Street, Cape May Court House, New Jersey 08210
Telephone (609) 483-3823 Fax (609) 483-3831 P.E. Certificate of Accreditation No. 8224967000
Website (609) 483-3831 www.dgengineering.com

Steven C. Woodrow
STEVEN C. WOODROW, P.L.S.
PROFESSIONAL LAND SURVEYOR N.J. LICENSE NO. 775-4

07/14/2020
DATE

PLAN OF SURVEY BLOCK 84.04, LOTS 145 & 147 BOROUGH OF STONE HARBOR CAPE MAY COUNTY, NEW JERSEY		DRAWING NO. SV1	
TAX 8533SUNSET-SUR-1	DATE 07/14/2020	DRAWN BY MM	
SCALE AS SHOWN	PROJECT NO. C-20-187	CHECKED BY SCW	DATE 07/14/2020

STATEMENT OF AUTHORIZED IMPACTS:

The authorized activities allow for the permittee to undertake impacts to regulated areas as described below. Additional impacts to regulated areas without prior Department approval shall constitute a violation of the rules under which this document is issued and may subject the permittee and/or property owner to enforcement action, pursuant to N.J.A.C. 7:7-2.1.

WFD Individual Permit SFH/Duplex (Waterward)	Permanent Disturbance (Acres)	Temporary Disturbance (Acres)
Shellfish habitat	0.028	0
Intertidal-subtidal shallows (ISS)	0	0

PRE-CONSTRUCTION CONDITIONS:

1. This permit is not valid until such time as you have obtained a Department of the Army authorization. You are advised to contact the Philadelphia District at 215-656-6728.
2. Prior to ANY construction or site preparation, the permittee must modify the issued Tidelands license #0510-09-0012.1 TDI130001 for the in-water structures authorized under this permit. Failure to comply with this condition will result in fines up to \$1000 plus \$100 per day, a higher fee for the conveyance and possible prosecution by the Attorney General's office to remove unauthorized structures and to pay use and occupancy charge.
3. Prior to site prep, or within 90 days of permit, whichever is sooner, a conservation restriction (Shellfish Habitat (Docks)) governing the bulkhead on the subject property shall be RECORDED with the Office of the County Clerk (the REGISTRAR OF DEEDS AND MORTGAGES) in the county wherein the lands included in this permit are located. This conservation restriction shall prohibit the replacement, reconstruction or rehabilitation of the bulkhead with anything other than nonpolluting or other inert material. This conservation restriction shall reflect exactly what is provided on the Division's web site (www.state.nj.us/dep/landuse/forms) and must accompany and reference a site plan, with all restricted areas clearly delineated. Once the conservation restriction has been RECORDED, a copy of the recorded conservation restriction MUST BE forwarded to the Division's project manager, Alison Aсталos, via email at Alison.Astalos@dep.nj.gov within thirty (30) days of being recorded. Said restriction shall run with the land and be binding upon all successive owners.
4. **This permit is NOT VALID until a monetary contribution has been made to the Department's account for Shellfish Habitat Mitigation.** This contribution is based upon the area of shellfish habitat condemned due to coverage by the structure and boat moorings, the documented shellfish density on the property, and the commercial value of the shellfish resource. Mooring areas which are not defined by mooring piles depicting the limits of the mooring area will be assumed to occupy 300-square feet per mooring area in addition to the amount assessed by the coverage of the dock. The formula for assessing the monetary contribution is as follows:

$$C = \text{Area} * \text{Density} * \text{AV} * \text{PVF}$$

Where: C = amount of the monetary contribution, in dollars

Area = area, in square feet, of shellfish habitat covered by structure(s) and moorings

Density = applicable density of shellfish, in animals/square foot

AV = annual value for the shellfish resource, which is set at .25 per animal

PVF = is the present value factor, which is set at 31.6

$$\text{Hard Clam Density} = \frac{\text{High}}{.75} \frac{\text{Moderate}}{.35}$$

Soft Clam, Oyster, Bay Scallop, or blue mussel habitat = .75 (all cases)

The area condemned by the docking structures located at or below the mean high water line, is 1,238-square feet and the area is documented as hard clam high value. Using the above formula, a monetary contribution of \$7,335.15 is required. This contribution must be made to the Department's account for Shellfish Habitat Mitigation within 90 days of the issuance date of this permit. An invoice will be forwarded to the permittee in the amount of \$7,335.15.

SPECIAL CONDITIONS:

1. The structures are not to exceed the dimensions as specified on the approved plans. No more than two (2) vessels may be moored at any time. All structures and mooring areas shall be within the permittee's property line extension.
2. All structures must be constructed of nonpolluting materials such as plastic, natural cedar or other untreated wood, concrete, or other inert products. Creosote and CCA-treated lumber (a.k.a. pressure treated or wolmanized lumber) which is susceptible to leaching are considered polluting materials and are not acceptable.
3. The proposed bulkhead shall be located in-place of the existing bulkhead, as measured from the waterward face of the toe of the original alignment of the existing bulkhead sheathing to the waterward face of the new timber or vinyl bulkhead sheathing.
4. All areas of the existing bulkhead that are currently bowed must be pulled back to the original bulkhead alignment before placement of new bulkhead sheathing.
5. All backfill material for the proposed bulkhead shall be from an upland source and be free of any toxic contaminants. Dredging to obtain backfill material is prohibited.
6. All future bulkhead replacements shall be within the bulkhead alignment authorized under this permit.
7. Space between horizontal planking is maximized and width of horizontal planking is minimized to the maximum extent practicable. Under normal circumstances, a minimum of 3/8-inch, 1/2-inch, 3/4-inch, or one-inch space is to be provided for 4-inch, 6-inch, 8 to 10-inch, or 12-inch plus wide planks, respectively.
8. The width of the dock or pier shall not exceed twice the clearance between the structure and the surface of the ground below or the water surface at mean high water (measured from the bottom of the stringers). Floating docks are not subject to the height requirement, however the floating docks shall be constructed such that it does not rest on the bottom of the waterbody during the low tide event.
9. Consistent with Assembly Bill, No. 2804, P.L. 2007, CHAPTER 113 the use of creosote treated material (or other descriptive term from the law) in the construction of the authorized structure(s) is prohibited.
10. This permit does not authorize dredging activities. If dredging is required in the future, a new Waterfront Development application showing compliance with 7:7-12.9 New Dredging will be required to be submitted to this Division.

STANDARD CONDITIONS:

1. The issuance of a permit shall in no way expose the State of New Jersey or the Department to liability for the sufficiency or correctness of the design of any construction or structure(s). Neither the State nor the Department shall, in any way, be liable for any loss of life or property that may occur by virtue of the activity or project conducted as authorized under a permit.
2. The issuance of a permit does not convey any property rights or any exclusive privilege.
3. The permittee shall obtain all applicable Federal, State, and local approvals prior to commencement of regulated activities authorized under a permit.
4. A permittee conducting an activity involving soil disturbance, the creation of drainage structures, or changes in natural contours shall obtain any required approvals from the Soil Conservation District or designee having jurisdiction over the site.
5. The permittee shall take all reasonable steps to prevent, minimize, or correct any adverse impact on the environment resulting from activities conducted pursuant to the permit, or from noncompliance with the permit.
6. The permittee shall immediately inform the Department of any unanticipated adverse effects on the environment not described in the application or in the conditions of the permit. The Department may, upon discovery of such unanticipated adverse effects, and upon the failure of the permittee to submit a report thereon, notify the permittee of its intent to suspend the permit.
7. The permittee shall immediately inform the Department by telephone at (877) 927-6337 (WARN DEP hotline) of any noncompliance that may endanger public health, safety, and welfare, or the environment. The permittee shall inform the Division of Land Resource Protection by telephone at (609) 777-0454 of any other noncompliance within two working days of the time the permittee becomes aware of the noncompliance, and in writing within five working days of the time the permittee becomes aware of the noncompliance. Such notice shall not, however, serve as a defense to enforcement action if the project is found to be in violation of this chapter. The written notice shall include:
 - i. A description of the noncompliance and its cause;
 - ii. The period of noncompliance, including exact dates and times;
 - iii. If the noncompliance has not been corrected, the anticipated length of time it is expected to continue; and
 - iv. The steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
8. Any noncompliance with a permit constitutes a violation of this chapter and is grounds for enforcement action, as well as, in the appropriate case, suspension and/or termination of the permit.
9. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the authorized activity in order to maintain compliance with the conditions of the permit.
10. The permittee shall employ appropriate measures to minimize noise where necessary during construction, as specified in N.J.S.A. 13:1G-1 et seq. and N.J.A.C. 7:29.
11. The issuance of a permit does not relinquish the State's tidelands ownership or claim to any portion of the subject property or adjacent properties.
12. The issuance of a permit does not relinquish public rights to access and use tidal waterways and their shores.

13. The permittee shall allow an authorized representative of the Department, upon the presentation of credentials, to:
 - i. Enter upon the permittee's premises where a regulated activity, project, or development is located or conducted, or where records must be kept under the conditions of the permit;
 - ii. Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit; and
 - iii. Inspect, at reasonable times, any facilities, equipment, practices, or operations regulated or required under the permit. Failure to allow reasonable access under this paragraph shall be considered a violation of this chapter and subject the permittee to enforcement action.
14. The permittee shall not cause or allow any unreasonable interference with the free flow of a regulated water by placing or dumping any materials, equipment, debris or structures within or adjacent to the channel while the regulated activity, project, or development is being undertaken. Upon completion of the regulated activity, project, or development, the permittee shall remove and dispose of in a lawful manner all excess materials, debris, equipment, and silt fences and other temporary soil erosion and sediment control devices from all regulated areas.
15. The permittee and its contractors and subcontractors shall comply with all conditions, site plans, and supporting documents approved by the permit.
16. All conditions, site plans, and supporting documents approved by a permit shall remain in full force and effect, so long as the regulated activity, project, or development, or any portion thereof, is in existence, unless the permit is modified pursuant to the rules governing the herein approved permits.
17. The permittee shall perform any mitigation required under the permit in accordance with the rules governing the herein approved permits.
18. If any condition or permit is determined to be legally unenforceable, modifications and additional conditions may be imposed by the Department as necessary to protect public health, safety, and welfare, or the environment.
19. Any permit condition that does not establish a specific timeframe within which the condition must be satisfied (for example, prior to commencement of construction) shall be satisfied within six months of the effective date of the permit.
20. A copy of the permit and all approved site plans and supporting documents shall be maintained at the site at all times and made available to Department representatives or their designated agents immediately upon request.
21. The permittee shall provide monitoring results to the Department at the intervals specified in the permit.
22. A permit shall be transferred to another person only in accordance with the rules governing the herein approved permits.
23. A permit can be modified, suspended, or terminated by the Department for cause.
24. The submittal of a request to modify a permit by the permittee, or a notification of planned changes or anticipated noncompliance, does not stay any condition of a permit.
25. Where the permittee becomes aware that it failed to submit any relevant facts in an application, or submitted incorrect information in an application or in any report to the Department, it shall promptly submit such facts or information.

26. The permittee shall submit written notification to the Bureau of Coastal and Land Use Compliance and Enforcement, 401 East State Street, 4th Floor, PO Box 420, Mail Code 401-04C, Trenton, NJ 08625, at least three working days prior to the commencement of regulated activities.
27. The permittee shall record the permit, including all conditions listed therein, with the Office of the County Clerk (the Registrar of Deeds and Mortgages, if applicable) of each county in which the site is located. The permit shall be recorded within 30 calendar days of receipt by the permittee, unless the permit authorizes activities within two or more counties, in which case the permit shall be recorded within 90 calendar days of receipt. Upon completion of all recording, a copy of the recorded permit shall be forwarded to the Division of Land Resource Protection at the address listed on page one of this permit.
28. This permit is issued subject to compliance with N.J.A.C. 7:7-27.2 Conditions that apply to all coastal permits.

APPROVED PLAN(S):

The drawing hereby approved consists of one (1) sheet prepared by Robert Douglas Green, P.E. from R.D. Green Engineering, dated 3-10-2021, last revised 5-28-2021, and entitled:

"NJDEP PERMIT PLAN, 8533 SUNSET DRIVE, BLOCK 84.04 – LOTS 145 & 147, STONE HARBOR, CAPE MAY COUNTY, NJ"

APPEAL OF DECISION:

Any person who is aggrieved by this decision may submit an adjudicatory hearing request within 30 calendar days after public notice of the decision is published in the DEP Bulletin (available at www.nj.gov/dep/bulletin). If a person submits the hearing request after this time, the Department shall deny the request. The hearing request must include a completed copy of the Administrative Hearing Request Checklist (available at www.nj.gov/dep/landuse/forms.html). A person requesting an adjudicatory hearing shall submit the original hearing request to: NJDEP Office of Legal Affairs, Attention: Adjudicatory Hearing Requests, Mail Code 401-04L, P.O. Box 402, 401 East State Street, 7th Floor, Trenton, NJ 08625-0402. Additionally, a copy of the hearing request shall be submitted to the Director of the Division of Land Resource Protection at the address listed on page one of this permit. In addition to your hearing request, you may file a request with the Office of Dispute Resolution to engage in alternative dispute resolution. Please see www.nj.gov/dep/odr for more information on this process.

If you need clarification on any section of this permit or conditions, please contact the Division of Land Resource Protection's Technical Support Call Center at (609) 777-0454.

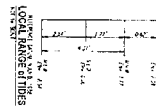
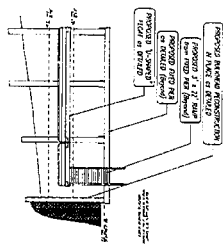
Approved By:



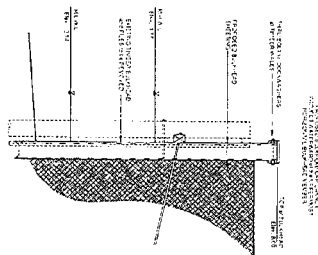
Digitally signed by Vivian M.
Fanelli
Date: 2021.06.21 19:56:37 -04'00'

Vivian M. Fanelli, Environmental Specialist 3
Division of Land Resource Protection

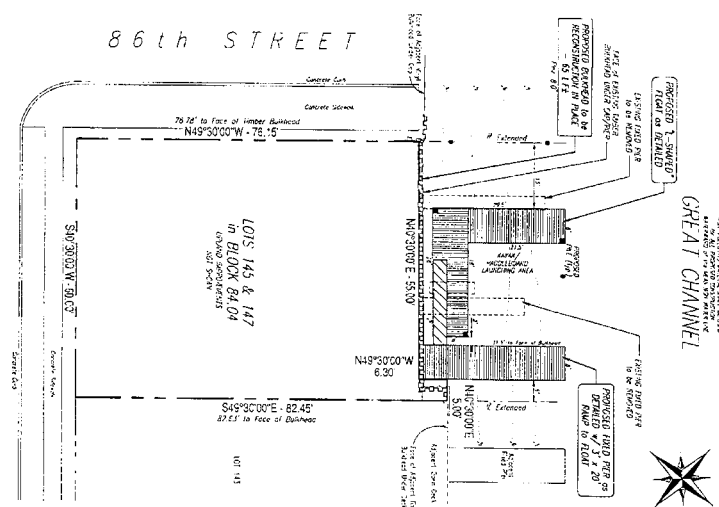
- c: Municipal Clerk, Stone Harbor Boro
Municipal Construction Official, Stone Harbor Boro
Agent (original) – Michael Lucey

[illegible]

SECTION THRU WATERFRONT IMPROVEMENTS



PLAN
DETAIL: BULKHEAD RECONSTRUCTION
-IN PLACE-



WATERFRONT DEVELOPMENT PERMIT PLAN

[illegible]

PROJECT
8533 SUNSET DRIVE
BLOCK 84.04 - LOTS 145 & 147
STONE HARBOR, CAPE MAY COUNTY, NJ

DWG TITLE
NIDEP PERMIT PLAN



Robert Douglas Green, P.E.
R.D. Green Engineering
1517 Atkinson Avenue, Somers Point NJ, 08744
Phone 609-926-5182 Fax 609-926-5185
NJ PROFESSIONAL ENGINEER
License No. 21679356

(11)
**BOND ORDINANCE APPROPRIATING \$9,676,000, AND
AUTHORIZING THE ISSUANCE OF \$9,192,200 BONDS OR
NOTES OF THE BOROUGH, FOR VARIOUS
IMPROVEMENTS OR PURPOSES AUTHORIZED TO BE
UNDERTAKEN BY THE BOROUGH OF STONE HARBOR,
IN THE COUNTY OF CAPE MAY, NEW JERSEY.**

**BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH
OF STONE HARBOR, IN THE COUNTY OF CAPE MAY, NEW JERSEY** (not less than
two-thirds of all the members thereof affirmatively concurring), **AS FOLLOWS:**

Section 1. The several improvements described in Section 3 of this bond ordinance are hereby respectively authorized as general improvements to be made or acquired by The Borough of Stone Harbor, New Jersey. For the said several improvements or purposes stated in said Section 3, there are hereby appropriated the respective sums of money therein stated as the appropriations made for said improvements or purposes, said sums being inclusive of all appropriations heretofore made therefor and amounting in the aggregate to \$9,676,000 including the aggregate sum of \$483,800 as the several down payments for said improvements or purposes required by law and more particularly described in said Section 3 and now available therefor by virtue of provision in a previously adopted budget or budgets of the Borough for down payment or for capital improvement purposes.

Section 2. For the financing of said improvements or purposes and to meet the part of said \$9,676,000 appropriations not provided for by application hereunder of said down payments, negotiable bonds of the Borough are hereby authorized to be issued in the principal amount of \$9,192,200 pursuant to the Local Bond Law of New Jersey. In anticipation of the issuance of said bonds and to temporarily finance said improvements or purposes, negotiable notes of the Borough in a principal amount not exceeding \$9,192,200 are hereby

authorized to be issued pursuant to and within the limitations prescribed by said Local Bond Law.

Section 3. The improvements hereby authorized and the several purposes for the financing of which said obligations are to be issued, the appropriation made for and estimated cost of each such purpose, and the estimated maximum amount of bonds or notes to be issued for each such purpose, are respectively as follows:

<u>IMPROVEMENT OR PURPOSE</u>	<u>APPROPRIATION AND ESTIMATED COST</u>	<u>ESTIMATED MAXIMUM AMOUNT OF BONDS AND NOTES</u>
(a) Acquisition by purchase of new and additional equipment, including one (1) street sweeper for use by the Department of Public Works of the Borough, together with all equipment, attachments and accessories necessary therefor or incidental thereto, all as shown on and in accordance with the specifications therefor on file or to be filed in the office of the Borough Clerk and hereby approved	\$276,000	\$262,200
(b) Improvement of the storm water drainage system in and by the Borough, including the construction of a pump station in and along 93 rd Street and the construction, reconstruction and upgrade of various outfalls, pipes and discharge structures, together with all structures, site work, equipment, work and materials necessary therefor or incidental thereto, all as shown on and in accordance with the plans and specifications therefor on file or to be filed in the office of the Borough Clerk and hereby approved	7,000,000	6,650,000
(c) Acquisition, by purchase, of lands and all the buildings, improvements and fixtures thereon by the Borough located at 514 North Wildwood Road and 504 Pershing Avenue in the Township of Middle, New Jersey, and shown at Lots 1 and 4 in Block 985 on the Official Tax Map of said Township, for public purpose including for use by the Department of Public Works of the Borough, all in accordance with the proposed contract therefor on file or to be filed in the office of the Borough Clerk and hereby approved	<u>2,400,000</u>	<u>2,280,000</u>
Totals	\$9,676,000	\$9,192,200

The excess of the appropriation made for each of the improvements or purposes aforesaid over the estimated maximum amount of bonds or notes to be issued therefor, as above stated, is the amount of the said down payment for said purpose.

Section 4. The following additional matters are hereby determined, declared, recited and stated:

(a) The said purposes described in Section 3 of this bond ordinance are not current expenses and each is a property or improvement which the Borough may lawfully acquire or make as a general improvement, and no part of the cost thereof has been or shall be specially assessed on property specially benefited thereby.

(b) The average period of usefulness of said purposes within the limitations of said Local Bond Law and taking into consideration the respective amounts of the said obligations authorized for the several purposes, according to the reasonable life thereof computed from the date of the said bonds authorized by this bond ordinance, is 39.36 years.

(c) The supplemental debt statement required by said Local Bond Law has been duly made and filed in the office of the Borough Clerk and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey, and such statement shows that the gross debt of the Borough as defined in said Local Bond Law is increased by the authorization of the bonds and notes provided for in this bond ordinance by \$9,192,200, and the said obligations authorized by this bond ordinance will be within all debt limitations prescribed by said Local Bond Law.

(d) Amounts not exceeding \$950,000 in the aggregate for interest on said obligations, costs of issuing said obligations, engineering costs and other items of expense listed in and permitted under Section 40A:2-20 of said Local Bond Law may be included as part of the costs of said improvements and are included in the foregoing estimate thereof.

