

ORDINANCE NO. 233-95

ADOPTING ORDINANCE

AN ORDINANCE ADOPTING A REVISION AND CODIFICATION OF THE ORDINANCES OF THE BOROUGH OF WEST CAPE MAY IN THE COUNTY OF CAPE MAY, NEW JERSEY

WHEREAS, the Board of Commissioners of the Borough of West Cape May in the County of Cape May, New Jersey, has caused its ordinances of a general and permanent nature to be compiled and revised and embodied in a revision and codification known as "The Revised General Ordinances of the Borough of West Cape May, 1994."

NOW, THEREFORE, BE IT ORDAINED BY BOARD OF COMMISSIONERS OF THE BOROUGH OF WEST CAPE MAY IN THE COUNTY OF CAPE MAY, NEW JERSEY, AS FOLLOWS:

**Section 1.** The ordinances of the Borough of West Cape May in the County of Cape May, New Jersey, of a general and permanent nature, as codified, in Chapters I to XXXVII are hereby ordained as "The Revised General Ordinances of the Borough of West Cape May, 1994."

**Section 2.** All of the provisions of "The Revised General Ordinances of the Borough of West Cape May, 1994," shall be in force and effect on and after the effective date of this ordinance.

**Section 3.** All ordinances of a general and permanent nature, adopted by the Board of Commissioners and in force on and not contained in "The Revised General Ordinances of the Borough of West Cape May," are hereby repealed from and after the effective date of this ordinance, except as hereinafter provided in Section 4.

**Section 4.** The repeal provided for in Section 3 of this ordinance shall not affect:

- a. Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this ordinance;
- b. Any prosecution, action, suit or other proceeding pending or any judgment rendered on or prior to the effective date of this ordinance;
- c. Any right of franchise conferred by the Board of Commissioners;
- d. Any right, right-of-way or easement acquired or established in any street, road, highway or other public place within the Borough;
- e. Any ordinance of the Borough providing for laying out, opening, altering, widening, relocating, straightening, acceptance or vacation of any street, road or highway within the Borough;
- f. Any ordinance or resolution of the Borough promising or guaranteeing the payment of money by or for the Borough or authorizing the issuing of bonds or other evidence of the Borough's indebtedness, or any contract of or obligation assumed by the Borough;

## WEST CAPE MAY CODE

- g. The annual budget appropriation ordinances or resolution, and all ordinances and resolutions appropriating or transferring funds;
- h. The administrative ordinances or resolutions of the Board of Commissioners not in conflict or inconsistent with the provisions of the Revised General Ordinances;
- i. Any ordinance or resolution of the Board of Commissioners fixing compensation or salaries of the Borough officials and employees or the pay and compensation of positions and clerical employments which are not provided for in the Revised General Ordinances and which are not in conflict or inconsistent therewith.
- j. Any ordinance or resolution of the Board of Commissioners creating employments, positions or offices and fixing duties therefor which are not provided for in the Revised General Ordinances and which are not in conflict or inconsistent therewith;
- k. Concerning the Traffic Chapter, any other provision of this ordinance to the contrary notwithstanding, the repeal provided for in Section 3 of this ordinance shall not become effective with respect to any ordinance regulating traffic or parking on the public streets or highways until the traffic and parking chapters of the Revised General Ordinances are finally approved by the Commissioner of the New Jersey Department of Transportation, and said chapters shall not take effect until finally approved by the Director as aforesaid;
- l. Ordinance No. 31-76, authorizing a contract between the Borough of West Cape May and the Cape May County Municipal Utilities Authority providing for and relating to the Treatment and Disposal of Sewage and the Cost and Expense of such Treatment and Disposal.
- m. Ordinance No. 85-84, an ordinance providing for the temporary repairs and maintenance of the water supply lines and mains lines the Borough of West Cape May as local improvements and establishing a board of assessment commissioners to assess the cost thereof.
- n. Any ordinances of the Council adopted upon final passage after the 20th day of December, 1994.

