

MINUTES
BOROUGH OF SEA GIRT COUNCIL
March 13, 2024 - 7:00 PM

The Regular/virtual Meeting of the Borough of Sea Girt Council was called to order by Mayor Don Fetzer at 7:05 PM on Wednesday, March 13, 2024. Mayor Fetzer asked for a moment of silence; he then led those participating in the Pledge of Allegiance.

This meeting is called pursuant to the provisions of the Open Public Meetings Act, Chapter 231, P.L.1975: adequate notice of this meeting has been given by posting the Notice on the Borough's Bulletin Board and by transmitting the Notice to the Borough's two official newspapers, *The Asbury Park Press* and *The Coast Star*, as required by law.

1. ROLL CALL

	Present	Absent
Council President Anthony	X	
Councilwoman DiFeo	X	
Councilman Downey	X	
Councilman Perry	X	
Councilwoman Richman	X	
Councilman Zakin	X	
Mayor Fetzer	X	

2. PRESENTATIONS

- ✓ Recreation Commissioner Mike D'Altrui thanked mayor, councilmembers, borough staff and volunteers for their support of the 3rd Annual Polar Plunge; it was a great success which will benefit Coastal Habitat for Humanity in memory of State Trooper and National Guardsman Juan Fajardo. Mr. D'Altrui then discussed a proposal for bocce court(s) located in the south end of Station Park.
- ✓ Jenn Beahm, Leon S. Avakian, Inc. presented an overview of our Fair Share and Affordable Housing Matter. She noted the Builder's Remedy litigation has been settled, in addition the Borough is required to enter into a declaratory judgement action bringing Fair Share Housing Center into the fold. She explained the significance of the ordinances being adopted and the boroughs requirements to satisfy their obligations.

3. CONSENT AGENDA – UPON MOTION of Councilman Zakin, seconded by Council President Anthony, carried, that the following Resolutions be and the same are hereby adopted:

- **R-57-2024: Appoint SLEO I's for the Police Department**

WHEREAS, the Borough of Sea Girt Police Department is in need of the services of Class I Special Law Enforcement Officer's to support its 2024 operations; and,

WHEREAS, the Chief of Police has reviewed the applications and references of the following and recommends her appointment to this position; and

- Patrick Bilello
- Kyle Pochick
- Jayme Thomas
- John McKenna
- Joseph Dianora
- Andrew Farnkopf

NOW, THEREFORE, BE IT RESOLVED that the above applicants be appointed as Class I Special Law Enforcement Officers for the Borough of Sea Girt, at the hourly second year rate of \$15.00 per hour effective March 13, 2024.

- **R-58-2024: Authorize Zoning Escrow Refund to Hermann Construction, Inc. - \$1,200.00**

WHEREAS, the following zoning application was submitted along with the required escrow deposit of \$1,500.00 for the listed property location; and,

WHEREAS, the application has been processed and necessary engineering fees were deducted from the escrow deposit, leaving unexpended funds; and,

WHEREAS, the Zoning Officer has advised that all of the fees associated with this application have been paid in full.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Sea Girt, that a refund of the unexpended escrow balance in the amount listed below be issued:

Property Location	Check Payable To	Address	Unexpended Balance
12 Baltimore Blvd	Herrmann Construction, Inc.	52 Taylor Ave Manasquan, NJ 08736	\$1,200.00

- **R-59-2024: Authorize Appointment of a Part-time Seasonal Endangered Species Monitor – Jay Amberg**

WHEREAS, the Borough of Sea Girt is in need of a part-time Seasonal Endangered Species Monitor; and

WHEREAS, the part-time position being filled by current seasonal employee, Jay Amberg; and

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Sea Girt that the appointment of as a part-time Seasonal Endangered Species Monitor be and the same is hereby memorialized effective April 1st through September 30, 2024; \$18.45/hourly max; not to exceed 20 hours per week.

- **R-60-2024: Authorize Appointment of a Part-time Fire Inspector – Thomas Kelly**

UPON MOTION of Councilman Zakin, seconded by Council President Anthony, carried, that the following Resolution be and the same is hereby adopted:

WHEREAS, the Borough of Sea Girt is in need of a part-time inspector to supplement the operations of the Sea Girt Fire Bureau in conjunction with the Shared Services Agreements between the Boroughs of Sea Girt, Spring Lake, Spring Lake Heights and Brielle; and,

WHEREAS, Thomas Kelly has the required certifications and experience to fill this position.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Sea Girt that the appointment of as a part-time Fire Inspector for the Borough of Sea Girt in conjunction with the Shared Services Agreement with the Boroughs of Spring Lake, Spring Lake Heights and Brielle effective March 13, 2024 through December 31, 2024 at the rate of \$21.80 per hour for hours worked (not to exceed 16 hours per week) be and the same is hereby memorialized.

- **R-61-2024: Reject Bid Request for Chicago Boulevard Sanitary Sewer Improvements Phase II**

WHEREAS, the Borough of Sea Girt advertised a Notice to Bidders for “Chicago Boulevard Sanitary Sewer Improvements – Phase II” to be provided within the Borough on February 8, 2024; and,

WHEREAS, the Borough received one response by the date and time specified for the receipt of bids, as follows:

BIDDER	BASE BID
Sewer Rat Trenchless Solutions, LLC, Ocean Township, NJ	\$329,000.00

WHEREAS, the bids that were submitted substantially exceeds the estimated cost of services, and as such the Borough Council of the Borough of Sea Girt wishes to reject all bids in accordance with N.J.S.A. 40A:11-13.2; and

THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Sea Girt, that pursuant to N.J.S.A. 40A:11-13.2, the bids received in response to the Request for Proposal for the Chicago Boulevard Sanitary Sewer Improvements – Phase II.

Recorded Vote:

	AYES	NAYS	ABSENT	ABSTAIN
Councilwoman DiFeo	X			
Councilman Perry	X			
Councilman Zakin	X			
Council President Anthony	X			
Councilman Downey	X			
Councilwoman Richman	X			

4. APPROVE MINUTES:

- **R-62-2024: Approve Minutes, February 7, 2024**

UPON MOTION of Councilwoman Richman, seconded by Councilman Downey, carried, that the Regular Meeting held February 7, 2024 be and the same are hereby approved.

Recorded Vote:

	AYES	NAYS	ABSENT	ABSTAIN
Council President Anthony	X			
Councilwoman DiFeo	X			
Councilman Downey	X			
Councilman Perry	X			
Councilwoman Richman	X			
Councilman Zakin	X			

- **R-63-2024: Approve Executive Session Minutes, February 7, 2024**

UPON MOTION of Councilwoman Richman, seconded by Councilman Zakin, carried, that the Regular Meeting held February 7, 2024 be and the same are hereby approved.

Recorded Vote:

	AYES	NAYS	ABSENT	ABSTAIN
Council President Anthony	X			
Councilwoman DiFeo	X			

Councilman Downey	X			
Councilman Perry	X			
Councilwoman Richman	X			
Councilman Zakin	X			

5. UNFINISHED BUSINESS:

- a. **ORDINANCE No. 02-2024:** The Mayor to read the said Ordinance by Title:

AN ORDINANCE AMENDING CHAPTER 17 “ZONING”, SECTION 17.5 GENERAL REGULATIONS, CREATING A NEW SECTION 17-5.26.1 ESTABLISHING MANDATORY AFFORDABLE HOUSING SET A SIDE FOR FIVE OR MORE NEW RESIDENTIAL UNITS

WHEREAS, the Borough was the subject of a Mount Laurel exclusionary zoning suit filed in the Superior Court of New Jersey entitled 501 Washington Blvd, LLC, 503 Washington Blvd., LLC, Sea Girt Fifth Avenue LLC, Sitco Sea Girt, LLC v. Borough of Sea Girt, Borough Council of Sea Girt, and Sea Girt Planning Board, (the plaintiffs shall be collectively referred to as the “Developer”), Docket No. MON-L-000102-20, seeking to compel the Borough to provide a realistic opportunity for the construction of housing affordable to low and moderate-income households and their fair share of the housing region’s need for such housing, (“Builder’s Remedy Action”); and

WHEREAS, the Borough instituted a declaratory judgment action entitled In the Matter of the Application of the Borough of Sea Girt, Superior Court of New Jersey, Law Division-Monmouth County, Docket No. L-2312-2020 (the “D/J Action”) wherein the Borough sought a declaration as to its affordable housing obligation and the opportunity to develop a plan to meet its constitutional obligation to provide for its fair share of affordable housing; and

WHEREAS, the Borough and the Borough Planning Board entered into a Settlement Agreement with the Developer in the Builder’s Remedy Action and the Court approved the Settlement Agreement after conducting a Fairness Hearing on June 3, 2021 finding it fair, reasonable and adequately protecting the interests of very low, low and moderate-income households in the region; and

WHEREAS, the Borough entered into a Settlement with Fair Share Housing Center to resolve the D/J Action which the Court approved on October 3, 2023 and a condition of the Settlement Agreement requires the Borough to implement and adopt a mandatory affordable housing set aside ordinance obligating an owner or developer of residential property with an approval for five or more residential units to provide a twenty percent set aside.

WHEREAS, the Borough Council of the Borough of Sea Girt, County of Monmouth, State of New Jersey finds it is in the best interest of the Borough to comply with the Settlement Agreement by creating a Mandatory Affordable Housing Set Aside ordinance.

NOW THEREFORE BE IT ORDAINED by the Borough Council of the Borough of Sea Girt, County of Monmouth, State of New Jersey, that it hereby creates a new section, Chapter 17, Section 5.26.1 entitled “Mandatory Affordable Housing Set-Aside Ordinance as follows:

Section 5.26.1

- a. **Background.** This Ordinance is required by the implementation of the Settlement Agreement with Fair Share Housing Center in the matter captioned In the Matter of the Application of the Borough of Sea Girt, Superior Court of New Jersey, Law Division-Monmouth County, Docket No. L-2312-2020.
- b. **Affordable Housing Set-Aside.** A mandatory 20% on-site affordable housing set-aside requirement shall apply beginning with the effective date of this ordinance to any residential development, including the residential portion of a mixed-use project, which consists of five (5) or more new residential units at six (6) units per acre or higher, or equivalent, which results, in whole or in part, from: (i) a municipal rezoning or zoning amendment adopted after the effective date of this Ordinance; (ii) any variance pursuant

to N.J.S.A. 40:55D-70(d), including but not limited to any use variance or a density variance increasing the permissible density; and (iii) the adoption of a new or amended redevelopment plan or rehabilitation plan.

c. **Other Terms Applicable.** The following terms shall apply to any residential development subject to the mandatory affordable housing set-aside:

1. All subdivision and site plan approvals of qualifying developments shall be conditioned upon compliance with the provisions of the mandatory affordable housing set-aside.
2. No subdivision shall be permitted or approved for the purpose of avoiding compliance with the mandatory affordable housing set-aside. A developer may not, for example, subdivide a project into two lots and then plan each of them to produce a number of units below the threshold. The approving authority may impose any reasonable conditions to ensure such compliance.
3. In the event the number of affordable housing units to be provided includes a fraction, the number shall be rounded up if the fractional amount is 0.5 or greater and rounded down if the fractional amount is less than 0.5. For inclusionary projects, the developer shall provide a payment in lieu of constructing affordable units for the fraction of a unit less than 0.5. The payment in lieu shall be based on the amounts established in N.J.A.C. 5:97-6.4(c).
4. All affordable units created shall fully comply with the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1, et seq. ("UHAC"), including but not limited to the required bedroom and income distribution, with the sole exception that at least thirteen percent (13%) of the affordable units shall be required to be restricted for very-low-income households earning thirty percent (30%) or less of the median income pursuant to the Fair Housing Act, N.J.S.A. 52:27D-301, et seq. ("FHA").
5. At least fifty percent (50%) of the affordable units within each bedroom distribution shall be affordable to low-income households, inclusive of the at least thirteen percent (13%) of units affordable to very-low-income households.
6. The very-low-income affordable units shall be proportionately distributed within each bedroom distribution. In a family non-age-restricted development, at no time shall the number of efficiency/one-bedroom very-low-income units exceed the number of three-bedroom very-low-income units.
7. Affordable units shall be integrated with the market-rate units on-site, and the affordable units shall not be concentrated in separate building(s) or in separate area(s) or floor(s) from the market-rate units. In buildings with multiple dwelling units, this shall mean that the affordable units shall be generally distributed within each building with market-rate units. The affordable units shall also be of the same type as the market-rate units (e.g., if the market-rate units are non-age-restricted family units, the affordable units shall be non-age-restricted family units as well). The residents of the affordable units shall have full and equal access to all of the amenities, common areas, and recreation areas and facilities as the residents of the market-rate units.
8. Affordable units shall be subject to affordability controls of at least thirty (30) years from the date of initial occupancy and affordable deed restrictions as otherwise provided for by UHAC, with the sole exception that very low income shall be defined as at or below thirty percent (30%) of median income pursuant to the Fair Housing Act, and the affordability controls shall remain unless and until the municipality, in its sole discretion, takes action to extend or release the unit from such controls after at least thirty (30) years. In the event the municipality chooses to release the controls on rental affordable units after at least thirty (30) years, the controls shall remain in effect until the voluntary departure of the occupant household in accordance with N.J.A.C. 5:80-26.11(b).
9. Construction of the affordable and market units shall be phased in compliance with N.J.A.C. 5:93-5.6(d).
10. Affordable units shall be affirmatively marketed in accordance with UHAC and applicable law. The affirmative marketing shall include posting of all affordable units on the New Jersey Housing Resource Center website in accordance with applicable law.
11. The mandatory affordable housing set-aside shall not give any developer the right to any rezoning, variance, redevelopment designation or redevelopment or rehabilitation plan approval, or any other such relief, or establish any obligation on the part of the municipality to grant such rezoning,

variance, redevelopment designation, redevelopment or rehabilitation plan approval, or other such or further relief.

12. No developer may make a payment in lieu of constructing affordable units on site, except for fractional units as noted in Paragraph 3, above.
13. Nothing in this Ordinance precludes the Borough of Sea Girt from imposing an affordable housing set-aside in accordance with applicable law in a development not required to have a set-aside pursuant to this Ordinance in accordance with N.J.S.A. 52:27D-311(h) and applicable law.

d. **Severability.** If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect and shall be deemed valid and effective.

e. **Inconsistencies.** In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the municipality, the provisions hereof shall be determined to govern and those inconsistent provisions shall be repealed to the extent of such inconsistency.

f. **Referral to Planning Board.** A copy of this Ordinance shall be referred to the Planning Board following its introduction for review pursuant to N.J.S.A. 40A:55D-26A.

g. **Effective Date and Scope.** This Ordinance shall immediately take effect upon its passage and publication, and as otherwise provided for by law. The provisions of this Ordinance shall be applicable within the entire municipality upon final adoption and shall become a part of the Code once completed and adopted.

UPON MOTION of Councilwoman Richman, seconded by Council President Anthony, carried, that the meeting be opened to the public for comments on the said Ordinance only. There were no comments from the public present and **UPON MOTION** of Councilman Perry seconded by Councilwoman Richman, carried, the public hearing was closed. **UPON MOTION** of Councilwoman Richman, seconded by Councilman Perry, carried, that the said Ordinance No. 02-2024 be adopted on final reading, directing the Clerk to post and publish as required by law.

Recorded Vote:

	AYES	NAYS	ABSENT	ABSTAIN
Council President Anthony	X			
Councilwoman DiFeo	X			
Councilman Downey	X			
Councilman Perry	X			
Councilwoman Richman	X			
Councilman Zakin	X			

b. **ORDINANCE No. 03-2024:** The Mayor to read the said Ordinance by Title:

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 17 (ZONING) OF THE BOROUGH OF SEA GIRT CODE CREATING A NEW SECTION 17-5.26.3 ESTABLISHING AN AFFORDABLE HOUSING OVERLAY ZONE (AH-3) ON CERTAIN PARCELS ALONG ROUTE 71

WHEREAS, the Borough was the subject of a Mount Laurel exclusionary zoning suit filed in the Superior Court of New Jersey entitled 501 Washington Blvd, LLC, 503 Washington Blvd., LLC, Sea Girt Fifth Avenue LLC, Sitco Sea Girt, LLC v. Borough of Sea Girt, Borough Council of Sea Girt, and Sea Girt Planning Board, (the plaintiffs shall be collectively referred to as the “Developer”), Docket No. MON-L-000102-20, seeking to compel the Borough to provide a realistic opportunity for the construction of housing affordable to low and moderate-income households and their fair share of the housing region’s need for such housing, (“Builder’s Remedy Action”); and

WHEREAS, the Borough instituted a declaratory judgment action entitled In the Matter of the Application of the Borough of Sea Girt, Superior Court of New Jersey, Law Division-Monmouth County, Docket No. L-2312-2020 (the “D/J Action”) wherein the Borough sought a declaration as to its affordable housing obligation and the opportunity to develop a plan to meet its constitutional obligation to provide for its fair share of affordable housing; and

WHEREAS, the Borough and the Borough Planning Board entered into a Settlement Agreement with the Developer in the Builder’s Remedy Action and the Court approved the Settlement Agreement after conducting a Fairness Hearing on June 3, 2021 finding it fair, reasonable and adequately protecting the interests of very low, low and moderate-income households in the region; and

WHEREAS, the Borough entered into a Settlement Agreement with Fair Share Housing Center resolving the D/J Action and the Court entered an Order approving the Settlement Agreement on October 3, 2023; and

WHEREAS, the Borough’s Settlement with Fair Share Housing Center requires the Borough to implement and adopt an affordable housing overlay zone amongst certain parcels on Route 71 to address the Borough’s unmet need obligation; and

WHEREAS, the Borough Council of the Borough of Sea Girt, County of Monmouth, State of New Jersey finds it is in the best interest of the Borough to comply with the Settlement Agreement by creating an overlay zone amongst certain parcels on Route 71 to address the Borough’s unmet need obligation; and.

NOW THEREFORE BE IT ORDAINED by the Borough Council of the Borough of Sea Girt, County of Monmouth, State of New Jersey, that it hereby amends Chapter 17, and creates a new Section 17-5.26.3 entitled “Affordable Housing Overlay Zone (“AH-3”) as follows:

SECTION 1. Purpose. The purpose of this ordinance is to establish an Affordable Housing Overlay Zoning Ordinance that places an overlay zone over specific areas of the Borough. Given the built-out nature of the Borough, an effective affordable housing overlay zone will produce affordable units when suitable opportunities become available through redevelopment or other planning mechanisms. This ordinance would ensure that residential affordable housing developments accompany major development on tax lots included in the overlay zone. The specific areas included are the portions of the Borough that can realistically accommodate affordable housing development, which are in proximity to public transit and the Borough’s main mixed-use commercial thoroughfares.

The ordinance includes scattered parcels located along Route 71 also known as 7th Avenue in the Borough of Sea Girt. This zoning district will include the following Blocks and Lots:

- Block 104, Lot 23
- Block 101, Lot 1
- Block 100, Lots 1 and 14
- Block 99, Lot 1

The affordable housing overlay zone will regulate developments on these identified parcels through bulk and design standards. However, the Borough’s underlying zoning will still be in effect. This will allow affordable housing to be approved under local ordinance and regulations without detriment to the existing Borough zoning plan and ordinance. This creates a realistic opportunity to provide for the development of affordable housing in accordance with the Fair Housing Act (N.J.S.A. 52-27D-301), New Jersey Council on Affordable Housing (“COAH”) prior round regulations, and the Housing Element and Fair Share Plan prepared by the Borough to address its Third-Round affordable housing obligation.