Section 5. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer, acting chief financial officer or

treasurer of the Borough (the "Chief Financial Officer"), provided that no note shall mature later than one year from its date. The notes shall bear interest at such rate or rates and be in such form as may be determined by the Chief Financial Officer. The Chief Financial Officer shall determine all matters in connection with the notes issued pursuant to this bond ordinance, and the Chief Financial Officer's signature upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time subject to the provisions of N.J.S.A. §40A:2-8. The Chief Financial Officer is hereby authorized to sell part or all of the notes from time to time at public or private sale at not less than par and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the dates of delivery thereof. The Chief Financial Officer is directed to report in writing to the governing body of the Borough at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this bond ordinance is made. Such report must include the principal amount, interest rate and maturities of the notes sold, the price obtained and the name of the purchaser.

Section 6. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and interest on the said obligations authorized by this bond ordinance. Said obligations shall be direct, unlimited obligations of the Borough, and the Borough shall be obligated to levy ad valorem taxes upon all the taxable property within the Borough for the payment of said obligations and interest thereon without limitation of rate or amount.

Section 7. The capital budget or temporary capital budget of the Borough is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith and the resolutions promulgated by the Local Finance Board showing all detail of the amended capital budget or temporary capital budget and capital program as

approved by the Director, Division of Local Government Services, are on file with the Borough Clerk and are available for public inspection.

Section 8. This bond ordinance shall take effect twenty (20) days after the first publication thereof after final adoption, as provided by said Local Bond Law.

APPROVED:

Judith M. Davies-Dunhour

ATTEST:

Suzanne C. Stanford, Borough Clerk

BOROUGH OF STONE HARBOR
COUNTY OF CAPE MAY
STATE OF NEW JERSEY
ORDINANCE 1590

(2)

**BOND ORDINANCE APPROPRIATING \$6,691,000, AND
AUTHORIZING THE ISSUANCE OF \$6,691,000 BONDS OR
NOTES OF THE BOROUGH, FOR VARIOUS WATER AND
SEWERAGE SYSTEM IMPROVEMENTS OR PURPOSES
AUTHORIZED TO BE UNDERTAKEN BY THE BOROUGH
OF STONE HARBOR, IN THE COUNTY OF CAPE MAY,
NEW JERSEY.**

**BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH
OF STONE HARBOR, IN THE COUNTY OF CAPE MAY, NEW JERSEY** (not less than
two-thirds of all the members thereof affirmatively concurring), **AS FOLLOWS:**

Section 1. The several improvements described in Section 3 of this bond ordinance are hereby authorized as general improvements to be made or acquired by The Borough of Stone Harbor, New Jersey. For the said improvements or purposes stated in said Section 3, there are hereby appropriated the respective sums of money therein stated as the appropriations made for said improvements or purposes, said sums being inclusive of all appropriations heretofore made therefor.

Section 2. For the financing of said improvement or purpose and to meet said \$6,691,000 appropriations, negotiable bonds of the Borough are hereby authorized to be issued in the principal amount of \$6,691,000 pursuant to the Local Bond Law of New Jersey. In anticipation of the issuance of said bonds and to temporarily finance said improvement or purpose, negotiable notes of the Borough in a principal amount not exceeding \$6,691,000 are hereby authorized to be issued pursuant to and within the limitations prescribed by said Local Bond Law.

Section 3. The improvements hereby authorized and the several purposes for the financing of which said obligations are to be issued, the appropriation made for and estimated

cost of each such purpose, and the estimated maximum amount of bonds or notes to be issued for each such purpose, are respectively as follows:

<u>IMPROVEMENT OR PURPOSE</u>	<u>APPROPRIATION AND ESTIMATED COST</u>	<u>ESTIMATED MAXIMUM AMOUNT OF BONDS AND NOTES</u>
(a) Improvement of the water and sewerage system in and by the Borough including the upgrade of the infrastructure located at the beach block and the 200 block of 106 th Street, the 200 block of 108 th Street, the 200 Block of 102 nd Street, the 100 Block of 101 st Street, the beach block of 99 th Street, the beach block of 103 rd Street and the beach block of 104 th Street, together with all equipment, structures, site work, work and materials necessary therefor or incidental thereto, all as shown on and in accordance with the plans and specifications therefor on file or to be filed in the office of the Borough Clerk and hereby approved	\$1,991,000	\$1,991,000
(b) Improvement of the water and sewerage system in and by the Borough including the construction of a new lift station and force main near 114 th Street, together with all equipment, structures, site work, work and materials necessary therefor or incidental thereto, all as shown on and in accordance with the plans and specifications therefor on file or to be filed in the office of the Borough Clerk and hereby approved	710,000	710,000
(c) Improvement of water wells and the water plant in and by the Borough including the rehabilitation and renovation thereof, together with all structures, equipment, structures, site work, work and materials necessary therefor or incidental thereto, all as shown on and in accordance with the plans and specifications therefor on file or to be filed in the office of the Borough Clerk and hereby approved	40,000	40,000
(d) Improvement of the water and sewerage system in and by the Borough including the construction or reconstruction of sanitary sewerage facilities in and along Third Avenue, together with all equipment, structures, site work, work and materials necessary therefor or incidental thereto, all as shown on and in accordance with the plans and specifications therefor on file or to be filed in the office of the Borough Clerk and hereby approved	<u>3,950,000</u>	<u>3,950,000</u>
Totals	\$6,691,000	\$6,691,000

Section 4. The following additional matters are hereby determined, declared, recited and stated:

(a) The said purposes described in Section 3 of this bond ordinance are not current expenses and each is a property or improvement which the Borough may lawfully acquire or make as a general improvement, and no part of the cost thereof has been or shall be specially assessed on property specially benefited thereby.

(b) The average period of usefulness of said purpose within the limitations of said Local Bond Law and taking into consideration the respective amounts of the said obligations authorized for the several purposes, according to the reasonable life thereof computed from the date of the said bonds authorized by this bond ordinance, is forty (40) years.

(c) The supplemental debt statement required by said Local Bond Law has been duly made and filed in the office of the Borough Clerk and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey, and such statement shows that, while the net debt of the Borough determined as provided in said Local Bond Law is not increased by this bond ordinance, the gross debt of the Borough as defined in said Local Bond Law is increased by the authorization of the bonds and notes provided for in this bond ordinance by \$6,691,000, and the said obligations authorized by this bond ordinance will be within all debt limitations prescribed by said Local Bond Law.

(d) Amounts not exceeding \$1,000,000 in the aggregate for interest on said obligations, costs of issuing said obligations, engineering costs and other items of expense listed in and permitted under Section 40A:2-20 of said Local Bond Law may be included as part of the cost of said improvements and are included in the foregoing estimates thereof.

(e) This bond ordinance authorizes obligations of the Borough solely for a purpose described in subsection (h) of section 40A:2-7 of said Local Bond Law, and the said obligations authorized by this bond ordinance are to be issued for a purpose which is "self-

liquidating” within the meaning and limitations of section 40A:2-45 of said Local Bond Law and are deductible, pursuant to subsection (c) of section 40A:2-44 of said Local Bond Law, from gross debt of the Borough.

Section 5. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer, acting chief financial officer or treasurer of the Borough (the “Chief Financial Officer”), provided that no note shall mature later than one year from its date. The notes shall bear interest at such rate or rates and be in such form as may be determined by the Chief Financial Officer. The Chief Financial Officer shall determine all matters in connection with the notes issued pursuant to this bond ordinance, and the Chief Financial Officer’s signature upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time subject to the provisions of N.J.S.A. §40A:2-8. The Chief Financial Officer is hereby authorized to sell part or all of the notes from time to time at public or private sale at not less than par and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the dates of delivery thereof. The Chief Financial Officer is directed to report in writing to the governing body of the Borough at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this bond ordinance is made. Such report must include the principal amount, interest rate and maturities of the notes sold, the price obtained and the name of the purchaser.

Section 6. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and interest on the said obligations authorized by this bond ordinance. Said obligations shall be direct, unlimited obligations of the Borough, and, unless paid from the revenues of the water and sewerage system of the Borough, the Borough shall be

obligated to levy ad valorem taxes upon all the taxable property within the Borough for the payment of said obligations and interest thereon without limitation of rate or amount.

Section 7. The capital budget or temporary capital budget of the Borough is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith and the resolutions promulgated by the Local Finance Board showing all detail of the amended capital budget or temporary capital budget and capital program as approved by the Director, Division of Local Government Services, are on file with the Borough Clerk and are available for public inspection.

Section 8. This bond ordinance shall take effect twenty (20) days after the first publication thereof after final adoption, as provided by said Local Bond Law.

(3)

Borough OF Stone Harbor
ORDINANCE NO. 1591 Final

An Ordinance to Amend Chapter 560 (Affordable Housing) in the Code of the Borough of Stone Harbor, Which Will Address the Requirements of the Court-Approved Settlement Agreement Between the Borough and Fair Share Housing Center Regarding Compliance with the Borough's Affordable Housing Obligations.

WHEREAS, Chapter 560, Section 48 (Affordable Housing) in the Code of the Borough of Stone Harbor must be amended to comply with the current state affordable housing regulations, including its obligations under the Court-approved Settlement Agreement between the Borough and Fair Share Housing Center.

NOW, THEREFORE, BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF STONE HARBOR, as follows:

Section 1:

Chapter 560-48 (Affordable Housing) of the Borough of Stone Harbor is hereby amended as follows

560-48 Affordable Housing

- A. No change
- B. No change
- C. No change
- D. Affordable Housing Overlay District
 - 1) No change
 - 2) No change
 - 3) Residential units shall be permitted in the Overlay District on the second and third floors of buildings, through either new construction of a mixed-use building or placing residential multifamily units over existing structures, subject to the following regulations:
 - a. Construction of new residential units, including but not limited to those in excess of the story and height limitations set forth in § 560-18, shall require not less than 20% of all residential units to be designated as affordable housing units.
 - b. The first floor of any building in which residential units exist on the second and third floor shall be operated as a commercial use in accordance with § 560-18.
 - c. Structures housing third floor residential units shall be subject to the following supplemental bulk regulations, which shall control in the event of a conflict with § 560-18.

Section 2:

After introduction, the Borough Clerk is hereby directed to submit a copy of the within Ordinance to the Planning Board of the Borough of Stone Harbor for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64.

Section 5:

The Borough Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this ordinance to the Cape May County Planning Board and to all other persons entitled thereto pursuant to 40:55D-15, and N.J.S.A. 40:55D-63 (if required).

Section 6:

Repeal of Inconsistent Provisions. All ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only however, to the extent of such conflict or inconsistency, it being the legislative intent that all ordinances or part of ordinances now existing or in effect unless the same being conflict or inconsistent with any provision of this Ordinance shall remain in effect.

Section 7:

Severability. The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause, or phrase thereof for any reason is held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remain in effect; it being the legislative intent this Ordinance shall stand notwithstanding the invalidity of any part.

Section 8:

Codification. This Ordinance shall be a part of the Code of the Borough of Stone Harbor as though codified and fully set forth therein. The Borough Clerk shall have this ordinance codified and incorporated in the official copies of the Code. The Borough Clerk and the Borough Attorney are authorized and directed to change any Chapter, Article, and/or Section number of the Code of the Borough of Stone Harbor in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.

Section 9:

This Ordinance shall take effect upon passage, adoption, and publication in the manner prescribed by law.

Section 10:

Upon adoption of this Ordinance, the Borough Clerk shall file same with (a) the Cape May County Planning Board pursuant to N.J.S.A. 40:55D-16, and (b) the Borough Tax Assessor as required by N.J.S.A. 40:49-2.1(c).

Introduced:

Adopted:

ATTEST:

BOROUGH OF STONE HARBOR

By: _____
Suzanne C. Stanford, RMC
Borough Clerk

By: _____
Judith M. Davies-Dunhour
Borough Mayor

(4)

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

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

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

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

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

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

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

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

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

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

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

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

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

BUILDING HEIGHT

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

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

FLOOR AREA, HABITABLE

An area fully enclosed by the inside surfaces of permanent walls, windows, doors and partitions and having a headroom in conformance with the BOCA Code, including living, eating, cooking, sleeping, storage, circulation, service, utility and other related household spaces, but excluding garages, carports, porches, unheated sheds and basements. Attics or portions thereof will be considered habitable floor area when they are in compliance with the BOCA Code.

FLOOR AREA RATIO (FAR)

Floor area ratio shall be determined by dividing the sum total of habitable floor area as defined in this section, for each level of the structure by the total upland area of the lot. In this calculation, there shall be the following exemption and/or qualifications in the habitable floor area calculations:

- A. Any detached or attached designated garage area is exempted.
- B. Any detached accessory structure utilized for storage or equipment purposes is exempted.
- C. Any area below FEMA base flood elevation utilized solely for building access and not exceeding 100 square feet for stairs or 125 square feet for stairs and elevator is exempted.
- D. Above FEMA base flood elevation, the area allocated to stairways or stairways with elevator shall be included as habitable area for the first floor only. Above the first floor, a maximum exemption in habitable area per floor shall be 100 square feet for stairs only or 125 square feet for stairs and elevator.

Section 4. Section 560-16 D (2) Supplemental regulations. is amended to delete "(2)" and renumber "(3)" to "(2)" (added text underlined and deleted text is ~~stricken~~) as follows:

~~(2) For lots having street frontage only on Bower Court, Stone Court, Weber Court or Linden Lane, the requirements set forth in § 560-16B above shall be amended as follows, provided that the provisions of § 560-16B not altered by this subsection shall remain unaffected:~~

- ~~(a) Minimum lot area: 1,400 square feet.~~
- ~~(b) Minimum lot frontage: none.~~
- ~~(c) Maximum building height: 15 feet above base flood elevation.~~
- ~~(d) Maximum number of stories: one.~~

(2) A single-family dwelling may be constructed upon a lawfully existing isolated undersized lot without variance relief from the minimum lot area and lot frontage requirements in § 560-16B(1), provided that the lot shall have a minimum lot area of 2,200 square feet or a minimum lot frontage of 40 feet.

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

560-17 Residential D Zoning District.

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

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

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

1. Minimum requirements

TABLE I Minimum Requirements	
Lot Area	1,400 Square Feet
Lot Frontage	40 Feet
Setbacks (Principal Structure)	<p>Front Yard</p> <p>Side Yards (each)</p> <p>Rear Yard</p> <p>First Floor (up to DFE +10') - 5 Feet Second Floor (Above DFE +10') - 3 Feet from the front face of the structure</p> <p>First floor (up to DFE plus 10 feet) - 5 Feet, plus 1 additional foot for each 560 sq. ft. of lot area or portion thereof in excess of 2,200 sq. ft.; minimum side yard requirement shall not be greater than 10 feet Second floor (above DFE plus 10 feet) - 3 Feet from each side face of the structure</p> <p>5 Feet, plus 1 additional foot for each 360 sq. ft. of lot area or portion thereof in excess of 2,200 sq. ft.; minimum rear yard requirement shall not be greater than 10 feet</p>
Setbacks (Accessory Structure)	<p>Side Yard: 3 feet</p> <p>Rear Yard: 3 feet</p> <p>Front Yard: the greater of the front setback to the principal structure on the subject lot or 5 feet.</p>

2. Maximum Limitations

TABLE II Maximum Limitations	
Building Coverage	40%, minus 1% for each 200 sq. ft. of lot area or portion thereof in excess of 2,200 sq. ft.: Maximum Building Coverage shall not be less than 25%
Lot Coverage	

	85%, minus 1% for each 200 sq. ft. of lot area or portion thereof in excess of 2,200 sq. ft.
Building Height	Prohibited (Flat Roof) 22' (Peaked Roof) with 6"/12" minimum roof slope
Habitable Stories	Two
Building Length	30 feet
Floor Area Ratio (FAR)	Not to exceed 65% including all interior space on each floor in the FAR calculation, subject to item D Supplemental Regulations #3 below

C. Conditional Use Regulations. Not Applicable.

D. Supplemental Regulations

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

2. A pitched roof with or without dormers may be located within the front yard setback of any second floor area (greater than 10' above Design Flood Elevation); provided that (i) any roof located in the second floor front yard setback area shall have a maximum pitch of 6"/12"; (ii) no more than two dormers shall be permitted; (iii) dormers shall be subject to a minimum front yard setback of five (5') feet; and (iv) the combined width of dormers shall not exceed forty (40%) percent of the building total frontage.

3. This section applies to second floor. Front decks on the 2nd floor shall be permitted as long as said decks do not extend beyond the front face of the structure. Decks shall not encroach into the 3' side yard setback from each side face of the structure. Flat roofs to accommodate any front facing decks shall be at design flood plus 10' and no higher, inclusive of decks which are to be included in the FAR calculation.

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

5. A residential sprinkler system shall be installed on all renovations or new construction which increases the habitable square footage by 50% or more.

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

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

D. Setback exceptions.

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

(a) Landings/stairs.

- [1] For all residential buildings having an elevation at or above design flood elevation, as defined in Chapter 300, stairs or steps leading to a first-floor entrance landing or porch shall be permitted in yard spaces in all zoning districts, provided that (i) no such stairs or steps shall be located less than five feet from a front property line or less than 3 1/2 feet from a side or rear property line, except in the Residential C and Residential D Zoning Districts, where no such stairs or steps shall be located less than two feet from a side property line; and (ii) stairs or steps located in a front yard setback shall not exceed 25% of the building length as defined in § 560-10.
 - [2] For all residential buildings having an elevation below design flood elevation as defined in Chapter 300, stairs or steps leading directly to a first-floor entrance landing or a porch shall be permitted in yard spaces in all zoning districts, provided that (i) no such stairs or steps shall be located less than five feet from a property line, except in the Residential C and Residential D Zoning Districts, where no such stairs or steps shall be located less than two feet from a side property line; and (ii) stairs or steps located in a front yard setback shall not exceed 25% of the building length as defined in § 560-10.
 - [3] This § 560-38D(1)(a) shall not permit landings to be located in any front yard setback.
 - [4] Landings not exceeding five feet in length or five feet in width shall be permitted in side yard and rear yard setbacks; provided that no such landing shall (i) be located less than five feet from a property line, except in the Residential C and Residential D Zoning Districts, where no such landing shall be located less than two feet from a side or rear property line; nor (ii) be elevated above design flood elevation.
- (b) Outside shower enclosures, which shall not exceed four feet by eight feet in length and width, shall not exceed seven feet in height, and shall not encroach more than four feet into the yard space; provided that no shower enclosure shall be less than six feet from a side property line in the Residential A and Residential B Zoning Districts nor less than two feet from a side property line in the Residential C and Residential D Zoning Districts. Outside showers are prohibited in front yards.
- (c) Trash receptacle enclosures which shall not exceed four feet in height; provided that encroachments into side yards or front yards shall not exceed four feet; and further provided that no trash receptacle enclosure shall be closer to the front or side property lines than five feet in the Residential A and Residential B Zoning Districts nor closer than two feet in the Residential C and Residential D Districts.
- (d) Bay windows, chimneys, and window seats having no floor area; provided that they do not extend more than 20 inches into the yard space; and further provided that the windows, chimneys, and window seats having no floor area shall not exceed 10 feet in width and shall be separated from each other by a minimum horizontal distance of 10 feet. Should bay windows, chimneys, and window seats having no floor area not have footings or foundations, they shall not be counted as lot coverage or building coverage. Any and all bay windows, chimneys, and window seats which have footings or foundations shall be counted as lot coverage and building coverage and shall comply with all applicable setback requirements. The purpose of the aforesaid deviations from the setback requirements is to permit aesthetic enhancement to structures in the case of bay windows and window seats and for

proper ventilation in the case of chimneys. This section shall supersede and control to the extent its provisions conflict with the definitions of "lot coverage" and "building coverage."

- (e) Eaves; provided that they do not extend more than 20 inches into any yard space; and further provided that eaves extending from bay windows and/or window seats permitted under § 560-38D(4) may extend an additional eight inches into a side yard space. In no event shall any eave extend to within three feet of any property line.
- (f) Heating, air-conditioning and circulating equipment; provided that they do not encroach more than five feet into any yard space; and further provided that they are no closer than two feet to any side or front property line.
- (g) Fences; provided that no fence shall exceed four feet in height, with the exception of fences enclosing swimming pools subject to § 560-43.
- (h) Lampposts, which shall be of a single-globe type only, at a height not to exceed seven feet above grade. The light intensity shall not exceed the lumen output of a standard one-hundred-watt frosted incandescent lamp or 1,750 lumens, whichever is higher.
- (i) Arbors and trellises, provided that:
 - [1] No arbor or trellis shall exceed eight feet in height, five feet in width (inside dimension) or five feet in depth.
 - [2] Arbors and/or trellises greater than four feet in height and located on a single lot or parcel shall be separated by a minimum distance of 25 feet.
 - [3] Arbors and trellises shall not be placed in the site triangle on any corner lot.
 - [4] Any fence, latticework, bench or decorative structure attached to, extending from or running with an arbor or trellis shall not exceed four feet in height, if these structures are contained within a required yard setback.