**Section 5.** The effect of the revisions are as follows:

**Chapter I:** General Provisions. Sections 1-1 through 1-6 are new, containing the official title, general definitions, rules of construction and severability clause that are intended to provide uniform construction and interpretation of general terms used throughout the revision, as well as for all other ordinances of the Borough of West Cape May.

Section 1-5, the general penalty clause, is applicable to the entire Code or any other ordinance of the Borough of West Cape May. In subsection 1-5.1, a maximum penalty of one or more of the following: one thousand (\$1,000.00) dollars fine, or ninety (90) days imprisonment, or a period of community service not exceeding ninety (90) days is established to conform to State Statutes. Subsection 1-5.1 eliminates the need to restate the maximum penalty clause each time a new regulatory ordinance is adopted. Subsection 1-5.2 is new and states that a minimum penalty, not exceeding one hundred (\$100.00) dollars, may be established for the violation of a particular Code provision or ordinance. Subsection 1-5.3 is new and provides for an additional fine for repeat offenders. Subsection 1-5.4 is new and provides for imprisonment for default of payment of a fine. Subsection 1-5.5 provides that each and every day a violation exists is deemed a

## ADOPTING ORDINANCE

separate violation. Subsection 1-5.6 states that the amount of any particular penalty is at the discretion of the adjudicating authority. Throughout the Code, penalty provisions have been revised to refer to the provisions of this section. Section 1-6, Maintenance and Sale of the Code, has been included to provide for amending the Code, requiring the clerk to maintain the certified Code by codifying newly-adopted ordinances, and prohibiting altering or tampering with the Code.

**Chapter 2:** Administration. Chapter II contains the administrative ordinances of the Borough of West Cape May.

To aid in organization, this Chapter has been divided into Articles as follows:

### ARTICLE I: BOARD OF COMMISSIONERS.

This Article is new and contains the organization and powers of the Board of Commissioners, and provides for regular and special meetings of the Board of Commissioners, provides that meetings shall be open to the public, provides for conferences of the Board of Commissioners and provides the requirements for a quorum of the Board of Commissioners and also provides for the filling of a vacancy in the office of Commissioners. This section also provides that the Board of Commissioners choose one of their members as Mayor and one as Deputy Mayor.

### ARTICLE II: MUNICIPAL OFFICES.

This Article contains Section 2-4, the appointment, powers and duties of the Borough Clerk.

### ARTICLE III: ADMINISTRATIVE ORGANIZATION.

This Article contains the establishment of the Departments of Government and provides that Commissioners shall be assigned to Departments.

### ARTICLE IV: DEPARTMENT OF REVENUE AND FINANCE.

Establishes the creation and qualification of the Department of Revenue and Finance.

### ARTICLE V: DEPARTMENT OF PUBLIC AFFAIRS AND PUBLIC SAFETY.

Establishes the Department of Public Affairs and Public Safety. This Article provides the establishment and organization of the Police Department.

### ARTICLE VI: DEPARTMENT OF PUBLIC PARKS AND PUBLIC PROPERTY.

Within this Department the West Cape May Water/Sewer Utility is established.

### ARTICLE VII: INTERMUNICIPAL COURT.

This Article contains the establishment of the Intermunicipal Court for the Borough of West Cape May and the Borough of Cape May Point.

### ARTICLE VIII: BOARDS, COMMISSIONERS AND COMMISSIONS.

This Article contains the establishment of the Planning Board and the Shade Tree Commission.

### ARTICLE IX: POLICIES AND PROCEDURES.

This Article contains the procedure for payment of claims and the requirement for payment of an application fee for the services of the Municipal Public Defender.

### ARTICLE X: CONTRACTS AND AGREEMENTS.

## WEST CAPE MAY CODE

This Article contains the Interlocal Service Agreements for the purchase of water and the obtaining of police protection; providing for traffic sign installation and rescue squad emergency services.