SECTION 2. A new section entitled “Affordable Housing Overlay Zoning Provisions” is hereby established as follows:

Affordable Housing Overlay Zoning Provisions

- A. Purpose: The purpose of the Affordable Housing Overlay Zone is to provide an opportunity to develop affordable housing to meet present and prospective housing needs, with particular attention to low- and moderate-income housing, in conformance with the requirements of the Court, the Fair Housing Act, and the Housing Element and Fair Share Plan of Sea Girt. Permitted and conditional uses within the designated Overlay Zone shall include all permitted and conditional uses in the underlying zoning district in which the Overlay Zone is located and allow for affordable housing development within the provisions of this section.
- B. Affordable Housing Overlay 2 Zone:
- a. Block 104, Lot 23
Block 101, Lot 1
Block 100, Lots 1 and 14
Block 99, Lot 1
 - b. A map is attached to this ordinance that delineates the overlay zone.
- C. Principal Permitted Uses:
- a. All uses permitted within the underlying zoning district in which the overlay zone is located.
 - b. Affordable housing development for sale or rental housing may include the following uses:
 - i. Mixed Use Buildings that include commercial, restaurant, retail or office space on the ground floor and residential development on the second and third floors.
 - c. Permitted Accessory Uses: Uses that are customary and incidental to multi-family housing, including, but not limited to:
 1. Parking
 2. Garages
 3. Signs
 4. Fences
 5. Trash Enclosure
 6. Temporary construction trailers
 7. Utility pump stations, transformers, switches and meter facilities to support the development
 8. HVAC units
 9. Generators
 - d. Bulk regulations: Pursuant to this ordinance for purposes of this Ordinance, Seventh Avenue (Route 71) shall be considered the front yard and any intersecting street shall be considered the side yard
 1. Minimum Lot Frontage along Route 71 (Feet) 50
 2. Minimum Lot Frontage along intersecting side street 150
 3. Minimum Front Yard Setback (Feet) 10
 4. Minimum Side Yard Setback 10
 5. Minimum Rear Yard Setback (Feet) 20
 6. Maximum Height (Stories/Feet) 3/45
 7. Maximum Building Coverage (Percent) 40
 8. Maximum Improved Lot Coverage (Percent) 85
 - e. Projections from buildings, such as, but not limited to balconies, patios, chimneys and windows may extend into the building set-back provided they shall be set-back a minimum of 5' from all property lines.

All property lines abutting a residential use shall provide a 10-foot landscaped buffer. Said buffer shall not be in addition to the required setback.

- f. Area, Yard and Bulk Requirements for Accessory Structures (including parking) & Uses. Pursuant to this ordinance, Washington Boulevard is the front yard and Fifth Avenue is a side yard. No accessory structures shall be permitted in the front yard set-back.

- | | |
|---|------|
| 1. Minimum Side Yard Set-back (Feet) | 3 |
| 2. Minimum Rear Yard Setback (Feet) | 5 |
| 3. Minimum Distance Between Accessory and Principal Structures (Feet) | 0 |
| 4. Maximum Height (Stories/Feet) | 1/15 |

- g. Parking

1. Commercial uses - 1 space for every 600 square feet of gross floor area.
2. Residential uses - 1.7 spaces

- D. Affordable housing requirement: A 20% set-aside with a minimum of one (1) unit. All affordable housing developments shall conform to the standards found in the Borough of Sea Girt's Affordable Housing Ordinance including provisions for affordability, very low-income units, and UHAC standards.
- E. REPEALER. The remainder of all other sections and subsections of the aforementioned ordinance not specifically amended by this Ordinance shall remain in full force and effect.
- F. INCONSISTENT ORDINANCES. All other Ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed as to such inconsistency.
- G. SEVERABILITY. If any section, paragraph, subdivision, clause, or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause, or provision so adjudged and the remainder of this Ordinance shall be deemed valid and effective.
- H. EFFECTIVE DATE. This Ordinance shall take effect upon its passage and publication according to law.

UPON MOTION of Councilwoman Richman, seconded by Councilman Zakin, carried, that the meeting be opened to the public for comments on the said Ordinance only. There were no comments from the public and **UPON MOTION** of Councilman Perry seconded by Councilwoman Richman, carried, the public hearing was closed. **UPON MOTION** of Councilwoman Richman, seconded by Councilman Perry, carried, that the said Ordinance No. 03-2024 be adopted on final reading, directing the Clerk to post and publish as required by law.

Recorded Vote:

	AYES	NAYS	ABSENT	ABSTAIN
Council President Anthony	X			
Councilwoman DiFeo	X			
Councilman Downey	X			
Councilman Perry	X			
Councilwoman Richman	X			
Councilman Zakin	X			

- c. **ORDINANCE No. 04-2024:** The Mayor to read the said Ordinance by Title:

ORDINANCE OF THE BOROUGH COUNCIL OF THE BOROUGH OF SEA GIRT AMENDING AND SUPPLEMENTING CHAPTER 17 (ZONING) OF THE BOROUGH OF SEA GIRT CODE CREATING A NEW SECTION 17-5.26.2 ESTABLISHING AN AFFORDABLE HOUSING OVERLAY ZONE (AH-2) IN THE BOROUGH'S COMMERCIAL DISTRICT

WHEREAS, the Borough was the subject of a Mount Laurel exclusionary zoning suit filed in the Superior Court of New Jersey entitled 501 Washington Blvd, LLC, 503 Washington Blvd., LLC, Sea Girt Fifth Avenue LLC, Sitco Sea Girt, LLC v. Borough of Sea Girt, Borough Council of Sea Girt, and Sea Girt Planning Board, (the plaintiffs shall be collectively referred to as the “Developer”), Docket No. MON-L-000102-20, seeking to compel the Borough to provide a realistic opportunity for the construction of housing affordable to low and moderate-income households and their fair share of the housing region’s need for such housing, (“Builder’s Remedy Action”); and

WHEREAS, the Borough instituted a declaratory judgment action entitled In the Matter of the Application of the Borough of Sea Girt, Superior Court of New Jersey, Law Division-Monmouth County, Docket No. L-2312-2020 (the “D/J Action”) wherein the Borough sought a declaration as to its affordable housing obligation and the opportunity to develop a plan to meet its constitutional obligation to provide for its fair share of affordable housing; and

WHEREAS, the Borough and the Borough Planning Board entered into a Settlement Agreement with the Developer in the Builder’s Remedy Action and the Court approved the Settlement Agreement after conducting a Fairness Hearing on June 3, 2021 finding it fair, reasonable and adequately protecting the interests of very low, low and moderate-income households in the region; and

WHEREAS, the Borough entered into a Settlement Agreement with Fair Share Housing Center resolving the D/J Action and the Court entered an Order approving the Settlement Agreement on October 3, 2023;

WHEREAS, the Settlement Agreement requires the Borough to implement and adopt an overlay zone in the commercial district to address the Borough’s unmet need obligation; and

WHEREAS, the Borough Council of the Borough of Sea Girt, County of Monmouth, State of New Jersey finds it is in the best interest of the Borough to comply with the Settlement Agreement by creating an overlay zone in its commercial district to address the Borough’s unmet need obligation; and

NOW THEREFORE BE IT ORDAINED by the Borough Council of the Borough of Sea Girt, County of Monmouth, State of New Jersey, that it hereby amends Chapter 17, and creates a new Section 17-5.26.2 entitled “Affordable Housing Overlay Zone (“AH-3”) as follows:

§17: -5.26.2

SECTION 1. Purpose. The purpose of this ordinance is to establish an Affordable Housing Overlay Zoning Ordinance that imposes an overlay zone over specific areas of the Borough. Given the built-out nature of the Borough, an effective affordable housing overlay zone will produce affordable units when suitable opportunities become available through redevelopment or other planning mechanisms. This ordinance will ensure that residential affordable housing developments accompany major development on tax lots included in the overlay zone. The specific areas included are the portions of the Borough that is able to realistically accommodate affordable housing development, which are in proximity to public transit and the Borough’s main mixed-use commercial thoroughfares.

The ordinance includes parcels fronting Washington Street for both the 2 East and 2 West Zoning Districts as delineated in the Settlement Agreement with Fair Share Housing Center. The list of specific tax lots are identified as follows:

Block 76 Lot 1; Block 76 Lot 2; Block 76 Lot 3; Block 76 Lot 4; Block 76 Lot 6; Block 76 Lot 7; Block 76 Lot 8; Block 76 Lot 9; Block 76 Lot 10; Block 77 Lot 4; Block 77 Lot 5; Block 77 Lot 6; Block 77 Lot 7.01; Block 77 Lot 7.02; Block 77 Lot 7.03; Block 77 Lot 7.04; Block 77 Lot 7.05; Block 77 Lot 7.06; Block 77 Lot 7.07; Block 77 Lot 7.08; Block 77 Lot 7.09; Block 77 Lot 7.10; Block 77 Lot 7.11; Block 77 Lot 7.12; Block 77 Lot 7.13; Block 77 Lot 7.14; Block 77 Lot 7.15; Block 77 Lot 7.16; Block 77 Lot 7.17; Block 77 Lot 7.18; Block 77 Lot 7.19; Block 77 Lot 7.20; Block 77 Lot 8; Block 77 Lot 9; Block 77 Lot 10; Block 77 Lot 11; Block 77 Lot 12; Block 77 Lot 13;

Block 77 Lot 14; Block 77 Lot 15; Block 77 Lot 16; Block 77 Lot 17; Block 92 Lot 1; Block 92 Lot 2; Block 92 Lot 3; Block 105 Lot 1; Block 105 Lot 20; Block 105 Lot 21; Block 105 Lot 22.

The affordable housing overlay zone will regulate said developments through bulk and design standards. However, the Borough's underlying zoning will still be in effect. This will allow affordable housing to be approved under local ordinance and regulations without detriment to the existing Borough zoning plan and ordinance. This creates a realistic opportunity to provide for the development of affordable housing in accordance with the Fair Housing Act (N.J.S.A. 52-27D-301), New Jersey Council on Affordable Housing ("COAH") prior round regulations, and the Housing Element and Fair Share Plan prepared by the Borough to address its Third-Round affordable housing obligation.

SECTION 2. A new section entitled "Affordable Housing Overlay Zoning Provisions" is hereby established as follows:

Affordable Housing Overlay Zoning Provisions

- I. Purpose: The purpose of the Affordable Housing Overlay Zone is to provide an opportunity to develop affordable housing to meet present and prospective housing needs, with particular attention to low- and moderate-income housing, in conformance with the requirements of the Court, the Fair Housing Act, and the Housing Element and Fair Share Plan of Sea Girt. Permitted and conditional uses within the designated Overlay Zone shall include all permitted and conditional uses in the underlying zoning district in which the Overlay Zone is located and allow for affordable housing development within the provisions of this section.
- J. Affordable Housing Overlay Zone: Tax lots with frontage on Washington Street within the Borough of Sea Girt shall be included in the overlay zone and allow for affordable housing development with no affect to any existing zoning district regulations or standards. A map is attached to this ordinance that delineates the overlay zone.
- K. Principal Permitted Uses:
 - a. All uses permitted within the underlying zoning district in which the overlay zone is located.
 - b. Affordable housing development as defined in Section 5.26.4.3 of the Affordable Housing Ordinance of the Borough Code as for sale or rental housing which may include the following uses:
 - i. Mixed Use Buildings that include commercial, restaurant, retail or office space on the ground floor and residential development on the second and third floors.
 - c. Permitted Accessory Uses: Uses that are customary and incidental to multi-family housing, including, but not limited to:
 - 10. Parking
 - 11. Garages
 - 12. Signs
 - 13. Fences
 - 14. Trash Enclosure
 - 15. Temporary construction trailers
 - 16. Utility pump stations, transformers, switches and meter facilities to support the development
 - 17. HVAC units
 - 18. Generators
 - d. Bulk regulations: Pursuant to this ordinance for purposes of this Ordinance, Seventh Avenue (Route 71) shall be considered the front yard and any intersecting street shall be considered the side yard

- | | |
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| 9. Minimum Lot Frontage (Feet) | 50 |
| 10. Minimum Lot Depth (Feet) | 150 |
| 11. Minimum Front Yard Setback (Feet) | 10 |
| 12. Minimum Side Yard Setback | 6 |
| 13. Minimum Rear Yard Setback (Feet) | 20 |
| 14. Maximum Height (Stories/Feet) | 3/45 |
| 15. Maximum Building Coverage (Percent) | 40 |
| 16. Maximum Improved Lot Coverage (Percent) | 85 |
- e. Projections from buildings, such as, but not limited to balconies, patios, chimneys and windows may extend into the building set-back provided they shall be set-back a minimum of 5' from all property lines.
- f. All property lines abutting a residential use shall provide a 10-foot landscaped buffer. Said buffer shall not be in addition to the required setback
- g. Area, Yard and Bulk Requirements for Accessory Structures (including parking) & Uses. Pursuant to this ordinance, Washington Boulevard is the front yard and Fifth Avenue is a side yard. No accessory structures shall be permitted in the front yard set-back.
- h.
- | | |
|---|------|
| 5. Minimum Side Yard Set-back (Feet) | 3 |
| 6. Minimum Rear Yard Setback (Feet) | 5 |
| 7. Minimum Distance Between Accessory and Principal Structures (Feet) | 0 |
| 8. Maximum Height (Stories/Feet) | 1/15 |
- i. Parking
- | |
|--------------------------------|
| 3. Commercial uses - 0 spaces |
| 4. Residential uses - 1.7 spac |
- L. Affordable housing requirement: A 20% set-aside with a minimum of one (1) unit. All affordable housing developments shall conform to the standards found in the Borough of Sea Girt's Affordable Housing Ordinance including provisions for affordability, very low-income units, and UHAC standards.
- M. REPEALER. The remainder of all other sections and subsections of the aforementioned ordinance not specifically amended by this Ordinance shall remain in full force and effect.
- N. INCONSISTENT ORDINANCES. All other Ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed as to such inconsistency.
- O. SEVERABILITY. If any section, paragraph, subdivision, clause, or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause, or provision so adjudged and the remainder of this Ordinance shall be deemed valid and effective.
- P. EFFECTIVE DATE. This Ordinance shall take effect upon its passage and publication according to law.

UPON MOTION of Councilman Perry, seconded by Councilman Downey, carried, that the meeting be opened to the public for comments on the said Ordinance only. There were no comments from the public and **UPON MOTION** of Councilman Zakin seconded by Councilman Perry, carried, the public hearing was closed. **UPON MOTION** of Councilwoman Richman, seconded by Councilman Downey, carried, that the said Ordinance No. 04-2024 be adopted on final reading, directing the Clerk to post and publish as required by law.

Recorded Vote:

	AYES	NAYS	ABSENT	ABSTAIN
Council President Anthony	X			
Councilwoman DiFeo	X			
Councilman Downey	X			
Councilman Perry	X			
Councilwoman Richman	X			
Councilman Zakin	X			

- d. **ORDINANCE No. 05-2024:** The Mayor to read the said Ordinance by Title:

AN AFFORDABLE HOUSING ORDINANCE OF THE BOROUGH OF SEA GIRT TO IMPLEMENT THE BOROUGH’S THIRD ROUND HOUSING PLAN ELEMENT AND FAIR SHARE PLAN

WHEREAS, the Borough was the subject of a Mount Laurel exclusionary zoning suit filed in the Superior Court of New Jersey entitled 501 Washington Blvd, LLC, 503 Washington Blvd., LLC, Sea Girt Fifth Avenue LLC, Sitco Sea Girt, LLC v. Borough of Sea Girt, Borough Council of Sea Girt, and Sea Girt Planning Board, (the plaintiffs shall be collectively referred to as the “Developer”), Docket No. MON-L-000102-20, seeking to compel the Borough to provide a realistic opportunity for the construction of housing affordable to low and moderate-income households and their fair share of the housing region’s need for such housing, (“Builder’s Remedy Action”); and

WHEREAS, the Borough instituted a declaratory judgment action entitled In the Matter of the Application of the Borough of Sea Girt, Superior Court of New Jersey, Law Division-Monmouth County, Docket No. L-2312-2020 (the “D/J Action”) wherein the Borough sought a declaration as to its affordable housing obligation and the opportunity to develop a plan to meet its constitutional obligation to provide for its fair share of affordable housing; and

WHEREAS, the Borough and the Borough Planning Board entered into a Settlement Agreement with the Developer in the Builder’s Remedy Action and the Court approved the Settlement Agreement after conducting a Fairness Hearing on June 3, 2021 finding it fair, reasonable and adequately protecting the interests of very low, low and moderate-income households in the region; and

WHEREAS, the Borough entered into a Settlement Agreement with Fair Share Housing Center resolving the D/J Action and the Court entered an Order approving the Settlement Agreement on October 3, 2023; and

WHEREAS, the Borough’s Settlement with Fair Share Housing Center requires the Borough to implement and adopt an affordable housing ordinance incorporating the state regulations regarding affordable housing into the Borough Code.

WHEREAS, the Borough Council of the Borough of Sea Girt, County of Monmouth, State of New Jersey finds it is in the best interest of the Borough to comply with the Settlement Agreement by adopting an Affordable Housing Ordinance; and

NOW THEREFORE BE IT ORDAINED by the Borough Council of the Borough of Sea Girt, County of Monmouth, State of New Jersey, that it hereby amends Chapter 17, and creates a new Section 17-5.26.4 entitled “Affordable Housing Ordinance as follows:

5.26.4.1 Title

This Chapter shall Be known and may be cited as the “Affordable Housing Ordinance of the Borough of Sea Girt”.

5.26.4.2 Affordable Housing Obligation

- (a) This Ordinance is intended to assure that low- and moderate-income units ("affordable units") are created with controls on affordability and that low- and moderate-income households shall occupy these units. This Ordinance shall apply except where inconsistent with applicable law.
- (b) The Borough of Sea Girt Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. The Fair Share Plan has been adopted by the Planning Board and endorsed by the Governing Body. The Fair Share Plan describes how Sea Girt Borough shall address its fair share for low- and moderate-income housing as documented in the Housing Element and outlined in the terms of the settlement agreement between the Borough and Fair Share Housing Center (FSHC).
- (c) This Ordinance implements the Borough’s Fair Share Plan, addresses the requirements of the Court and the terms of the settlement agreement.
- (d) The Borough of Sea Girt shall track the status of the implementation of the Housing Element and Fair Share Plan. Any plan evaluation report of the Housing Element and Fair Share Plan shall be available to the public at Borough Hall located on 556 Tinton Avenue, Sea Girt, NJ 07724.

5.26.4.3 Definitions

The following terms when used in this Ordinance shall have the meanings given in this Section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“DCA” means the State of New Jersey Department of Community Affairs.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Chapter 5.26.4.4 Affordable Housing Programs

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

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

(c) Fractional Units. If 20 percent of the total number of units in a development result in a fraction or decimal, the developer shall be required to provide an additional affordable unit on site.

Example: an 8-unit development requiring an affordable housing set-aside of 1.6 units is proposed. The developer is required to provide two on-site affordable units.

(d) Design. In inclusionary developments, to the extent possible, low- and moderate-income units shall be integrated with the market units.

- (e) Utilities. Affordable units shall utilize the same type of heating source as market units within the affordable development.

5.26.4.5 New Construction

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

- a. Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:
 1. The fair share obligation shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low-income unit.
 2. In each affordable development, at least 50 percent of the restricted units within each bedroom distribution shall be low-income units including that 13% shall be very low income. If there is only one affordable unit it must be a low-income unit.
 3. Thirteen percent (13%) of all affordable units in the Borough within each bedroom distribution shall be designated as very-low-income households at 30% of the median income, with at least fifty percent (50%) of all very-low-income units being available to families. If an inclusionary development proposes less than 10 total units, a payment in lieu of a very low-income unit shall be deposited into the Borough's Affordable Housing Trust Fund based on the difference in cost between providing a very low-income unit and the region's affordability average. Inclusionary developments of 10 or more total units shall be required to provide a minimum of one very low-income unit. Very-low-income units shall be considered low-income units for the purposes of evaluating compliance with the required low/moderate income unit splits, bedroom distribution, and phasing requirements of this ordinance.
 4. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
 - i. The combined number of efficiency and one-bedroom units shall be no greater than 20 percent of the total low- and moderate-income units;
 - ii. At least 30 percent of all low- and moderate-income units shall be two-bedroom units;
 - iii. At least 20 percent of all low- and moderate-income units shall be three-bedroom units; and
 - iv. The remaining units may be allocated among two- and three-bedroom units at the discretion of the developer.
 1. Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the inclusionary development. The standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.
- b. Accessibility Requirements:
 1. The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.
 2. All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:

- i. An adaptable toilet and bathing facility on the first floor;
- ii. An adaptable kitchen on the first floor;
- iii. An interior accessible route of travel on the first floor;
- iv. An interior accessible route of travel shall not be required between stories within an individual unit;
- v. An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and
- vi. An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7, or evidence that the Borough of Sea Girt has collected funds from the developer sufficient to make ten percent (10%) of the adaptable entrances in the development accessible:
 - a. Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
 - b. To this end, the builder of restricted units shall deposit funds within the Borough's Affordable Housing Trust Fund sufficient to install accessible entrances in ten percent (10%) of the affordable units that have been constructed with adaptable entrances.
 - c. The funds deposited under paragraph B. above shall be used by the Borough of Sea Girt for the sole purpose of making the adaptable entrance of any affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
 - d. The developer of the restricted units shall submit a design plan and cost estimate for the conversion from adaptable to accessible entrances to the Construction Official of the Borough.
 - e. Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Borough's affordable housing trust fund where the funds shall be deposited into the affordable housing trust fund and appropriately earmarked.
 - f. Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is site impracticable to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free Subcode, N.J.A.C. 5:23-7.

c. Maximum Rents and Sales Prices

- 1. In establishing rents and sales prices of affordable housing units, the administrative agent shall follow the procedures set forth in UHAC utilizing the regional income limits established by the New Jersey Department of Community Affairs (DCA) or other agency as required by the Court.
- 2. The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60 percent of median income, and the average rent for restricted low- and moderate-income units shall be affordable to households earning no more than 52 percent of median income.
- 3. The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units.