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

Section 7.

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

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

Zone Change	General Location	Block & Lot
Residential C to Residential D	LINDEN LANE	Block 84.03, Lot 82, 84, 86, 88, 90, 91.02, 92, 94, 95.02, 96, 97.02, 98, 99.03, 100, 101.02, 101.03, 102, 103.02, 103.03, 104, 105.02, 105.03, 106, 107.02, 108, 109.03, 110, 112, and 114
Residential C to Residential D	BOWER COURT	BLOCK 108.03 LOTS 6, 8, 10, 12, 14, 16, 17.02, 18, 19.02, 20, 22, 24, 26, 28, 30, 32, 34, 36, 38, 40, 42, 44, 46, 48, 50, 52, 54, and 56

Residential C to Residential D	BOWER COURT	BLOCK 108.31 LOTS , 9, 11, 13, 15, 17.01, 17.02, 19, 21, 23, 25, 27, 29, 31, 33, 35, 37, 39, 41, 43, 45, 47, 49, and 51
Residential C to Residential D	WEBER COURT	BLOCK 109.03 LOTS 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26, 28, 30, 32, 34, 36, 38, 40, 42, 44, 46, 48, 50, 52, 54, 56, and 58
Residential C to Residential D	WEBER COURT	BLOCK 109.31 LOTS 5.02, 7, 9, 11, 13, 15, 17, 19, 21, 22.02, 23, 24.02, 25, 27, 29, 31, 33, 35, 37, 39, 41, 43, 45, 47, 48.02, 49, 50.04, 51, 52.02, 53, 55, 57, 82.04, and 82.05
Residential C to Residential D	STONE COURT	BLOCK 110.03 LOTS 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26, 28, 30, 32, 34, 36, 38, 40, 42, 44, 46, 48, 50, 52, 54, 56.01, and 77.04
Residential C to Residential D	STONE COURT	BLOCK 110.31 LOTS 5, 7, 9, 11, 12, 13, 14.02, 15, 16.02, 17, 19, 21, 23, 25, 27, 29, 31, 33, 35, 37, 39, 41, 43, 45, 47, 49, 51, 53, 55, and 80.03

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

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

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

APPROVED:

Judith Davies- Dunhour, Mayor

ATTEST:

Suzanne C. Stanford, Borough Clerk

(5)

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

ORDINANCE No.

**ORDINANCE AMENDING CHAPTER 475 OF THE CODE OF THE BOROUGH OF
STONE HARBOR ENTITLED "STREETS AND SIDEWALKS" TO AUTHORIZE THE USE
OF THE BOROUGH RIGHT-OF-WAY FOR THE PURPOSE OF INSTALLING CERTAIN
WIRELESS TELECOMMUNICATIONS EQUIPMENT**

SECTION 1. Chapter 475 of the Borough of Stone Harbor Code entitled "Streets and Sidewalks" is hereby amended and supplemented to add a new section designated as Article V as follows:

475-20 Wireless Communications Facilities in the Public Rights-of-Way.

475-21 Legislative Intent; Factual Determinations

Borough Council finds, determines and acknowledges the following:

- (1) It is necessary and appropriate to supplement and/or amend the Stone Harbor Borough Code to address issues associated with the deployment of wireless communications facilities in the public rights-of-way.
- (2) It acknowledges that wireless communications carriers may enter into written agreements with parties that have the lawful right to erect poles in the public rights-of-way pursuant to N.J.S.A. 48:3-18, and that the consent of the municipality is required pursuant to N.J.S.A. 48:3-19, if the party seeking to install such facilities does not have an independent lawful right to construct such facilities.
- (3) There exists a present need to provide for the deployment of small wireless facilities throughout the Borough.
- (4) The Borough Council of the Borough of Stone Harbor deems it necessary and appropriate to supplement and/or amend the Borough Code to address issues associated with the deployment of wireless communications facilities in the public rights-of-way; and
- (5) It is in the public interest to encourage the prompt deployment of communications facilities in order to improve the efficiency and capacity of communications networks that serve the public.
- (6) The purpose of this section is to allow the prompt deployment of wireless communications facilities in the public rights-of-way while also effectively managing the rights-of-way in the interests of the public health, safety and welfare, through the use of co-location and multi-carrier wireless facilities which minimize the number of wireless facilities throughout the Borough.
- (7) The Borough acknowledges that in connection with the use of those public rights-of-way under the jurisdiction of the County of Cape May, municipal consent is required in addition to the consent of the County pursuant to N.J.S.A. 27:16-6; and
- (8) The Borough acknowledges that notwithstanding the proscriptions of 47 U.S.C. §253(a), it has the authority to manage the public rights-of-way as provided in 47 U.S.C. §253(c); and

475-22 Definitions.

(a) For the purposes of this Chapter, the following terms, phrases, words, and their derivatives shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Any term not defined in this section shall have the meaning ascribed to it in the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq., unless the context clearly requires otherwise. In the event that a term is not defined by this

Chapter, said term shall have its common and/ordinary meaning.

(b) Definitions:

Applicant means the entity seeking a Borough permit to construct or install a wireless facility or facilities in the Borough Right-of-Way. Applicant shall include a carrier, a Competitive Local Exchange Carrier (CLEC) or other Third-Party Operator as herein defined. The Applicant shall notify its contractors and subcontractors of the requirements of this Chapter and shall be responsible for any violations of this Chapter by any of its contractors. Applicant shall include the term "Permittee" when required permits have been issued pursuant to this Section.

Borough means the Borough of Stone Harbor, in the County of Cape May, State of New Jersey.

Carrier means any firm, partnership, association, corporation, limited liability Company, or any other legally recognized organization, licensed by the Federal Communications Commission to provide Personal Wireless Services or authorized by the New Jersey Board of Public Utilities to provide telecommunications services in the State of New Jersey.

Co-location means the shared use of wireless facilities by more than one wireless carrier.

COMPETITIVE LOCAL EXCHANGE CARRIERS (CLECs) means a phone company authorized by the New Jersey Board of Public Utilities (sometimes referred to as "NJBPUP") to provide telecommunications services in direct competition with the Incumbent Local Exchange Carriers (ILECs) and other CLECs using its own wires and facilities or through wholesale sharing arrangements with other providers. This does not include wireless carriers.

- As an approved CLEC, the carrier receives certain rights and privileges related to access to rights-of-ways, poles and conduits to place its wires and facilities used only in the provision of landline telecommunications services.
- If CLECs are providing wireless services, which are not within the Board's jurisdiction, the CLEC must follow federal and local municipal zoning rules to gain access to rights of-ways, poles and conduits to provide its wireless services.
- If an approved CLEC also provides wireless services or wireless capacity to a wireless provider, it must obtain local zoning approval and permits from the municipality.

Conduit means a casing or encasement for wires or cables.

Construction Permit means that permit issued by the Construction Official of the Borough of Stone Harbor in accordance with the Uniform Construction Code of New Jersey to permit construction or installation of telecommunications equipment pursuant to this Chapter.

County means the County of Cape May, State of New Jersey.

Day or Days means calendar days unless the text should indicate business days. Calendar days include Saturday, Sunday, and Legal Holidays. Business days shall exclude Saturday, Sunday, and Legal Holidays.

Facility or Facilities means all structures, devices, equipment and materials, including but not limited to: antennas, radios and radio cabinets, electrical wires and cables, fiber optic cables, communications and video cables and wires, poles, conduits, pads, backup power supply and other components of Personal Wireless Service Facilities, and appurtenances thereto, located in the public rights-of-way. Each pole mounting set up shall be a separate Facility for regulatory purposes, applications, and fees.

Governing Body means the Mayor and Borough Council of the Borough of Stone Harbor in the County of Cape May, State of New Jersey.

Municipality means the Borough of Stone Harbor, County of Cape May, State of New Jersey.

Permittee means the entity to which a permit has been issued pursuant to this Article and Master License Agreement for Use of Public Rights-of-Way. This term shall also mean any contractor or subcontractor doing any work for the carrier.

Personal Wireless Services means any technologies defined in 47 U.S.C. 332(c)(7) including commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services, provided to personal mobile communication devices through wireless Facilities or any fixed mobile wireless services provided using personal wireless Facilities.

Personal Wireless Service Facilities means equipment at a fixed location that enables Personal Wireless Service between user equipment and a communications network, including but not limited to: (a) equipment associated with Personal Wireless Services such as private, broadcast and public safety services, as well as unlicensed wireless services and fixed wireless services; and (b) Tower, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies and comparable equipment, regardless of technological configuration.

Public Right-of-Way means the surface, the air space above the surface, and the area below the surface of any Street, road, highway, lane, alley, boulevard, or drive, including the sidewalk, shoulder and area for utilities owned or controlled by the Borough of Stone Harbor or the County of Cape May or within an easement to the public or other easement owned or controlled by the Borough of Stone Harbor or the County of Cape May.

REVIEW COMMITTEE OF THE BOROUGH or SITE COMMITTEE means that Committee established pursuant to Chapter 475-37.

Small Wireless Facilities is a cellular network facility capable of delivering high transmission speeds but at lower ranges. "Small" references coverage area, not their physical size.

STEALTH STRUCTURE means a new structure for the mounting of facilities, such as a light pole with integrated antenna, with aesthetics found to be reasonably acceptable to the Site Review Committee. Such a structure shall only be permissible when it is conclusively demonstrated that existing facilities in the area are not adequate or sufficient and that there is no practical or feasible alternative to the construction of a stealth structure. However, even if the applicant conclusively demonstrates that existing facilities in the area are not adequate or sufficient and that there is no practical or feasible alternative to the construction of a stealth structure, the application may be denied if the Borough determines that the location of the proposed stealth structure is not appropriate under all of the applicable facts and circumstances or otherwise fails to meet the requirements of this Chapter/Article. If the application is denied, Applicant shall be entitled to appeal as herein provided.

Cross Reference: See Section 475-37(Appeals); 475-28 (Deviations); 475-23 (e) (Master License Agreement); 475-25 (Conditions and Requirements)

By "reasonably acceptable" is meant that the proposed facility or facilities must, to the greatest extent possible, duplicate other structures such as utility poles in the immediate vicinity [e.g. similar size, color, height, design] and shall otherwise meet all the standards established by this Ordinance/Chapter.

Street means any street, avenue, boulevard, road, parkway, viaduct, drive or other way as defined in the Municipal Land Use Law, N.J.S.A. 40:55D-7.

THIRD PARTY OPERATOR means an applicant or permittee that is not specifically a licensed wireless carrier or CLEC that will build, operate and maintain wireless facilities for the provision of service of one or more wireless carriers

Utility pole a tall pole that is used to support telephone wires, electrical wires, etc.

Zoning Officer means the Zoning Officer of the Borough of Stone Harbor or his/her authorized designee, including any Assistant Zoning Officer.

Zoning Permit means the document signed by the Zoning Officer pursuant to N.J.S.A. 40:55D-18 that is required as a condition precedent to the installation of an individual Facility and which acknowledges that the Facility complies with the provisions of this Chapter, or approved deviation therefrom.

475-23 Master License Agreement; Procedure to Obtain Permits.

Use of Existing Poles

(a) A carrier seeking to use the Borough rights-of-way for the installation of facilities as defined by this Chapter must first execute the Master License Agreement approved by the Borough Council.

(b) Prior to the execution of the Master License Agreement, the carrier shall provide to the Borough a complete list or inventory of existing poles within the Borough that the carrier will or may use for the installation of facilities.

Such inventory shall be physically viewed and inspected by the Borough within 30 calendar days of receipt and the carrier shall be notified as to whether the designated poles are acceptable to the Borough. If any are rejected, the Borough shall notify the carrier of the pole or poles rejected and the reasons for rejection. Once the final list is agreed upon by the carrier and the Borough Administrator, the list shall be submitted to Borough Council for approval by Resolution. Once approved, such approval shall be good for five years from the date of approval. During such five-year approval period the carrier may, at any time, make use of any of the pre-approved poles by filing an application for a permit with the Borough Zoning Officer with a copy of the notice to both the Borough Clerk and Borough Administrator. The Zoning Officer shall issue a Zoning Permit with the necessary Construction Permit to follow in due course.

(c) No pole or poles shall be used unless a Zoning Permit and Construction Permit is issued as provided herein.

(d) A Zoning Permit and Construction Permit may cover multiple installations in multiple locations provided the specific locations are designed in the Permit Application.

Use of New or Replacement Poles

(e) When a carrier concludes that an existing pole or poles cannot be utilized or is unsuitable for the installation of facilities under this Chapter, the carrier may propose the use of a replacement pole or the installation of an additional pole within the right-of-way. The carrier shall submit a preliminary request to the Zoning Officer with copies to both the Borough Clerk and Borough Administrator. Such preliminary request shall contain the exact location of the existing or proposed pole; whether it is a proposed replacement of an existing pole or an additional pole; if an additional pole a description of the proposed installation and type of pole to be utilized; and such additional information as the Borough may require. This section applies to any proposal to install/construct a stealth structure as those terms are defined herein. A new pole or installation will only be approved when a carrier establishes by conclusive evidence that existing facilities are either unusable or unsuitable under the existing circumstances.

Furthermore, it is the carrier's responsibility to ensure all existing utilities located on a pole that is replaced are removed and properly installed on new/replacement pole.

All pole designs are to be included within proper application and approved by the Borough of Stone Harbor.

(f) Upon receipt of a complete application, and after such supplementation as the Borough may require, the application will be reviewed by the Borough which may include a review by the Site Committee established under this Chapter and within such times as specified in Section 475-26

(g) If the carrier agrees with the preliminary determination, the site inventory of poles will be updated and the matter submitted to Borough Council for approval and, upon approval, the Zoning Permit and Construction Permits may issue.

(h) If the carrier does not accept the preliminary determination, then representatives of both the carrier and the Borough will meet in an effort to resolve disputed issues. If a resolution cannot be reached, then the applicant may pursue the appeal process.

Cross reference: 475-37 (Appeals)

475-24 Permit Required; Application and Fees.

(a) *Permit required.* No Carrier, without first filing an application and obtaining a Zoning Permit from the Borough Zoning Officer pursuant to N.J.S.A. 40:55D-18, shall construct any Facility within any public right-of-way.

(b) *Application requirements.* The application shall contain, at a minimum, the following:

- (1) The Carrier's name and address and telephone number of the contact person for such Carrier;
- (2) The applicant's name and address, if different than the Carrier, and telephone number of the contact person for such applicant;

- (3) The names, addresses, telephone number of the professional consultants, if any, advising the applicant with respect to the application;
 - (4) A brief description of the proposed work;
 - (5) A plan with specifications of the Facility showing the work proposed, including sufficient information regarding the components of the Facility, including their types and quantities;
 - (6) Any request for a deviation from one or more provisions of this Chapter, and
 - (7) Such additional information as may be reasonably required by the Borough Zoning Officer.
- (c) *Application fees.* All applications for Zoning Permit pursuant to this Chapter shall be accompanied by a fee and escrow deposit as set forth in Appendix A of this Section.
- (d) *Recurring fees.* Annual recurring fees shall be payable as set forth in Appendix A

475-25 Conditions and Requirements.

- (a) *Installation of Facilities.* It shall be lawful for wireless communication carriers to install facilities in the public rights-of-way on existing poles only, and such carriers shall comply with all requirements of this Chapter and the terms and condition of the Master License Agreement. All applicants shall obtain any and all approvals necessary from the owner and/or operator of the utility poles to be used;
- (b) *Other approvals.* All applicants shall obtain any and all approvals necessary from any other governmental agency in addition to the owner and/or operator of the utility poles to be used;
- (c) *Height.* No antenna or attachment to an existing utility pole shall exceed the height of that pole by more than five (5) feet;
- (d) *New poles.* No new poles shall be erected for the purpose of placing Facilities regulated herein except as permitted after following the process specified in Section 475-23 (e) et. seq. The setting of utility poles is regulated by the New Jersey Board of Public Utilities ("BPU"), the Borough authorizes only the utility company to set utility poles in the public rights-of-way in their normal course as they deem appropriate and/or necessary subject to BPU regulation. Any proposed new pole shall follow the procedure specified in §475-23 (e) et. seq. A new pole will be authorized only when a carrier conclusively demonstrates that existing poles or facilities are unsuitable or unusable.
- (d) *Pole-Mounted equipment.* Equipment shall be pole mounted at a minimum of eight (8) feet from the ground and/or shall conform to all Flood Prevention Ordinance requirements of the Borough including but not limited to base flood plus elevations required, whichever is higher in height and the facility is mounted on a structure fifty (50) feet or less in height, including the antenna or is mounted on a structure no more than ten (10) percent taller than other adjacent structures or does not extend existing structures on which they are located to a height of more than fifty (50) feet or by more than ten (10) percent, whichever is greater; each antenna associated with the deployment, excluding associated antenna equipment, is no more than three (3) cubic feet in volume; all other wireless equipment associated with the structure, including wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than twenty eight (28) cubic feet in volume;
- (e) *Ground-mounted equipment.* No ground-mounted equipment is permitted on or around any pole;
- (f) *Color & Conduit.* All antennas, Conduit and equipment shall be a color that blends with the utility pole on which it is mounted. Any cables or wiring attached to the utility pole shall be covered with an appropriate Conduit;
- (g) *Construction Permits.* Subsequent to the issuance of the Zoning Permit, the Permittee shall obtain any necessary permits required pursuant to the current Uniform Construction Code adopted in New Jersey prior to installation;
- (h) *Underground work.* All underground work shall follow standard road opening permit requirements; and

- (i) *Co-locate.* All carriers shall co-locate and cooperate with each other to minimize the impact and number of Facilities on and in the public rights-of-way.

475-26 Action on Zoning Permit Applications; Time for Decision

The Zoning Officer shall approve or reject the permit application within ten (10) business days, unless the applicant consents, in writing to an extension of time beyond the ten (10) days. If the application is rejected, the reason for such rejection shall be stated in writing. If the Zoning Officer determines that the permit application is incomplete and insufficient to enable the Zoning Officer to either approve or reject the application, then, in such case the Zoning Officer shall inform the applicant in writing what information is missing and this shall be deemed a denial of the application.

If the application does not conform to the requirements of this Chapter and no request for a deviation is made with the application, the Zoning Officer shall reject such application in writing, stating the reasons therein. If the Zoning Officer is satisfied that the application conforms to the requirements of this Chapter, the Zoning Officer shall issue a permit therefor as follows:

- (a) Within 60 days for an existing structure; or
- (b) Within 90 days for a new structure

Cross reference: 475-37 (Appeals)

475-27 Effect of Permit.

A Zoning Permit from the Zoning Officer shall confirm compliance with this Chapter and shall authorize the Permittee to apply for construction permits to undertake the work set forth in the plans filed with the permit application. The permit shall not grant authority to the Permittee to impinge upon the rights of others who may also have an interest in the public rights-of-way.

475-28 Deviations.

- (a) *Request for deviations.* A Carrier proposing to deviate from one or more of the provisions of this Chapter shall do so in writing to the Zoning Officer as part of the permit application. The request shall identify each provision of this Chapter from which a deviation is requested and the reasons why a deviation should be granted.
- (b) *Authority to grant deviations.* Relative to additional pole procedures, The Zoning Officer shall have no authority to grant a deviation from any conditions of Chapter 475-25 "Conditions and Requirements". The Zoning Officer shall decide for all other requests whether a deviation is authorized by this Chapter.
 - (1) One or more conditions not under the control of the Carrier (such as terrain features or an irregular public rights-of-way line or condition) create a special hardship that would make enforcement of the provision unreasonable, given the public purposes to be achieved by the provision; and
 - (2) All other designs, methods, materials, locations or Facilities that would conform to the provision from which a deviation is requested are impracticable in relation to the requested approach.
- (c) *Additional conditions for granting of a deviation.* As a condition for authorizing a deviation, the Zoning Officer may require the Carrier requesting the deviation to meet reasonable standards and conditions that may or may not be expressly contained within this Chapter but which carry out its purposes.
- (d) *Material deviations.* In the event the actual size, type, material, or location of any Facilities installed in the public rights-of-way deviate in a materially significant way from that which was shown on the plans submitted with the Zoning Permit application, the Permittee shall file new plans with the Zoning Officer within 30 days of request or be subject to a stop work order, an order of removal, or a requirement to apply to the Governing Body for relief.
- (e) *Referral to Site Review Committee.* If the Zoning Officer determines that the deviation requested (or existing) is a major deviation and/or that practical hardship has not been properly demonstrated, or is a deviation from Chapter 475-20, the request shall be referred to the Borough Administrator who shall refer the matter to the Site Committee for review. If the Site Committee denies the request for a deviation, then the Permittee shall, within thirty (30) days of said denial, either remove the Facility from the public rights-of-way (if installed) or modify the Facility so that it conforms to this Chapter and submit revised plans to the Zoning Officer for approval.
- (f) *Review fees.* Any reasonable professional fees incurred by the Site Committee in its review of a request for a deviation or as a result of the installation of a Facility in violation of this Chapter,

and for which no approval is granted, shall be paid to the Borough within thirty (30) days and prior to the issuance of the Zoning Permit as permitted by N.J.S.A. 54:30A-124.

