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AGENDA

MEETING AT MUNICIPAL BUILDING, 9508 SECOND AVENUE

WORK SESSION  
STARTING AT 4:30 PM

TUESDAY

July 6, 2021

4:30 p.m.

A & F REPORT Councilmember Krafczek

Engineer –

Construction & Zoning

Tax Collector -

Tax Assessor

Borough Clerk

CFO -

Administrator -

Mayor – Planning Board Report – Zoning Changes for Courts &  
Linden Lane – (Draft Ordinance from Paul Kates attached for review)  
Possible INTRO July 20<sup>th</sup>

PUBLIC WORKS REPORT – Councilmember Parzych –

Staffing Update

Aqua Fence report

UTILITY REPORT – Councilmember Moore –

1. Overview on 5G – Wireless Telecommunications Equipment (Proposed  
Ordinance attached for review) Possible Intro on July 20<sup>th</sup>

2. Overview on Water & Sewer Ordinance (Proposed Ordinance attached for  
review) Possible Intro on July 20<sup>th</sup>

DISCUSSION:

Developers Agreement – Villa Maria – Solicitor will discuss (possible  
approval July 20<sup>th</sup>)

**JUNE 14, 2021  
DRAFT  
NOT FOR RELEASE  
FOR SUBCOMMITTEE DISCUSSION ONLY  
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 as follows (added text underlined and deleted text is ~~stricken~~):

For the purposes of this chapter, the Borough is divided into nine 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. (added text underlined and deleted text is ~~stricken~~):

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 Supplemental regulations. is amended as follows (added text underlined and deleted text is ~~stricken~~):

~~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)	
Front Yard	First Floor (up to DFE +10') - 5 Feet

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Side Yards (each)	<p>Second Floor (Above DFE +10') - <del>10</del> 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</p> <p>Second floor (above DFE plus 10 feet) - 3 Feet from each side face of the structure</p>
Rear Yard	<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 <u>65% including all interior space on each floor in the FAR calculation, subject to item D Supplemental Regulations #3 below</u>

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  $\pm 6''/12''$ ; (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 2<sup>nd</sup> 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. Supplemental area regulations** ) is amended as follows (added text underlined and deleted text is ~~stricken~~):

C. Piers and docks. Piers or docks, with or without hand railings, located or constructed between a bulkhead and the rear property line (or beyond with appropriate municipal approval) shall not exceed the height of the top of the horizontal plate of the bulkhead, except for hand rails and exclusive of stairways and ramps, and shall not occupy more than 50% of the area bounded by the bulkhead and the property lines. 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.

<b>Zone Change</b>	<b>General Location</b>	<b>Block &amp; Lot</b>
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 7.** If any portion of this ordinance is determined to be invalid by a Court of competent jurisdiction, that determination shall have no effect upon the remainder of this Ordinance, which shall remain valid and operable.

**Section 8.** All Ordinances or parts of Ordinances inconsistent with this Ordinance, to the extent of such inconsistencies only, be and the same are hereby repealed.

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

APPROVED:

\_\_\_\_\_  
Judith Davies- Dunhour, Mayor

ATTEST:

\_\_\_\_\_  
Suzanne C. Stanford, Borough Clerk

Paul J. Baldini, Esquire  
6-14-2021 Draft  
SH Courts Ordinance

**Suzanne Stanford**

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**From:** Ray Poudrier  
**Sent:** Tuesday, June 29, 2021 3:02 PM  
**To:** Judith Davies-Dunhour  
**Cc:** Paul Kates; Ray Poudrier; Kate McGonagle; Robert Smith; Suzanne Stanford  
**Subject:** Re: Zoning Change For Courts & Linden Lane

I will be available.

On Jun 29, 2021 12:46 PM, Judith Davies-Dunhour <DaviesJ@shnj.org> wrote:

Paul,

Please forward to Suzanne Stanford the final draft of the above ordinance that was approved by the Planning Board at the last meeting. It will be the subject of discussion at the Council Work Session on Tuesday, July 6, at 4:30pm with the goal of introducing it for first reading on Tuesday, July 20. Are you available to attend the Work Session on July 6?