- a. At least thirteen percent (13%) of all low- and moderate-income dwelling units shall be affordable to households earning no more than 30 percent of median income.
4. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70 percent of median income, and each affordable development must achieve an affordability average of 55 percent for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different prices for each bedroom type, and low-income ownership units must be available for at least two different prices for each bedroom type.
5. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units other than assisted living facilities, the following standards shall be used:
 - a. A studio shall be affordable to a one-person household;
 - b. A one-bedroom unit shall be affordable to a one- and one-half-person household;
 - c. A two-bedroom unit shall be affordable to a three-person household;
 - d. A three-bedroom unit shall be affordable to a four and one-half person household; and
 - e. A four-bedroom unit shall be affordable to a six-person household.
 - f. In determining the initial rents for compliance with the affordability average requirements for restricted units in assisted living facilities, the following standards shall be used:
6. In determining the initial rents for compliance with the affordability average requirements for restricted units in assisted living facilities, the following standards shall be used:
 - a. A studio shall be affordable to a one-person household;
 - b. A one-bedroom unit shall be affordable to a one- and one-half-person household; and
 - c. A two-bedroom unit shall be affordable to a two-person household or to two one-person households.
7. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95 percent of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28 percent of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
8. The initial rent for a restricted rental unit shall be calculated so as not to exceed 30 percent of the eligible monthly income of the appropriate household size as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
9. The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.

10. The rent of low- and moderate-income units may be increased annually based on the percentage increase in the Housing Consumer Price Index for the United States. This increase shall not exceed nine percent in any one year. Rents for units constructed pursuant to low- income housing tax credit regulations shall be indexed pursuant to the regulations governing low- income housing tax credits.
11. Utilities. Tenant-paid utilities that are included in the utility allowance shall be so stated in the lease and shall be consistent with the utility allowance approved by DCA for its Section 8 program.

5.26.4.6 Affirmative Marketing Requirements

- (a) The Borough of Sea Girt shall adopt by resolution an Affirmative Marketing Plan, subject to approval of the Court, compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.
- (b) The affirmative marketing plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The affirmative marketing plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward Housing Region 4 and covers the period of deed restriction.
- (c) The affirmative marketing plan shall provide a regional preference for all households that live and/or work in Housing Region 4.
- (d) The Administrative Agent designated by the Borough of Sea Girt shall assure the affirmative marketing of all affordable units consistent with the Affirmative Marketing Plan for the municipality.
- (e) In implementing the affirmative marketing plan, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
- (f) The affirmative marketing process for available affordable units shall begin at least four months prior to the expected date of occupancy.
- (g) The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner, unless otherwise determined or agreed to by the Borough.

5.26.4.7 Occupancy Standards

- (a) In referring certified households to specific restricted units, to the extent feasible, and without causing an undue delay in occupying the unit, the Administrative Agent shall strive to:
 1. Provide an occupant for each bedroom;
 2. Provide children of different sex with separate bedrooms; and
 3. Provide separate bedrooms for parents and children; and
 4. Prevent more than two persons from occupying a single bedroom.
- (b) Additional provisions related to occupancy standards (if any) shall be provided in the municipal Operating Manual.

5.26.4.8 Control Periods for Restricted Ownership Units and Enforcement Mechanisms

- (a) Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this Ordinance until the Borough of Sea Girt elects to release the unit from such requirements however, and

prior to such an election, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented, for at least 30 years.

- (b) The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
- (c) Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the administrative agent shall determine the restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value.
- (d) At the time of the first sale of the unit, the purchaser shall execute and deliver to the Administrative Agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first non-exempt sale after the unit's release from the requirements of this Ordinance, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.
- (e) The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
- (f) A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit meets all code standards upon the first transfer of title that follows the expiration of the applicable minimum control period provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

5.26.4.9 Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices

Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, including:

- (a) The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
- (b) The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
- (c) The method used to determine the condominium association fee amounts and special assessments shall be indistinguishable between the low- and moderate-income unit owners and the market unit owners.
- (d) The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom.

5.26.4.10 Buyer Income Eligibility

- (a) Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50 percent of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80 percent of median income.
- (b) The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33 percent of the household's certified monthly income.

5.26.4.11 Limitations on indebtedness secured by ownership unit; subordination

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

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

5.26.4.12 Control Periods for Restricted Rental Units

- (a) Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Ordinance until the Borough of Sea Girt elects to release the unit from such requirements pursuant to action taken in compliance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, and prior to such an election, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented, for at least 30 years.
- (b) Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Monmouth. The deed shall also identify each affordable unit by apartment number and/or address and whether that unit is designated as a very low-, low- or moderate-income unit. Neither the unit nor its affordability designation shall change throughout the term of the deed restriction. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.
- (c) A restricted rental unit shall remain subject to the affordability controls of this Ordinance, despite the occurrence of any of the following events:
 - 1. Sublease or assignment of the lease of the unit;
 - 2. Sale or other voluntary transfer of the ownership of the unit; or
 - 3. The entry and enforcement of any judgment of foreclosure.

5.26.4.13 Price Restrictions for Rental Units; Leases

- (a) A written lease shall be required for all restricted rental units, and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the Administrative Agent.
- (b) No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.
- (c) Application fees (including the charge for any credit check) shall not exceed five percent of the monthly rent of the applicable restricted unit and shall be payable to the Administrative Agent to be applied to the costs of administering the controls applicable to the unit as set forth in this Ordinance.

5.26.4.14 Tenant Income Eligibility

- (a) Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:
 - 1. Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30 percent of median income.
 - 2. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50 percent of median income.
 - 3. Moderate-income rental units shall be reserved for households with a gross household income less than 80 percent of median income.
- (b) The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35 percent (40 percent for age-restricted units)

of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:

1. The household currently pays more than 35 percent (40 percent for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
 2. The household has consistently paid more than 35 percent (40 percent for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
 3. The household is currently in substandard or overcrowded living conditions;
 4. The household documents the existence of assets with which the household proposes to supplement the rent payments; or
 5. The household documents proposed third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.
- (c) The applicant shall file documentation sufficient to establish the existence of the circumstances in (b) 1 through 5 above with the Administrative Agent, who shall counsel the household on budgeting.

5:26-4.15 Administration

- (a) The position of Municipal Housing Liaison (MHL) for the Borough of Sea Girt is established by this ordinance. The Borough shall make the actual appointment of the MHL by means of a resolution.
1. The MHL must be either a full-time or part-time employee of Sea Girt.
 2. The person appointed as the MHL must be reported to the Court and thereafter posted on the Borough's website.
 3. The MHL must meet all the requirements for qualifications, including initial and periodic training.
 4. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Borough of Sea Girt, including the following responsibilities which may not be contracted out to the Administrative Agent:
 - i. Serving as the municipality's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
 - ii. The implementation of the Affirmative Marketing Plan and affordability controls.
 - iii. When applicable, supervising any contracting Administrative Agent.
 - iv. Monitoring the status of all restricted units in the Borough's Fair Share Plan;
 - v. Compiling, verifying and submitting annual reports as required;
 - vi. Coordinating meetings with affordable housing providers and Administrative Agents, as applicable; and
 - vii. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered or approved by the Affordable Housing Professionals of New Jersey (AHPNJ).
- (b) The Borough of Sea Girt shall designate by resolution of the Borough Council, subject to the approval of the Court, one or more Administrative Agents to administer newly constructed affordable units in accordance with N.J.A.C. 5:91, N.J.A.C. 5:93 and UHAC.
- (c) An Operating Manual shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body. The Operating Manuals shall be available for public inspection in the Office of the Municipal Clerk and in the office(s) of the Administrative Agent(s).

- (d) The Administrative Agent shall perform the duties and responsibilities of an administrative agent as are set forth in UHAC, including those set forth in N.J.A.C. 5:80-26.14, 16 and 18 thereof, which includes:
1. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by the Affordable Housing Professionals of New Jersey (AHPNJ).;
 2. Affirmative Marketing;
 2. Household Certification;
 3. Affordability Controls;
 4. Records retention;
 5. Resale and re-rental;
 6. Processing requests from unit owners; and
 7. Enforcement, though the ultimate responsibility for retaining controls on the units rests with the municipality.
 8. The Administrative Agent shall have authority to take all actions necessary and appropriate to carry out its responsibilities, hereunder.

5.26.4.16 Enforcement of Affordable Housing Regulations

- (a) Upon the occurrence of a breach of any of the regulations governing the affordable unit by an Owner, Developer or Tenant the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, municipal fines, a requirement for household recertification, acceleration of all sums due under a mortgage, recoupment of any funds from a sale in the violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
- (b) After providing written notice of a violation to an Owner, Developer or Tenant of a low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the municipality may take the following action against the Owner, Developer or Tenant for any violation that remains uncured for a period of 60 days after service of the written notice:
1. The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation, or violations, of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is found by the court to have violated any provision of the regulations governing affordable housing units the Owner, Developer or Tenant shall be subject to one or more of the following penalties, at the discretion of the court:
 - i. A fine of not more than \$10,000.00 or imprisonment for a period not to exceed 90 days, or both. Each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not as a continuing offense;
 - ii. In the case of an Owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Borough of Sea Girt Affordable Housing Trust Fund of the gross amount of rent illegally collected;
 - iii. In the case of an Owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the court.
 2. The municipality may file a court action in the Superior Court seeking a judgment, which would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage

foreclosure. Any judgment shall be enforceable as if the same were a judgment of default of the First Purchase Money Mortgage and shall constitute a lien against the low- and moderate-income unit.

- (c) Such judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating Owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating Owner shall have the right to possession terminated as well as the title conveyed pursuant to the Sheriff's sale.
- (d) The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating Owner shall be personally responsible for and to the extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the Owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the Owner shall make a claim with the municipality for such. Failure of the Owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the Owner or forfeited to the municipality.
- (e) Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
- (f) If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the municipality may acquire title to the low- and moderate-income unit by satisfying the First Purchase Money Mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the First Purchase Money Mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.
- (g) Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the Owner to accept an offer to purchase from any qualified purchaser which may be referred to the Owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.
- (h) The Owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the Owner.

5.26.4.17 Appeals

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

BE IT FURTHER ORDAINED that the remainder of all other sections and subsections of the Borough Code not specifically amended by this Ordinance shall remain in full force and effect and that all other Ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed as to such inconsistency. If

any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of this Ordinance shall be deemed valid and effective.

This Ordinance shall take effect upon its passage and publication according to law.

UPON MOTION of Councilwoman Richman, seconded by Councilman Zakin, carried, that the meeting be opened to the public for comments on the said Ordinance only. There were no comments from the public and **UPON MOTION** of Councilwoman Richman, seconded by Councilman Perry, carried, the public hearing was closed. **UPON MOTION** of Councilman Downey, seconded by Councilman Perry, carried, that the said Ordinance No. 05-2024 be adopted on final reading, directing the Clerk to post and publish as required by law.

Recorded Vote:

	AYES	NAYS	ABSENT	ABSTAIN
Council President Anthony	X			
Councilwoman DiFeo	X			
Councilman Downey	X			
Councilman Perry	X			
Councilwoman Richman	X			
Councilman Zakin	X			

e. ORDINANCE No. 06-2024: They Mayor to read the said Ordinance by Title:

**AN ORDINANCE AMENDING CHAPTER 17 “ZONING”, SECTION 17.5
“GENERAL REGULATIONS” CREATING A NEW SECTION ESTABLISHING
AFFORDABLE HOUSING DEVELOPMENT FEE**

WHEREAS, the Borough was the subject of a Mount Laurel exclusionary zoning suit filed in the Superior Court of New Jersey entitled 501 Washington Blvd, LLC, 503 Washington Blvd., LLC, Sea Girt Fifth Avenue LLC, Sitco Sea Girt, LLC v. Borough of Sea Girt, Borough Council of Sea Girt, and Sea Girt Planning Board, (the plaintiffs shall be collectively referred to as the “Developer”), Docket No. MON-L-000102-20, seeking to compel the Borough to provide a realistic opportunity for the construction of housing affordable to low and moderate-income households and their fair share of the housing region’s need for such housing, (“Builder’s Remedy Action”); and

WHEREAS, the Borough instituted a declaratory judgment action entitled In the Matter of the Application of the Borough of Sea Girt, Superior Court of New Jersey, Law Division-Monmouth County, Docket No. L-2312-2020 (the “D/J Action”) wherein the Borough sought a declaration as to its affordable housing obligation and the opportunity to develop a plan to meet its constitutional obligation to provide for its fair share of affordable housing; and

WHEREAS, the Borough and the Borough Planning Board entered into a Settlement Agreement with the Developer in the Builder’s Remedy Action and the Court approved the Settlement Agreement after conducting a Fairness Hearing on June 3, 2021 finding it fair, reasonable and adequately protecting the interests of very low, low and moderate-income households in the region; and

WHEREAS, the Borough entered into a Settlement with Fair Share Housing Center to resolve the D/J Action which the Court approved on October 3, 2023 and a condition of the Settlement Agreement requires the Borough to implement and adopt a mandatory affordable housing set aside ordinance obligating an owner or developer of residential property with an approval for five or more residential units to provide a twenty percent set aside.

WHEREAS, the Borough Council of the Borough of Sea Girt, County of Monmouth, State of New Jersey finds it is in the best interest of the Borough to comply with the Settlement Agreement by adopting a Development Fee Ordinance.

NOW THEREFORE BE IT ORDAINED by the Borough Council of the Borough of Sea Girt, County of Monmouth, State of New Jersey, that it hereby creates a new section, Chapter 17, Section 5.26.5 entitled "Affordable Housing Development Fee" as follows:

SECTION I.

5.26.5-1 Affordable Housing Development Fees, Purpose:

a. In *Holmdel Builder's Association v. Holmdel Township*, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 (the Act), N.J.S.A. 52:27D-301 et seq., and the State Constitution, subject to the Council on Affordable Housing's (COAH's) adoption of rules.

b. Pursuant to P.L.2008, c.46 section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH is authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of the Council or court of competent jurisdiction and have a COAH or court approved spending plan may retain fees collected from non-residential development.

c. In *Re: Adoption of N.J.A.C. 5:96 and 5:97* by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015), also known as the Mount Laurel IV decision, the Supreme Court remanded COAH's duties to the Superior Court. As a result, affordable housing development fee collections and expenditures from the municipal affordable housing trust funds to implement municipal Third Round Fair Share Plans through July 1, 2025, are under the Court's jurisdiction and are subject to approval by the Court.

d. This section establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance P.L.2008, c.46, Sections 8 and 32-38. Fees collected pursuant to this section shall be used for the sole purpose of providing very low-, low- and moderate-income housing. This section shall be interpreted within the framework of COAH's rules on development fees, codified at N.J.A.C. 5:97-8.

5.26.5-2 Definitions. As used in this Chapter of the Borough Code of the Borough of Sea Girt, the following terms shall have the following meanings:

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

b. **"COAH"** or the "Council" shall mean the New Jersey Council on Affordable Housing established under the Act, which J: 1as had primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the State.

c. **"Development fee"** shall mean money paid by a developer for the improvement of property as permitted in N.J.A.C. 5:978.3. "Developer" shall mean the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

d. **"Equalized assessed value"** shall mean the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 of P.L. 1973, c. 123 (C.54:1-35a through C.54:1-35c).

e. **"Green building strategies"** shall mean those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

5.26.5-3 Basic Requirements.

- a. This chapter shall not be effective until approved by the Court.
- b. The Borough of Sea Girt shall not spend development fees until the Court has approved a Spending Plan.

5.26.5-4 Residential Development Fees:

a. Imposed Fees

1. Within all zoning districts, residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of one- and one-half percent (1.5%) of the equalized assessed value for residential development provided no increased density is permitted.

2. When an increase in residential density pursuant to N.J.S.A. 40:55D-70d (5) (known as a "d" variance) has been permitted, developers shall be required to pay a development fee of six percent (6%) of the equalized assessed value for each additional unit that may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

b. Eligible exactions, ineligible exactions and exemptions for residential development.

1. Affordable housing developments, developments where the developer is providing for the construction of affordable units elsewhere in the municipality, and developments where the developer has made a payment in lieu of onsite construction of affordable units if permitted by ordinance shall be exempt from development fees.

2. Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.

3. Owner occupied residential structures demolished and replaced as a result of a fire, flood, or natural disaster shall be exempt from paying a development fee.

4. Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or when the square footage is increased by the creation of a new bedroom. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.

5. Fire Department, nonprofit organizations which have received tax exempt status pursuant to section 501(c)(3) of the Internal Revenue Code, providing current evidence of that status is submitted to the municipal clerk, together with a certification that services of the organization are provided at reduced rates to those who establish an inability to pay existing charges, shall be exempted from paying a development fee.

6. Federal, state, county and local governments shall be exempted from paying a development fee.

5.26.5-5 Non-Residential Development Fees

a. Imposed fees

1. Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to two- and one-half percent (2.5%) of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.

2. Non-residential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to two- and one-half percent (2.5%) of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.

3. Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and a half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the preexisting land and improvement and the equalized assessed value of the newly improved structure, i.e., land and improvement, at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.

b. Eligible exactions, ineligible exactions and exemptions for non-residential development.

1. The non-residential portion of a mixed use inclusionary or market rate development shall be subject to the two and a half percent (2.5%) development fee, unless otherwise exempted below. 2. The two- and one-half percent (2.5%) fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.

3. Non-residential developments shall be exempt from the payment of nonresidential development fees in accordance with the exemptions required pursuant to P.L.2008, c.46, as specified in the Form NRDF "State of New Jersey Non-Residential Development Certification/Exemption" Form. Any exemption claimed by a developer shall be substantiated by that developer.

4. A developer of a non-residential development exempted from the nonresidential development fee pursuant to P.L.2008, c.46 shall be subject to it at such time the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.

5. If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within forty-five (45) days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by Sea Girt as a lien against the real property of the owner.

5.26.5-5 Collection Procedures

a. Upon the granting of a preliminary, final or other applicable approval, for a development, the applicable approving authority shall direct its staff to notify the construction official or Zoning Officer responsible for the issuance of a building permit.

b. For non-residential developments only, the developer shall also be provided with a copy of Form NRDF "State of New Jersey Non-Residential Development

Certification/Exemption" to be completed as per the instructions provided. The developer of a non-residential development shall complete Form NRDF as per the instructions provided. The construction official shall verify the information submitted by the nonresidential developer as per the instructions provided in the Form NRDF. The Tax assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form NRDF.

- c. The construction official responsible for the issuance of a building permit shall notify the local tax assessor of the issuance of the first building permit for a development which is subject to a development fee.
- d. Within ninety (90) days of receipt of that notice, the municipal tax assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
- e. The construction official responsible for the issuance of a final certificate of occupancy shall notify the local assessor of any and all requests for the scheduling of a final inspection of property which is subject to a development fee.
- f. Within ten (10) business days of a request for the scheduling of a final inspection, the municipal assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
- g. Should Sea Girt fail to determine or notify the developer of the amount of the development fee within ten (10) business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in subsection b. of section 37 of P.L.2008, c.46 (C.40:55D 8.6).
- h. One hundred percent (100%) of the development fee shall be collected at the issuance of the certificate of occupancy.