An escrow of twenty-five hundred dollars (\$2,500.00) shall be submitted with the request for deviation to the office of the Borough Administrator to cover such fees and be replenished as deemed appropriate by the Zoning Officer.

Cross reference: Appendix A

- (g) The Site Review Committee may, with the blanket approval of the governing body, grant a deviation or waive any requirement of this Chapter whenever there is good cause and it is determined that to do so furthers the intent and purpose of this Section, facilitates the orderly and efficient deployment of small cell facilities and equipment within the Borough and it appears that the best interest of the Borough and the public is served in doing so.

475-29 Insurance.

- (a) *Required coverage and limits.* Each Carrier constructing a Facility in the public rights-of-way shall secure and maintain commercial general liability insurance with limits not less than \$2,000,000 for injury or death on one or more persons in any one occurrence and \$2,000,000 for damage or destruction in any one occurrence insuring the Carrier as named insured and listing the Borough as an additional insured on the policies.
- (b)
- (c) *Copies required.* The Carrier shall provide copy of certificates of insurance reflecting the requirements of this section to the Borough within ten (10) days following zoning approval and prior to obtaining a construction permit pursuant to this Chapter.
- (d) *Self-insurance.* A Carrier may self-insure all or a portion of the insurance coverage and limit requirements required by subsection (a) of this section. A Carrier that self-insures is not required, to the extent of such self-insurance, to comply with the requirement for the naming of additional insured under subsection (a) or the requirements of subsections (b) of this section. A Carrier that elects to self-insure shall provide to the Borough evidence sufficient to demonstrate its financial ability to self-insure the insurance coverage and limit required under subsection (a) of this section. Proof of such financial ability to self-insure shall be provided to the Borough within (10) days following the effective date of the Master License Agreement and prior to obtaining a permit pursuant to this Chapter.
- (e) *Effect of insurance and self-insurance on Carrier's liability.* The legal liability of the Carrier to the Borough and any person for any of the matters that are the subject of the insurance policies or self-insurance required by this section shall not be limited by such insurance policies or self-insurance or by the recovery of any amounts thereunder, however neither the Borough nor the Carrier shall be liable to the other for consequential, incidental, exemplary or punitive damages on account of any activity pursuant to this Chapter.

475-30 Indemnification.

Prior to constructing a Facility in the public rights-of-way, and as a precondition to the issuance of a permit pursuant to this Chapter, the Carrier shall execute the Master License Agreement, agreeing, among other things, to indemnify and hold harmless the Borough against any claim of liability or loss from personal injury or property damage resulting from or arising out of the negligence or willful misconduct of the Carrier, its employees, contractors or agents, except to the extent such claims or damage may be due to or caused by the negligence or willful misconduct of the Borough or its employees, contractors or agents.

The Borough will provide the Carrier with prompt, written notice of any claim covered by this indemnification; provided that any failure of the Borough to provide any such notice, or to provide it promptly, shall not relieve the Carrier from its indemnification obligation in respect of such claim, except to the extent the Carrier can establish actual prejudice and direct damages as a result thereof. The Borough shall cooperate with the Carrier in connection with the Carrier's defense of such claim. The Carrier shall defend the Borough, at the Borough's request, against any claim with counsel of the Borough's choosing that is reasonably satisfactory to the Carrier.

Cross reference: 475-23 (Master License Agreement; Procedure to Obtain Permits)

475-31 Permit Suspension and Revocation.

- (a) *Right to revoke permit.* The Zoning Officer may revoke or suspend a permit issued pursuant to this Chapter for one or more of the following reasons:
- (1) Materially false or incomplete statements in the permit application;

- (2) Non-compliance with one or more provisions this Chapter for which a deviation has not been allowed;
- (3) The Permittee's Facilities within the public rights-of-way presents a direct or imminent threat to the public health, safety, or welfare;
- (4) Permittee's failure to construct the Facilities substantially in accordance with the permit and approved plans, or;
- (5) Violation of the terms and conditions of the Master License Agreement.

Before taking any such action, the Zoning Officer shall first consult with the Borough Administrator and Borough Solicitor.

- (b) *Notice of revocation or suspension.* The Zoning Officer shall send written notice of its intent to revoke or suspend a permit issued pursuant to this Chapter stating the reason or reasons for the revocation or suspension and the alternatives available to Permittee under this section.
- (c) *Permittee alternatives upon receipt of notice of revocation or suspension.* Upon receipt of a written notice of revocation or suspension from the Zoning Officer, the Permittee shall have the following options:
 - (1) Immediately provide the Borough with evidence that no cause exists for the revocation or suspension;
 - (2) Immediately correct, to the satisfaction of the Zoning Officer, the deficiencies stated in the written notice, providing written proof of such correction to the Zoning Officer within ten (10) business days after the receipt of the written notice of revocation, or;
 - (3) Within ten (10) business days remove the Facilities located within the public rights-of-way and restore the public rights-of-way to the satisfaction of the Zoning Officer providing written proof of such removal to the Zoning Officer within ten (10) business days after receipt of the written notice of revocation. The Zoning Officer may, in his or her discretion, extend the time periods provided in this subsection. To be effective extensions must be in writing.

475-32 Change of Ownership, Owner's Identity, or Legal Status

Notification of change. A Carrier shall notify the Borough no less than thirty (30) days following the transfer of ownership of any Facility in the public rights-of-way or change in identity of the Carrier. The rights and obligations given to the Carrier pursuant to the Master License and Zoning Permit shall be binding on and benefit the new owner of the Carrier or the Facility, its successors and assigns, who shall have all the obligations and privileges enjoyed by the former owner under the Master License Agreement, Zoning Permit, and all applicable laws, ordinances, rules and regulations, including this Chapter, with respect to the work and Facilities in the public rights-of-way.

475-33 Traffic Control.

- (a) *Warning signs, protective devices, and flaggers.* The Carrier is responsible for providing and installing warning signs, protective devices and flaggers, when necessary for protection of the public and the Carrier's workers when performing work on the public rights-of-way. The carrier and its contractor(s) and subcontractors shall comply with the provisions of the Manual of Uniform Traffic Control Devices to the extent applicable and necessary.
- (b) *Interference with traffic.* All work shall be phased so that there is minimum interference with pedestrian and vehicular traffic. All Road Closures should be coordinated with the Police Department, Fire Department and County Dispatch.
- (c) *Compliance.* The Carrier shall take immediate action to correct any deficiencies in traffic protection requirements that are brought to the Carrier's attention by the Zoning Officer, Borough Engineer, Fire Department, Police Department, Department of Public Works & Utilities or Code Enforcement.

475-34 Removal, Relocation, or Modification of Facilities.

- (a) *Notice.* Within 30 days following written notice from the Borough, any Carrier with Facilities in the public rights-of-way shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any Facilities whenever the Borough determines that (a) such removal, relocation, change or alteration, is reasonably necessary for the construction, repair, maintenance, or installation of any Borough improvement in or upon the public rights-of-way;

or (b) because the equipment is interfering with or adversely affecting proper operation of the light or other poles; or (c) the widening of the public rights-of-way. In such instance, the Borough shall cooperate with Carrier to find a replacement location for the Facility that will provide similar radio frequency coverage to the Facility removed or relocated.

(b) *Removal of unauthorized Facilities.* Within thirty (30) days following written notice from the Zoning Officer to any Carrier that owns, controls, or maintains any unauthorized Facility or related appurtenances within any public rights-of-way shall, at its own expense, remove all or any part of such Facilities or appurtenances. A Facility is unauthorized and subject to removal, but not limited to, in the following circumstances:

- (1) Upon expiration or termination of the Permittee's license, unless otherwise permitted by applicable law;
- (2) If the Facility was constructed without the prior grant of a Zoning Permit;
- (3) If the Facility was constructed without prior issuance of a required construction permit;
- (4) If the Facility was constructed at a location not permitted by the Permittee's permit; or
- (5) Upon abandonment of the Facility. Abandonment will be presumed where a Facility has not been used for the purpose for which it was installed for a period of ninety (90) consecutive days, or more, and where there have been no efforts to repair or renew the use during the ninety (90) day period. The Carrier owning, controlling or maintaining the Facility shall have the burden of establishing to the Zoning Officer that the Facility is still being used within thirty (30) days of the notice. All notices described herein shall be in writing and sent by recognized national overnight courier (e.g., U.S. Postal, Federal Express or UPS) for which proof of delivery is supplied. Failure to respond to the Zoning Officer's request for information regarding the abandonment of the Facility shall constitute a presumption of abandonment. Upon the Zoning Officer's determination and final written notification to the Carrier of such abandonment the Carrier shall have sixty (60) days within which to:
 - a. Reactivate the use of the Facility or transfer the Facility to another entity which makes actual use of the Facility promptly; or
 - b. Dismantle and remove the Facility and notify the Zoning Officer in writing of the completion of such removal.

(6) If the facility or any aspect of same was constructed in violation of any provision of this ordinance

If the Entity believes that the determination of abandonment by the Zoning Officer is incorrect it may file a written appeal with the Site Committee as provided in Chapter §475-37 hereof within thirty (30) days of the Zoning Officer's determination. If the Entity fails to prevail on appeal, or fails to reactivate, or transfer to another active user or remove the service facility the Borough shall have the right to have the Facilities removed at the Carrier's sole expense. The Borough shall be entitled to reimbursement for all costs and expenses associated with the removal of any Facility thereafter.

475-35 Cleanup and Restoration.

Upon completion of all construction or maintenance of Facilities, the Carrier shall remove all debris and restore the right-of-way to a clean and safe condition in a timely manner and to the satisfaction of the Zoning Officer and the Director of the Department of Public Works.

475-36 Maintenance and Emergency Maintenance.

- (a) *General.* Facilities within public rights-of-way shall be maintained by or for the Carrier at the Carrier's sole expense. Carrier shall not damage the Public Right-of-Way and shall keep the Public Right-of-Way free of all debris. If any portion of the Public Right-of-Way suffers damage by reason of access by Carrier, then in that event, Carrier, at its sole cost and expense, shall immediately repair all such damage or replace the damaged portion of the Public Right-of-Way and restore the damaged portion of the property to its condition prior to the occurrence of such damage.

- (b) *Emergency maintenance procedures.* The noncompliance with normal procedures for securing a required permit shall be excused when a Carrier reasonably determines that an emergency exists.
- (1) If an emergency creates a hazard on the traveled portion of the public rights-of-way, the Carrier shall take immediate steps to provide all necessary protection for traffic on the roadway including the use of signs, lights, barricades or flaggers.
 - (2) In an emergency, the Carrier shall, as soon as practical, notify the Borough Zoning Officer or his or her duly authorized agent and the Borough of Stone Harbor Police Department of the emergency, informing him or her as to what steps have been taken for protection of the traveling public and what will be required to make the necessary repairs.
On nights and weekends, the Carrier shall notify the Borough of Stone Harbor Police Department of an emergency if the Borough Zoning Officer is unavailable. If the nature of the emergency is such as to interfere with the free movement of traffic, the Borough of Stone Harbor Police Department shall be notified immediately. To the extent that the Borough of Stone Harbor has actual knowledge of the displacement or damage to any Facility, it shall inform Carrier upon learning of the same.

475-37 SITE COMMITTEE; COMPOSITION; FUNCTIONS; APPEALS

- (A) There is hereby created under this Chapter and Section a group to be known as the Site Committee consisting of the Borough Administrator, the Utilities Committee and Zoning Officer.
- (B) The function of the Site Committee shall be as follows:
- i. Review and approve an inventory of all existing wood poles in the Borough submitted by a Carrier for the installation of a wireless Facility as defined herein and submit that recommendation to Borough Council.
 - ii. Review and approve the type and location of any new or replacement pole prior to the issuance of a Zoning Permit and Construction Permit under this Section and submit that recommendation to Borough Council.
 - iii. Initially hear and decide any appeal of any determination by the Borough Administrator or the Zoning Officer except that any appealable issue arising under the New Jersey Uniform Construction Code (UCC) shall be heard by the Cape May County Board of Construction Appeals and not by the Site Committee.
 - iv. The Committee may, in its discretion, consult with any Borough consultant regarding the issues under consideration.
- (C) Procedure:
- i. Appeals to the Site Committee shall proceed pursuant to the terms of this agreement. Generally, an appeal shall be filed within thirty (30) days of the decision being appealed and shall be in writing specifying the reason and grounds for the appeal. A hearing on the appeal shall be scheduled not sooner than twenty (20) nor later than thirty (30) business days from the date of filing. A decision shall be rendered, in writing, within fifteen (15) business days following the hearing.
 - ii. A Carrier, or any other aggrieved party in interest, may thereafter appeal the decision of the Site Committee to the Borough Council by filing a notice of appeal within thirty (30) days following the written decision of the Site Committee. Such notice must be in writing, specify the reasons and grounds for such appeal. Upon the filing of such an appeal the Borough Council may choose one of the following:
 - 1) Refer the matter to a Hearing Officer who shall conduct a hearing substantially following the procedure for administrative hearings in New Jersey. The Hearing Officer shall then submit his/her findings and conclusions with fifteen (15) business days after the close of the Hearing. Borough Council may then accept, reject, or modify the decision of the Hearing Officer based on the record developed before the Hearing Officer; OR
 - 2) Borough Council may select an ad hoc committee of its membership to hear and decide the appeal; OR

3) Borough Council may decide to have the full Council decide the matter.

iii Following the exhaustion of such administrative remedies, any aggrieved person or entity may pursue a further appeal to a Court of competent jurisdiction subject to the Rules of such Court.

475-38 Enforcement.

Nothing in this Chapter shall be construed as limiting any additional or further remedies that the Borough may have for enforcement of this Chapter or the right of a Carrier to appeal any decision to a court of competent jurisdiction.

475-39 Violations and Penalty.

Any person or entity who violates any of the provisions of this Chapter 475 shall, upon conviction, be subject to the penalties set forth in 1-17 of this Code including the provision for enhanced penalties provided therein. The penalties under this subsection shall be in addition to, and not in place of any other penalty or sanction prescribed herein.

SECTION 2. Severability. If for any reason any section of this Ordinance shall be declared illegal by any Court of competent jurisdiction, the remaining section of the Ordinance shall remain in full force and effect, notwithstanding.

SECTION 3. Repealer. Any Ordinance or provision thereof inconsistent with this Ordinance is hereby repealed to the extent of such inconsistency.

SECTION 4 Effective date. This Ordinance shall take effect immediately upon the adoption and publication in accordance with the law.

ATTEST:

BOROUGH OF STONE HARBOR

Suzanne C. Stanford, RMC

Judith M. Davies-Dunhour
Mayor

Borough Clerk

ORDINANCE No.

APPENDIX A

This Appendix is part of Ordinance No.

Pursuant to Chapter 475-24 of Ordinance No. 100-2012-0001, the following fees are hereby established for the installation of Small Wireless Facilities:

INITIAL APPLICATION:

For use of an existing pole previously approved by the Borough:

For one to five poles \$ 500.00

For each additional pole over five – fee per pole \$ 100.00

For the modification or replacement of an existing pole \$ 250.00

Together with the mounting or installation of an associated
Wireless facility in the right-of-way

For a new pole or stealth structure – for each such structure \$ 1,000.00

Fee for Change in Carrier \$ 1,000.00

ALL SUBSEQUENT APPLICATIONS:

Each application shall be governed by the same fee schedule

That is applicable to "Initial Application".

DEVIATION:

In addition to the foregoing fees, any application requesting a

Deviation shall have an additional fee of \$ 1,000.00

ESCROW DEPOSIT:

Every application shall also be accompanied by an Escrow Deposit

In the amount of \$3,500.00

The Escrow shall be charged for all professional fees
of whatever type incurred in reviewing the application.

This includes fees for attorneys, engineers, telecommunications

Consultants and any other consultant retained by the Borough.

Applicant shall be required to replenish such escrow upon demand

By the Borough.

RECURRING FEES: There shall be an annual recurring fee for each Small Wireless
Facility in the amount of

\$ 270.00

This amount shall be invoiced by the Borough and

Shall be payable July 1 of each year. The first year's

Payment shall be prorated based on the number of

months that such Small Cell Facility has been in existence.

***Fees are subject to review by the Borough of Stone Harbor Mayor and Council and subject to change.*

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

(6)

Chapter 542. Water and Sewers

[HISTORY: Adopted by the Borough Council of the Borough of Stone Harbor as Secs. 14-1 through 14-23 of the 1982 Revised General Ordinances. Amendments noted where applicable.]

GENERAL REFERENCES

Water emergency — See Ch. 547.

§ 542-1. Definitions and word usage.

A. The following definitions will govern this chapter:

ACT

The Federal Clean Water Act, as amended.

BOD (BIOCHEMICAL OXYGEN DEMAND)

The quantity of oxygen used in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20° C. expressed in milligrams per liter.

BOROUGH

The Borough of Stone Harbor.

BUILDING DRAIN (SANITARY)

That part of the lowest piping of a drainage system which receives the discharge from sewage pipes inside the walls of the building and conveys it to the building sewer beginning three feet outside the building wall.

BUILDING SEWER

That part of the drainage system which extends from the end of the building drain and conveys its discharge to the service line of the public sewer.

CMCMUA

The Cape May County Municipal Utilities Authority.

COMBINED SEWER

A sewer intended to receive both wastewater and stormwater or surface water.

COMMERCIAL USER (CLASS II)

Includes any property occupied by a nonresidential establishment not within the definition of an "industry user" (Class III), and which is connected to the wastewater facilities.

CUSTOMER, CONSUMER, PROPERTY OWNER or USER

The owner of the property or his duly authorized agent as exemplified by the following ownership examples:

(1)

A building owned by one party having one or more uses.

(2) An association formed under the "Horizontal Property Act" of the "Condominium Act."

DAY

The twenty-four-hour period beginning at 12:01 a.m.

DEPARTMENT

The Department of Utilities.

EPA

The United States Environmental Protection Agency.

EXCLUSION METER

A separate meter for water which will not be returned to the sanitary collection system as described in § 542-22A(2).

EXTRAORDINARY EXPENSE

Those costs which are over and above normal operating and maintenance costs incurred as a result of actions of a person or persons.

GARBAGE

The solid animal and vegetable wastes resulting from the domestic or commercial handling, storage, dispensing, preparation, cooking, and serving of foods.

INDUSTRIAL USER (CLASS III)

Any nonresidential user whose waste does not meet the restricted discharge requirements set forth in § 542-20B of these requirements.

INTERFERENCE

Inhibition or disruption of any sewer system, wastewater treatment process, sludge disposal system, or their operation, which substantially contributes to a violation of applicable discharge permits.

NATURAL OUTLET

Any outlet into a watercourse, pond, ditch, lake, or any other body of surface water or groundwater.

NJDEP

The New Jersey Department of Environmental Protection.

NPDES

National Pollutant Discharge Elimination System permit program, whether administered by the EPA or by the State of New Jersey.

OWNER

The person or persons who legally own, lease, or occupy private property with wastewater facilities which discharge, or will discharge to the wastewater facilities.

PERSON

Any individual, firm, company, association, society, partnership, corporation, municipality, or other similar organization, agency, or group.

pH

The logarithm of the reciprocal of the hydrogen ion concentration expressed in grams per liter of solution as determined by Standard Methods.

PRETREATMENT

The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to discharge to the wastewater facilities.

PROPERLY SHREDDED GARBAGE

Garbage that has been shredded to such a degree that all particles will be carried freely under flow conditions normally prevailing in the wastewater sewers, with no particle greater than 1/2 inch in any dimension.

PUBLIC SEWER or SANITARY COLLECTION SYSTEM

A community sewer directly controlled by the Borough of Stone Harbor.

RESIDENTIAL USER (CLASS I)

Premises used only for human residency and which is connected to the wastewater facilities.

SANITARY WASTEWATER (SEWER)

Wastewater discharged from the sanitary conveniences of dwellings, office buildings, industrial plants, or institutions.

SERVICE LINE (LATERAL)

A water pipeline which extends from a water main to the premises of the user and shall include, but not be limited to a corporation stop, one or more curb stops, yokes, meters and meter boxes.

SEWER CLEAN OUT

A pipe or pipes installed to provide a flow of air to or from a drainage system or to provide a circulation of air within such system to protect trap seals from siphonage and back pressure. The sewer clean out is a pipe with a cap that provides access to the sewer lateral so that blockages can be removed, located at or near the street curb.

STANDARD METHODS

The latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, Water Pollution Control Federation and American Water Works Association.

STATE

The State of New Jersey.