Ray,

I will need you for the discussion on July 6 as well. Are you available?

Thank you!

Sincerely,

Judith M. Davies-Dunhour, Mayor  
Borough of Stone Harbor  
9508 Second Avenue  
Stone Harbor, New Jersey 08247  
[daviesj@shnj.org](mailto:daviesj@shnj.org)  
[www.stoneharbor.org](http://www.stoneharbor.org)

**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**

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**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 "NJBPU") 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;

#### 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) *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.
- (c) *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.
- (d) *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

- (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.

[Date & Signatures]

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## ORDINANCE No.

### APPENDIX A

#### This Appendix is part of Ordinance No.

Pursuant to Chapter 475-24 of Ordinance No. \_\_\_\_\_, 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
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##### 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.	

<b>RECURRING FEES:</b> 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.*

## **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.

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### **§ 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.

### VENT SYSTEM – REMOVED NOW SEWER CLEAN OUT / ~~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.~~

### 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.

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**§ 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

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**§ 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.~~

~~Except in the case of an emergency, a complete application shall be made at least seven working days before the completion of the connection(s) is desired.~~

~~C. B.~~

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

~~D. 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 ~~from time to time and reaffirmed or readjusted annually at the Borough reorganization meeting~~, 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.

~~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; 11-18-2005 by Ord. No. 1325; 3-4-2014 by Ord. No. 1439]

E-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.

F- 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]

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**§ 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.

Exclusion 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]

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#### § 542-5. Water service lines.

A.

Water main taps and the installation or repair of the service lines from the water main to the premises-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.

E.

~~When the Utilities Department makes a complete service line installation, the cost shall be as established by resolution of Borough Council from time to time and reaffirmed or readjusted annually at the Borough reorganization meeting, which shall be 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; 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]

F. 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.

G.- 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.

H.-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.

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**§ 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 consumer's consumers property is not in compliance with the requirement that its meter box is level, the Borough shall notify said property owner. consumer consumer via regular mail and, if no response is received within 30 calendar days, then said consumer will be notified by certified mail, return receipt requested, of the noncompliance. Said notice shall inform the property owner consumer consumer that if the property owner consumer consumer 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 property owner consumer consumer shall, in addition to the regular quarterly payment payment-base rates for water and sewerage charges, be billed an additional charge established by Resolution of the Borough Council. of \$85 of \$85. 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 from time to time and reaffirmed or readjusted annually at the Borough reorganization meeting 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 of \$145 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 ~~of \$145~~ of \$145. Meters, meter boxes, fittings and pipes which require mandatory maintenance or upgrading shall be subject to the applicable charges found in ~~§ 542-5 and/or § 542-6~~ 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 ~~consumer~~ 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 ~~consumer~~ 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 ~~consumer's~~ property owner's meter and, if so desired, in the ~~consumer's~~ 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 ~~in the amount of \$145 for the three quarter inch and one inch service meters and \$375 for all service meters larger than one inch. in the amount of \$145 for three quarter inch and one inch service meters and \$375 for all service meters larger than one inch.~~ 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]

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**§ 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 ~~§ 542-5 and/or § 542-6 hereof~~ 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 ~~charge of \$250~~ will be billed to the ~~homeowner~~ 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.

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**§ 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.

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**§ 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 ~~of \$450.~~ of \$45.00 plus a street opening charge in accordance with § 542-3DC 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).

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#### **§ 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 \$525 plus a street opening charge in accordance with § 542-3DC.

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#### **§ 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 of \$250 will be made if the Utilities Department has effected a temporary turnoff of the water service, either at the request of the Customer 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 result in the imposition of the Borough of a charge of \$500 result in the imposition by the Borough of a charge of \$500. Service may only be restored by a licensed

New Jersey plumber. Such penalty, if unpaid within 30 days, may be enforced as a fine in the Stone Harbor Municipal Court. ~~Such penalty, if unpaid within 30 days, may be enforced as a fine in the Stone Harbor Municipal Court.~~ 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 of \$45 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 of \$425 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 ~~(\$25 per utility account)~~ (\$25 per utility account), 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.