5.26.5-6 Appeal of Development Fees

- 1. A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest-bearing escrow account by Sea Girt. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within ninety (90) days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
- 2. A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within forty-five (45) days of receipt of the challenge, collected fees shall be placed in an interest-bearing escrow account by Sea Girt. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48 1 et seq., within ninety (90) days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

5.26.5-7 Affordable Housing Trust Fund

- a. There is hereby created a separate, interest-bearing affordable housing trust fund to be maintained by the chief financial officer for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguishing controls.
- b. The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
 - 1. payments in lieu of onsite construction of affordable units if permitted by ordinance.
 - 2. developer contributed funds to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached development accessible.
 - 3. rental income from municipally operated units.
 - 4. repayments from affordable housing program loans.
 - 5. recapture funds.

6. proceeds from the sale of affordable units; and
7. any other funds collected in connection with Sea Girt's affordable housing program.

c. In the event of a failure by Sea Girt to comply with trust fund monitoring and reporting requirements or to submit accurate monitoring reports; or a failure to comply with the conditions of the judgment of compliance or a revocation of the judgment of compliance. or a failure to implement the approved Spending Plan and to expend funds within the applicable required time period as set forth in re Tp. of Monroe, 442 N.J. Super. 565 (Law Div. 2015) (aft.'d 442 N.J. Super. 563); or the expenditure of funds on activities not approved by the Court; or for other good cause demonstrating the unapproved use(s) of funds, the Court may authorize the State of New Jersey, Department of Community Affairs, Division of Local Government Services (LGS), to direct the manner in which the funds in the Affordable Housing Trust Fund shall be expended, provided that all such funds shall, to the extent practicable, be utilized for affordable housing programs within Sea Girt, or, if not practicable, then within the County or the Housing Region.

d. Any party may bring a motion before the Superior Court presenting evidence of such condition(s), and the Court may, after considering the evidence and providing the municipality a reasonable opportunity to respond and/or to remedy the non-compliant condition(s), and upon a finding of continuing and deliberate noncompliance, determine to authorize LGS to direct the expenditure of funds in the Trust Fund. The Court may also impose such other remedies as may be reasonable and appropriate to the circumstances.

e. All interest accrued in the affordable housing trust fund shall only be used on eligible affordable housing activities approved by the Superior Court.

5.26.5-8 Use of Funds

a. The expenditure of all funds shall conform to a spending plan approved by the Superior Court. Funds deposited in the affordable housing trust fund may be used for any activity approved by the Superior Court to address Sea Girt's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing non-residential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or state standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted pursuant to N.J.A.C. 5:97-8.7 through 8.9 and specified in the approved spending plan.

b. Funds shall not be expended to reimburse Sea Girt for past housing activities.

c. At least thirty (30) percent of all development fees collected and interest earned shall be used to provide affordability assistance to very low-, low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30 percent or less of median income by region.

1. Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners' association or condominium fees and special assessments, and assistance with emergency repairs.

2. Affordability assistance to households earning 30 percent or less of median income may include buying down the cost of low- or moderate-income units in the municipal Fair Share Plan to make them affordable to households earning 30 percent or less of median income.

3. Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.

d. Sea Girt may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:96-18.

e. No more than twenty percent (20%) of all revenues collected from development fees and interest, may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than twenty percent (20%) of the revenues collected from development fees and interest shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with the court's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or objecting to COAH's regulations and/or action are not eligible uses of the affordable housing trust fund.

5.26.5-9 Monitoring

a. Sea Girt shall provide annual reporting of trust fund activity to the New Jersey Department of Community Affairs ("DCA"), COAH, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by COAH, the Special Master or FSHC. This reporting shall include an accounting of all housing trust fund activity, including the collection of development fees from residential and nonresidential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with Sea Girt's housing program, as well as the expenditure of revenues and implementation of the plan approved by the Court.

5.26.5-10 Ongoing collection of fees

- a. The ability for Sea Girt to impose, collect and expend development fees shall expire with its Judgment of Compliance and Repose. If Sea Girt fails to renew its ability to impose and collect development fees prior to the expiration of its Judgment of Compliance and Repose it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320). Sea Girt shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its Judgment of Compliance and Repose, nor shall Sea Girt retroactively impose a development fee on such a development. Sea Girt shall not expend development fees after the expiration of its Judgment of Compliance and Repose.

UPON MOTION of Councilwoman Richman, seconded by Councilman Downey, carried, that the meeting be opened to the public for comments on the said Ordinance only. There were no comments from the public and **UPON MOTION** of Councilman Downey, seconded by Councilwoman Richman, carried, the public hearing was closed. **UPON MOTION** of Councilwoman DiFeo, seconded by Councilman Perry, carried, that the said Ordinance No. 06-2024 be adopted on final reading, directing the Clerk to post and publish as required by law.

Recorded Vote:

	AYES	NAYS	ABSENT	ABSTAIN
Council President Anthony	X			
Councilwoman DiFeo	X			
Councilman Downey	X			
Councilman Perry	X			
Councilwoman Richman	X			
Councilman Zakin	X			

f. **ORDINANCE No. 07-2024:** The Mayor to read the said Ordinance by Title:

**AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 4-10, TAXIS,
AUTOCABS AND VEHICLE HIRED CARRYING PASSENGERS OF THE
BOROUGH CODE OF THE BOROUGH OF SEA GIRT, MONMOUTH COUNTY**

~~Strikeout~~ – Remove

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§ 4-10. TAXIS, AUTOCABS AND VEHICLES HIRED FOR CARRYING PASSENGERS.¹

§ 4-10.1. Purpose. [Ord. No. 13-2009]

The Mayor and Council have found that it is in the public interest and in order to ensure the safety and quality of life for all residents of and visitors to the Borough revise licensing requirements and regulate the business and operations of owners and drivers of taxis, autocabs and other vehicles engaged in the business of carrying passengers for hire within the Borough.

§ 4-10.2. Definitions. [Ord. No. 13-2009 § 1]

As used in this section:

BOROUGH — Shall mean the Borough of Sea Girt.

DRIVER — Shall mean any person who drives a taxi/autocab within this Borough.

OPERATION — Of a taxi/autocab shall consist of transporting in such taxi, autocab of one or more persons for hire. A taxi/autocab which is operated or run, over any of the streets within the Borough, to seek or accept passengers for transportation from points or places to points or places within or outside the Borough or which transports a passenger or passengers from outside the Borough into the Borough for discharge shall be deemed to be operation of a taxi/autocab within the Borough. A taxi/autocab parked or idling on a Borough Street or accepting any passenger for hire from a point of departure within the Borough shall be deemed to be operation. Operation of a taxi/autocab by one other than the owner shall be deemed operation by the owner, as well as operation by the person actually driving the taxi/autocab. The transportation in or through the Borough of any person other than the owner or driver of any motor vehicle bearing signs therein or thereon using the words "taxi," "cab," "jitney," "car service," "livery," "hack," "dial a ride," "call a ride," "transport," "transport vehicle," "car service" or "transportation" shall be prima facie evidence of operation.

OWNER — Shall mean any person, corporation, business entity or association in whose name title to any taxi/autocab is registered with the New Jersey Motor Vehicle Commission, or who appears in any governmental records to be the conditional vendee or licensee thereof.

PERSON — Shall mean and include any individual, co-partnership, limited liability company, association, corporation or joint stock company, their lessees, trustees or receivers appointed by any court whatsoever.

TAXI/AUTOCAB — Shall mean and include any autocab, automobile, van, ~~motor car~~ or autobus with a seating capacity of not more than 14 passengers not including the driver, and with original manufactured right-side exit and entrance only. Any vehicles commonly called taxi, taxicab, cab or car service, that are engaged in the business of carrying passengers for hire, which is held out, announced or advertised to operate or run, or which is operated or run, over any of the streets within the Borough and which accepts or discharges passengers for transportation from points or places to points or places within or outside the Borough.

§ 4-10.3. Requirements of Taxi/Autocab Owner or Operator License. [Ord. No. 13-2009]

§ 2]

No person or corporation shall hire out, keep, or use for hire or compensation any taxi/autocab within the Borough unless both the taxi/autocab and the driver thereof are licensed in the Borough in accordance with this section and said person or corporation conforms to all other laws and regulations of the State of New Jersey.

§ 4-10.4. Licenses. [Ord. No. 13-2009 § 3]

All taxi/autocab owners, or operators of taxi/autocabs, operating a taxi/autocab within the Borough shall be licensed in accordance with the provisions of this section.

There are hereby established two classes of taxi/autocab license in the Borough as follows:

- a. Taxi/Autocab Driver's License. This license shall entitle the individual named therein to operate within this Borough any taxi/autocab duly licensed hereunder. Such license may only be issued in the name of an individual and not in the name of a business entity.
- b. Taxi/Autocab Owner's License. This license shall entitle the vehicle therein listed and described to be used as a taxi/autocab and operated in this Borough by a driver duly licensed hereunder.

§ 4-10.5. Number of Licenses to Be Issued. [Ord. No. 13-2009 § 4; Ord. No. 19-2010 § 1; Ord. No. 03-2014 § 4]

- a. Taxi/Autocab Driver's Licenses. The number of taxi/autocab driver's licenses under this section to be issued and outstanding in any one year is limited to 100.
- b. Taxi/Autocab Owner's Licenses. The number of taxi/autocab owner's licenses under this section to be issued and outstanding in any one year can be up to 15 unless the Mayor and Council by resolution approve additional licenses.
- c. Number of Taxicabs/Autocabs Per Owner's Licenses. The holder of a taxicab owner's license under this section shall be permitted to obtain a license for up to 10 individual taxicab/ autocab. The license issued for an individual taxicab/autocab is only for that specific taxicab/ autocab and shall not be transferred to another taxicab/autocab.

§ 4-10.6. Expiration Date; Licenses Not Transferable; Renewals. [Ord. No. 13-2009 § 5; Ord. No. 19-2010 § 2; Ord. No. 17-2011 § 1]

- a. Any license issued pursuant to this section shall be valid from the 1st day of May and shall expire at midnight of the 30th day of September the year in which it was issued, and shall not be transferable.
- b. Applications for taxicab owner's license renewals shall be filed with the Borough Clerk's Office no sooner than ~~March 1st~~ April 5th and no later than ~~April 10th~~ April 19th of the year for which the application is being made. All applications for renewals shall be acted upon prior to any consideration being given to new applications, which shall be considered in the order of their filing with the Borough Clerk's Office on a first come/first serve basis. Any application for renewal received after ~~April 10th~~ April 19th of any year shall be treated as an application for a new license.

§ 4-10.7. Applications for Licenses. [Ord. No. 13-2009 § 6; Ord. No. 17-2011 §§ 2, 3, 4]

- a. Application Form. Each applicant for the issuance or renewal of a license of either class shall supply, in full, the information requested on application forms approved by the Borough Administrator and obtained from the Borough Clerk, and shall verify the correctness thereof by certification. The completed application must be filed with the Borough Clerk, together with the fee hereinafter fixed.
 1. Applications for Taxi/Autocab Owner's License. Applications for taxicab/owner's licenses shall be filed with the Borough Clerk at any time, but no taxi/autocab shall be operated in the Borough until licensed in accordance with this section each year.
 - (a) Requirements for Taxi/Autocab Owner's License. Each applicant must meet the following

requirements:

- (1) Be of the age of 21 years, or over;
- (2) Has not been convicted of a crime, and has not violated any provision of this section;
- (3) Complete an application form provided by the Borough Clerk giving the applicant's full name, residence, age, date of birth, height, weight, color of eyes and hair, marital status, driver's license number, number of years driving, place of birth, length of time the applicant has resided in the United States, citizenship information, military service information, present employment, present or past municipal license information, whether the applicant has ever been charged with, arrested or convicted of a crime or other violation of law or of a violation of this chapter and if so, the date, what, where and the disposition, whether or not the applicant's driver's license has ever been revoked and, if so, for what cause, which statement shall be signed and sworn to or certified by the applicant and filed with the Borough Clerk as a permanent record. The applicant shall also furnish two copies of color photographs size two inches by two inches, front view, in such position as may be prescribed, taken within 30 days preceding the filing of the application;
- (4) Each applicant must provide a full physical address including building/ housing number, street name, city, state and zip code. Post office boxes shall not be sufficient. Notice by the Borough in connection with this section to any taxi/autocab owner's license holder shall be effective upon the Borough's mailing of said notice by regular mail to the address provided in the application unless the license holder notifies the Borough of a change of address to another physical location (post office boxes not acceptable) and the Borough acknowledges in writing receipt of such change of address;
- (5) The applicant shall be required to consent to the submit to a State and Federal criminal history check, either by fingerprinting or live scan through the Borough's vendor, at the Borough's sole discretion and at the cost and expense of the applicant. In the event an applicant holds a current New Jersey commercial driver's license with a "P" or an "S" endorsement, and the applicant provides a copy of the applicant's fingerprint background results obtained during the CDL application process that are less than one year old at the time of the application, the Borough may waive the requirement to submit to fingerprinting;
- (6) Insurance.
 - (i) Principal place of business located within the Borough. Each applicant for a taxi/autocab owner's license shall, together with the application, submit the insurance policy required by N.J.S.A. 48:16-3 et seq., covering the taxi/autocab sought to be licensed; and each applicant shall then and thereafter comply with all of the provisions of N.J.S.A. 48:16-1 et seq., as well as the acts amendatory thereof or supplemental thereto.
 - (ii) Principal place of business outside Borough. Each applicant must file a duplicate autocab insurance certificate issued pursuant to N.J.S.A. 48:16-7 by the Clerk of the municipality within which the Owner's principal place of business is located. A photocopy is not acceptable and the applicant must provide the original duplicate certificate as issued by said Clerk.
 - (iii) The applicant must submit proof that the duplicate certificate shall be filed with the department of motor vehicles before any such car is licensed as a taxi/autocab.
 - (iv) Amount of coverage. Minimum acceptable insurance liability limit is as follows: Combined single limit coverage: \$50,000/\$100,000.00.

- [a] The policy shall provide coverage for every driver of each vehicle listed in the policy, and the acceptance of the policy by the Borough and the issuance of the license by the Borough shall constitute an agreement by and between the applicant and the Borough that the applicant holds and saves harmless the Borough from any and all claims from damages arising out of personal injury and/or property damage made by third parties as the result of the issuance of the license and the operation of the taxi/autocab.
 - [b] In the event the policy is cancelled for any reason, a notice of such action must be delivered to the Borough Clerk 20 days prior to the effective date by the insurance company providing coverage to the owner. It shall be the owner's responsibility to ensure that the insurance company is noticed of and complies with this requirement.
 - (7) Inspections. Vehicles covered by this section may be subjected prior to licensing, or if an identifiable condition is visible or can be heard by a member of the Sea Girt Police Department during the term of the license, to inspection by a Borough vendor or representatives of the Borough Police Department to determine the condition and fitness of the vehicle for the transportation of passengers. Any such inspection is at the Borough's sole discretion and at the cost and expense of the applicant.
2. Applications for taxi/autocab driver's licenses. Applications for taxi/autocab driver's licenses may be made at any time, but no one shall drive or operate a taxi/autocab in the Borough until licensed in accordance with this section each year.
- (a) Requirements for taxi/autocab driver's license. Each applicant for a taxi/autocab driver's license must meet the following requirements:
 - (1) Be of the age of 21 years, or over;
 - (2) Possess a valid New Jersey driver's license;
 - (3) Submit a completed certificate on forms provided by the Borough from a reputable physician stating that the applicant has been examined within 60 days of the date of the application and is fit for the safe operation of a taxi/ autocab. If applicant holds a current New Jersey commercial drivers license with a "P" or an "S" endorsement they may submit a copy of their current medical card;
 - (4) Has not been convicted of a crime, and has not violated any provision of this section;
 - (5) Is not a habitual user of liquors to the point of impairment or a habitual user of narcotic drugs or other controlled substances other than as lawfully prescribed;
 - (6) Complete an application form provided by the Borough Clerk giving the applicant's full name, residence, age, date of birth, height, weight, color of eyes and hair, marital status, driver's license number, number of years driving, place of birth, length of time the applicant has resided in the United States, citizenship information, military service information, present and former employment, present or past municipal license information, whether the applicant has ever been charged with, arrested or convicted of a crime or other violation of law or of a violation of this section and if so, the date, what, where and the disposition, whether or not the applicant's driver's license has ever been revoked and, if so, for what cause, which statement shall be signed and sworn to or certified by the applicant and filed with the Borough Clerk as a permanent record. The applicant shall also furnish two copies of color photographs size two inches by two inches, front view, in such position as may be

prescribed, taken within 30 days preceding the filing of the application;

- (7) The applicant shall be required to consent to and submit to a State and Federal criminal history check, either by fingerprinting or live scan through the Borough's vendor, at the Borough's sole discretion and at the cost and expense of the applicant. In the event an applicant holds a current New Jersey commercial driver's license with a "P" or an "S" endorsement, and the applicant provides a copy of the applicant's fingerprint background results obtained during the CDL application process that are less than one year old at the time of the application, the Borough may waive the requirement to submit to fingerprinting;
- (8) The applicant shall be required to consent to and submit to a motor vehicle history inquiry, either through the Borough Police Department or the Borough's vendor, at the Borough's sole discretion and at the cost and expense of the applicant;
- (9) The applicant is able to speak and understand the English language.

§ 4-10.8. Issuance of Licenses. [Ord. No. 13-2009 § 7]

- a. Upon notification by the Borough Clerk of satisfactory fulfillment of the foregoing requirements, the Mayor and Council shall either grant or deny the license application, unless the governing body returns or holds over the application for further investigation.
- b. Each applicant approved under this section shall be issued a license as evidence thereof in a form approved by the Mayor and Council, and signed by the Borough Clerk on behalf of the Mayor and Council.
- c. Upon approval of any such application, the Borough, at its sole option, may process the license, ~~or in the alternative may require the applicant to travel to a Borough vendor to process~~ the taxi/autocab driver's license and or the taxi/autocab owner's license. Any costs related to the processing of the license, including but not limited to the issuance of a photo license shall be the responsibility of the license holder.

§ 4-10.10. Denial, Revocation, or Suspension of Licenses. [Ord. No. 13-2009 § 9]

- a. The Mayor and Council may, in their discretion, refuse to issue or renew, or may after notice and hearing, revoke or suspend any taxi/autocab driver's license issued hereunder if the applicant or licensee:
 1. Has been convicted of a crime or offense in this, or any other, jurisdiction;
 2. Has been convicted of being a disorderly person;
 3. Has been found guilty of a violation of Title 39, "Motor Vehicles and Traffic Regulations" of the Revised Statutes of the State of New Jersey;
 4. Violates any provision of this section;
 5. Has failed, or fails to render, reasonably prompt, safe, and adequate taxi/autocab service;
 6. Has in any degree contributed to any injury to any person, or damage to property, arising out of negligent operation of a motor vehicle;
 7. Has any physical or mental condition which interferes with the ability to operate a motor vehicle in a safe manner and/or presents a risk to the driver, passengers or the public; Has not complied fully with all requirements of this section.
- b. Any taxi/autocab owner's license, or renewal, may be denied, revoked, or suspended for any of the following reasons:
 1. If the motor vehicle licensed, or to be licensed, has unsafe or unsanitary conditions, or is otherwise

dangerous to the safety or health of the occupants or others;

2. If the policy of insurance required by N.J.S.A. 48:16-3 lapses, or such coverage is not maintained at all times;
3. Has been convicted of a crime in this, or any other, jurisdiction;
4. Has in any degree contributed to any injury to any person, or damage to property, arising out of negligent operation of a motor vehicle;
5. Has not complied fully with all requirements of this section;
6. If the licensed vehicle is used or permitted to be used for any improper, immoral or illegal business or purpose, or for the violation of any statute or law of the State or the United States, or for the violation of any of the provisions of this section or any rules and regulations duly adopted thereunder.