STORM SEWER

A sewer for conveying stormwater, surface water and other waters, which is not intended to be transported to a treatment facility.

SURFACE WATER

Water which occurs when the rate of precipitation exceeds the rate at which water may infiltrate into the soil.

SUSPENDED SOLIDS

The total suspended matter that either floats on the surface of, or is in suspension in, water of wastewater as determined by Standard Methods.

TOXICS

Any of the pollutants designated by federal regulations pursuant to Section 307 (a) (1) of the Act.

WASTEWATER

A combination of liquid and water-carried wastes from residences, commercial buildings, industries, and institutions, together with any groundwater, surface water, or stormwater or other infiltration that may be present.

WASTEWATER FACILITY

The combination of the wastewater sewers, pumping stations, appurtenances and treatment facilities.

WASTEWATER SEWER (MAIN)

The structures, processes, equipment and arrangements necessary to collect and transport wastewaters to the treatment facility.

WASTEWATER TREATMENT FACILITY

The structures, processes, equipment and arrangements necessary to treat and discharge wastewater.

WATER MAIN

A water pipe line in a public street or highway or within an easement area from which individual premises are served through service line connections.

WPCF

The Water Pollution Control Federation.

B.

"May" is permissible. "Shall" is mandatory.

§ 542-2. Statement of policy.

A.

The rules, regulations and rates contained in this chapter are hereby established for the supply of water from the municipal water system and for the disposal of sewage through the sanitary collection system from all properties, and no other means of sewage disposal are permitted.

B.

The operation of the water and sanitary collection systems shall be and remain vested in the Borough Council who shall employ and appoint such personnel as may be necessary to properly operate the systems. No work or service of any kind, except an emergency, will be performed by Borough employees on privately owned property without express written prior approval by the user.

C.

The Borough of Stone Harbor or its authorized agents shall have the right of access to users' premises at reasonable times for any purpose in connection with the water and/or the sanitary collection systems.

D.

All fees and surcharges shall be established by Resolution of Borough Council at the Borough reorganization meeting, or shortly thereafter. The Resolution establishing the fee or surcharge hereunder shall be kept on file with the Borough Clerk, the Utilities Collector and the Construction Official and shall be posted on the Clerks bulletin board and the Borough website.

E.

All Water and Sewer Rates and Penalties shall be established by Ordinance

§ 542-3. Application for services.

A.

Written application for a new or replacement water service line and/or building sewer shall be made to the Utilities Collector in the manner hereinafter provided before any connection shall be made.

B.

The application(s) shall be submitted by a licensed plumber on behalf of the property owner, and shall be accompanied by payment of all necessary charges as provided herein, or any amendments or supplements thereof.

C.

When a new installation or replacement of a water service line and building sewer is contemplated at the same time, a street opening fee, as established by Resolution of the Borough Council, will apply if both lines are laid in the same trench. If either or both lines requiring replacement are laid in separate trenches, the street opening charge will apply to each line.

[Amended 11-15-2005 by Ord. No. 1226; 11-18-2005 by Ord. No. 1325; 3-4-2014 by Ord. No. 1439]

D.

In the case of new construction or modification to existing drainage lines within the structure, an application shall be made at the time that the building permit is obtained.

E.

Application shall be made to the Utilities Collector for exclusion from the sanitary collection system charges when water used will not be returned to the sanitary collection system (i.e., lawn sprinklers, garden irrigation, marinas, etc.). Such consumption must be metered separately and will be subject to the schedule of water rates and fees set forth in § 542-13.

[Amended 8-20-2013 by Ord. No. 1431]

§ 542-4. Rules and regulations.

A.

All users shall abide by all rules and regulations governing the water and sanitary collection system as provided herein or otherwise regularly adopted. The Plumbing Inspector may refuse to authorize connection to the system when the user's system is not in accordance with the National Standard Plumbing Code as adopted by the State of New Jersey.

B.

No person shall connect a sump pump, roof, foundation, areaway, parking lot, roadway, or other surface runoff or groundwater drains to any sewer which is connected to a wastewater treatment facility. All roof, foundation, areaway, parking lot, roadway, or other surface runoff or groundwater drains shall discharge to natural outlets or storm sewers. No new or replacement building sewer shall be laid in the ground closer than one foot to an existing water service line or water meter or vice versa.

C.

No cross-connection or interconnections with facilities supplying water from other sources shall be permitted.

D.

Temporary discontinuance of service is not permitted and each owner shall pay the minimum rate per quarter unless permanent discontinuance is effected.

E.

Exclusive service lines shall be used for irrigation and supply to dock water lines only. The service line connection shall in no way break the foundation wall surrounding the structure.

[Added 8-20-2013 by Ord. No. 1431]

§ 542-5 Water service lines.

A.

Water main taps and the installation or repair of the service lines from the water main to the meter box or curb shall be made by the Utilities Department or its authorized agent in every case.

B.

The service line shall extend to a location approximately one foot inside the curbline.

C.

A service line will be used to supply a single customer only, and no customer or consumer shall be supplied by more than one service line unless agreed upon between the customer and the Utilities Department.

D.

A 3/4 inch water service line shall be installed unless a larger size is applied for by or on behalf of the property owner.

[Amended 3-15-2005 by Ord. No. 1226; 3-7-2006 by Ord. No. 1251; 11-18-2008 by Ord. No. 1325; 4-16-2013 by Ord. No. 1422; 3-4-2014 by Ord. No. 1439]

E.

All applications shall be understood to embody all the rules and regulations of the Utilities Department as provided herein or otherwise regularly adopted, whether set forth in the application or not.

F.

Supply of multiple users. Water shall be supplied through one service line and one meter under the minimum charge at the option of the customer to each separate and distinct building. Where a building is erected in the rear of the one fronting on the street or avenue, that building may be served through the service line of the front building. Where houses are erected in pairs under one roof and belonging to one owner, the entire building may be served at the option of the customer, through one service line and one meter under one minimum charge. In one story stores built in blocks, when all of the stores in the block are owned by one owner, the entire block may be supplied with water through one service line and one meter under one minimum charge at the option of the customer. Where the customer receives services through one service line to more than one unit, he shall in the case of a sale of any part of the premises thus supplied, except for the sale of a unit in a condominium, immediately disconnect the portion of the premises sold from the water service. When stores are part of a hotel, motel, house, apartment building or other building supplied with water, the stores shall be considered as one room or two rooms as the case may be and shall be supplied through the same service line and meter which supplies the building of which the stores are a part.

G.

The service line from the meter box/curb to the main shall be under the exclusive control of the Utilities Department, and under no circumstances shall any person not authorized by the Utilities Department tamper with any part of the service line.

§ 542-6. Water meters.

A.

Water meter use.

(1)

All water shall be supplied through meters which will be furnished and owned by the Borough. The size of the meters to be installed for all purposes shall be optional with the Utilities Department.

(2)

The meter box shall be placed between the curb and the sidewalk and shall be on a level with both. No tripping hazards are to be created in the pedestrian right-of-way. The bottom of the meter shall be kept 24 inches below the lid of the meter box.

(a)

In the event the Borough discovers that an owner's property is not in compliance with the requirement that its meter box is level, the Borough shall notify said property owner. Said notice shall inform the property owner that if the property owner does not come into compliance within 30 days from the date of the notice, and inform the Borough, in writing, of such compliance, said property owner shall, in addition to the regular quarterly base rates for water and sewerage charges, be billed an additional charge established by Resolution of the Borough Council. In the event of continued noncompliance, such charge shall be imposed quarterly. [Added 7-19-2016 by Ord. No. 1484]

(3)

In cases where the service line has previously been partially installed from the water main under the street to the curb and no additional street opening is required, the Utilities Department shall complete the installation for a fee as established by Resolution of the Borough Council for a 3/4 inch service and for a one-inch service. Repair, if any, of site disturbance caused by the installation shall be the

responsibility of the property owner. An inspection, repair or maintenance by an unauthorized person, one other than a licensed plumber or authorized Borough employee or contractor, is prohibited.

The resolution establishing the fee hereunder shall be kept on file with the Borough Clerk, the Utilities Collector and the Construction Official and shall be posted on the Clerk's bulletin board and the Borough's website.

[Amended 3-15-2005 by Ord. No. 1226; 11-18-2008 by Ord. No. 1325; 8-20-2013 by Ord. No. 1431; 3-4-2014 by Ord. No. 1439]

(4)

When a change in meter size is requested, the installation charge shall be determined by the Utilities Department in cooperation with the Chief Financial Officer based upon current cost of labor and material.

(5)

Additions or alterations to property improvements shall in no way restrict the Utilities Department from free access to the meter for routine reading, maintenance or replacement. Violation of this requirement shall result in discontinuance of service.

[Amended 8-20-2013 by Ord. No. 1431]

(6)

In the event the Borough has an inspection, repair or maintenance in a water meter pit, and there is damage or disruption done in the sidewalk right-of-way to concrete, sod, flowers, bushes, landscaping and the like, the property owner shall be responsible for the replacement or repair.

(7)

Meter set requests must be submitted to the Utilities Collector in writing. The contractor shall indicate that the water services are properly marked and connected into the meter pits. If the initial request results in an inability to install the meter as a result of the fact that the service is not ready for the meter install, a fee established by Resolution of the Borough Council will be due for each additional request requiring a follow-up from the Utilities Department.

[Added 3-4-2014 by Ord. No. 1439; amended 5-5-2015 by Ord. No. 1464]

B.

Disconnection, removal and tampering with meters.

(1)

Opening of the water meter cover and/or entry into a water pit and/or the disconnection, removal or tampering with water meters and associated equipment in the pit, including efforts to turn water on or off at the meter, by anyone other than a licensed New Jersey plumber performing authorized work therein, is hereby prohibited. Tampering with a water meter includes, but is not limited to, changing, altering, interfering or otherwise touching a water meter, its dials and any other associated equipment. The only exception to this prohibition is when authorized Borough personnel enter the pit.

(2)

In connection with the demolition of structures, or if at any time construction results in the cut and capping of the water/sewer lines in excess of 48 hours, the meter must be removed from the meter pit by a New Jersey licensed plumber or authorized Borough employee and the meter shall be returned to the Utilities Department for safekeeping until the work has been completed sufficiently. Meters will be returned to the ground upon written application of a meter set request and a reinstallation fee of \$145. When the property is not occupied and water consumption is not required, the meter must be removed from the meter pit by a New Jersey licensed plumber or authorized Borough employee, and the meter shall be returned to the Utilities Department for safekeeping until the work has been completed sufficiently for occupancy and water is required by the occupants. Meters will be returned to the pit upon written application. (See § 542-3 hereof.) Meters and/or meter boxes and fittings which are returned to the pit and which required no maintenance or upgrading, as will be determined by Borough personnel, will be charged a reinstallation fee established by Resolution of the Borough Council. Meters meter boxes, fittings and pipes which require mandatory maintenance or upgrading shall be subject to

the applicable charges found in the Water/Sewer Fee Resolution located in the Borough Clerk's Office and/or the Utilities Office.

[Amended 3-15-2005 by Ord. No. 1226; 11-18-2008 by Ord. No. 1325; 8-20-2013 by Ord. No. 1431; 3-20-2018 by Ord. No. 1515]

C.

Testing meters.

(1)

In case a meter fails to register or operate properly, the property owner will be charged at the average rate based on the records for the same corresponding calendar period in the prior three years, or any part thereof where there are not at least three prior years of record. If there are no records for the corresponding calendar period, then the property owner shall pay the minimum charge for the quarter or quarters involved. All water that passes through the meter shall be charged for, whether the water is used or wasted.

(2)

The Utilities Department reserves the right to remove and test any meter at any time and to substitute another meter, either permanently or temporarily.

(3)

Upon the written request of a consumer, the Utilities Department will test the accuracy of the property owner's meter and, if so desired, in the property owner's presence or that of his authorized representative. Each request for a test shall be accompanied by a fee established by Resolution of the Borough Council. If the test proves a meter to have been faulty by 10% or more, the fee will be refunded.

[Amended 3-15-2005 by Ord. No. 1226; 9-2-2008 by Ord. No. 1321; 8-20-2013 by Ord. No. 1431]

§ 542-7. Owner's responsibility for water services.

A.

The water service line from the meter pit to all outlets in the premises is the sole responsibility of the owner of the premises, and shall be kept in repair or replaced at the owner's expense. All repairs to the water service line from the meter pit, including meter pit equipment, to the water main, where negligence is not a factor, shall be the responsibility of the Borough. Applications to upgrade meters, meter boxes, fittings and pipes will be subject to the applicable charges found in the Water/Sewer Fee Resolution located in the Borough Clerk's Office and/or the Utilities Office.

[Amended 10-2-2018 by Ord. No. 1529]

B.

The Utilities Department shall not be held accountable for any damage which may result from leaks, burst pipes, or from any other cause in occupied or unoccupied houses, buildings or places of business.

(1)

If the Utilities Department is dispatched to replace gaskets and reset meter because the plumber failed to reset and tighten the meter properly, a fee established by Resolution of the Borough Council will be billed to the property owner.

[Amended 8-20-2013 by Ord. No. 1431; 5-5-2015 by Ord. No. 1464]

C.

Any damage to water meters and/or their associated equipment during construction or otherwise, shall be the responsibility of the person causing the damage and in the event that person shall not be determined, the owner of the premises shall be responsible for the cost of repair or replacement thereof.

§ 542-8. Temporary disruption of water supply.

The Utilities Department will use reasonable care and diligence to provide a constant supply of water through the pipes to consumers, but reserves the right any time without notice, to shut off the water in its mains for the purpose of making repairs or extensions or for other emergency purposes.

Neither the Utilities Department nor the Borough shall be liable for a deficiency or failure in the supply of water or for damage caused by the bursting of any main or pipe, or any other attachment of the department, or for any other cause whatsoever.

All consumers having boilers or any other type of equipment upon their premises, depending upon the water and the pressure to keep them supplied, are hereby cautioned against danger of collapse, and all damage must be borne exclusively by the consumer.

§ 542-9. Discontinuance of water service by Utilities Department.

[Amended 3-15-2005 by Ord. No. 1226; 11-18-2008 by Ord. No. 1325]

A fee established by Resolution of the Borough Council plus a street opening charge in accordance with § 542-3C hereof will be charged by the Utilities Department for initiation of permanent discontinuance of service procedure. Service rendered under any application or agreement may be discontinued for reasons as stated in § 542-17 hereof and for any of the following reasons:

A.

Use of water for any other property or purpose except as described in the original or amended application.

B.

Failure to protect water meter and service line from damage.

C.

Tampering with any service pipe, meter, corporation stop or seal or any other appliance of the Utilities Department.

D.

Nonpayment, after due and timely notice of any charges or rental fees for water services accruing under the application.

E.

Refusal of reasonable access to any home, building or place of business by the Utilities Department Superintendent or any other person designated by him or the Utilities Department, at all reasonable hours of the day, for the examination of the water service line.

F.

Willful waste of water through improper or imperfect pipes, fixtures or otherwise.

G.

Interference with access to the water meter (see § 542-6A-5).

§ 542-10. Discontinuance of water service by consumer.

[Amended 3-15-2005 by Ord. No. 1226; 11-18-2008 by Ord. No. 1325; 8-20-2013 by Ord. No. 1431]

Permanent discontinuance of service to any premises will be effected by the Utilities Department upon receipt of a written request from the property owner subject to approval by the Utilities Department and Construction Official.

The service will be turned off and the meter and the meter box will be removed and the owner shall pay in advance a discontinuance fee established by Resolution of the Borough Council plus a street opening charge in accordance with § 542-3C.

§ 542-11. Turnoff charges; final reading charges.

[Amended 3-15-2005 by Ord. No. 1226; 9-2-2008 by Ord. No. 1321; 8-20-2013 by Ord. No. 1431]

A.

A turnoff charge established by Resolution of the Borough Council will be made if the Utilities Department has effected a temporary turnoff of the water service, either at the request of the property owner or because of an emergency, or because the Utilities Department turned off the water service by reason of a violation of any of the sections of this chapter. Each subsequent turnoff will be subject to an additional turn off fee established by Resolution of the Borough Council. Service may only be restored by a licensed New Jersey plumber. The time period for calculation of subsequent offenses shall reset on a calendar year basis.

[Amended 2-16-2016 by Ord. No. 1471; 10-2-2018 by Ord. No. 1529]

B.

Final meter readings in connection with the sale or transfer of real property will be conducted by the Borough upon request. Prior to the performance of each reading, the requestor shall submit a fee established by Resolution of the Borough Council per parcel to cover the administrative costs of such special, unscheduled readings.

C.

Due to nonpayment, an obligatory interruption of service charge established by Resolution of the Borough Council will be imposed, whereby the water meter will be removed from the premises and will not be reinstalled until the arrears, plus interest and special mailing costs are paid current by means of cash, if paid in person, or cash equivalent funds via mail in accordance with §§ 542-17 and 542-26.

§ 542-12. Water service bills.

A.

Water meters shall be read quarterly in each year, and bills for the minimum, in advance, together with the excess water charges for the prior period, if any, will be rendered quarterly. All bills presented will contain the then-current meter reading, showing the amount furnished, and said bills shall be paid within 30 days from their due date. If not paid when due, the Utilities Department reserves the right to discontinue service after due notice and remove the meter, but no such discontinuance shall deprive the Utilities Department of the right to be paid for the water furnished. Interest at the rate of 1 1/2% per month will be applied to all bills for minimum or excess charges not paid when due. All bills shall be payable to the Borough of Stone Harbor.

B.

Whenever a property owner shall consider any charge for excess water consumption incorrect and desires for that reason to contest the accuracy thereof, protest by letter must be filed with the Utility Collector within 45 days after receipt of any bill. Upon receipt of any such protest, the Utility Collector shall review the records and cause the appropriate authorities to make a thorough recheck and then promptly correct or verify the bill as the case may be, and notify the consumer of the result. Unless a protest is made within the aforesaid time, the bill rendered shall be considered final and not subject to protest.

C.

Once the water meter is issued to the owner of record for the property, or to the owner's agent, the water service fee shall begin to accrue.

D.

Billing of the initial billing cycle for water service will be on a prorated basis from the time of issuance of the meter to the end of the current billing quarter. The billing shall be based upon the schedule of water rates and fees set forth in § 542-13A for the quarterly minimum charge.

§ 542-13. Schedule of water rates and fees.

[Amended 3-15-2005 by Ord. No. 1226]

A.

Minimum charges. There shall be due and payable quarterly in each year a minimum charge for each property owner or meter in accordance with the following schedule:

[Amended 3-18-2008 by Ord. No. 1307; 10-5-2010 by Ord. No. 1364; 5-4-2011 by Ord. No. 1377; 4-16-2013 by Ord. No. 1422; 4-7-2015 by Ord. No. 1459; 12-6-2016 by Ord. No. 1487]

FOR YEAR 2021	DOMESTIC & IRRIGATION METERS		DOMESTIC METERS ONLY
	Size of Service	Quarterly Minimum Charge	Quarterly Gallonage Allowance
	5/8 and 3/4	\$114.75	10,000
	1	\$151.75	10,000
	1 1/2	\$194.75	10,000
	2	\$247.75	10,000
	3	\$322.75	10,000
	4	\$394.75	10,000

(1)

Example for calculation of first water service bill. For example, if a 3/4 inch water meter are issued to an owner on February 1 in the first quarter (January, February and March), and the total days in the quarter are 90 days, the charge for the water service would be 59/90 of the quarterly minimum charge.

(2)

Exclusion meters. The quarterly minimum charge for exclusion meters shall be as set forth above.

(3)

An annual maintenance fee of \$10 per meter will be added to the water service bill. This fee will offset any necessary repairs and/or mandatory upgrades to the water service infrastructure within the Borough.

[Added 10-2-2018 by Ord. No. 1529]

B.

Rate for excess water.

[Amended 3-18-2008 by Ord. No. 1307; 8-5-2008 by Ord. No. 1319]

(1) Regular service. The rate for all water furnished in excess of the quarterly allowance set forth above shall be \$2.25 for each additional 1,000 gallons, or any part thereof.

(2)

Exclusion meters. The rate for water furnished for exclusion meters shall be as follows:

[Amended 10-5-2010 by Ord. No. 1364]

- (a) For any amount up to 50,000 gallons, the rate shall be \$3 per 1,000 gallons or any part thereof;
- (b) For any amount over 50,000 gallons up to 80,000 gallons the rate shall be \$4.25 per 1,000 gallons or any part thereof;
- (c) For any amount greater than 80,000 gallons the rate shall be \$10 per 1,000 gallons or any part thereof.

C.

Fire hydrant rental. As rental for each fire hydrant of the Borough, the Utilities Department will receive the sum of \$25 annually from the general budget of the Borough.

[Amended 5-3-2005 by Ord. No. 1232]

D.

Fire hydrant meter rental service charges: Water from fire hydrants may be used for jetting in pilings or other special uses and for filling swimming pools upon application to and approval of the Utilities Department.