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**§ 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.

~~When in the judgement of the utilities department the advance payment of the minimum charge is not sufficient to properly protect the Utilities Department against loss, the right is reserved to require a reasonable deposit in addition to the advanced minimum charge payable as set forth in 542-13A. The deposit shall be refunded when the consumer ceases to take water from the Utilities Department and when all bills secured in accordance with the rules of the Utilities Department have been paid. When in the judgment of the Utilities Department the advance payment of the minimum charge is not sufficient to properly protect the Utilities Department against loss, the right is reserved to require a reasonable deposit in addition to the advance minimum charge payable as~~

set forth in § 542-13A. The deposit shall be refunded when the consumer ceases to take water from the Utilities Department and when all bills accrued in accordance with the rules of the Utilities Department have been paid.

B.

Whenever ~~consumer~~ 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.

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**§ 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 ~~consumer~~ 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

	<b>ALL METERS</b>	<b>REGULAR METERS</b>
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~~, for example, ~~if~~, for example the 5/8 inch and 3/4 inch water meters 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; ~~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.

~~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 Special hydrant meter rental use service charges: ~~government agency use~~ Water from fire hydrants may be used for jetting in pilings or other special uses and for filling swimming pools ~~may be obtained from water hydrants upon application to and approval of the Utilities Department. A service charge of \$57.50 per day, or any part thereof 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 when the bill is submitted. 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 sewerage collection system. When a contractor who is working on a public project for the Borough, County, State or Federal Government needs to connect to a hydrant, the Borough will lend the contractor a meter upon the deposit of \$1500 of an amount established by Resolution of the Borough Council. The contractor shall be responsible for paying for the water that is used and registered on the meter at the current rate. The contractor will receive back the deposit upon the payment of the water bill and the return of the meter in good shape. If the contractor does not return the meter at the end of the project it will forfeit the deposit.~~

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 sewerage collection system.

[Amended 8-15-2006 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]

(1.) Borough Council is hereby authorized to set and adjust fire hydrant meter use service charges by resolution so that no ordinance amendment is required in this regard.

Borough Council is hereby authorized to adjust special hydrant meter use service charges by resolution so that no ordinance amendment is required in this regard.

E.

Service to private fire protection facilities. ~~Each customer requiring p~~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~~ 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. ~~facilities shall be billed accordingly.~~ If the ~~customer~~ property owner uses the fire protection facilities for fire protection and some use other than fire extinguishing purposes, then the service connection 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 shall be as follows: ~~Cost of a new or replacement four-inch building sewer shall be \$842 when installed in the same street opening trench as a new water service in accordance with § 542-5 hereof. The cost of a new or replacement six-inch building sewer shall be \$969 when installed in the same street opening trench as a new water service in accordance with § 542-5 hereof. When the installation requires a separate street opening, the fee shall be \$1,065 for a four-inch building sewer or \$1,385 for a six-inch building sewer, plus a street opening charge in accordance with § 542-3D hereof. Special charges for larger sizes of building sewers will be determined by the Borough of Stone Harbor based upon current costs of material and labor.~~ Cost of a new or replacement four-inch building sewer shall be \$842 when installed in the same street opening trench as a new water service in accordance with § 542-5 hereof. The cost of a new or replacement six-inch building sewer shall be \$969 when installed in the same street opening trench as a new water service in accordance with § 542-5 hereof. When the installation requires a separate street opening, the fee shall be \$1,065 for a four-inch building sewer or \$1,385 for a six-inch building sewer, plus a street opening charge in accordance with § 542-3D hereof. Special charges for larger sizes of building sewers will be determined by the Borough of Stone Harbor based upon current costs of material and labor.

[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~~user ~~user~~ 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~~customer ~~customer~~ and with the concurrence of the Plumbing Inspector. Where the ~~property owner~~user ~~user~~ received service through one building sanitary sewer from more than one unit, ~~the property owner~~he 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 curbline 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 ~~vent~~ 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 ~~curb vent~~ ~~curb vent~~ shall be placed between the curb and sidewalk and shall be level with both the surrounding area. ~~the surrounding area.~~ No tripping hazards are to be created in the ~~hard surface portion of the~~ hard surface portion of the 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.