§ 4-10.11. Display of License and Certificate of Insurance. [Ord. No. 13-2009 § 10]

- a. No taxi/autocab shall be operated in the Borough unless the taxi/autocab driver's license of the person operating the taxi/autocab, is prominently displayed and open to view of passengers in accordance with reasonable procedures of the Borough.
- b. The Certificate of Insurance required by N.J.S.A. 48:16-6 shall likewise be prominently displayed in accordance with reasonable procedures of the Borough provided by way of written notice to the licensee.

§ 4-10.12. Rates. [Ord. No. 13-2009 § 11; Ord. No. 19-2010 § 5; Ord. No. 17-2011 § 5]

- a. No taxicab/autocab shall hereafter be operated in this Borough unless and until there is prominently displayed in the interior thereof, within the full view and access of any passengers, a complete list of fares, charges or tariff rates charged for transportation of passengers, which fares, charges or tariff rates so displayed, and no other, shall be those to be charged any passenger. Said rate and tariff listing shall be submitted with the Owner's License application and any change in the rates and/or tariffs during the year shall be filed with the Borough before the new rates and/or tariffs can be charged to passengers.
- b. Fare Limit. The rate of fare to be charged between any two points within the Borough limits shall not exceed ~~\$2~~ \$3 per mile per person for each passenger.
- c. All rates shall be agreed upon between the operator and passenger before the transportation is commenced.
- d. Hand luggage shall be carried without charge.

§ 4-10.13. Lettering and Visual Identification Symbol. [Ord. No. 13-2009 § 12]

- a. Every taxi/autocab operating within the Borough shall have affixed or painted on both sides thereof the words "taxi" or "cab" in letters at least six inches high, or the name of the operating owner containing the words "taxi" or "cab" as well as the business telephone number.
- b. Every taxi/autocab or other vehicle required to be licensed under this section operating within the Borough shall display a visual identification symbol the design, specification and contents of same to be determined in the sole discretion of the Borough, by way of a decal, magnetic device, placard or other method which will identify the vehicle as properly and currently licensed. The method of display shall be as determined by the Borough Police Department and communicated in writing to the taxi license holder, which shall be required to adhere to the contents of said notice within seven calendar days of the date of the notice. The Borough may elect to require that the visual identification symbol be made and then affixed to the licensed vehicle by a vendor or vendors of the Borough's designation, all such costs for such production and affixing to the licensed vehicle to be paid by the licensee.

§ 4-10.14. Record Keeping; Inspection of Records. [Ord. No. 13-2009 § 13]

Every licensed taxi/autocab driver shall record, in writing, the time and place each passenger is accepted, and the time and place of discharge of the passenger. Such records shall be kept intact for three years. Such records shall be kept open at all times during the three-year period for inspection by local, State, and Federal law enforcement agencies.

§ 4-10.15. Lost Property. [Ord. No. 13-2009 § 14]

Immediately after the termination of any hiring or employment, every driver of a taxi/autocab must carefully search such taxi/autocab for any property lost or left therein, and any such property discovered must be reported in writing to the Police Department with brief particulars and description of such property, within 24 hours after it is found, unless sooner claimed or delivered to the owner.

§ 4-10.16. Insurance. [Ord. No. 13-2009 § 15]

All owners of taxi/autocabs operating within the Borough must comply with the provisions of subsection 4-10.7 as a condition of the validity of any taxi/autocab owner's license.

§ 4-10.17. Public Service Requirements. [Ord. No. 13-2009 § 16]

Owners of taxi/autocabs, their agents and employees, and cab drivers engaging in the taxi/autocab business, shall render courteous and nondiscriminatory service to the public. They shall answer all telephone calls received by them for transportation service within the limits of the Borough as soon as they can do so, and if such service cannot be rendered within a reasonable time, they shall notify the prospective passenger when the taxi/autocab will be available to service them.

§ 4-10.18. Restrictions on Operation of Taxi/Autocabs. [Ord. No. 13-2009 § 17]

- a. No Cruising. No person shall cruise the streets of the Borough in any vehicle, including but not limited to taxi/autocabs at any time for the purpose of soliciting or one or more persons for transportation for a fee or fare.
 1. Pre-arranged Pickup. Any taxi/autocab cab may pick up passengers if the taxi/autocab owner or the owner's agent has been specifically called by the person seeking transportation or someone acting on said persons behalf or such person has otherwise arranged in advance for pick up at a specific time and place. The taxi/autocab driver must have proof of such pre-arrangement including at a minimum the full name of the person to be picked up, the full name of the person making the arrangements, and a contact phone number for said person making the arrangements.
- b. All persons shall be picked up or discharged at the curb, or in off-street areas designated by business establishments for the use of their patrons, and the taxi/autocab shall at no time interfere with traffic on any roadway.
- c. For picking up passengers at commercial establishments, all taxi/autocabs will follow a wait- in-line operating rule, and must pick up the next passenger waiting for taxi/autocab service in order. If such pick up is refused by the taxi/autocab driver, the driver must depart without a passenger and forfeit any place in line.
- d. Locations Prohibited for Pick Up and Discharge. No taxi/autocab shall pick up or discharge passengers anywhere on any portion of the roadway, at the following locations.
 1. First Avenue (County Route 49), between The Terrace and New York Boulevard:
 2. Sea Girt Avenue between State Highway 71 and the easterly side of the railroad right of way. Nothing herein shall preclude commercial establishment's locations to establish pick up areas in parking lots.

§ 4-10.19. Taxi Stands; Ride Share Dropoff or Pickup Zone. [Ord. No. 13-2009 § 18; Ord. No. 17-2011 § 6; amended 6-24-2020 by Ord. No. 09-2020 6-9-2021 by Ord. No. 08-2021; 5-11-2022 by Ord. No. 05-2022; 4-26-2023 by Ord. No. 02-2023]

- a. No person shall sit, idle, park, or operate in a designated taxi stand/ride share zone for any other purpose except to pick up or discharge passengers. A designated taxi stand may be occupied by a taxi/autocab and driver licensed by the Borough and/or a registered ride share vehicle and driver in accordance with this section. No person shall leave any vehicle unoccupied in any designated taxi stand/ride share zone. The taxi stand/ride share drop off zone shall be utilized strictly for the discharge of passengers **for the hours designated within the hours are 10am -12am** ~~as approved annually by the Borough Council~~. Therefore, no taxi/ride share vehicle shall sit, idle or park in a taxi stand/ride share zone during those hours unless patrons are waiting for transportation. No taxi or ride share vehicle shall sit, idle or park in a taxi stand/ride share zone for longer than 10 minutes. A taxi stand/ride share zone shall allow a person the opportunity to find transportation services in an expeditious, unbiased, nondiscriminatory, and courteous manner.
- b. Temporary Taxi Stand/Ride Share Dropoff or Pickup Zone.
 1. In the event of an emergency, or circumstance as described in paragraph b2, the Chief of Police, or highest-ranking police officer on duty in his absence, may designate, on a temporary basis not to exceed 24 hours after said emergency or circumstance arises, the location and size of any taxi stand/ride share drop off or pickup zone in accordance with state law.
 2. The ranking or senior Borough police officer on duty may, in the event the number of people at any location seeking transportation from taxi/autocabs or ride share vehicles creates or may create a safety concern and/or may create a disturbance of the peace, establish a temporary taxi stand/ride share zone at any public location, such temporary taxi stand ride share drop off or pickup zone to be designated by temporary traffic signs or other traffic devices identifying the temporary taxi stand/ride share drop off or pickup zone. The provisions of this section applicable to taxi stand/ride share drop off or pickup zone shall be applicable to temporary taxi stand ride share drop off or pickup zone.
 3. In the event that a temporary alternate pickup/drop off zone is designated consistent with paragraphs b1 or 2, the Chief or ranking officer shall report said emergency or circumstance to the Mayor and Council, and the basis for said action no later than 24 hours after doing so.

§ 4-10.20. Fines and Penalties. [Ord. No. 13-2009 § 19; New; Ord. No. 09-2014]

- a. Unless another specific penalty has been established in paragraph e below, any person violating any of the provisions of this section shall, upon conviction of a first offense be subject to a fine of no less than \$250; on conviction of a second offense be subject to a fine of no less than \$500 and for a third or subsequent offense be subject to a fine of two \$2,000, or be subject by imprisonment for any term not exceeding 90 days in the County Jail, or in any other place provided by the municipality for the detention of prisoners, or both.
- b. Any corporation violating any of the provisions of this section shall, upon conviction, pay a fine of not less than \$500 or more than \$2,000.
- c. Any person who aids, assists, or abets in the violation of any of the provisions of this section shall be subject to the penalties herein provided for.
- d. Nothing herein shall preclude the prosecution of any such violation under Title 48 and or Title 2C of the New Jersey statutes nor restrain or prohibit the Mayor and Council from suspending or revoking any license issued hereunder in accordance with the provisions of this section.
- e. Specific Fines and Penalties.

Borough Code	Description	Fine		Payable*
4-10	Taxis, autocabs and vehicles for hire	1st	\$250	No
		2nd	\$500	No
		3rd	\$2,000	No
4-10.3	Operator/owner's license and driver's license required	1st	\$250	No
		2nd	\$500	No
		3rd	\$2,000	No
4-10.11	Display of license and insurance required	1st	\$250	No
		2nd	\$500	No
		3rd	\$2,000	No
4-10.12	Fares and rates, display required	1st	\$250	No
		2nd	\$500	No
		3rd	\$2,000	No
4-10.13	Lettering and visual identification required	1st	\$250	No
		2nd	\$500	No
		3rd	\$2,000	No
4-10.14	Records of fares required	1st	\$250	No
		2nd	\$500	No
		3rd	\$2,000	No
4-10.15	Responsibility to report and retain lost property	1st	\$250	No
		2nd	\$500	No
		3rd	\$2,000	No
4-10.18	Restrictions on operation	1st	\$250	No
		2nd	\$500	No
		3rd	\$2,000	No
4-10.19	Taxi stand regulations	1st	\$250	No
		2nd	\$500	No
		3rd	\$2,000	No

* Payable without court appearance.

UPON MOTION of Council President Anthony, seconded by Councilman Zakin, carried, that the meeting be opened to the public for comments on the said Ordinance only. There were no comments from the public and **UPON MOTION** of Councilman Perry, seconded by Councilwoman Richman, carried, the public hearing was closed. **UPON MOTION** of Councilwoman Richman, seconded by Councilman Perry, carried, that the said Ordinance No. 07-2024 be adopted on final reading, directing the Clerk to post and publish as required by law.

Recorded Vote:

	AYES	NAYS	ABSENT	ABSTAIN
Council President Anthony	X			
Councilwoman DiFeo	X			
Councilman Downey	X			
Councilman Perry	X			
Councilwoman Richman	X			
Councilman Zakin	X			

g. ORDINANCE No. 08-2024: The Mayor to read the said Ordinance by Title:

AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 20, FIRE PREVENTION AND PROTECTION OF THE BOROUGH CODE OF THE BOROUGH OF SEA GIRT, MONMOUTH COUNTY

~~Strikeout~~ - Remove

Underline - New

§ 20-1 UNIFORM FIRE SAFETY ACT ENFORCING AGENCY.

§ 20-1.1 Adoption of the Uniform Fire Code.

[Ord. No. 10-2010 § 2]

- a. The New Jersey Uniform Fire Code and all amendments and supplements thereto, is adopted by the Borough of Sea Girt (referred to herein as the "Borough") for the purpose of establishing a system for the enforcement of minimum fire safety standards throughout the Borough as mandated by the State of New Jersey, so as to improve the safety of the public by promoting the control of fire hazards. The standards, rules and regulations set forth in the New Jersey Uniform Fire Code shall be and the same are hereby incorporated in this section.
- b. The Borough shall recognize the standards of the National Fire Protection Association ~~Code~~ and supplements and amendments thereto, which the Bureau will refer to in the enforcement of this section. The above-referenced New Jersey Uniform Fire Code and National Fire Protection Association ~~Code~~ are incorporated herein as if set forth in length.

§ 20-1.2 Local Enforcement and Enforcing Agency Designation.

[Ord. No. 10-2010 § 3]

- a. Pursuant to Section 11 of the Uniform Fire Safety Act, N.J.S.A. 52:27D-202 (P.L. 1983 c. 383), the New Jersey Uniform Fire Code (N.J.A.C. 5:70-1 et seq.) shall be locally enforced by and in the Borough of Sea Girt.
- b. The local enforcing agency shall be the Bureau of Fire Prevention of the Borough of Sea Girt.

§ 20-1.3 Bureau of Fire Prevention.

[Ord. No. 12; Ord. No. 10-2010 § 4; Ord. No. 09-2013]

- a. Organization.

1. Within the Bureau, the Fire Prevention Officer and any other person deemed necessary or advisable by the Borough, shall be delegated the power to carry out its functions pursuant to the Uniform Fire Code.
 2. Funds that may be necessary to support the operation of the Bureau shall be raised by the Borough in the manner prescribed by law.
 3. The annual budget for the operation of the Bureau shall be established by the Borough.
 4. The Fire Prevention Officer shall report directly to the Borough Administrator.
- b. Duties.
1. The Bureau of Fire Prevention shall enforce the Uniform Fire Safety Act and the New Jersey Uniform Fire Code in all buildings, structures and premises within the Borough other than owner-occupied one-family and two-family dwellings, and shall faithfully comply with the requirements of the Uniform Fire Code.
 2. The Bureau shall carry out periodic inspections of life-hazard uses required by the Uniform Fire Code.
 3. In addition, the Bureau shall be charged with the duties and enforcement of such other ordinances, rules, and regulations that pertain to fire prevention and control.
- c. Personnel.
1. Appointment and Qualification of Fire Prevention Officer, Inspectors and other Employees.
 - (a) The Fire Prevention Officer shall be a person certified as a Fire Official by the Commissioner of the Department of Community Affairs and appointed or designated to direct the enforcement of the Uniform Fire Code.
 - (b) Inspectors and other employees of the Bureau of Fire Prevention, if any, shall be appointed by the Mayor with the advice and consent of the Governing Body after consideration of the written recommendation of the Fire Prevention Officer. Such inspectors and other employees shall be appointed for terms of one year. Any vacancy shall be filled for the unexpired term.
 - (c) Members of the Bureau of Fire Prevention shall be appointed annually by the Mayor and Council of the Borough of Sea Girt.
 - d. Investigation of Violations and Fires; Records to Be Kept. The Fire Prevention Officer shall inquire into all violations of the provisions of this section or of any law of the State or ordinance of the Borough relating to the prevention or extinguishment of fires, and shall cause such legal proceedings to be had as shall prevent the continuance of the same. He shall investigate the cause of all fires which may take place within the Borough, ~~and if the result of such inquiry shall satisfy him that the fire was of incendiary origin, he shall report to the Mayor that there are good and sufficient grounds of presumption that the fire so occurring was caused by design, and it shall therefore be lawful for the Mayor to offer such reward as he may deem advisable or as the Council shall recommend for the discovery and apprehension of the incendiary, to be paid on conviction of the person or persons so offending.~~ He shall keep a record of all alarms of fires and of all fires which may happen within the Borough, with the cause thereof, whenever the same can be ascertained; and the description of the building or buildings injured or destroyed, the names of the owners or occupants, the amount of loss in such case and also the amount of insurance as near as the same can be ascertained on careful and diligent inquiry.

§ 20-1.4 Permits.

[Ord. No. 10-2010 § 5]

~~a. Required Permits.~~

~~1. Hazardous Substances. It shall be unlawful to engage in any business activity involving the handling, storage or use of hazardous substances, materials or devices; or to maintain, store or handle materials; to conduct processes which produce conditions hazardous to life or property; to install equipment used in connection with such activities; or to establish a place of assembly without first obtaining a permit from the Bureau's Fire Prevention Officer.~~

~~(a) Hazardous materials inventory. In order to determine which fire code permits are required, a hazardous materials inventory must be completed for each applicant as appropriate. The following shall be submitted:~~

~~(1) The inventory form, along with instructions for its completion shall be provided by the Fire Prevention Officer.~~

~~(2) Use of the inventory data and the information in paragraph c., below, pertaining to the types of fire code permits shall be utilized in making the determination for required fire code permits.~~

~~b. Assistance. Assistance in determining applicability of the code and permit application forms can be obtained from the Fire Prevention Officer.~~

~~a.e.~~ Types of Fire Code Permits. The New Jersey Uniform Fire Code defines five types of fire code permits, which cover the uses in the workplace and activities that are specified in the New Jersey Uniform Fire Code.

1. Type I Permit: Required for activities such as bonfires, cutting and welding operations, open flames in places of assembly, and storage and handling of small quantities of flammable liquids, erection of tent or membrane structures, outdoor mazes, or any other activity listed within the New Jersey Uniform Fire Code for Type 1 Permits.

2. Type II Permit: Required for activities such as carnivals, circuses, and fumigation for insects, or any other activity listed within the New Jersey Uniform Fire Code for Type 2 Permits.

3. Type III Permit: Required for industrial furnaces and the storage of fireworks, or any other activity listed within the New Jersey Uniform Fire Code for Type 3 Permits.

4. Type IV Permit: Required for hazardous materials such as corrosives, oxidizers, cryogenic liquids, compressed gases, radioactive materials, and flammable liquids when the aggregate quantity of any category stored or handled exceeds the threshold amounts specified in the fire code, or any other activity listed within the New Jersey Uniform Fire Code for Type 4 Permits.

5. Type V Permit: Any activity listed within the New Jersey Uniform Fire Code for Type 5 Permits.

~~b.d.~~ Permits shall be obtained from the Fire Prevention Officer for any of the listed activities or uses.

~~c.e.~~ Permits shall at all times be subject to inspection by the Fire Prevention Officer.

~~d.f.~~ Additional Local Permits Required by the Borough of Sea Girt.

1. The following shall be classified as Local Type I permits in addition to those prescribed within the Uniform Fire Code:

(a) Asphalt (tar) kettles: No person, firm or corporation shall use or fire any asphalt (tar) kettle without first obtaining a permit from the Fire Prevention Officer.

- ~~(b) Liquefied petroleum gas (LPG) or liquefied natural Gas (LNG): A permit shall be obtained from the Fire Prevention Officer for the storage, handling or sale in any occupancy other than residential of liquefied petroleum gas or liquefied natural gas utilizing storage containers with an aggregate water capacity exceeding one gallon or when utilized, or offered as a fuel source for portable cooking, portable heating or flame producing devices or in the transfer or conversion of LPG/LNG process.~~
- ~~(c) Mobile food vendors: When flammable liquids or liquefied petroleum gas are utilized for food preparation or warming.~~
- ~~(d) Flammable or combustible liquids: A permit shall be obtained from the Fire Prevention Officer for the storage or handling of Class II or Class IIIA combustible liquids in closed containers of aggregate amounts of more than five gallons of Class I flammable liquids but less than 25 gallons inside a building, or more than 10 gallons but less than 60 gallons outside a building in above ground containers.~~
- ~~(e) Exceptions:~~
- ~~(1) Fuel oil tanks for heating one and two family dwellings, up to 660 gallons in capacity.~~
- ~~(2) The occasional use of any room in a multi purpose building with a maximum permitted occupancy of less than 100 persons for amusement, entertainment or mercantile purposes.~~
- ~~e.g.~~ Posting of Fire Permits. Fire permits must be posted as per the written instructions of the Fire Prevention Officer. Failure to obtain or post permits or to comply with fire code requirements may subject the violator to fines or other penalties.
- ~~f.h.~~ Inspections. The Fire Prevention Officer may inspect operations covered by the fire code permits. These inspections shall be to determine compliance with the New Jersey Uniform Fire Code.

§ 20-1.5 Permit Fees.

[Ord. No. 10-2010 § 6; Ord. No. 04-2019]

This subsection establishes permit fees in accordance with the New Jersey Uniform Fire Code and any amendments and supplements thereto. The permit fees shall be amended from those set forth in the New Jersey Uniform Fire Code (N.J.A.C. 5:70-1.1 et seq. as allowed by N.J.A.C. 5:71-2.8(b) and in accordance with N.J.A.C. 5:70-2.9(f) as listed below:

- a. Fees for permits as set forth in subsection **20-1.4**, above:

Type Use	Permit Type	Permit Fee
Type I	Fire Code Permit	\$54
Type II	Fire Code Permit	\$214
Type III	Fire Code Permit	\$427
Type IV	Fire Code Permit	\$641
<u>Type V</u>	<u>Fire Code Permit</u>	<u>\$855</u>

Local Permits. Local Permit Type I fee is \$54.