A service charge established by resolution of the Borough Council shall be made for use of the hydrant meter, and the quantity of water supplied as registered on the meter shall be paid for at the rate recited in 542-13B hereof, the same to be paid to the Utilities Collector after the meter is returned to the Borough. In the event the water is being used for filling swimming pools, the sewer charges will be applicable because the swimming pool is emptied into the sanitary sewerage collection system.

[Amended 3-15-2006 by Ord. No. 1265; 9-2-2008 by Ord. No. 1321; 8-20-2013 by Ord. No. 1431; 4-19-2016 by Ord. No. 1475]

E.

Service to private fire protection facilities. Private fire protection facilities shall pay in advance a charge determined by the Utilities Department for materials and installation costs of each connection intended to be used exclusively for the extinguishment of fires. The fire protection facilities are not metered. Private fire protection facilities having a two inch service line or more shall be charged \$158 per quarter, and private fire protection facilities having less than a two inch service line shall be charged \$63 per quarter and said facilities shall be billed accordingly. If the property owner uses the fire protection facilities for fire protection and some use other than fire extinguishing purposes, then the service connections shall be metered and § 542-13A and B hereof shall be applicable. All meters which exclude sanitary sewer charges and all personal fire protection facilities are subject to periodic inspections by authorized Borough personnel.

[Amended 8-20-2013 by Ord. No. 1431]

§ 542-14. Sanitary collections system installation.

A.

A four-inch building sanitary sewer shall be installed unless a larger size is applied for by the plumbing contractor and approved by the Department of Utilities. The cost of a new or replacement building sanitary sewer will be established by Resolution of the Borough Council

[Amended 3-15-2005 by Ord. No. 1226; 11-18-2008 by Ord. No. 1325; 8-20-2013 by Ord. No. 1431]

B.

A building sanitary sewer will be used to service a single user only and no user shall be serviced by more than one building sewer unless agreed upon between the user and the Plumbing Inspector.

C.

Supply of multiple buildings. Service may be supplied through one building sanitary sewer connected to several building discharge lines at the option of the property owner and concurrence of the Plumbing Inspector.

Where a building is erected in the rear of one fronting on the street or avenue and both buildings are owned by the same property owner, that building may be served through the building sanitary sewer of the front building. Where houses are erected in pairs under one roof and belonging to one property owner, the entire building may be serviced, at the option of the user, through one building sewer. In one story stores built in blocks, when all of the stores in the block are owned by one owner, the entire block may be supplied with service through one building sewer at the option of the property owner and with the concurrence of the Plumbing Inspector. Where the property owner received service through one building sanitary sewer from more than one unit, the property owner shall in the case of a sale on any part of the premises thus serviced, except for the sale of a unit in a condominium, immediately disconnect the service from that part of the premises sold. When stores are a part of a hotel, motel, house, apartment building or other building supplied with service, the store shall be considered as one room or two rooms as the case may be and shall be serviced through the same building sanitary sewer which services the building of which the stores are a part.

D.

The building sanitary sewer from within approximately one foot of the curblin to the public sanitary sewer shall be under the exclusive control of the Borough of Stone Harbor and under no circumstances shall any person not authorized by the Borough of Stone Harbor tamper with any part of the line. The installation or repair of this section of the building sewer shall be made by the Borough of Stone Harbor or its authorized agent in every case.

E.

All existing and new sewer clean out systems and other openings in the sanitary collection system shall be kept sealed everywhere within the boundaries of the Borough of Stone Harbor.

F.

The existing sewer clean out shall be placed between the curb and sidewalk and shall be level with both. No tripping hazards are to be created in pedestrian right-of-way.

[Amended 8-20-2013 by Ord. No. 1431]

§ 542-15. Use of wastewater facilities.

A.

Waste disposal. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the Borough of Stone Harbor or in any area under the jurisdiction of said Borough any human or animal excrement, garbage, or other objectionable waste.

B.

Wastewater discharges. It shall be unlawful to discharge without a permit to any natural outlet within the Borough of Stone Harbor or in any area under its jurisdiction. Wastewater discharges to the wastewater facilities are not authorized unless in accordance with provisions of these regulations.

C.

Wastewater disposal. Except as provided in these regulations, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.

D.

Connection to wastewater sewer. Any person requesting connection to the wastewater facilities may only do so through the wastewater sewers owned by the Borough. No person may be permitted to directly discharge into the wastewater facilities owned by the Cape May County Municipal Utilities Authority (CMCMUA) unless prior written consent is received from the CMCMUA.

E.

Protection of capacity for existing sewers. The Borough shall not issue a permit for any class of connection to the wastewater sewers or wastewater treatment facilities unless there is sufficient capacity, not legally committed to other users, in the wastewater sewers and treatment facilities to convey and adequately treat the quantity of wastewater which the requested connection will add to the system.

§ 542-16. Owner's responsibility for sanitary collection system.

[Amended 10-2-2018 by Ord. No. 1529]

It shall be the sole responsibility of the property owner to maintain the entire building sewer in proper operating condition. Restrictions in the building sewer causing limited flow, blockage or discharge of sewage onto any property, into the street, highway or within an easement area, shall be eliminated through arrangements between the property owner and a registered plumber.

If the Utilities Department is dispatched to a property and it is determined that the restriction is not within the sewer lateral from the curb to the main a charge as established by Resolution of the Borough Council will be imposed upon the property owner. It is illegal for any sewer clean out or other openings to discharge sewage onto any property, whether public or private. If such discharges do occur, the cause must be promptly eliminated. Tardy elimination or frequently repeated occasions of such incidences or failure to clean up after such instances shall be a violation of this chapter and shall be reason for the Stone Harbor Plumbing Inspector to cause discontinuance of water service and to proceed with necessary arrangements for clean up, etc., and assess the user accordingly.

§ 542-17. Discontinuance of service.

[Amended 9-2-2008 by Ord. No. 1321]

The operation of the sanitary collection system is directly related to the use of water. Therefore, the Borough of Stone Harbor reserves the right to also discontinue water service for any of the following reasons and to impose an obligatory interruption of service charge in accordance with § 542-11, plus special mailing costs.

A.

Nonpayment of any charges or fees for sanitary collection service in accordance with § 542-26 may result in appropriate action being taken by the Borough, including but not limited to subjecting the property to tax sale; removal of the meter at the expense of the property owner; charges for reinstallation of the meter and associated expenses, including special mailing costs established by Resolution of the Borough Council.

B.

Failure to maintain the sanitary system, piping and appurtenances in satisfactory working order, including sewer to the public sewer.

C.

The discharge of sewage onto property, public or private.

D.

Failure to comply with regulations pertaining to the sealing of sewer clean out systems and other openings in the sanitary collection system.

E.

Discharges into the sanitary collection system in violation of § 542-18B.

§ 542-18. Restricted connections and discharges to sanitary sewerage collection system.

A.

Restricted connections. All discharges of stormwater, surface water, groundwater, roof runoff, and subsurface drainage shall be made to storm sewers or natural outlets designed for such discharges. Any connection, drain, or arrangement which will permit any such waters to enter any wastewater sewer shall be deemed to be a violation of this section and these regulations.

B.

Restricted discharges. No person shall discharge or cause to be discharged to any of the wastewater facilities any substances, materials, waters, or wastes in such quantities or concentrations which will:

(1)

Create a fire or explosion hazard, including, but not limited to, gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas; including but not limited to any liquid having a flash point lower than 235° F. as determined by the Tagliabue closed cup method.

(2)

Cause corrosive damage or hazard to structures, equipment, or personnel of the wastewater facilities, but in no case discharges having a pH lower than 5.5 or greater than 9.0.

(3)

Cause obstruction to the flow in sewers, or other interference with the operation of wastewater facilities due to accumulation of solid or viscous materials.

(4)

Contain fats, wax or grease, or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32° F. and 150° F.

(5)

Have a temperature higher than 150° F. or 65° C.

(6)

Contain phenolic compounds over 1.0 part per million, expressed as phenol.

(7)

Contain any radioactive substances.

(8)

Have a biochemical oxygen demand (five-day BOD) in excess of 350 milligrams per liter (mg/l).

(9)

Have a suspended solids content in excess of 300 mg/l, or containing suspended solids of such character of specific gravity that unusual attention or expense is required to handle or treat such materials.

(10)

Contain corrosive, toxic, deleterious, or poisonous substances in sufficient quantity to cause injury, damage or hazard to personnel, structure or equipment, or interfere with the wastewater facilities, including but not limited to any portion of the liquid or solids treatment or handling processes, or that which will pass through the treatment facilities in such condition that they will not achieve state, federal, or other existing, pending, or future requirements for the effluent discharge, including but not limited to the permit requirements imposed upon the Cape May County Municipal Utilities Authority.

(11)

Cause unusual volume or concentration of wastes being delivered in a "slug" manner by which it is meant that the normal (i.e., twenty-four-hour average) concentration of loadings shall not be exceeded by more than a factor of 4.0 for any sixty-minute period.

(12)

Have an objectionable color which is not removable in the wastewater treatment facility.

(13)

Be discharged by tank trucks into manholes or appurtenances of the wastewater sewer system, including but not limited to septic tank wastes. These septic tank wastes will, however, be accepted directly at designated CMCMUA Wastewater Treatment Facilities.

(14)

Contain noxious, malodorous gas or substances which are present in quantities that create a public nuisance or a hazard to public health.

(15)

Contain any garbage that has not been properly shredded.

(16)

Contain substances interfering with sludge management.

(a)

Any substance which may cause the wastewater treatment facilities sludge to be unsuitable for reclamation and reuse or to interfere with the reclamation process where the CMCMUA is pursuing a reuse and reclamation program.

In no case shall a wastewater discharged to the wastewater facilities cause the wastewater treatment facilities to be in noncompliance with sludge use and disposal criteria, guidelines or regulations developed by the NJDEP, the USEPA, or any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or the New Jersey Guidelines for the Utilization and Disposal of Municipal and Industrial Sludges and Septage.

(b)

If any wastewaters are discharged or are proposed to be discharged to the wastewater facilities which consist of the substances or possess the characteristics enumerated above, or which may be set forth by regulatory agencies now or in the future, and which, in the judgment of the Borough and/or the Cape May County Municipal Utilities Authority, have a deleterious effect upon the wastewater facilities or constitute a public nuisance, the Borough may:

[1]

Reject the wastes;

[2]

Require pretreatment to an acceptable condition prior to discharge into the wastewater sewer system;

[3]

Require control over the quantities and rates of discharge; and/or

[4]

Take such other action as it may deem appropriate.

C.

Water conservation. In an effort to conserve water resources, no discharger shall be permitted to dilute their waste to avoid violation of Subsection B.

§ 542-19. Illicit connection prohibited.

[Added 9-6-2005 by Ord. No. 1245]

A.

Purpose. A section to prohibit illicit connections to the municipal separate storm sewer system(s) operated by the Borough of Stone Harbor, so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

B.

Definitions. For the purpose of this section, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this chapter clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" as used herein is always mandatory and not merely directory. The definitions below are the same as or based on corresponding definitions in the New Jersey Pollutant Discharge Elimination System (NJPDES) rules at N.J.A.C. 7:14A-1.2.

DOMESTIC SEWAGE

Waste and wastewater from humans or household operations.

ILLICIT CONNECTION

Any physical or nonphysical connection that discharges domestic sewage, noncontact cooling water, process wastewater, or other industrial waste (other than stormwater) to the municipal separate storm sewer system operated by the Borough of Stone Harbor, unless that discharge is authorized under a NJPDES permit other than the Tier A Municipal Stormwater General Permit (NJPDES Permit Number NJOI4 1852). Nonphysical connections may include, but are not limited to, leaks, flows, or overflows into the municipal separate storm sewer system.

INDUSTRIAL WASTE

Nondomestic waste, including, but not limited to, those pollutants regulated under Section 307(a), (b), or (c) of the Federal Clean Water Act [33 U.S.C. § 1317(a)(1), (b), or (c)].

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)

A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that is owned or operated by the Borough of Stone Harbor or other public body, and is designed and used for collecting and conveying stormwater.

NJPDES PERMIT

A permit issued by the New Jersey Department of Environmental Protection to implement the New Jersey Pollutant Discharge Elimination System (NJPDES) rules at N.J.A.C. 7:14A.

NONCONTACT COOLING WATER

Water used to reduce temperature for the purpose of cooling. Such waters do not come into direct contact with any raw material, intermediate product (other than heat) or finished product. Noncontact cooling water may however contain algacides, or biocides to control fouling of equipment, such as heat exchangers, and/or corrosion inhibitors.

PERSON

Any individual, corporation, company, partnership, firm, association, or political subdivision of this state subject to municipal jurisdiction.

PROCESS WASTEWATER

Any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product. Process wastewater includes, but is not limited to, leachate and cooling water other than noncontact cooling water.

STORMWATER

Water resulting from precipitation (including rain and snow) that runs off the land's surface, is transmitted to the subsurface, is captured by separate storm sewers or other sewerage or drainage facilities, or is conveyed by snow removal equipment.

[Amended 8-20-2013 by Ord. No. 1431]

C.

Prohibited conduct. No person shall discharge or cause to be discharged through an illicit connection to the municipal separate storm sewer system operated by the Borough of Stone Harbor any domestic sewage, noncontact cooling water, process wastewater, or other industrial waste (other than stormwater).

[Amended 8-20-2013 by Ord. No. 1431]

D.

Enforcement. The following Borough officials shall have authority to enforce this section:

[Amended 8-20-2013 by Ord. No. 1431]

(1)

An employee directed by the Borough Administrator

(2)

The Director of Public Works or his/her designee.

E.

Penalties. Any person(s) who is found to be in violation of the provisions of this section shall be subject to a minimum fine of \$500, not to exceed \$1,250.

[Amended 8-20-2013 by Ord. No. 1431; 10-2-2018 by Ord. No. 1529]

§ 542-20. Improper disposal of waste.

[Added 9-6-2005 by Ord. No. 1245]

A.

Purpose. A section to prohibit the spilling, dumping, or disposal of materials other than stormwater to the municipal separate storm sewer system (MS4) operated by the Borough of Stone Harbor, so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

B.

Definitions. For the purpose of this section, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this chapter clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)

See § 542-19B.

PERSON

See § 542-19B.

STORMWATER

See § 542-19B.

C.

Prohibited conduct. The spilling, dumping, or disposal of materials other than stormwater to the municipal separate storm sewer system operated by the Borough of Stone Harbor is prohibited. The spilling, dumping, or disposal of materials other than stormwater in such a manner as to cause the discharge of pollutants to the municipal separate storm sewer system is also prohibited.

D.

Exceptions to prohibition:

[Amended 8-20-2013 by Ord. No. 1431]

(1)

Waterline flushing and discharges from potable water sources.

(2)

Uncontaminated groundwater (e.g., infiltration, crawl space or basement sump pumps, foundation or footing drains, rising groundwaters).

(3)

Air-conditioning condensate (excluding contact and noncontact cooling water).

(4)

Flows from springs, riparian habitats and wetlands, water reservoir discharges and diverted stream flows.

E.

Enforcement. The following Borough officials shall have authority to enforce this section:

[Amended 8-20-2013 by Ord. No. 1431]

(1)

An employee directed by the Borough Administrator.

(2)

The Director of Public Works or his/her designee.

F.

Penalty. Any person(s) who continues to be in violation of the provisions of this section, after being duly warned on one occasion, shall be subject to a minimum fine of \$500, not to exceed \$1,250.

[Amended 10-2-2018 by Ord. No. 1529]

§ 542-21. Monitoring the wastewater.

A.

Information and noncompliance. If the Borough and/or the CMCMUA has reason to believe that any discharger is in violation of § 542-18, one or both of the following actions may be taken:

(1)

Request additional information in an effort to evaluate the quality and quantity of the materials discharged.

(2)

Monitor the wastewater. If the discharger is found to be in violation of § 542-18, the Borough shall require the installation of pretreatment facilities within a specified time to be determined by the Borough and/or the CMCMUA. If such facilities are not constructed in delivering a waste in compliance with the provisions of these regulations within the specified time, the Borough may disconnect the discharge from the wastewater facilities according to provisions set forth in

§ 542-26. The requirements of this section shall be applicable to all dischargers in existence prior to and following the adoption of these regulations.

B.

Determination of wastewater characteristics.

(1)

Measurements, tests, and analyses of the characteristics of wastewater to which reference is made in these regulations shall be determined in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association or such alternate methods approved by the Borough in compliance with state and federal law. Sampling methods, locations, times, durations, and frequencies are to be determined on an individual basis subject to approval by the Borough and the CMCMUA. The discharger shall have the option to use, at his own expense, more complete sampling methods, locations, times and frequencies than specified by the Borough and the CMCMUA.

(2)

Measurements, tests, and analyses of the characteristics of wastewater required by these regulations shall be performed by a New Jersey State certified laboratory.

(3)

When required by the Borough, the user shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastewater. Such manhole or other appurtenances, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Borough. The manhole shall be installed by the user at his expense, and shall be maintained by him so as to be safe and accessible at all times.

C.

Special agreements. Nothing in this section shall be construed as preventing any special agreement or arrangement between the Borough and any user of the wastewater facilities whereby wastewater of unusual BOD or suspended solids strength is accepted into the system subject to any surcharge payments or user charges as may be applicable; provided, however, that such acceptance does not cause a violation of the discharge permit requirements for the wastewater treatment facility. The surcharge rates shall be in conformance with the then prevailing rates developed by the CMCMUA.

D.

Costs of damage. If the drainage or discharge from any person/owner causes a deposit, obstruction, or damage to any of the wastewater facilities located within the Borough, the Borough or the CMCMUA, depending upon which of those entities has operating responsibility for the obstructed section of the wastewater facility, shall cause the deposit of obstruction to be promptly removed or cause the damage to be promptly repaired.

The cost for such work, including materials, labor, supervision, permits and engineering fees shall be borne by the person/owner causing such deposit, obstruction, or damage.

§ 542-22. Sanitary sewerage collection system rates.

A.

The annual sewerage system charges will be billed in equal quarterly installments.

[Amended 3-15-2005 by Ord. No. 1226; 3-18-2008 by Ord. No. 1307; 4-16-2013 by Ord. No. 1422]

(1)

Each installment shall be based upon the water consumption in the prior year's summer quarter (July, August and September) and will consist of:

(a)

Quarterly Service Charge: Property owner charge of \$116.25

[Amended 4-7-2015 by Ord. No. 1459; 12-6-2016 by Ord. No. 1488]

[Amended 4-7-2015 by Ord. No. 1459; 12-6-2016 by Ord. No. 1488]

(b)

Volume charge: \$3.75 per 1,000 gallons (or any part thereof) of Water as recorded in the prior summer quarter.

(2)

Water consumption to an additional service line installed with a separate meter for water which will not be returned to the sanitary collection system shall not be considered in determining the quarterly service charge. Where no prior summer period record exists, a charge will be made in accordance with the quarterly gallonage allowance for water (see § 542-13A). Sanitary collection service charges will be rendered quarterly along with the water service charge and are payable in advance. (See § 542-3E.)

B.

Whenever a property owner shall consider any charge for sewerage use incorrect and desires to contest the accuracy thereof, a protest by letter must be filed with the Utility Collector within 45 days after mailing of a bill containing the charge.

Upon receipt of any such protest the Utility Collector shall review the records and cause the appropriate authorities to make a thorough recheck and then promptly correct or verify the bill as the case may be, and notify the consumer of the result. Unless a protest is made within the aforesaid time, the bill rendered shall be considered final and not subject to protest.

C.

If the cause of an excess sewer charge is due to a water leak that has drained into the sewer system, no refund or adjustment of the annual sewer charges shall be made. If, however, the leak has not caused drainage into the sewer system, as shall be determined by the Utilities Department and certified by the Director of Public Works or his authorized designated representative or proper documentation from a New Jersey licensed plumber, then the Utilities Collector, upon Resolution of Borough Council therefor, shall adjust the current annual base charge to the average of the charges during July, August, and September of the previous three years.

[Amended 8-20-2013 by Ord. No. 1431; 5-5-2015 by Ord. No. 1464]

D.

In the event the Borough discovers that a property owner's property is not in compliance with the requirement that its vent systems and other openings into the sanitary collection system which are flush with the surrounding area be sealed, the Borough shall notify said property owner via certified mail, return receipt requested, of the noncompliance. Said notice shall inform the property owner that if the property owner does not come into compliance within 30 days from the date of mailing of the notice, and inform the Borough, in writing, of such compliance, said consumer shall be billed an additional quarterly charge, established by Resolution of the Borough Council, until compliant. That charge shall be for the purpose of offsetting the additional service charges made by the Cape May County Municipal Utilities Authority to the Borough resulting from infiltration into the sewer collection system as a result of these openings.

[Amended 3-15-2005 by Ord. No. 1226; 9-2-2008 by Ord. No. 1321; 8-20-2013 by Ord. No. 1431]

E.