**Chapter 3:** Police Regulations. This Chapter contains the regulations enforced by the Police Department, which include regulations prohibiting unreasonably loud or unnecessary noise; litter control; disorderly conduct; the prohibition to sell, rent or exhibit pornographic materials and the establishment of a Community Standards Review Board; regulations of the sale or display of paraphernalia relating to controlled dangerous substances; drug-free school zones; the storage of junk vehicles and the establishment of a curfew for juveniles.

**Chapter 4:** General Licensing. This Chapter codifies the general regulations pertaining to licensing and regulating businesses, including the requirements for Mercantile Licenses; non-motorized Tour Operator License and Contractor's License.

**Chapter 5:** Animal Control. This Chapter contains the requirements for obtaining a dog license and regulations providing for control of dogs.

**Chapter 6:** Reserved.

**Chapter 7:** Traffic. This Chapter contains the traffic ordinances of the Borough placed in accord with the model of organization that has been recommended by the State of New Jersey Division of Motor Vehicles. This Chapter may not be enforced until approval is obtained from the Director of the Bureau of Traffic Engineering, New Jersey Department of Transportation. Revised street regulations are included as they have been recommended by the Department of Transportation.

**Chapter 8:** Reserved.

**Chapter 9:** Parks and Public Places. This Chapter contains procedures and requirements for the use of Borough Hall and other municipal facilities.

**Chapter 10:** Building and Housing. This Chapter incorporates the State Uniform Construction Code Enforcing Agency; buildings unfit for human habitation, occupancy or use; rental apartments and dwellings; disposal of construction and demolition debris and numbering of residential and commercial buildings.

**Chapter 11:** Landfills. This Chapter prohibits the Dumping and Disposal of Garbage at a landfill or dump unless the garbage or trash originated within the Borough.

**Chapter 12:** Fire Protection and Prevention. This Chapter provides for the enforcement of the Uniform Fire Safety Act.

**Chapter 13:** Campgrounds. This Chapter contains the adoption by reference of the New Jersey Private Campground Code.

**Chapter 14:** Trailers and Trailer Camps. This Chapter contains provisions for the licensing and regulation of trailers and trailer camps.

ADOPTING ORDINANCE

**Chapter 15:** Reserved.

**Chapter 16:** Right to Farm. This Chapter protects the farming activities as acceptable, recognized and entitled to be protected, and provides notices issued to future applicants for subdivisions.

**Chapter 17:** Streets and Sidewalks. In this Chapter are regulations concerning the excavations of streets and sidewalks.

**Chapter 18:** Solid Waste Management. The regulations providing for the collection of recyclable materials and the requirements for property owners to contract for the collection of solid waste are contained within this Chapter.

**Chapter 19:** Water. This Chapter contains the water rates, the regulations for connections and payment of water fees, the regulation for using water from fire hydrants, penalty established for late payments of water bills and the regulations for water emergencies.

**Chapter 20:** Sewers. This Chapter includes rates for sewage disposal, fees for connections, sewer vent caps and regulations for the use of Public and Private Sewer, Drains and Wastewater Disposal.

**Chapter 21:** Cable Television. This Chapter grants consent to TKR Cable Company to operate a Cable Television system within the Borough.

**Chapter 22:** Reserved.

**Chapter 23:** Flood Hazard Protection. The Flood Hazard Protection regulations are contained in this Chapter without change.

**Chapter 24:** Site Plan Regulations. The site plan regulations are complete in this Chapter.

**Chapter 25:** Subdivision. This Chapter includes the Subdivision regulations. No changes were made in this Chapter.

**Chapter 26:** Fees for Land Development. This Chapter contains the fees for land development.

**Chapter 27:** Zoning. The Zoning ordinance, as adopted by Ordinance No. 130-88, and as further amended and supplemented, is printed en toto.

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Throughout the Revision there has been reorganization and editing of the source ordinances, not to effect substantive changes but intended to eliminate word duplications and overlapping and to effect uniformity of expression. In some cases provisions of the source ordinances have not been included in the Revision either because they have been expressly or impliedly repealed by later ordinances, are obsolete or no longer apply in the Borough of West Cape May.