§ 20-1.6 Inspections of Non-Life Hazard Uses.

[Ord. No. 10-2010 § 7]

- a. The Fire Prevention Bureau shall inspect all buildings, structures or premises not listed as life hazard uses (referred hereafter as non-life hazard uses) with the exception of owner-occupied detached one- and two-family dwellings that are used exclusively for residential purposes.
 - 1. Individual dwelling units in multi-family dwellings are also excluded from this inspection program. ~~with the exception of the common egress, storage and mechanical areas of such structures.~~
 - 2. All non-life hazard inspections will be on a periodic cycle but not less than once every 12 months.
- b. Inspections of multiple family dwellings shall include, but not be limited to, common areas, basements, laundry rooms, corridors, vestibules which are accessible to occupants, with the exclusion of the dwelling units therein. The building's owner shall be responsible for payment of all fees.

§ 20-1.7 Registration of Non-Life Hazard Uses.

[Ord. No. 10-2010 § 8]

- a. Annual Registration. Owners of business and/or other uses constituting industrial, commercial, professional services, educational, and other uses not classified as life hazard uses by the Uniform Fire Code and which are required to be inspected herein in accordance with this section and the requirements of the New Jersey Uniform Fire Code shall register annually with the Bureau of Fire Prevention as provided herein.
- b. The owners/tenants of uses required to be registered annually shall so do on the forms provided by the Bureau of Fire Prevention, and shall include, but not be limited to, the following information:
 - 1. The name, address, telephone number of the owner of the property upon or in which the use is located.
 - 2. The name, home address, and home telephone of the owner, operator, or registered agent of the use, if different from the owner of the property.
 - 3. The name, physical location, mailing address, and telephone number of the use or business.
 - 4. The type of use along with a description of the business or activity being conducted.
 - 5. The amount of square footage being utilized or occupied by the use or business.
 - 6. Any other information deemed necessary to identify or classify the use or business.
- c. Change of Ownership/Tenant. If the ownership or tenancy is transferred, whether by sale, assignment, gift, interstate succession, devise, lease, sublet, reorganization, receivership, foreclosure or execution process, the new owner or operator shall file a new registration within 30 days of such a transfer.
- d. Violation. It shall be a violation of this section for the owner or operator of a business or use to fail to return such registration forms within 30 days of being ordered to do so by the Fire Prevention Officer.
- e. Exemptions. Municipal agencies (including joint agencies) shall be exempt from the local registration fees, permit fees, and inspection fees required herein; however, they shall be required to properly apply for such permits and registrations and comply with all other code requirements.

§ 20-1.8 Registration Fees.

[Ord. No. 10-2010 § 9; Ord. No. 04-2019]

- a. In addition to the above inspections and fees required pursuant to the Uniform Fire Safety Act, the following registration and inspection fees shall be paid by the business owner:
 1. For the purpose of this section, all business, mercantile, storage, factory, or industrial uses shall be defined pursuant to the current edition of the International Building Code and New Jersey Uniform Fire Code.
 2. For all uses defined as business under this section wherein there are two or more utilizing common areas or facilities within the building, the owner of the building shall be subject to a fee for the common area.
 3. Fees:

Type Use (Non-Life Hazards)	Structure/Occupant/Size (Square Footage Total)	Required Fees (Per Registration)
Type A	0 — 3,000	\$65
Type B	3,001 — 5,000	\$100
Type C	5,001 and over	\$250
Type D	Common Area	\$75
Type V	Vacant Tenant Space	\$45

4. Where two or more of the same uses or different uses exist at the same building or on the same premises, each use shall be considered as separate and distinct for purpose of this section and shall be registered pursuant thereto, with the exception that, where two or more of the same uses or different uses exist at the same building or on the same premises, all of which are under common ownership, the highest same or different uses shall be registered at full fee with other uses registered at half the scheduled fee per use.
5. All multiple family dwellings whereas herein defined shall be classified as Type D use and shall be subject to registration and fees as set forth herein with the exception that the full fee shall be paid for only one structure, with the remaining structures subject to a fee of half of that set forth for other Type D uses.
6. Where there is a commercial space that is vacant from a tenant greater than six months, inspections shall be scheduled and conducted on a semi-annual basis. Permit fees shall be an annual Type V permit.

§ 20-1.9 Site Plan Review.

[Ord. No. 10-2010 § 10; Ord. No. 04-2019]

- a. The Fire Prevention Officer, in accordance with the New Jersey Uniform Fire Code, shall review any commercial site or major subdivision plan for the purpose of fire prevention, as to the location and size of fire lanes, zones and areas, water mains, drafting locations, fire hydrants, and any other such information as the ~~Sea-Girt~~ Fire Department and/or their designated agents may deem necessary or be required.
- b. Submission of plans to the Bureau shall include any plans submitted to the Planning/Zoning Board for the development, construction or improvement of commercial properties in the Borough.
- c. Said reviews shall include, but not be limited to, any construction or improvement of any use group, as defined in Chapter 3 of the latest edition of the International Building Code adopted by the State of New Jersey, as amended.

- d. Fees for Review. Each applicant shall pay the following fees to the Bureau for review of any site or subdivision plans:

Type	Fees
Major or Commercial site plan	\$250
Major subdivision	\$250
Abridged	\$100
Re-review	\$100, only after the initial application and 1 review of the same has been undertaken.

§ 20-1.10 Fire Zones and Fire Lanes.

[Ord. No. 10-2010 § 11]

- a. Designation of Fire Zones and Fire Lanes.
- Whenever it is deemed necessary for public safety, the Bureau and/or their designated agents may require the owners or operators pursuant to uses identified in subsection **20-1.8**, all life-hazard uses or other similar uses, to designate fire zones at entrances, loading doors or access ways to said premises and fire lanes in driveways leading from the street to the fire zones, as well as drafting locations.
 - The size of the fire zone, fire lanes and/or drafting locations shall be set at the discretion of the Bureau and/or its designated agents based upon the size of property and other such facts as the Bureau deems necessary.
 - A diagram demonstrating the proper manner of painting and lettering of fire zones and fire lanes shall be made available by the Bureau or its designated agents. All line striping and lettering shall be legible at all times.
 - A metal fire zone or fire lane sign shall be provided, erected, and maintained by the owner or operator of the property and shall be placed and directed by the Bureau and/or its designated agents.
 - A diagram of a fire zone or fire lane shall be made available by the Bureau and/or its designated agents.
 - If the Bureau determines that existing fire zone, fire lane and/or drafting location signs have not been properly marked or delineated and/or proper documentation of said markings is not on file, new markings as outlined in this section may be required. All drafting locations hereunder, shall be constructed, designated, and maintained as per the diagram available from the Bureau, as required.
 - Prohibited Activities in Fire Zones and Fire Lanes.
 - No person shall, at any time, park a motor vehicle, locate a garbage dumpster or in any other manner obstruct a fire zone or fire lane, drafting locations of fire area or park within 10 feet of a fire hydrant, whether or not that motor vehicle is occupied or the motor is running. If at any time, due to weather conditions, vandalism or any extenuating circumstances, one of the following fire zone or fire lane signs or fire zone or fire lane surface markings are not visible, the remaining markings or signs visible shall be deemed sufficient to provide notice of existence of such fire zone or fire lane.
 - Towing. The Bureau and/or its designated agents are authorized to tow motor vehicles and remove all obstructions from any fire zone, fire lane, fire area or drafting locations. The Bureau and/or its designated

agents are also authorized to tow motor vehicles and remove obstructions parked or standing within 10 feet of a fire hydrant. All motor vehicles and other obstructions which are removed pursuant to this section may be stored in a storage area approved by the Bureau and/or its designated agents. The cost of removal and storage shall be charged to the owner of the vehicle or other obstruction, and the charge shall be paid prior to release of said vehicle or obstruction. The Bureau and/or its designated agents shall give notice to owner of motor vehicle or obstruction, if the owner can be identified, within 24 hours after removal of the vehicle or obstruction.

- (c) The Fire Prevention Officer and/or designated agents shall have concurrent jurisdiction to enforce the provisions of this section. For any summons issued by the Bureau, said fines shall be dedicated to the Bureau by a shared service agreement for the enforcement of the code, and court costs associated and dedicated to the Sea Girt Municipal Court. The fees are to be reimbursed to the Bureau on a quarterly basis.
- (d) In the event that a fire lane, fire zone, or other designated fire areas has been previously approved and marked accordingly and properly documented as existing, the area shall be deemed having met the intent of the code and prohibited activities shall be subject to the penalties set forth in subsection **20-1.11**, below.

§ 20-1.11 Violations and Penalties.

[Ord. No. 10-2010 § 12]

- a. Anyone who obstructs a fire zone, fire lane, fire area, drafting or pumping station or fire hydrant with a motor vehicle in violation of this section shall be subject to a fine ~~not to exceed~~ of \$150 for each offense.
- b. The owner of a garbage dumpster or other obstruction located in a designated fire zone, fire lane, fire area or drafting/pumping locations within three feet of a fire hydrant, in violation of subsection **20-1.10**, shall be subject to a fine of not more than \$500 per day.
- c. Any person or corporation violating any other provision of this section, failing to comply with any order made pursuant to this section or building in violation of plans and specifications submitted to the Bureau and/or its designated agents and approved pursuant to the terms of this section shall be subject to a fine of not more than \$1,000 per day.
- d. Penalties under the Uniform Fire Code and not otherwise provided for herein are hereby adopted for the purpose of enforcement.

§ 20-1.12 Appeals.

[Ord. No. 10-2010 § 13]

Any owner or operator of a building or property affected by the provisions issued pursuant to the Uniform Fire Code, who shall disagree with the determination of the Bureau, shall have the right of appeal in accordance with N.J.A.C. 5:70-2.19 entitled "Appeals."

§ 20-1.13 Annual Report.

[Ord. No. 10-2010 § 14]

The Bureau shall submit an annual report on or before January 15 of each year and transmitted to the Mayor and Council. It shall contain a summary of all proceedings under this section, with all statistics as the Fire Commissioner and/or the Borough Administrator may wish to include therein. The Fire Commissioner and/or the Fire Prevention Officer shall also recommend any amendments to existing ordinances relating to fire prevention.

20-1.14 Certificate of smoke alarm, carbon monoxide alarm, portable fire extinguisher compliance (CSACMAPFEC).

- a. The fee for any CSACMAPFEC and issuance of a certificate, as required by N.J.A.C. 5:70-2.3, will be indexed to the scheduled inspection date as it relates to the anticipated contract closing date as follows:

Application filed ten (10) or more days before occupancy: \$100.00

Application filed less than ten (10) and more than five (5) days before occupancy: \$150.00

Application filed less than five (5) days and more than two (2) days before occupancy: \$200.00

Application filed less than two (2) days before occupancy: \$250.00

b. Reinspection Fee. A charge of \$50 to cover the cost of a reinspection with such application shall be paid to the Borough at the time the inspection is requested. Each request for a reinspection shall constitute a separate request and require a separate fee.

c. This fee will also be charged for failure to maintain the scheduled appointment or entry to the structure. The Fire Prevention Bureau will make every attempt to schedule the inspections in a timely manner in order to avoid any escalation of these fees.

§ 20-2 ADDITIONAL DUTIES OF THE BUREAU OF FIRE PREVENTION.

§ 20-2.1 Investigation of Fires.

[New]

The Bureau of Fire Prevention, through its officers, shall, in conjunction and consultation with the Chief of the Fire Department, investigate the cause, origin and circumstance of every fire occurring in the Borough by which property has been destroyed or damaged and, so far as possible, shall determine if the fire is the result of either carelessness or design. Such investigations shall be begun immediately upon the occurrence of a fire by the ~~Assistant Bureau~~, and if it appears to the officer making the investigation that a fire is of suspicious origin, the ~~Chief Inspector~~ Fire Prevention Officer of the Bureau of Fire Prevention shall be immediately notified of the fact; he shall take charge immediately of the physical evidence, shall notify the proper authorities designated by law to pursue the investigation of such matters, and shall further cooperate with the authorities in the collection of evidence and in the prosecution of the case. Every fire shall be reported in writing to the Bureau of Fire Prevention within two days after the occurrence of same by the ~~Chief Inspector~~ Fire Prevention Officer. Such report shall be in such form as shall be prescribed by ~~the Fire Commissioner~~ the National Fire Prevention Association Guide for Fire and Explosion Investigations, and shall contain a statement of all facts relating to the ~~cause~~, origin, cause, and circumstance of such fire, the extent of the damage, and the insurance upon such property, and such other information as may be required.

§ 20-2.2 Inspection of Buildings and Premises; Fire Hazards; Violations.

[New]

- a. It shall be the duty of ~~the Fire Commissioner to inspect or cause to be inspected by the~~ Bureau of Fire Prevention ~~or by the Fire Department officers and members~~, as often as may be necessary, all buildings, premises, basements and hallways of apartment houses, boardinghouses, vacant lots and public thoroughfares except the interiors of private dwellings for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire, or any violations of the provisions of any ordinance of the Borough affecting the fire hazard.
- b. The owner of vacant lots shall keep same free of rubbish and ~~inflammable~~ material where same may be considered a fire hazard.
- c. Whenever any Inspector, as defined above, shall find in any building or upon any premises or other place combustible or explosive matter or dangerous accumulation of rubbish or unnecessary accumulation of wastepaper, boxes, shavings or any highly inflammable materials especially liable to fire, and which is situated as to endanger property, or shall find obstructions to or on fire escapes, stairs, passageways, doors or windows liable to interfere with the operations of the Fire Department or egress of occupants in case of fire, he shall order same to be removed or remedied, and such order shall forthwith be complied with by the owner or occupant of such premises or buildings, subject to appeal within 24 hours to the ~~Fire Commissioner~~ Monmouth County Board of Appeals, as provided in subsection **20-2.3** of this chapter.

- d. Any owner or occupant failing to comply with such order within a reasonable period after the service of the order shall be liable to a penalty as hereinafter provided.
- e. Service of any such order may be made in accordance with N.J.A.C. 5:70-2.11 Service of Notice and Orders upon the occupant of the premises to whom it is directed, either by delivering a copy of same to such occupant personally or by delivering the same to and leaving it with any person in charge or in occupation of the premises; or in case no person is found upon the premises, by affixing a copy thereof in a conspicuous place on the door to the entrance of the premises. When it may be necessary to serve such an order upon the owner of the premises, such order may be served either by delivering to and leaving with the person a copy of the order, or if such owner is absent from the Borough, by mailing such copy to the owner's last known post office address.

§ 20-2.3 Inspections Upon Complaints; Order to Remove.

[New]

The Inspectors of the Bureau of Fire Prevention, under the direction of the Fire Commissioner, upon the complaint of any person or whenever he or they shall deem it necessary, shall inspect all buildings and premises. Whenever any of the officers shall find any building or other structure which, for want of repairs, lack of or insufficient fire escapes, automatic or other fire alarm apparatus or fire extinguishing equipment, or by reason of age or dilapidated condition or from any other cause, is especially liable to fire, and which is so situated as to endanger other property or the occupants thereof, and whenever such officer shall find in any building combustible or explosive matter or inflammable conditions dangerous to the safety of such buildings or the occupants thereof, he or they shall order such dangerous conditions or materials to be removed or remedied, and such order shall forthwith be complied with by the, owner or occupant of such premises or buildings. If such order is made by the Chief Inspector or his Assistant Inspector, such owner or occupant may, within 24 hours, appeal to the Fire Commissioner, who shall, within five days, review such order and file his decision thereon, and unless by his authority the order is revoked or modified, it shall remain in full force and be complied with within the time fixed in the order or in the decision of the Fire Commissioner relating thereto.

§ 20-2.4 Power to Enter Buildings at Reasonable Hours.

[New]

The Chief Inspector or Assistant Inspector Fire Prevention Bureau may, at all reasonable hours, enter any building or premises within his jurisdiction for the purpose of making an inspection or investigation which, under the provisions of this section, he or they may deem necessary to be made.

§ 20-2.5 Annual Report.

[New]

The annual report of the Bureau of Fire Prevention shall be made on or before January 15 of each year and transmitted to the Mayor and Council of the Borough. It shall contain a summary of all proceedings under this section, with such statistics as the Fire Commissioner may wish to include therein. The Fire Commissioner shall also recommend any amendments to existing ordinances relating to fire prevention which, in his judgment, shall be desirable.

§ 20-3 (RESERVED)

[History includes Ord. No. 329, AIII § 6, deleted by Ord. No. 04-2019]

§ 20-4 KEY BOXES.

[Ord. No. 10-2015]

- a. Purpose and Intent. The purpose and intent of these regulations are to require the provision of key boxes for the mutual benefit of property owners and fire personnel responding to fire related alarms, to prevent damage through forceful entry to structures, and to provide swift entry into structures by the Fire Department in the event of a fire alarm. The Borough of Sea Girt also wishes to encourage voluntary compliance by those not required to comply with these regulations, persons doing so will be required to comply with the regulations set forth herein.

- b. Definitions. Terms not defined shall have their usual and customary meanings, unless a different meaning clearly appears from the context. The following terms whenever used or referred to in this section shall have the following respective meanings, unless a different meaning clearly appears from the context:

FIRE ALARM SYSTEM

Shall be defined as to include, but is not limited to; any and all device or devices which provide fire; and/or smoke; and/or heat detection; and/or carbon monoxide detection and in response to detecting the same activates an alarm and/or sprinkler, and/or extinguishing system.

KEYS

Shall be defined as key, and/or combination codes, and/or any other such entry devices or equipment which may be necessary for access.

- c. All properties within the Borough of Sea Girt having a fire alarm system shall be equipped with a key box. This requirement shall not apply to owner-occupied one and two family properties.
- d. The key box shall be of an Underwriters' Listed ("UL") type and shall be approved by the Bureau of Fire Prevention, Fire Prevention Officer. The key box shall be installed in a location approved by the Bureau of Fire Prevention, Fire Prevention Officer.
- e. Key Box Contents. Key boxes may be required to contain any or all of the following, as shall be determined by the Fire Prevention Officer:
1. Keys to all locked points of ingress and/or egress, whether interior or exterior of such structures;
 2. Keys to all locked mechanical rooms;
 3. Keys to all elevator controls;
 4. Keys to all locked elevator rooms;
 5. Keys to all fence or secured areas;
 6. Keys to all other areas which may be needed to conduct a thorough and complete fire alarm system activation investigation;
 7. A floor plan of all rooms within the structure;
 8. All access or combination codes to locked points of egress or ingress, whether interior or exterior of such structures.
- f. Time for Compliance. All existing structures shall comply with this section within six months of its effective date. All newly constructed structures for which a certificate of occupancy has not been issued, or structures currently under construction, shall comply immediately.
- g. Associated Costs. All associated costs for the purchase and installation of a key box(s) shall be assumed by the property owner.
- h. It shall be a violation of this section for any person, except for the property owner or his authorized representative and/or fire personnel, to access or alter a key box or its contents.
- i. Violations — Penalties. Every person violating the provisions of this section shall upon conviction thereof, be subject to a fine of \$250 plus costs. The property owner shall have 10 calendar days, from the date of issuance of a violation, to remedy the violation, if the violation is remedied in this time frame the property

owner shall only be subject to a fine of \$250 plus costs. If the violation is not remedied in this time frame the property owner shall be subject to a fine of \$250 plus costs, plus an additional fine of \$50 per day, calculated from the date of the violation, and continuing until the violation is remedied.

20-5 FIREWATCH/FIRE STAND BY.