The sewer service fees for the initial billing cycle shall commence to accrue and shall be prorated as set forth in § 542-12C and D hereof, and shall be based upon the quarterly gallonage allowance of § 542-13A.

§ 542-23. Meter failure.

[Amended 3-7-2006 by Ord. No. 1251]

Because the sewer rate is based upon water usage during the prior year's summer quarter (July 1 through September 30), in the event a meter fails to register or operate properly during the summer quarter, the sewer charge for the following year will be based upon an average of the prior three years' summer water's consumption. In the event the records for the prior three summer quarters are not complete, the last three quarters where the records are complete shall be used. In the event there are not three years of complete records of the summer quarters, the summer quarters which do have complete records shall be used for such averaging.

§ 542-24. Vandalism and accidental spills.

A.

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is a part of the wastewater facilities.

Any person who violates this section shall be guilty of a misdemeanor and, upon conviction, is punishable by a fine in an amount not to exceed \$275. The fine shall be in addition to payment of damages incurred by a wastewater facility.

[Amended 3-15-2005 by Ord. No. 1226]

B.

Accidental spills. Any person, persons, or businesses responsible in part or in whole for an accidental spill into the sewer system, on to public or private property, or into surrounding bodies of water, shall immediately report each occurrence to the Borough of Stone Harbor Police Department.

C.

Reporting. In the case of an accidental discharge, or, if for any reason a user does not comply, or will be unable to comply, with any prohibition of limitation in these sewer use regulations, the user responsible for such discharge shall immediately telephone and notify the Borough and the CMCMUA of the incident. The notification shall include location of discharge, type of waste, concentration and volume. Furthermore, such user shall take immediate action to prevent interference with the wastewater treatment process and/or damage to the wastewater facilities. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the wastewater facilities or other damage to persons or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by these regulations or other applicable law.

§ 542-25. Smart irrigation systems.

[Added 4-2-2013 by Ord. No. 1421^[1]]

Upon the effective date of this section, all persons installing irrigation systems, and all existing irrigation systems under and subject to the requirements of this section, shall require the installation and use of smart irrigation technologies as hereinafter stated.

A.

During periods of rainfall, rainfall or moisture-sensing devices shall be used to avoid operation of all irrigation systems associated with new construction or where an existing structure on the property is being renovated, restored or otherwise substantially altered. Substantial alteration occurs when 50% or more of the total sum of floor and roof areas of the principal structure is proposed to be structurally altered within a twelve-month period, or in the case of any structural alteration to a principal structure, when the fair market value of the structural addition equals or exceeds 50% of the value of the original structure's fair market value prior to the alteration.

B.

Rainfall- or moisture-sensing devices include soil moisture sensors that assess the available plant soil moisture in order to minimize the unnecessary use of water and/or rain sensors placed in the irrigation system designed to restrict operation of a sprinkler controller when precipitation has reached a preset quantity.

C.

Evapotranspiration-based (ET) controllers are required on any automatic landscape irrigation system installed subsequent to April 30, 2013. In addition said systems are required on automatic irrigation systems when any principal structure on a property in the Borough is substantially altered. Substantial alteration occurs when 50% or more of the total sum of floor and roof areas of the principal structure is proposed to be structurally altered within a twelve-month period or, in the case of any structural alteration to a principal structure, when the fair market value of the structural addition equals or exceeds 50% of the value of the original structure's fair market value prior to the alteration.

"Evapotranspiration-based (ET) controller" means a controller that calculates soil moisture from known weather and related inputs. An ET-based controller:

(1)

Receives and monitors weather data or on-site environmental conditions, including, but not limited to, solar radiation, wind speed, temperature, relative humidity, rainfall and soil moisture; and

(2)

Calculates or determines the amount of moisture input to and moisture lost from the soil and plants; and

(3)

Automatically creates or adjusts the irrigation schedule to apply only the amount of water that is necessary to maintain adequate soil moisture.

D.

Applicability. This section shall apply to all licensed contractors and property owners within the jurisdiction of the Borough of Stone Harbor who install or perform work on automatic irrigation systems and to any person or entity which purchases or installs an automatic landscape irrigation system on their property.

(1)

Any person who purchases or installs an automatic landscape irrigation system on their property must properly install, maintain, and operate the system in accordance with manufacturer specifications, technology that inhibits or interrupts operation of the system during periods of insufficient moisture, and otherwise comply with the provisions of this section.

(2)

A licensed contractor and/or property owner who installs or performs work on an automatic landscape irrigation system must test for the correct operation of each inhibiting or interrupting device or switch on the system. If such devices are not installed, or are functioning improperly, the contractor must install new devices or repair the existing ones and insure that each is operating properly before completing other work on the system.

(3)

Regular maintenance and replacement of worn or broken moisture-sensing equipment, such as soil moisture or rain sensors, is not a violation of this section, if such repairs are made within 30 days from the time noncompliance is noted.

E.

Violations and penalties.

(1)

Failure of any person who purchases or installs an automatic landscape irrigation system on their property, or property managed by them, to properly install, maintain, and operate technology that inhibits or interrupts operation of the system during periods of insufficient moisture is guilty of a violation of this section, and shall be subject to a fine of \$50 for a first offense, \$100 for a second offense, and \$250 for a third or subsequent offense. A person in violation of this section may be cited for each day the system fails to be in compliance with this section.

(2)

Funds generated by penalties imposed under this section shall be used by the Borough for the administration and enforcement of this section, and the corresponding sections of this section, and to further water conservation activities.

[1]

Editor's Note: This ordinance also provided for the renumbering of former § 542-25 as § 542-26.

§ 542-25.1. Irrigation schedules; exempt systems; enforcement.

[Added 7-16-2013 by Ord. No. 1429]

A.

Watering restrictions. The watering of lawns and/or plant beds by way of an irrigation system is hereby restricted to the following mandatory schedule:

(1)

All properties north of and including 96th Street: Monday, Wednesday and Friday.

(2)

All properties South of 96th Street: Tuesday, Thursday and Saturday.

(3)

Watering on Sunday is prohibited.

(4)

All such watering may only occur after the hour of 6:00 p.m. prevailing time or before the hour of 9:00 a.m. prevailing time on each day watering is allowed. Every system utilized for irrigation shall be restricted to these times and durations regardless of whether the system is exempt from the schedule established in Subsection A(1) and (2) above.

[Amended 3-4-2014 by Ord. No. 1439]

(5)

All such watering shall be limited to no more than 30 minutes per zone within each system.

B.

Exemptions. The following shall be exempt from the above schedule:

(1)

"Drip" irrigation systems of the micro-irrigation type (low pressure and low volume) wherein water is applied to the soil surface or small stream through emitters.

(2)

"Soaker" irrigation systems which utilize semipermeable hoses to wick or weep water either below the root level or at or near ground level.

(3)

Newly installed lawns and/or landscape beds may water as needed for the first 21 days following installation, but shall be subject to the restrictions of § 542-25.1A thereafter.^[1]

[1]

Editor's Note: Former Subsection B(5), which stated that the Borough "shall be exempt hereunder and irrigation of Borough properties shall be accomplished in accordance with Borough policies and procedures and the needs of the Borough," and which immediately followed this subsection, was repealed 5-5-2015 by Ord. No. 1464.

Effective January 1, 2022 Smart Irrigation Systems are not exempt and subject to the Irrigation Schedule established in 542-25.1A

C.

Enforcement and penalties. This section may be enforced by the Utilities Collector, an employee of the Utilities Department or Public Works, Code Enforcement Officer or any officer of the Stone Harbor Police Department. The enforcement and penalty provisions of § 542-26, as well as the general penalty provisions of the Revised General Ordinances of the Borough of Stone Harbor, current edition, shall apply to this section as well, except that, on a first offense, the property owner shall be given a warning and a copy of § 542-25.1 in lieu of a complaint/summons. For a second offense (after a first offense warning hereunder) a fine of \$100 shall be imposed. For a third offense, a minimum fine of \$250 shall be imposed; for any subsequent offense, a minimum fine of \$350 to a maximum of \$2,500.

[Amended 5-5-2015 by Ord. No. 1464; 4-19-2016 by Ord. No. 1476]

§ 542-26. Enforcement; violations and penalties.

A.

Payment. If prompt payment for any water or sanitary collection service or for work done or materials furnished is not made when due, as aforesaid, the water shall be shut off from the premises served and it shall not be supplied thereto again until the arrears, with interest and penalties, shall be fully paid.

The officers and employees of the Borough of Stone Harbor are fully authorized to take any and all action necessary to enforce this provision as well as all others necessary to the proper enforcement of this chapter.

If any charges shall remain in arrears for two months, the officer or other employees charged with the duty of the collection thereof shall file with the officer charged with the duty of collecting unpaid taxes, a statement showing such arrearages; and from the time of such filing, the unpaid charges shall become a lien upon the premises and real estate for which the service(s) were furnished, and in connection with which the charges were incurred to the same extent as taxes are a lien upon real estate in the Borough shall be collected and enforced by the same officers and in the same manner as liens for taxes.

B.

Violations. Any act prohibited by this chapter is hereby declared to be a violation hereof. The failure to do any act or thing required to be done pursuant to the provisions of this chapter shall be considered a violation hereof.

C.

Penalty. Any person found guilty of any violation of this chapter, shall, upon conviction thereof, be subject to a minimum fine of \$500, not to exceed \$1,250.

[Amended 3-7-2006 by Ord. No. 1251; 10-2-2018 by Ord. No. 1529]

D.

Repetition of offense. Each day a violation continues shall constitute a separate violation of this chapter.

E.

Additional penalty for damages. If a violation causes any expense for reconnection, replacement or repair to any operating component of the waste water facilities or the water distribution system, the person convicted of causing the violation necessitating such reconnection, replacement or repair, shall, upon application by the Borough, be required to make payment by restitution, or otherwise, in the amount of the expense and costs incurred by the Borough in pursuing enforcement of this provision.

APPROVED"

Judith M. Davies-Dunhour, Mayor

ATTEST:

Suzanne C. Stanford, Borough Clerk

BOROUGH OF STONE HARBOR

CAPE MAY COUNTY, NEW JERSEY

RESOLUTION

RESOLUTION OF THE BOROUGH OF STONE HARBOR, COUNTY OF CAPE MAY, ADOPTING AN AFFORDABLE HOUSING SPENDING PLAN AND REQUESTING JUDICIAL REVIEW AND APPROVAL OF SAME

WHEREAS, regulations adopted by the New Jersey Council on Affordable Housing ("COAH") have consistently required a municipality with an Affordable Housing Trust Fund to receive approval of a Spending Plan by COAH prior to spending any of the funds in its Trust fund; and

WHEREAS, as stated by the Supreme Court in In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015) ("Mount Laurel IV"), COAH is no longer a functioning agency, and therefore Spending Plan must now be approved by the trial judge presiding over the municipality's Declaratory Judgment Action.

WHEREAS, a Spending Plan must include the following:

1. A projection of revenues anticipated from imposing fees on development, based on pending, approved and anticipated developments and historic development activity;
2. A projection of revenues anticipated from other sources, including payments in lieu of constructing affordable units, funds from the sale of units with extinguished controls, proceeds from the sale of affordable units, rental income, repayments from affordable housing program loans, and interest earned;
3. A description of the administrative mechanism that the municipality will use to collect and distribute revenues;
4. A description of the anticipated use of all affordable housing trust funds;
5. A schedule for the expenditure of all affordable housing trust funds;
6. A pro-forma statement of the anticipated costs and revenues associated with the development if the municipality envisions supporting or sponsoring public sector or non-profit construction of housing;
7. A plan to spend the trust fund balances in accordance with the implementation schedule within the Spending Plan and approved by a settlement agreement;
8. The manner through which the municipality will address any expected or unexpected shortfall if the anticipated revenues are not sufficient to implement the Plan; and
9. A description of the anticipated use of excess affordable housing trust funds, in the event more funds than anticipated are collected, or projected funds exceed the amount necessary for satisfying the municipal affordable housing obligation.

WHEREAS, the Borough of Stone Harbor has prepared a Spending Plan consistent with the relevant parameters set forth above; and

WHEREAS, the Borough of Stone Harbor shall therefore seek review and approval of its adopted and endorsed Spending Plan as part of its obligations under the Settlement Agreement between the Borough of Stone Harbor and Fair Share Housing Center, as amended.

BOROUGH OF STONE HARBOR

CAPE MAY COUNTY, NEW JERSEY

RESOLUTION

NOW THEREFORE BE IT RESOLVED that the Governing Body of the Borough of Stone Harbor, County of Cape May, hereby adopts and endorses the Spending Plan attached hereto;

BE IT FURTHER RESOLVED THAT the Borough of Stone Harbor hereby requests that its Mount Laurel professionals take all reasonable and necessary actions to secure approval of the Spending Plan by the trial judge presiding over the Borough's Declaratory Judgment Action.

Judith Davies-Dunhour
Mayor, Borough of Stone Harbor

CERTIFICATION

I, _____, Municipal Clerk of the Borough of Stone Harbor, do hereby certify that the foregoing resolution was duly adopted by the Municipal Council of the Borough of Stone Harbor at a public meeting held on _____, 2021, a quorum being present and voting in the majority.

Suzanne Stanford
Municipal Clerk, Borough of Stone Harbor

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, 2021

The above resolution approved this day of....., 2021

Borough Clerk

Mayor

Borough of Stone Harbor

Affordable Housing Trust Fund Spending Plan

July 2021

INTRODUCTION

The Borough of Stone Harbor has prepared a Housing Element and Fair Share Plan that addresses its regional fair share of the affordable housing need in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), the Fair Housing Act (N.J.S.A. 52:27D-301) and the regulations of the Council on Affordable Housing (COAH) (N.J.A.C. 5:97-1 et seq. and N.J.A.C. 5:96-1 et seq.).

The Borough's Fair Share Plan for its Third-Round obligation (1999-2025) was prepared pursuant to a 2017 Settlement Agreement between the Borough and Fair Share Housing Center (hereinafter "FSHC") that set forth the Borough's affordable housing obligation and a preliminary plan for how it would be satisfied. FSHC is an interested party in the Borough's Declaratory Judgment action filed on June 30, 2015, as permitted by the March 10, 2015 New Jersey Supreme Court decision known as "Mount Laurel IV." This Supreme Court decision rendered COAH "moribund" and created a transitional process for municipalities to determine their affordable housing obligation and seek compliance in the State's trial courts, as opposed to the Council on Affordable Housing "COAH" performing that function.

The Borough's initial plan was adopted by the Planning Board on October 22, 2018 and endorsed by the Borough Council on November 6, 2018. Since the implementation of that Plan, circumstances have changed within the Borough, and this Amended Plan is now required based upon a 2021 Amendment to the Settlement Agreement with FSHC. This amended Plan implements the changes to the Borough's affordable housing obligation reflected in the 2021 amended Settlement Agreement. This amended Plan will serve as the foundation for the Borough's application to the Superior Court for approval, known as a Judgment of Compliance and Repose.

A development fee ordinance creating a dedicated revenue source for affordable housing was approved by the Council on Affordable Housing on October 31, 2008 and adopted by the municipality on August 5, 2008. The ordinance establishes the Borough of Stone Harbor's affordable housing trust fund for which this spending plan is prepared.

As of April 30, 2021, Borough of Stone Harbor has collected \$3,402,828.19, expended \$1,706,474.13, resulting in a balance of \$1,696,354.06. All development fees, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, and interest generated by the fees are deposited in a separate interest-bearing affordable housing trust fund for

*Borough of Stone Harbor Affordable Housing Trust Fund
Spending Plan – July 2021*

the purposes of affordable housing. These funds shall be spent in accordance with N.J.A.C. 5:97-8.7-8.9 as described in the sections that follow.

1. REVENUES FOR CERTIFICATION PERIOD

a. Development fees:

The Township projects that it will collect **\$2,649,344.25** in residential development fees for the remaining years of the Third Round Period (2021-2025).

Residential Development Fees: In 2019 and 2020 the Borough issued approximately 70 permits for residential units that were demolished and re-built receiving \$1,120,153 in Development Fees. This averaged \$560,076.50 per year. The Borough anticipates issuing a comparable number of permits in 2021 through 2025 for demolition and reconstruction. As a result, the Borough is projecting that an average of 35 housing units will be demolished/constructed per year for the remainder of the Third Round period, May 1, 2021 to December 31, 2025, which would yield 157 (4.5 times 35) new homes, resulting in \$2,520,344.25 (4.5 years times \$560,076.50) in projected Residential Development fees for the period of May 1, 2021 through December 31, 2025.

In addition, the Borough anticipates approving 13 building permits for single family homes for the Villa Maria development through 2025. The Borough anticipates this will generate an additional \$129,000.00 in Residential Development Fees. Of the 13 units, 3 would generate approximately \$18,000.00 each due to their beachfront location and the remainder would generate approximately \$7,500.00 per unit.

Residential Development Fee Summary

Anticipated Fees for Demolition/Reconstruction Projects:	\$2,520,344.25
Anticipated Fees for Villa Maria Development:	<u>\$ 129,000.00</u>
	\$2,649,344.25

Non-Residential Development Fees: The Borough does not anticipate collecting any non-residential development fees for the period May 1, 2021 through December 31, 2025.

b. Payment in lieu (PIL):

There are no committed payments in lieu (PIL) of construction from developers in the proposed Spending Plan period.

c. Other funding sources:

The Township does not currently expect any other sources of funding between 2021 and 2025.

d. Projected interest:

Interest on the projected revenue in the municipal affordable housing trust fund at the current average interest rate. Interest on the projected revenue in the municipal Affordable Housing Trust Fund at average 0.50% simple interest rate.

PROJECTED REVENUES

SOURCE OF FUNDS	2021	2022	2023	2024	2025	Total
(a) Development fees:						
Approved Development	\$264,934	\$529,869	\$529,869	\$529,869	\$794,803	\$2,649,344.20
Development Pending Approval						\$ -
Projected Development						\$0
(b) Payments in Lieu of Construction	\$0	\$0	\$0	\$0	\$0	\$ -
(c) Other Funds (Specify source(s))						\$0
(d) Interest	\$1,792	\$2,688	\$2,688	\$2,688	\$2,688	\$ -
Total	\$266,726	\$532,557	\$532,557	\$532,557	\$797,491	\$2,661,888.20

Borough of Stone Harbor projects a total of \$2,661,888.20 in revenue to be collected between May 1, 2021 and December 31, 2025. This projected amount, when added to the Borough's trust fund balance as of April 30, 2021 of \$1,696,354.06, results in an anticipated total revenue of \$4,358,242.26 available to fund and administer its affordable housing plan. All interest earned on the account shall accrue to the account to be used only for the purposes of affordable housing.

2. ADMINISTRATIVE MECHANISM TO COLLECT AND DISTRIBUTE FUNDS

The following procedural sequence for the collection and distribution of development fee revenues shall be followed by the Borough of Stone Harbor, Cape May County:

(a) Collection of development fee revenues:

Collection of development fee revenues shall be consistent with the Borough of Stone Harbor's development fee ordinance for both residential and non-residential developments in accordance with COAH's rules and P.L.2008, c.46, sections 8 (C. 52:27D-329.2) and 32-38 (C. 40:55D-8.1 through 8.7).

(b) Distribution of development fee revenues:

Requests for distribution of funds will first be made to the Municipal Housing Liaison (MHL) for eligible activities. The MHL will evaluate the request and provide a synopsis and recommendation to the Borough Administrator. The request for funds will detail the amount requested, the beneficiary of the distribution, the use of funds and the timeline for distribution. In this request for funds and determination of eligible activities the municipal staff may be assisted by the approved Administrative Agent and the Borough Attorney. Upon examination and approval, the Administrator will transmit the requested amount to the Chief Financial Officer (CFO) of the municipality. If sufficient funds are available, the requested amount will be brought before the Borough Council for approval and the amount encumbered in the affordable housing trust fund by the CFO. Borough Council approval may take one of any number of forms, including resolution authorizing the expenditure of funds, inclusion of the amount on a bill list for approval, or any other mechanism allowed by statute or rule for the dispersal of funds. Once approved, the payment will be made by the CFO to the designated individual or organization and the proper notation made in the affordable housing trust fund.

3. DESCRIPTION OF ANTICIPATED USE OF AFFORDABLE HOUSING FUNDS

(a) Rehabilitation and new construction programs and projects (N.J.A.C. 5:97-8.7)

Rehabilitation program: \$ 60,000.00

Borough of Stone Harbor will dedicate funds for the rehabilitation of (3) residential units at an average of \$20,000 per unit. Program policies and procedures are included in the **Borough of Stone Harbor Housing Rehabilitation Manual for Owner Occupied and Rental Units**.

Accessory Apartment Program \$ 700,000.00

The Borough will dedicate funds for the development of a total of (10) ten accessory apartments, including one very low-income accessory apartment, four low-income units and five moderate-income accessory apartments. The Borough shall provide \$60,000 each moderate-income unit, \$75,000 each for low-income units, and \$100,000 for the very low-income unit to subsidize the physical creation of the accessory apartments conforming to the Affordable Housing Ordinance. Program policies and procedures are included in the **Borough of Stone Harbor Accessory Apartment Manual**.