## WEST CAPE MAY CODE

**Section 6.** A copy of the Revised General Ordinances of the Borough of West Cape May, in the County of Cape May and State of New Jersey, in loose-leaf form, has been filed in the office of the Borough Clerk of the Borough of West Cape May and shall remain there for the use and examination of the public until final action is taken on this ordinance, and if this ordinance shall be adopted, such copy shall be certified to by the Clerk of the Borough of West Cape May by impressing thereon the seal of the Borough of West Cape May, as provided by law, and such certified copy shall remain on file in the office of the Borough Clerk of the Borough of West Cape May to be made available to persons desiring to examine the same during all times while the Revision is in effect.

**Section 7.** Amendments to the Revision. Any and all additions, amendments or supplements to the Revision when passed and adopted in such form as to indicate the intent of the Borough of Commissioners to make them a part thereof shall be deemed to be incorporated into such revisions so that reference to "The Revised General Ordinances of the Borough of West Cape May, 1994," shall be understood and intended to include such additions and amendments. Whenever such additions, amendments or supplements to the Revision shall be adopted they shall thereafter be printed, and as provided hereunder inserted in the book containing the Revised General Ordinances as amended and supplemented thereto.

**Section 8.** It shall be the duty of the Borough Clerk or someone authorized and directed by the Clerk to keep up-to-date the certified copy of the book containing "The Revised General Ordinances of the Borough of West Cape May, 1994,"

required to be filed in his office for the use of the public. All changes in the Revision and all ordinances adopted subsequent to the effective date of this codification shall be adopted specifically as part of the Revision and shall when finally adopted be included therein by reference until such changes or new ordinances are printed as supplements to the Code, at which time such supplements shall be inserted therein.

**Section 9.** The Borough Clerk of the Borough of West Cape May, pursuant to law, shall cause to be published in the manner required a copy of this adopting ordinance in a newspaper of general circulation in the Borough of West Cape May. Sufficient copies of "The Revised General Ordinances of the Borough of West Cape May, 1994," shall be maintained in the office of the Borough Clerk for inspection by the public at all times during regular office hours. The enactment and publication of this adopting ordinance coupled with availability of copies of the Revision for inspection by the public shall be deemed, held and considered to be due and legal publication of all provisions of the Revision for all purposes.

**Section 10.** Copies of the book containing "The Revised General Ordinances of the Borough of West Cape May, 1994," may be purchased from the Borough Clerk upon the payment of a fee to be set by resolution of the Borough of Commissioners which may also arrange by resolution the procedures for the periodic supplementation thereof.

**Section 11.** Each section of "The Revised General Ordinances of the Borough of West Cape May, 1994," and every part of each section is an independent section or part of a section and the holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or part thereof.

**Section 12.** This Ordinance shall take effect immediately upon final passage and publication thereof according to law.

ADOPTING ORDINANCE

NOTICE OF PENDING ORDINANCE

TAKE NOTICE: THE FOREGOING ORDINANCE WAS INTRODUCED AND PASSED ON FIRST READING AT A REGULAR MEETING OF THE BOARD OF COMMISSIONERS OF THE BOROUGH OF WEST CAPE MAY HELD ON DECEMBER 5, 1995 AND WILL BE CONSIDERED FOR SECOND READING AND FOR FINAL ADOPTION AT A REGULAR MEETING OF THE BOARD OF COMMISSIONERS TO BE HELD ON JANUARY 2, 1996 AT 8:00 P.M. AT 732 BROADWAY, WEST CAPE MAY, NEW JERSEY AT WHICH TIME ANY RESIDENT OR TAX-PAYER OR OTHER INTERESTED PERSON MAY APPEAR AND BE HEARD CONCERNING SAME.

JEAN DAVIS, RMC  
MUNICIPAL CLERK