- a. Whenever the Fire Official or designated Fire Inspector shall determine that on-site fire inspector(s) or firefighting personnel shall be required for fire watch as a result of fire protection system failure or deficiencies. Or fire safety at any occupancy or event to insure the safety of the public or emergency responders, the owner or occupant responsible shall obtain a permit for the use or event.
- b. The Fire Official or designated Fire Inspector shall determine the number of inspectors and/or firefighting personnel required.
- c. The Fire Official or designated Fire Inspector shall determine the hours that the fire inspector(s) and/or firefighting personnel will be on duty.
- d. The permit fee shall cover the expenses incurred by the Bureau of Fire Prevention and the Borough.
- e. The fee for the permit shall include:
 1. Compensation for fire personnel at \$35 per hour Monday through Friday 7:00 a.m. to 3:00 p.m., \$50 per hour for holidays, Saturdays, Sundays, and from 3:00 p.m. to 7:00 a.m. weekdays.
 2. Reimbursement rates for other related services, equipment, or expenses shall be provided to the owner by the Fire Official or designated Fire Inspector prior to the scheduled use or event.
 3. The Fire Official or designee(s) shall have the right of access to the premises and area surrounding it without interference from the property owner.
 4. Failure to secure a permit shall be punishable by a penalty equal to the amount of the permit plus \$100 for the first offense, amount of the permit plus \$250 for the second offense, amount of the permit plus \$500 for the third and each subsequent offense.
 5. A permit shall be required for each separate event or date of the activity requiring such a permit.
 6. Any occupancy or event requiring fire apparatus and firefighting personnel on site to insure the safety of the public and/or other occupants, and/or to insure the safety of any building and/or exposures shall reimburse the appropriate fire district. Fees shall be \$150 per required fire apparatus unit per occurrence and \$25 per hour per firefighter manning apparatus.

UPON MOTION of Councilman Downey, seconded by Councilman Zakin, carried, that the meeting be opened to the public for comments on the said Ordinance only. There were no comments from the public and **UPON MOTION** of Councilman Perry, seconded by Councilwoman Richman, carried, the public hearing was closed. **UPON MOTION** of Councilwoman Richman, seconded by Councilman Zakin, carried, that the said Ordinance No. 08-2024 be adopted on final reading, directing the Clerk to post and publish as required by law.

Recorded Vote:

	AYES	NAYS	ABSENT	ABSTAIN
Council President Anthony	X			
Councilwoman DiFeo	X			
Councilman Downey	X			
Councilman Perry	X			
Councilwoman Richman	X			

Councilman Zakin	X			
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6. NEW BUSINESS:

- a. ORDINANCE NO. 09-2024:** The Mayor to read the said Ordinance by Title:

**AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER VII, TRAFFIC,
ARTICLE 7-39.1, HANDICAPPED PARKING ON STREET OF THE BOROUGH CODE
OF THE BOROUGH OF SEA GIRT**

Double underline – amended

Single underline – added

WHEREAS, the Borough Council of the Borough of Sea Girt has determined that the designation of a handicapped parking spot on Ocean Avenue near Beacon Boulevard and Seaside Place is necessary to preserve and protect the safety and well-being of the general public.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Borough of Sea Girt as follows:

SECTION 2. Article 7-39 HANDICAPPED PARKING, is hereby amended and supplemented as follows:

7-39.1 Handicapped Parking on Streets.

In accordance with the provisions of N.J.S.A. 39:4-197, the following on street locations are designated as handicapped parking places. Such spaces are for use by persons who have been issued special identification cards or plates or placards by the Motor Vehicle Commission, or a temporary placard issued by the Chief of Police. No other person shall be permitted to park in these spaces. (Ord. No. 567; Ord. No. 861; Ord. No. 13-2010 § 2)

Ocean Avenue	East	1	Beginning at a point 25 feet south of the southern crosswalk marking of Beacon Boulevard and extending to a point 11 feet south thereof, angle parking
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<u>Seaside Place</u>	<u>West</u>	1	<u>Beginning at a point 25 feet west of the western marking of First Avenue and extending to a point 22 feet west thereof, parallel parking</u>
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SECTION 3. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 4. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

UPON MOTION of Councilman Perry, seconded by Councilman Downey, carried, that the said Ordinance No. 09-2024 be adopted on first reading, directing the Clerk to post and publish as required by law and setting the date for the public hearing on April 10, 2024.

Recorded Vote:

	AYES	NAYS	ABSENT	ABSTAIN
Councilwoman DiFeo	X			
Councilman Perry	X			
Councilman Zakin	X			
Council President Anthony	X			
Councilman Downey	X			
Councilwoman Richman	X			

b. ORDINANCE NO. 10-2024: The Mayor to read to read the said Ordinance by title:

AN ORDINANCE TO AMEND AND SUPPLEMENT SECTIONS 9-1.2 (j), BATH HOUSES; 9-5.1 KAYAK STORAGE, 9-6.1, AND 9-7 BEACH BOXES FEES AND REGULATIONS FOR STORAGE BOXES OF CHAPTER IX OF THE BOROUGH CODE OF THE BOROUGH OF SEA GIRT ENTITLED “BEACHES AND BOARDWALK

Double underline – amended

Single underline – added

Section 1. Section 9-1.2 (j) entitled *Bath Houses* of Chapter IX, “Beaches and Boardwalks” is hereby amended as follows: The fee for bathhouses shall be set by resolution for the season and includes five (5) adult season badges.

Section 2. Section 9-5.1 entitled *Pavilion Kayak Storage, Fees and Regulations* of Chapter IX, “Beaches and Boardwalk” is hereby amended as follows: The annual seasonal fee for the use of each storage unit shall be established by resolution of the Borough Council for the period starting Memorial Day to one week after Labor Day.

Section 4. Section 9-6.1 entitled *Fees and Regulations for Pavilion Storage Boxes* of Chapter IX, “Beaches and Boardwalk” is hereby amended as follows: The annual seasonal rental for the use of such storage units shall be established by resolution of the Borough Council for the period from the Saturday of Memorial Day weekend to the Saturday after Labor Day.

Section 5. Section 9-7. entitled *Beach Box Fees and Regulations for Beach Boxes* of Chapter IX “Beaches and Boardwalk is hereby supplemented as follows: The annual season rental for the use of such storage units shall be established by resolution for the Borough Council payable in advance for the period from the Saturday of Memorial Day weekend to the Saturday after Labor Day.

Section 6. This Ordinance shall take effect twenty (20) days after adoption and final publication as required by law.

UPON MOTION of Councilman Downey, seconded by Councilman Perry, carried, that the said Ordinance No. 10-2024 be adopted on first reading, directing the Clerk to post and publish as required by law and setting the date for the public hearing on April 10, 2024.

Recorded Vote:

	AYES	NAYS	ABSENT	ABSTAIN
Councilwoman DiFeo	X			
Councilman Perry	X			
Councilman Zakin	X			
Council President Anthony	X			
Councilman Downey	X			
Councilwoman Richman	X			

c. **ORDINANCE NO. 11-2024:** They Mayor to read the said Ordinance by title:

**AN ORDINANCE AMENDING CHAPTER IX, BEACHES, BOARDWALK AND DUNES,
SECTION 9-1.2, RULES AND REGULATIONS OF THE BOROUGH CODE OF THE
BOROUGH OF SEA GIRT, MONMOUTH COUNTY, NEW JERSEY**

WHEREAS, Chapter IX, Beaches, Boardwalk and Dunes of the Borough Code governs beach regulations in the Borough of Sea Girt; and,

WHEREAS, the following sections of Chapter IX are amended with additions reflected in **bold underline**;

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Borough Council of the Borough of Sea Girt in the County of Monmouth and State of New Jersey as follows:

Section 1. Section 9-1.2 is hereby supplemented as follows:

cc: **No person shall dig holes in the sand deeper than knees of the smallest participant, not to exceed 12” deep.**

Persons that dig a hole shall not leave the hole unattended. Persons shall fill the hole before leaving the area of the hole.

“Burying” persons below grade or in standing position is prohibited.

Section 3. Repeal, Severability.

a. All ordinances or parts of ordinances inconsistent herewith are repealed, but only to the extent of such inconsistency.

b. If any section, paragraph, subparagraph, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subparagraph, clause or provision so adjudged and the remainder of this ordinance shall be deemed valid and effective.

Section 4. Effective Date

This Ordinance shall take effect immediately upon its final passage and publication as required by law.

UPON MOTION of Councilman Downey, seconded by Councilman Perry, carried, that the said Ordinance No. 11-2024 be adopted on first reading, directing the Clerk to post and publish as required by law and setting the date for the public hearing on April 10, 2024.

Recorded Vote:

	AYES	NAYS	ABSENT	ABSTAIN
Councilwoman DiFeo	X			
Councilman Perry	X			
Councilman Zakin	X			
Council President Anthony	X			
Councilman Downey	X			
Councilwoman Richman	X			

- d. **ORDINANCE NO. 12-2024:** They Mayor to read the said Ordinance by title:

AN ORDINANCE TO REVISE THE BOROUGH CODE OF SEA GIRT, CHAPTER XVII, SECTION 17-11 ET SEQ, THAT ESTABLISHED MINIMUM STORMWATER MANAGEMENT REQUIREMENTS AND CONTROLS FOR MAJOR DEVELOPMENT, REPLACING IT IN ITS ENTIRETY IN THE BOROUGH OF SEA GIRT, MONMOUTH COUNTY

Section I. Scope and Purpose:

A. Policy Statement

Flood control, groundwater recharge, and pollutant reduction shall be achieved through the use of stormwater management measures, including green infrastructure Best Management Practices (GI BMPs) and nonstructural stormwater management strategies. GI BMPs should be utilized to meet the goal of maintaining natural hydrology to reduce stormwater runoff volume, reduce erosion, encourage infiltration and groundwater recharge, and reduce pollution. GI BMPs should be developed based upon physical site conditions and the origin, nature and the anticipated quantity, or amount, of potential pollutants. Multiple stormwater management BMPs may be necessary to achieve the established performance standards for green infrastructure, water quality, quantity, and groundwater recharge.

B. Purpose

The purpose of this ordinance is to establish minimum stormwater management requirements and controls for “major development,” as defined below in Section II.

C. Applicability

1. This ordinance shall be applicable to the following major developments:
 - i. Non-residential major developments and redevelopment projects; and
 - ii. Aspects of residential major developments and redevelopment projects that are not preempted by the Residential Site Improvement Standards at N.J.A.C. 5:21 et seq.
2. This ordinance shall also be applicable to all major developments undertaken by Borough of Sea Girt.
3. Applicability of this ordinance to major developments shall comply with last amended N.J.A.C. 7:8-1.6, incorporated herein by reference.

D. Compatibility with Other Permit and Ordinance Requirements

Development approvals issued pursuant to this ordinance are to be considered an integral part of development approvals and do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act, or ordinance. In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.

This ordinance is not intended to interfere with, abrogate, or annul any other ordinances, rule or regulation, statute, or other provision of law except that, where any provision of this ordinance imposes restrictions different from those imposed by any

other ordinance, rule or regulation, or other provision of law, the more restrictive provisions or higher standards shall control.

Section II. Definitions:

For the purpose of this ordinance, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this ordinance 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. The definitions used in this ordinance shall be the same as the last amended Stormwater Management Rules at N.J.A.C. 7:8-1.2, incorporated herein by reference.

Section III. Design and Performance Standards for Stormwater Management Measures:

This section establishes design and performance standards for stormwater management measures for major development intended to minimize the adverse impact of stormwater runoff on water quality and water quantity and loss of groundwater recharge in receiving water bodies. Design and performance standards for stormwater management measures shall comply with last amended N.J.A.C. 7:8-5, incorporated herein by reference.

Section IV. Solids and Floatable Materials Control Standards:

A. Site design features identified under Section III above, or alternative designs in accordance with Section III above, to prevent discharge of trash and debris from drainage systems shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this paragraph, "solid and floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see Section IV.A.2 below.

1. Design engineers shall use one of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:
 - i. The New Jersey Department of Transportation (NJDOT) bicycle safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines; or
 - ii. A different grate, if each individual clear space in that grate has an area of no more than seven (7.0) square inches, or is no greater than 0.5 inches across the smallest dimension. Note that the Residential Site Improvement Standards at N.J.A.C. 5:21 include requirements for bicycle safe grates.

Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb-opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater system floors used to collect stormwater from the surface into a storm drain or surface water body.

- iii. For curb-opening inlets, including curb-opening inlets in combination inlets, the clear space in that curb opening, or each individual clear space if the curb opening has two or

more clear spaces, shall have an area of no more than seven (7.0) square inches, or be no greater than two (2.0) inches across the smallest dimension.

2. The standard in IV.A.1. above does not apply:

- i. Where each individual clear space in the curb opening in existing curb-opening inlet does not have an area of more than nine (9.0) square inches;
- ii. Where the municipality agrees that the standards would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets;
- iii. Where flows from the water quality design storm as specified in the last amended Stormwater Management rules at N.J.A.C. 7:8 et seq. are conveyed through any device (e.g., end of pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:
 - a. A rectangular space four and five-eighths (4.625) inches long and one and one-half (1.5) inches wide (this option does not apply for outfall netting facilities); or
 - b. A bar screen having a bar spacing of 0.5 inches.

Note that these exemptions do not authorize any infringement of requirements in the Residential Site Improvement Standards for bicycle safe grates in new residential development (N.J.A.C. 5:21-4.18(b)2 and 7.4(b)1).

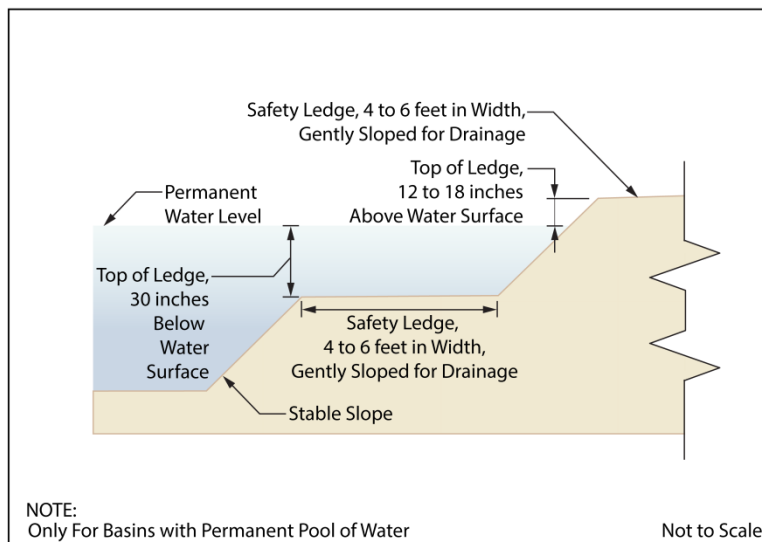
- iv. Where flows are conveyed through a trash rack that has parallel bars with one-inch (1 inch) spacing between the bars, to the elevation of the Water Quality Design Storm as specified in N.J.A.C. 7:8; or
- v. Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.

Section V. Safety Standards for Stormwater Management Basins:

A. This section sets forth requirements to protect public safety through the proper design and operation of stormwater management basins. This section applies to any new stormwater management basin. Safety standards for stormwater management measures shall comply with last amended N.J.A.C. 7:8-6, incorporated herein by reference.

B. Safety Ledge Illustration

Elevation View –Basin Safety Ledge Configuration:



Section VI. Requirements for a Site Development Stormwater Plan:

A. Submission of Site Development Stormwater Plan

1. Whenever an applicant seeks municipal approval of a development subject to this ordinance, the applicant shall submit all of the required components of the Checklist for the Site Development Stormwater Plan at Section VI.C below as part of the submission of the application for approval.
2. The applicant shall demonstrate that the project meets the standards set forth in this ordinance.
3. The applicant shall submit **eight (8)** copies of the materials listed in the checklist for site development stormwater plans in accordance with Section VI.C of this ordinance.

B. Site Development Stormwater Plan Approval

The applicant's Site Development project shall be reviewed as a part of the review process by the municipal board or official from which municipal approval is sought. That municipal board or official shall consult the municipality's review engineer to determine if all of the checklist requirements have been satisfied and to determine if the project meets the standards set forth in this ordinance.

C. Submission of Site Development Stormwater Plan

The following information shall be required:

1. Topographic Base Map

The reviewing engineer may require upstream tributary drainage system information as necessary. It is recommended that the topographic base map of the site be submitted which extends a minimum of 200 feet beyond the limits of the proposed development, at a scale of 1"=200' or greater, showing 2-foot contour intervals. The map as appropriate may indicate the following: existing surface water drainage, shorelines, steep slopes, soils, erodible soils, perennial or intermittent streams that drain into or upstream of the Category One waters, wetlands and flood plains along with their appropriate buffer strips, marshlands and other wetlands, pervious or vegetative surfaces, existing man-made structures, roads, bearing and

distances of property lines, and significant natural and manmade features not otherwise shown.

2. Environmental Site Analysis

A written and graphic description of the natural and man-made features of the site and its surroundings should be submitted. This description should include a discussion of soil conditions, slopes, wetlands, waterways and vegetation on the site. Particular attention should be given to unique, unusual, or environmentally sensitive features and to those that provide particular opportunities or constraints for development.

3. Project Description and Site Plans

A map (or maps) at the scale of the topographical base map indicating the location of existing and proposed buildings roads, parking areas, utilities, structural facilities for stormwater management and sediment control, and other permanent structures. The map(s) shall also clearly show areas where alterations will occur in the natural terrain and cover, including lawns and other landscaping, and seasonal high groundwater elevations. A written description of the site plan and justification for proposed changes in natural conditions shall also be provided.

4. Land Use Planning and Source Control Plan

This plan shall provide a demonstration of how the goals and standards of Section III is being met. The focus of this plan shall be to describe how the site is being developed to meet the objective of controlling groundwater recharge, stormwater quality and stormwater quantity problems at the source by land management and source controls whenever possible.

5. Stormwater Management Facilities Map

The following information, illustrated on a map of the same scale as the topographic base map, shall be included:

- i. Total area to be disturbed, paved or built upon, proposed surface contours, land area to be occupied by the stormwater management facilities and the type of vegetation thereon, and details of the proposed plan to control and dispose of stormwater.
- ii. Details of all stormwater management facility designs, during and after construction, including discharge provisions, discharge capacity for each outlet at different levels of detention and emergency spillway provisions with maximum discharge capacity of each spillway.

6. Calculations

- i. Comprehensive hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in Section III of this ordinance.
- ii. When the proposed stormwater management control measures depend on the hydrologic properties of soils or require certain separation from the seasonal high-water table, then a soils report shall be submitted. The soils report shall be based on onsite boring logs or soil pit profiles. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soils present at the location of the control measure.

7. Maintenance and Repair Plan

The design and planning of the stormwater management facility shall meet the maintenance requirements of Section VII.

8. Waiver from Submission Requirements

The municipal official or board reviewing an application under this ordinance may, in consultation with the municipality's review engineer, waive submission of any of the requirements in Section VI.C.1 through VI.C.6 of this ordinance when it can be demonstrated that the information requested is impossible to obtain or it would create a hardship on the applicant to obtain and its absence will not materially affect the review process.

Section VII. Maintenance and Repair:

A. Applicability

Projects subject to review as in Section I.C of this ordinance shall comply with the requirements of Section VII.B and VII.C.

B. General Maintenance

1. Maintenance for stormwater management measures shall comply with last amended N.J.A.C. 7:8-5.8, incorporated herein by reference.
2. The following requirements of N.J.A.C. 7:8-5.8 do not apply to stormwater management facilities that are dedicated to and accepted by the municipality or another governmental agency, subject to all applicable municipal stormwater general permit conditions, as issued by the Department:
 - i. If the maintenance plan identifies a person other than the property owner (for example, a developer, a public agency or homeowners' association) as having the responsibility for maintenance, the plan shall include documentation of such person's or entity's agreement to assume this responsibility, or of the owner's obligation to dedicate a stormwater management facility to such person under an applicable ordinance or regulation; and
 - ii. Responsibility for maintenance shall not be assigned or transferred to the owner or tenant of an individual property in a residential development or project, unless such owner or tenant owns or leases the entire residential development or project. The individual property owner may be assigned incidental tasks, such as weeding of a green infrastructure BMP, provided the individual agrees to assume these tasks; however, the individual cannot be legally responsible for all of the maintenance required.
3. In the event that the stormwater management facility becomes a danger to public safety or public health, or if it is in need of maintenance or repair, the municipality shall so notify the responsible person in writing. Upon receipt of that notice, the responsible person shall have fourteen (14) days to effect maintenance and repair of the facility in a manner that is approved by the municipal engineer or his designee. The municipality, in its discretion, may extend the time allowed for effecting maintenance and repair for good cause. If the responsible person fails or refuses to perform such maintenance and repair, the municipality or County may immediately proceed to do so and shall bill the cost thereof to the responsible person. Nonpayment of such bill may result in a lien on the property.