Municipally Sponsored Rental Project: \$161,990.46

The Borough will dedicate funds for the renovation of three rental apartments located in a tri-plex at 10206 Third Avenue. The Borough will convert the three-bedroom unit into a low-income, family rental unit with a veteran's preference, which will comply with N.J.S.A. 52:27D-311j; one of the two-bedroom units into a very-low, family rental unit; and one two-bedroom unit into a moderate-income, family rental unit.

Other Projects:

\$ 997,872.13

The Borough will dedicate funds to assist developers required to provide affordable units through an obligation as part of an overlay zone or mandatory set-aside ordinance, where the units will be credited toward the Borough's "unmet need." It is anticipated the assistance per unit will range up to \$200,000.00, depending upon the inclusionary developer's demonstrated need for constructing the affordable units. Preference will be given for low- and very-low-income 2- and 3-bedroom affordable units. The final amount of assistance will be determined upon application of developer to the Administrative Agent and will be assessed against the standards set forth in the program manual that will be prepared with the review and comment of Fair Share Housing Center. Before monies may be expended and disbursed to a developer, Court approval will be required upon direct notice and an

opportunity to be heard to Fair Share Housing Center. The request for Court approval will be submitted under the five-day rule in Stone Harbor's declaratory judgment action, Docket No. CPM-L-351-15, which will permit interested parties to comment. The Borough anticipates the additional subsidies for such affordable units may be needed due to the increased construction costs and general building/construction costs related to construction on a barrier island.

(b) **Affordability Assistance (N.J.A.C. 5:97-8.8)**

Projected minimum affordability assistance requirement:

AFFORDABILITY ASSISTANCE CALCULATION		
Actual Development Fees and Other Fees through 4/30/21		\$3,349,821.62
Actual interest and Other Income thru 4/30/2021	+	\$ 53,006.57
Projected Development Fees, 2021 thru 2025	+	\$ 2,649,344.25
Projected Trust Fund Interest, 2021 thru 2025	+	\$ 12,544.00
Less housing & admin Activity thru 4/30/2021	-	\$ 1,706,474.13
Total	=	\$ 4,358,242.31
30% Requirement		
Less Affordability assist. expenditures thru 5/31/2019	x .30	\$ 1,307,472.69
Projected Min. Afford Asst, 5/1/2021 thru 12/31/2025	-	-
Proj Min Afford. Asst for Very Low Income, 2021 thru 2025	=	\$ 1,307,472.69
	x 1/3	\$ 435,824.23

The Borough of Stone Harbor will dedicate \$1,307,472.69 from the affordable housing trust fund to render units more affordable, including \$435,824.23 to render units more affordable to households earning 30 percent or less of median income by region, as follows. Program policies and procedures are included in the **Borough of Stone Harbor Affordability Assistance Manual**.

a. Security Deposit/Rental Assistance Program - An interest-free loan or grant is available to an income eligible renter with good credit standing who qualifies for a low- or moderate-income rental unit in a deed restricted affordable unit in the Borough or a unit renovated through the Rental Housing Rehabilitation Program.

Security Deposit Assistance – a zero interest loan paid to the landlord of an affordable rental unit for a certified very low-, low- or moderate-income certified household. The maximum amount of the security deposit will be equal to

\$3,500 or one and one-half times the rental amount. When household vacates the unit, the security deposit is returned to the Borough's Housing Trust Fund.

First Months' Rent Assistance - This program makes available grants to income-qualified tenants of deed restricted affordable apartments in the Borough in an amount equal to the amount of rent that the landlord charges for the first month of occupancy. The grant will be available to all new tenants of very low-, low- and moderate- income rental units.

Certified households can choose ONE of the above Rental Assistance Programs.

b. Special Affordability Assistance Project - The Stone Harbor Special Affordability Assistance Project will assist in the development of the Borough owned triplex located at 10206 Third Avenue, to include, but not limited to, relocation and rental assistance to the current tenant. Specific assistance to be determined and approved by Borough Council.

c. Very Low-Income Units - Provision of subsidies to render low-income units affordable to very low-income households, by means of compensation to developers who agree to convert a moderate- or low-income unit into a very low-income unit in new or existing developments.

(c) Administrative Expenses (N.J.A.C. 5:97-8.9)

ADMINISTRATIVE EXPENSE CALCULATION			
Actual fees thru 4/30/2021(Does not include interest of \$47,408.31)			\$ 3,355,419.88
Projected Development Fees 2021 thru 2025 (Does not include interest of \$12,544)	+		\$ 2,649,344.20
Payments-In-Lieu of construction and other deposits thru 4/30/21	+		\$ -
Less RCA expenditures thru 12/31/25	-		\$ -
Total For Admin. Calculation, 5/1/2021 to 12/31/2025	=		\$ 6,004,764.08
20% Maximum for Admin Expense	x .20		\$ 1,200,952.82
Less Admin thru 4/30/2021	-		\$ 70,045.84
Available for Admin 5/1/2021 Thru 12/31/2025	=		\$ 1,130,906.98

The Borough of Stone Harbor projects that \$1,130,906.98 will be available from the affordable housing trust fund to be used for administrative purposes. Projected administrative expenditures, subject to the 20 percent cap, are as follows:

- a. Salaries of staff required to complete annual monitoring tasks, implement housing rehabilitation programs, affordability assistance programs, and coordinate assistance with local nonprofit housing agencies;
- b. Consultant fees to update the Fair Share Plan and to monitor progress; and
- c. Administrative fees incurred by the Township to implement affirmative marketing requirements and affordability controls.

4. EXPENDITURE SCHEDULE

The Borough of Stone Harbor intends to use affordable housing trust fund revenues for the creation and/or rehabilitation of housing units. Where applicable, the creation/rehabilitation funding schedule below parallels the implementation schedule set forth in the Housing Element and Fair Share Plan and is summarized as follows.

5. EXCESS OR SHORTFALL OF FUNDS

Pursuant to the Housing Element and Fair Share Plan, the governing body of the Borough of Stone Harbor has adopted a resolution agreeing to fund any shortfall of funds required for implementing rehabilitation and new construction programs. In the event that a shortfall of anticipated revenues occurs, the Borough of Stone Harbor will provide sufficient funding to address any shortfalls, including payment from the general fund, or authorizing the issuance of debt if necessary. The Borough adopted a Resolution of Intent to Bond in the Event of a Shortfall of Funding for the Borough's Housing Programs on May 18, 2021. A copy of the adopted resolution is attached.

In the event of excess funds, any remaining funds above the amount necessary to satisfy the municipal affordable housing obligation will be used to fulfill housing activities.

6. BARRIER FREE ESCROW

Collection and distribution of barrier free funds shall be consistent with the Borough of Stone Harbor's Affordable Housing Ordinance in accordance with N.J.A.C. 5:97-8.5.

SUMMARY

Borough of Stone Harbor intends to spend affordable housing trust fund revenues pursuant to N.J.A.C. 5:97-8.7 through 8.9 and consistent with the housing programs outlined in the housing element and fair share plan.

Borough of Stone Harbor has a balance of \$1,696,354.06 as of April 30, 2021 and anticipates an additional \$2,661,888.20 in revenues before the expiration of substantive certification for a total of \$4,358,242.26. The municipality will dedicate \$1,919,862.59 towards Housing Rehabilitation, Accessory Apartment units and New Construction units, \$1,307,472.69 to render units more affordable, and \$1,130,906.98 to administrative costs. The municipality will dedicate any excess funds toward eligible affordable housing projects.

PROJECTED REVENUE 2021-2025		
Development fees	+	\$ 2,649,344.20
Payments in lieu of construction	+	\$ -
Other funds	+	\$ -
Interest	+	\$ 12,544.00
TOTAL AVAILABLE FUNDS	=	\$ 4,358,242.26
PROJECTED EXPENDITURES 2021-2025		
Funds used for Rehabilitation		\$ 60,000.00
Accessory Apartment Program		\$ 300,000.00
Municipal Rental Project	+	\$ 161,990.46
	+	
New Construction	+	\$ 1,397,872.13
	+	\$ -
Affordability Assistance*	+	\$ 1,307,472.69
Administration **	+	\$ 1,130,906.98
Excess Funds or Remaining Balance Reserved for Additional Affordable Housing Activity	=	\$ -
1. [list individual projects/programs]	-	\$ -
2.	-	\$ -
TOTAL PROJECTED EXPENDITURES	=	\$ 4,358,242.26
REMAINING BALANCE	=	\$ -

* Actual affordability assistance minimums are calculated on an ongoing basis, based on actual revenues.

** Administrative expenses are limited to 20 percent of what is actually collected.

BOROUGH OF STONE HARBOR

CAPE MAY COUNTY, NEW JERSEY

(8)

RESOLUTION

WHEREAS, Richard Wack of 1119 Belvoir Road, Plymouth Meeting, Pa 19462 entered the wrong parking space in the Kiosk and ended up paying for space 90 and space 91; and

WHEREAS, Mr. Wack has requested a refund of \$ 4.00 and the request was approved by the CFO;

NOW, THEREFORE, BE IT RESOLVED, on July 20, 2021, by the Mayor and Council of the Borough of Stone Harbor, in the County of Cape May that \$ 4.00 be refunded to Richard Wack 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, 2021

The above resolution approved this day of....., 2021

Borough Clerk

.....
Mayor

BOROUGH OF STONE HARBOR

CAPE MAY COUNTY, NEW JERSEY

(9)

RESOLUTION

**Approve Budget Amendment Proposal
93rd Street Stormwater Pump Station – Wave Height Analysis - Borough of
Stone Harbor**

WHEREAS, Mott MacDonald, 211 Bayberry Drive, Suite 1A, Cape May Court House, N.J. 08210 has prepared a Budget Amendment Request (copy attached) for conducting the wave height analysis necessary to establish the elevation of the pump station finished floor and electrical component elevations of the 93rd Street pump station site.

SCOPE OF WORK

Task 1 – Existing Data

Task 2 – Topographic Survey

Task 3 – Erosion Analysis

Task 4 – Wave Height Analysis

Task 5 – Prepare Summary Report

Summary of Fees

Complete Scope of Work - \$15,000.

WHEREAS, it is the intention of Council to approve this proposal request as presented, upon final approval of Borough Solicitor, Borough Administrator and Certification of the CFO.

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 the Borough Council approves the attached Budget Amendment Proposal increase as presented on this 20th day of July, 2021.

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, 2021

The above resolution approved this day of....., 2021

.....
Borough Clerk

.....
Mayor

BOROUGH OF STONE HARBOR

CAPE MAY COUNTY, NEW JERSEY

(10)

RESOLUTION

WHEREAS, the Borough of Stone Harbor is currently under contract with Fred M. Schiavone Construction P.O. Box 416, Malaga, N.J. 08328 for the 2020 Utility and Road Program; and

WHEREAS, it is the recommendation of the Borough's Engineer, Marc DeBlasio to authorize Change Order No. 4 –

1. Provide WiFi Receptacle at Paddle Ball Courts
2. Provide PVC Rails for Paddle Ball Court Stairs

WHEREAS, Change Order No. 4 will result in an increase of \$ 15,419.13 to the amended contract amount of \$ 3,664,251.19 for a revised contract amount of \$ 3,679,670.32.

NOW, THEREFORE, BE IT RESOLVED, this 20th day of July, 2021 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. 4 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.4 .

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, 2021

The above resolution approved this day of....., 2021

Borough Clerk

Mayor

BOROUGH OF STONE HARBOR

CAPE MAY COUNTY, NEW JERSEY

(11)

RESOLUTION

RESOLUTION PERTAINING TO THE OPERATION OF JITNEYS IN THE BOROUGH OF STONE HARBOR COMMENCING IMMEDIATELY AND THROUGH JANUARY 11, 2022

WHEREAS, the Borough of Stone Harbor passed Ordinance 1413 on February 19, 2013 allowing the Borough to regulate autobuses, commonly known as Jitneys under N.J.S.A. 48:16-23 ; and

WHEREAS, on June 26, 2020 the Borough received Resolution 139-2020 from the Borough of Avalon approving their 2020 Jitney licenses and Schedule A which is a list of Jitney applications approved by the Borough of Avalon, and

WHEREAS, The Atlantic City Jitney Association has agreed to reinstate jitney service on a limited basis within the Borough of Stone Harbor and the neighboring community of Avalon for the 2021 summer and possibly early fall seasons;

WHEREAS, it is in the public interest that such service be reinstated'

NOW, THEREFORE, BE IT RESOLVED on this 20th day of July, 2021 by the Members of Council of the Borough of Stone Harbor, in the County of Cape May and State of New Jersey that the Borough Council of the Borough of Stone Harbor approves the attached Schedule "A" list of Jitney owners; and

BE IT FURTHER RESOLVED AS FOLLOWS:

1. The Atlantic City Jitney Association is hereby granted permission to operate jitneys in the Borough of Stone Harbor on a predetermined route and to charge the normal and customary passenger fares in the Borough of Stone Harbor through January 11, 2022 **conditioned** upon the following:

- a) Jitney operators who have submitted to and satisfactorily passed a criminal history background check, either for the Borough of Stone Harbor, the Borough of Avalon, or for another municipality, or who have been previously licensed by the Boroughs of Stone Harbor or Avalon and which license was extended to June 30, 2020 shall be permitted to operate jitneys in the Borough of Stone Harbor effective immediately through January 11, 2022 (operations in the Borough of Stone Harbor prior to the adoption of this resolution are hereby approved nunc pro tunc) **PROVIDED THAT:**
- b) Evidence of completing a criminal history background check for individual jitney operators consistent with the requirements of subsection (a) above shall be filed with the Stone Harbor Chief of Police or his designee as a condition of being able to operate a jitney in the Borough; **AND**

BOROUGH OF STONE HARBOR

CAPE MAY COUNTY, NEW JERSEY

RESOLUTION

- c) Any license fees otherwise payable to the Borough of Stone Harbor are suspended and eliminated for this season and for the duration of the period of operations set forth herein.
- d) Jitney operators shall comply with all other provisions of the Jitney Regulations set forth in the applicable regulations of the Borough of Stone Harbor, except for the specific provisions pertaining to licensing. License fees and term and the criminal history background check.
- e) The route, schedule, dates and times of operation, fares, certificates of liability insurance and all other administrative matters pertaining to the operation of jitneys for the approved term is delegated to the Stone Harbor Business Administrator or his designee for the duration of the period of operation authorized herein.
- f) Attachment – Schedule "A"

DISTRIBUTION:

Borough Council
Chief of Police
Captain of Police
Business Administrator
Assistant Business Administrator
Code Enforcement Official
Borough License Clerk
Borough Safety Coordinator
Director DPWU

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, 2021

The above resolution approved this day of....., 2021

Borough Clerk

Mayor

BOROUGH OF STONE HARBOR

CAPE MAY COUNTY, NEW JERSEY

(17)

RESOLUTION AUTHORIZING APPROVAL OF ACCEPTANCE OF STATE FUNDS AND PARTICIPATION IN THE STATE GRANT PROGRAM

WHEREAS, the State of New Jersey has a State grant program administered by the State of New Jersey, Department of Law and Public Safety; and

WHEREAS, the Borough of Stone Harbor Police Department made application to the State Grant Program, SFY21 Body-Worn Camera Grant Program; and

WHEREAS, the Borough of Stone Harbor Police Department was award a Grant, award number 21-BWC-423 for the period January 1, 2021 – December 31, 2025; and

WHEREAS, the total amount of the award from the New Jersey Department of Law & Public Safety is \$40,760.00 ;and

WHEREAS, the Borough of Stone Harbor Police Department is authorized to accept the award of such grant funds and it will require participation in the State grant program and signature on the Award Contract a copy of which is attached; and

WHEREAS, the Borough Council of the Borough of Stone Harbor finds that it is in the best interests of the Borough of Stone Harbor to enter into the aforementioned State Aid Agreement and accept the grant funds mentioned above;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Stone Harbor, as follows:

1. That the preamble of this Resolution is hereby incorporated by reference as if set forth as length.
2. That the Borough of Stone Harbor is hereby authorized and directed to accept State funds and participate in the State grant program administered by the State of New Jersey, Department of Law & Public Safety. .

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, 2021

Borough Clerk

The above resolution approved this day of....., 2021

Mayor

BOROUGH OF STONE HARBOR

CAPE MAY COUNTY, NEW JERSEY

RESOLUTION

(13)

AWARDING A CONTRACT FOR STONE HARBOR BEACH PATROL HEADQUARTERS

WHEREAS, six (6) bids were received by the Stone Harbor Municipal Clerk on July 13, 2021, on the Borough's Notice to Bidders for the aforementioned project in accordance with the specifications prepared by DeBlasio & Associates, the Borough Engineer, bearing project number D & A Project #: SH-C-020, which specifications are hereby incorporated herein and made a part hereof by reference, all in accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-1 *et seq.*; and

WHEREAS, Aliano Brothers General Contractors, Inc. 2560 Industrial Way, Vineland, N.J. 08360 submitted the lowest responsible and conforming bid in the amount of \$ 2,822,490.00; and

WHEREAS, the Borough Engineer has recommended that the contract be awarded to Aliano Brothers General Contractor and the bid has been found to be responsible and in conformity by the Borough Solicitor; and

WHEREAS, the Chief Financial Officer has determined that sufficient funds are available as evidenced by the Chief Financial Officer's Certification attached hereto.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Stone Harbor, County of Cape May, State of New Jersey, duly assembled in public session this 20th day of July, 2021, as follows;

1. That the preamble of this Resolution is hereby incorporated herein by reference;
2. That the contract for the aforementioned project bearing DeBlasio & Associates project number D & A Project #: SH-C-020 be and the same is hereby awarded to Aliano Brothers General Contractor in the amount of \$ 2,822,490.00;
3. That the Mayor and Clerk are hereby authorized and directed to execute the contract for same in accordance with the bid submitted and incorporated herein as stated above.
4. That the Borough Engineer is hereby directed and authorized to issue an appropriate Notice of Award and Notice to Proceed as called for within the contract.
5. That the Borough Clerk is authorized to return the bonds of the unsuccessful bidders.

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, 2021

.....
Borough Clerk

The above resolution approved this day of....., 2021

.....
Mayor

(14)

BOROUGH OF STONE HARBOR

CAPE MAY COUNTY, NEW JERSEY

RESOLUTION

WHEREAS, N.J.S.A. 40A:5-4 requires the governing body of every local unit to have made an annual audit of its books, accounts and financial transactions, and

WHEREAS, The Annual Report of Audit for the year 2020 has been filed by a Registered Municipal Accountant with the Borough Clerk as per the requirements of N.J.S. 40A:5-6, and a copy has been received by each member of the governing body, and

WHEREAS, R.S. 52:27BB-34 authorized the Local Finance Board of the State of New Jersey to prescribe reports pertaining to the local fiscal affairs, and

WHEREAS, The Local Finance Board has promulgated N.J.A.C. 5:30-6.5, a regulation requiring that the governing body of each municipality shall by resolution certify to the Local Finance Board of the State of New Jersey that all members of the governing body have reviewed, as a minimum, the sections of the annual audit entitled: Comments and Recommendations; and

WHEREAS, the members of the governing body have personally reviewed as a minimum the Annual Report of Audit, and specifically the sections of the Annual Audit entitled: Comments and Recommendations, as evidenced by the group affidavit form of the governing body attached hereto; and

WHEREAS, such resolution of certification shall be adopted by the Governing Body no later than forty-five days after the receipt of the annual audit, pursuant to N.J.A.C. 5:30-6.5; and

WHEREAS, all members of the governing body have received and have familiarized themselves with, at least, the minimum requirements of the Local Finance Board of the State of New Jersey, as stated aforesaid and have subscribed to the affidavit, as provided by the Local Finance Board; and

WHEREAS, failure to comply with the regulations of the Local Finance Board of the State of New Jersey may subject the members of the local governing body to the penalty provisions of R.S. 52:27BB-52 - to wit:

R.S. 52:27BB-52 - "A local officer or member of a local governing body who, after a date fixed for compliance, fails or refuses to obey an order of the director (Director of Local Government Services), under the provisions of this Article, shall be guilty of a misdemeanor and, upon conviction may be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than one year, or both, in addition shall forfeit his office."

NOW, THEREFORE BE IT RESOLVED that the Borough Council of the Borough of Stone Harbor hereby states that it has complied with N.J.A.C. 5:30-6.5 and does hereby submit a certified copy of this resolution and the required affidavit to said Board to show evidence of said compliance.

I HEREBY CERTIFY THAT THIS IS A TRUE COPY OF THE RESOLUTION PASSED AT THE MEETING HELD ON July 20, 2021 _____ Borough Clerk

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, 2021

The above resolution approved this day of, 2021

Borough Clerk

Mayor