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**§ 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 of \$250 ~~of \$250~~ will be imposed upon the property owner. It is illegal for any sewer clean out or other openings ~~vent system vent system~~ 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 Board of Health or the Stone Harbor Board of Health~~ 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.

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**§ 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 account holder ~~account holder~~; charges for reinstallation of the meter and associated expenses, including special mailing costs ~~of \$25 per utility account.~~ established by Resolution of the Borough Council. ~~of \$25 per utility account.~~

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 vent out vent 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.

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**§ 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 algaecides, 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]

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#### **§ 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, tries 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.

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**§ 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~~ ~~Customer~~ ~~Customer~~ charge of \$116.25

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

[1]

~~For 2017: \$82.50.~~

[2]

~~For 2018: \$97.50.~~

[3]

~~For 2021: \$116.25.~~

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

[1]

~~For 2017: \$82.50.~~

[2]

~~For 2018: \$97.50.~~

[3]

~~For 2021: \$116.25.~~

(b)

Volume charge: \$3.75 per 1,000 gallons (or any part thereof) of ~~\$3.75 per 1,000 gallons (or any part thereof)~~ of Wwater 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 § 542-3FE.)

B.

Whenever a ~~property owner~~~~consumer~~ ~~consumer~~ 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~~~~consumer's~~ ~~consumer'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~~~~consumer~~ ~~consumer~~ via certified mail, return receipt requested, of the noncompliance. Said notice shall inform the ~~property owner~~~~consumer~~ ~~consumer~~ that if the ~~property owner~~~~consumer~~ ~~consumer~~ 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 in addition to the regular quarterly payment for the sewerage system be billed an additional quarterly charge, established by Resolution of the Borough Council, until compliant. of \$85. In the event of continued noncompliance such charge shall be imposed. 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.

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#### **§ 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 CMCMA 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. \*\* NEED REVEIW\*\***

[Added 4-2-2013 by Ord. No. 1421<sup>[1]</sup>]

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 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~~-~~his~~ his 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 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~~~~his~~ his property, or property managed by ~~them~~ him, 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.

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**§ 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)

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]

(4)

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

Watering on Sunday is prohibited.

B.

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

(1)

Smart-type irrigation systems installed in accordance with § 542-25.

(2)

"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.

(3)

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

(4)

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.<sup>[1]</sup>

[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.

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]

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**§ 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~~ \$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.

**Suzanne Stanford**

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**From:** Robert Smith  
**Sent:** Thursday, July 01, 2021 1:11 PM  
**To:** Judith Davies-Dunhour; Suzanne Stanford  
**Subject:** RE: Review

Marc Karavan will discuss the issue next Tuesday during work session and it will be voted upon on the 20<sup>th</sup>. That way, everyone will know it is coming.

Robert J. Smith, Esq.  
Borough Administrator  
Borough of Stone Harbor  
9508 Second Avenue  
Stone Harbor, New Jersey 08247  
[SmithR@shnj.org](mailto:SmithR@shnj.org)  
609-368-5102

**From:** Judith Davies-Dunhour  
**Sent:** Thursday, July 1, 2021 1:04 PM  
**To:** Suzanne Stanford <StanfordS@shnj.org>; Robert Smith <BoroughAdministrator@shnj.org>  
**Subject:** RE: Review

Sue,  
Thanks! So far so good.

Bob, where are we on Developers Agreement for Villa?

Sincerely,

Judith M. Davies-Dunhour, Mayor  
Borough of Stone Harbor  
9508 Second Avenue  
Stone Harbor, New Jersey 08247  
[daviesj@shnj.org](mailto:daviesj@shnj.org)  
[www.stoneharbor.org](http://www.stoneharbor.org)

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**From:** Suzanne Stanford  
**Sent:** Thursday, July 01, 2021 10:55 AM  
**To:** Judith Davies-Dunhour; Robert Smith  
**Subject:** Review

Agendas so far.....Sue