- C. Nothing in this subsection shall preclude the municipality in which the major development is located from requiring the posting of a performance or maintenance guarantee in accordance with N.J.S.A. 40:55D-53.

Section VIII. Penalties:

Any person(s) who erects, constructs, alters, repairs, converts, maintains, or uses any building, structure or land in violation of this ordinance shall be subject to the **penalties stated in Section 15-6, Land Use Volume General Penalty.**

Section IX. Severability:

Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this Ordinance.

Section X. Effective Date:

This Ordinance shall be in full force and effect from and after its adoption and any publication as required by law.

UPON MOTION of Councilman Downey, seconded by Councilman Perry, carried, that the said Ordinance No. 12-2024 be adopted on first reading, directing the Clerk to post and publish as required by law and setting the date for the public hearing on April 10, 2024.

Recorded Vote:

	AYES	NAYS	ABSENT	ABSTAIN
Councilwoman DiFeo	X			
Councilman Perry	X			
Councilman Zakin	X			
Council President Anthony	X			
Councilman Downey	X			
Councilwoman Richman	X			

- e. **ORDINANCE NO. 13-2024:** They Mayor to read the said Ordinance by title:

GENERAL CAPITAL ORDINANCE PROVIDING FOR THE EMERGENCY REPLACEMENT OF THE NEPTUNE PLACE OUTFALL PIPE IN AND BY THE BOROUGH OF SEA GIRT, IN THE COUNTY OF MONMOUTH, NEW JERSEY, AND APPROPRIATING \$350,000.00

WHEREAS, the Mayor and Council of the Borough of Sea Girt in the County of Monmouth, New Jersey have determined that the Outfall Pipe located on the Neptune Place Beach is in need of emergency replacement; and

WHEREAS, the Borough has in excess of \$350,000.00 in its General Capital Improvement Fund; and
NOW,

THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Sea Girt, in the County of Monmouth, State of New Jersey, as follows: Section 1. The improvements described in Section 2 of this ordinance are hereby authorized as general capital improvement to be undertaken in and by the Borough of Sea Girt, in the County of Monmouth, New Jersey. For the improvements or purposes described in Section 2,

there is hereby appropriated \$350,000.00, said sum being inclusive of \$350,000.00 from the General Capital Improvement Fund. Section 2. The improvement hereby authorized to be undertaken consist of the emergency replacement of the Neptune Place Outfall Pipe, together with all purposes necessary, incidental or appurtenant thereto, all as shown on and in accordance with contracts, plans, specifications or requisitions therefore on file with or through the Borough Clerk, as finally approved by the governing body of the Borough. Section 3. The 2024 capital budget of the Borough will conform with the provisions of this ordinance to the extent of any inconsistency herewith. The resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director of the Division of Local Government Services is on file with the Borough Clerk and is available there for public inspection. Section 4. The Borough Officials and representatives are hereby authorized to do all things necessary to accomplish the purpose of the appropriation made herein. Section 5. This ordinance shall take effect as provided by law

UPON MOTION of Councilwoman Richman, seconded by Councilman Perry, carried, that the said Ordinance No. 13-2024 be adopted on first reading, directing the Clerk to post and publish as required by law and setting the date for the public hearing on April 10, 2024.

Recorded Vote:

	AYES	NAYS	ABSENT	ABSTAIN
Councilwoman DiFeo	X			
Councilman Perry	X			
Councilman Zakin	X			
Council President Anthony	X			
Councilman Downey	X			
Councilwoman Richman	X			

**• R-64-2024: Authorize Endorsement of Housing Plan Element and Fair Share Plan
Approved by The Borough of Sea Girt Planning Board**

UPON MOTION of Councilman Zakin, seconded by Councilwoman Richman, carried, that the following Resolution be and the same is hereby adopted:

WHEREAS, the Borough was the subject of a Mount Laurel exclusionary zoning suit filed in the Superior Court of New Jersey entitled 501 Washington Blvd, LLC, 503 Washington Blvd., LLC, Sea Girt Fifth Avenue LLC, Sitco Sea Girt, LLC v. Borough of Sea Girt, Borough Council of Sea Girt, and Sea Girt Planning Board, (the plaintiffs shall be collectively referred to as the “Developer”), Docket No. MON-L-000102-20, seeking to compel the Borough to provide a realistic opportunity for the construction of housing affordable to low and moderate-income households and their fair share of the housing region’s need for such housing, (“Builder’s Remedy Action”); and

WHEREAS, the Borough instituted a declaratory judgment action entitled In the Matter of the Application of the Borough of Sea Girt, Superior Court of New Jersey, Law Division-Monmouth County, Docket No. L-2312-2020 (the “D/J Action”) wherein the Borough sought a declaration as to its affordable housing obligation and the opportunity to develop a plan to meet its constitutional obligation to provide for its fair share of affordable housing; and

WHEREAS, the Borough and the Borough Planning Board entered into a Settlement Agreement with the Developer in the Builder’s Remedy Action and the Court approved the Settlement Agreement after conducting a Fairness Hearing on June 3, 2021 finding it fair, reasonable and adequately protecting the interests of very low, low and moderate-income households in the region; and

WHEREAS, the Borough and Fair Share Housing Center entered into a Settlement Agreement of the D/J Action and the Court entered an Order approving the Settlement Agreement on October 3, 2023; and

WHEREAS, the court order approving the Borough’s Settlement with Fair Share Housing Center requires the Borough to endorse the Housing Plan Element and Fair Share Plan approved by the Borough of Sea Girt Land Use Board on November 15, 2024; and

WHEREAS, the Borough Council of the Borough of Sea Girt, County of Monmouth, State of New Jersey finds it is in the best interest of the Borough to comply with the Settlement Agreement through the action of endorsing the Housing Plan Element and Fair Shae Plan approved by the Sea Girt Planning Board to obtain a Final Judgment of Compliance and Repose protecting the Borough from builder’s remedy litigation until July 1, 2025;

NOW, THEREFORE BE IT RESOLVED, that the Mayor and Council of the Borough, of Sea Girt, County of Monmouth, State of New Jersey, that it hereby that it hereby endorses the Housing Plan Element and Fair Share Plan prepared by Jennifer C. Beahm, PP, AICP dated October 2023.

Recorded Vote:

	AYES	NAYS	ABSENT	ABSTAIN
Councilwoman DiFeo	X			
Councilman Perry	X			
Councilman Zakin	X			
Council President Anthony	X			
Councilman Downey	X			
Councilwoman Richman	X			

• **R-65-2024: Authorize to Set 2024 Beach Fees**

UPON MOTION of Councilman Downey, seconded by Council President Anthony, carried, that the following Resolution be and the same is hereby adopted:

WHEREAS, the Borough of Sea Girt wishes to set the beach season fees and the season schedule for 2024.

NOW THEREFORE BE IT RESOLVED, by the Council of the Borough of Sea Girt that the season schedule and fees for beach access be enacted for the 2024 Beach Season, said season to commence on May 25, 2024 through September 4, 2024, inclusive.

2024 Fees

Bath House (including five (5) adult season badges)	\$1,350.00
Pavilion Kayak Storage	\$ 250.00
Pavilion Storage Boxes	\$ 250.00
<i>New - Beach Boxes</i>	
<i>(Prerequisite: to purchase Beach Boxes you must also purchase 4 season badges)</i>	\$ 500.00

Recorded Vote:

	AYES	NAYS	ABSENT	ABSTAIN
Councilwoman DiFeo	X			
Councilman Perry	X			
Councilman Zakin	X			
Council President Anthony	X			
Councilman Downey	X			
Councilwoman Richman	X			

- **R-66-2024: Authorize the Emergency Repairs of The Neptune Place Outfall Pipe**

UPON MOTION of Councilwoman Richman, seconded by Councilman Downey, carried, that the following Resolution be and the same is hereby adopted:

WHEREAS, an emergency exists due to a deteriorated outfall pipe located on the Sea Girt beach at Neptune Place which will cause sink holes on the beach in the Borough of Sea; and

WHEREAS, pursuant to N.J.S.A.40A:11-6 a contract may be negotiated or awarded for a contracting unit without public advertising or solicitation of quotes therefor, when an emergency affecting the public and/or employee health, safety or welfare requires the immediate delivery of goods or the performance of services; and

WHEREAS, immediate action is required for the replacement of the Neptune Place outfall pipe; and

WHEREAS, the Borough of Sea Girt, pursuant to N.J.S.A. 40A:11-6 permits the authorization of an emergency purchase without prior consent by the governing body; and

NOW THEREFORE BE IT RESOLVED, the Borough of Sea Girt, in compliance with all Local Public Contract Laws, emergency purchase provisions, does hereby approve the issuance of a purchase order in the amount of \$270,546.00 to Precise Construction for the emergency replacement of the Neptune Place outfall pipe for the Borough of Sea Girt

Recorded Vote:

	AYES	NAYS	ABSENT	ABSTAIN
Councilwoman DiFeo	X			
Councilman Perry	X			
Councilman Zakin	X			
Council President Anthony	X			
Councilman Downey	X			
Councilwoman Richman	X			

- **R-67-2024: 2024 Amended Temporary Capital Budget**

UPON MOTION of Councilman Zakin, seconded by Councilwoman Richman, carried, that the following Resolution be and the same is hereby adopted:

WHEREAS, the 2024 Capital Budget of the Borough of Sea Girt has not been adopted as of March 13, 2024, and

WHEREAS, it is desired to adopt said 2024 Amended Temporary Capital Budget relative to the Emergency repair to the Neptune Place outfall pipe.

NOW THEREFORE, be it resolved by the Borough Council of Sea Girt of the County of Monmouth, that the following adoption of the 2024 Capital Budget be made:

**TEMPORARY CAPITAL BUDGET OF THE BOROUGH OF SEA GIRT
2024**

<u>Project Title</u>	<u>Estimated Total Cost</u>	<u>CIF</u>	<u>Debt Authorized</u>
Neptune Place Outfall Pipe	\$350,000.00	\$350,000.00	\$0
<u>Previously Approved Temporary Capital</u>			
Third Avenue Roadway Improvements	\$715,000.00	\$0	\$715,000.00

Beach Replenishment	\$650,000.00	\$32,500.00	\$617,500.00
Total All Projects	<u>\$1,715,000.00</u>	<u>\$382,500.00</u>	<u>\$1,332,500.00</u>

The Borough Clerk is hereby authorized and directed to file a certified copy of this resolution with the Division of Local Government Services, Department of Community Affairs, State of New Jersey.

Recorded Vote:

	AYES	NAYS	ABSENT	ABSTAIN
Councilwoman DiFeo	X			
Councilman Perry	X			
Councilman Zakin	X			
Council President Anthony	X			
Councilman Downey	X			
Councilwoman Richman	X			

- **R-68-2024: Authorize Shared Service between the between the Township of Aberdeen and The Borough of Sea Girt Concerning Tax Assessor**

UPON MOTION of Councilwoman Richman, seconded by Councilman Zakin, carried, that the following Resolution be and the same is hereby adopted:

WHEREAS, the New Jersey Uniform Shared Services and Consolidation Act (N.J.S.A. 40A:65-1, et seq.) authorizes local units such as this Municipality to enter into shared service agreements with other local units; and,

WHEREAS, the Township of Aberdeen ("Aberdeen") and the Borough of Sea Girt ("Sea Girt") are public bodies corporate and politic of the State of New Jersey and are authorized under New Jersey law to enter into a Shared Services Agreement pursuant to the Act; and

WHEREAS, Aberdeen has a Tax Assessor, who will perform the duties of municipal tax assessor for the parties, as permitted by law; and

NOW, THEREFORE, the Parties hereto, intending to be legally bound hereby, by attachment agreement:

NOW, THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Sea Girt, that the attached agreement is approved and the Mayor and Clerk authorized to execute the said Agreement.

BE IT FURTHER RESOLVED that a certified copy of this Resolution and the executed Agreement will be forwarded to the Aberdeen township.

Recorded Vote:

	AYES	NAYS	ABSENT	ABSTAIN
Councilwoman DiFeo	X			
Councilman Perry	X			
Councilman Zakin	X			
Council President Anthony	X			
Councilman Downey	X			
Councilwoman Richman	X			

- **R-69-2024: Authorize the Public Bidding for The Sea Girt Boardwalk Concession Stand for Summer Season of 2024 (Option years 2025 and 2026 Respectively)**

UPON MOTION of Councilwoman Richman, seconded by Councilman Zakin, carried, that the following Resolution be and the same is hereby adopted:

WHEREAS, The Borough Council of the Borough of Sea Girt deem it advisable to solicit bids for the lease of the Borough's Boardwalk Concession stand located adjacent at the intersection of Beacon Boulevard and Ocean Avenue in the Borough of Sea Girt for the summer season 2024 (option years 2025 and 2026); and

WHEREAS, The award shall be made to the highest responsible bidder meeting the minimum bid requirements, with at least two (2) years prior concession stand or equivalent experience with demonstrated financial stability, ability to perform, net assets exceeding liabilities by a minimum of \$20,000.00, and that bankruptcy has not been declared during the past three (3) years; 2024: The minimum bid shall be *thirty thousand dollars (\$30,000.00)* and at the conclusion of the 2024 season, the Borough Council may, at their option, renew the contract of the successful bidder for up to two additional seasons (2025, 2026) with the annual rent for 2024 and 2025 to be determined at the time of the optional renewal.

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Sea Girt that the following creation of the required bid specifications, the Borough Clerk is directed to advertise for sealed bids for the lease of the Borough's Boardwalk Concession Stand. Bids to be received by the Borough Clerk and opened and read in public in the Borough Hall Municipal Building, 321 Baltimore Boulevard, Sea Girt, NJ 08750 at a date and time established by the Borough Clerk.

Recorded Vote:

	AYES	NAYS	ABSENT	ABSTAIN
Councilwoman DiFeo	X			
Councilman Perry	X			
Councilman Zakin	X			
Council President Anthony	X			
Councilman Downey	X			
Councilwoman Richman	X			

7. COUNCIL REPORTS

Councilwoman DiFeo reported hydrant flushing will take place between April 1st and 15th. Chicago Boulevard Improvements are still ongoing. She thanked Mr. D'Altrui for his efforts introducing a proposal for a bocce program; summer recreation is preparing for a great summer; East Egg Hunt is March 23rd, Motors on Main Car Show is May 5th, Sentimental Journey Concert is June 19th, registration is open for pickleball and tennis clinics, summer recreation begins June 24 through July 26th, beach volleyball camp is July 22nd through August 14th. Please visit our website for details at www.seagirtboro.com. May 7th is the next recreation commission meeting.

Councilman Downey reported on a recent car theft, he reminded residents to report any suspicious activity to the police and to please lock their car doors and keep key fobs in a safe place. He thanked Chief Macko for his efforts hiring SLEO's. Please be mindful of additional pedestrians and bicycles as the weather gets warmer. He further thanked Chief Macko and Clerk Harriman for their efforts in the borough offices.

Councilman Perry reported the Finance Committee met and discussed the 2024 budget which is almost complete and plan to introduce at our April 10th meeting. He thanked staff for keeping expenses low and working for the benefit of the tax payers.

Councilwoman Richman reported the beach hiring process is underway, the beach patrol website is being updated with new features, beach reports and registrations. Junior guards' registration is open, pavilion bathrooms will be open by the end of March, beach badge sales will resume in April. BOE – lots of exciting programs going on at the school through The Shore Community Alliance Program. Legislation is proposing banning the use of Kratom. She recommends that the borough reviews our smoking/tobacco policy ordinance is updated.

Councilman Zakin reported the library completed a volunteer STEM Learning Program at Sea Girt Elementary School lead by Dr. Barbara Buckley. Please visit the Sea Girt Library website for all their events and activities. DPW will be closed on March 29th and 31st; he noted there was an error communicating bulk pickup day, DPW made a great effort picking up any remaining bulk affected by the glitch. He noted Little Dom's Pizza opened, filling an open vacancy and also a food market will be moving into another vacancy complementing all our food establishments in town. He further commented on legislative updates including new Fair Share Housing criteria in 2025; he suggested we should invite our newly elected legislative officials to a council meeting to discuss legislative updates and address any concerns we may have including new accessory dwelling units for seniors needing affordable housing. Another concern could be a NJ Transit Tax which can adversely affect our State; also, a transportation Trust Fund increase through a gas tax which could increase fees; there is an effort to also amend OPRA privacy and administrative challenges.

Council President Anthony reported Interim Administrator Macko met with the Administration at the NGTC regarding exploring lease options for expansion of municipal building/fire/police. There is a Mulch Madness Event on Saturday, March 23rd from 9-11 am to assist our DPW with mulching in our parks and open spaces; a light luncheon will be provided after mulching; email danthony@seagirtboro.com to register. She asked residents to be cognizant of their responsibilities to maintain their landscapes to avoid encroaching onto sidewalks, obstruct line of sight or shield public street lights from optical illumination. The Sea Girt Conservancy is hosting a seminar on March 19th at 6:30 pm at the Elementary School, the guest speaker is John Gibbs from Candide's Garden and will speak on native plants and how to incorporate them into private and public spaces. Shade Tree Commissioner, Bill Brash and Mr. Donnelly who was the original author of the Stewardship Crescent Park Forrester Plan met recently to discuss the condition and current health of Crescent Park. An upcoming seminar will be held to discuss possible reforestation needed to implement the opportunity to pull our resources together and inform the public what is necessary to implement the plan as per the State and Audubon Society.

Mayor Fetzner announced their will be Coffee with the Mayor on April 13th beginning at 9:00 am in the Firehouse; the Firehouse has two new recruits in training for the next several months. The library had a shed installed which will store books for their book sales; they are looking to purchase safety cameras around the building. He supports shared services with our neighbors. He also commented that DPW is very efficient with bulk pickup. He and Justin Macko plan to meet with the power company regarding concerns with the wind turbines.

Interim BA/Police Chief Justin Macko reported the borough was awarded a Cyber Security Grant through our IT Department. Tomorrow is the accreditation hearing for the police department which Chief Macko, Lieutenant Matt Mason and Patrolman Matt Yurich are attending. No corrections or modifications needed credited by Mason and Yurich. The Borough's Personnel Manual has been distributed by Rick Lyster through DMS which will be reviewed and signed by each employee. Department Head meeting was held today and next week is a Stakeholder's Meeting to prioritize the summer activities. Macko commented on a recent car theft on Beacon Boulevard. He further commented on the possible land lease opportunity at the NGTC.

8. R-70-2024: Payment of Bills:

BE IT RESOLVED, by the Borough Council of the Borough of Sea Girt, County of Monmouth that the bills to be paid as appearing on the attached bill lists dated February 21, 2024, February 23, 2024, and March 8, 2024 in the totals as follows:

Beach Operating	\$	6,180.61
Board of Rec Trust	\$	20,772.10
Current Fund	\$	591,831.42
Dog Trust	\$	21.60
Trust Other	\$	1,844.00
Unemployment	\$	809.40
Water Capital	\$	15,500.00
Water Operating	\$	14,146.71

Recorded Vote:

	AYES	NAYS	ABSENT	ABSTAIN
Councilwoman DiFeo	X			
Councilman Perry	X			
Councilman Zakin	X			
Council President Anthony	X			
Councilman Downey	X			
Councilwoman Richman	X			

9. PUBLIC PARTICIPATION ON ANY SUBJECT (Comments limited to 5 minutes)

Robert Ferguson, Philadelphia Boulevard commented that the Memorial Nomination Recognition Committee has been on hold while waiting for the Memorial Monument to be expanded when Liberty Plaza renovation is complete. He also reminded council of the 25th Anniversary of 911; he feels the borough should do something significant to honor those who lost their lives.

Mark Suer, Third Avenue, Belmar voiced his opinion in opposition of wind turbines; he supports green energy.

Ryan Bigley, 723 Sea Girt Avenue voiced his opposition of short-term rentals; he would like to see short term rentals banned in Sea Girt.

There being no further business, and **UPON MOTION** of Councilwoman Richman, Seconded by Councilman Perry, carried, that the meeting be finally and immediately adjourned at 9:10 PM.

Dawn Harriman

Dawn Harriman, RMC
Municipal Clerk