

ORDINANCE NO. 15-2011
AN ORDINANCE ADOPTING A CODE AND CODIFICATION
OF THE ORDINANCES OF THE BOROUGH OF SEA GIRT
IN THE COUNTY OF MONMOUTH, NEW JERSEY

WHEREAS, the Borough Council of the Borough of Sea Girt in the County of Monmouth, New Jersey, has caused its ordinances of a general and permanent nature to be amended and supplemented and to be compiled and revised and embodied in a Code and codification known as "The Code of the Borough of Sea Girt, 2011."

NOW, THEREFORE, BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF SEA GIRT IN THE COUNTY OF MONMOUTH, NEW JERSEY, AS FOLLOWS:

Section 1. The ordinances of the Borough of Sea Girt in the County of Monmouth, New Jersey, of a general and permanent nature, as codified, Chapters I to XXX, are hereby ordained as "The Code of the Borough of Sea Girt, 2011." Chapter XIV, Flood Damage Prevention; Chapter XV, Land Use Procedures; Chapter XVI, Land Subdivision; Chapter XVII, Zoning; and Chapter XVIII, Site Plan Review, were adopted by Ordinance No. 947 on July 26, 2006, as the Land Use Volume of the Borough of Sea Girt.

Section 2. All of the provisions of "The Code of the Borough of Sea Girt, 2011" shall be in force and in effect on and after the effective date of this ordinance.

Section 3. All ordinances or parts of ordinances of a general and permanent nature adopted and in force on January 1, 2011, which are inconsistent with the ordinances in "The Code of the Borough of Sea Girt, 2011" are hereby repealed to the extent of such inconsistency as of the effective date of this ordinance.

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

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

- g. The annual budget appropriation ordinances or resolutions, and all ordinances and resolutions appropriating or transferring funds;
- h. The administrative ordinances or resolutions of the Council not in conflict or inconsistent with the provisions of this Code;
- i. Any ordinance or resolution of the Council fixing compensation or salaries of the Borough officials and employees or the pay and compensation of positions and clerical employments which are not provided for in this Code and which are not in conflict or inconsistent therewith;
- j. Any ordinance or resolution of the Council creating employments, positions or offices and fixing duties therefor which are not provided for in this Code and which are not in conflict or inconsistent therewith;
- k. Concerning the Traffic Chapter, any other provision of this ordinance to the contrary notwithstanding, the repeal provided for in Section 3 of this ordinance shall not become effective with respect to any ordinance regulating traffic or parking on the public streets or highways of the Borough;
- l. Any ordinances adopted by the Board of Health or the Shade Tree Commission of the Borough of Sea Girt;
- m. Any ordinances of the Borough Council adopted upon final passage after the 1st day of January, 2011.

Section 5. The effect of the proposed changes contained in the Code are listed below:

CHAPTER I GENERAL PROVISIONS

Section 1-1, Short Title, provides the official title of the Code. Section 1-2, Definitions, includes definitions for use with the entire Code or when drafting future ordinances of the Borough. Section 1-3, Construction, provides rules of construction and interpretation of general terms throughout this Code as well as for all ordinances adopted by the Borough of Sea Girt. Section 1-4, Divisions of the Code, provides for the divisions of the Code by section, subsection and paragraph.

Section 1-5, General Penalty, contains the penalty provisions as provided by N.J.S.A. 40:49-5. The general penalty clause is applicable to the entire Code or any other ordinance adopted by the Borough Council. In paragraph a. of subsection 1-5.1, Maximum Penalty, a maximum penalty of a fine not exceeding two thousand (\$2,000.00) dollars and/or imprisonment for a term not to exceed ninety (90) days and/or a period of community service not to exceed ninety (90) days is established in accordance with the New Jersey State Statutes.

Subsection 1-5.1 eliminates the need to restate the maximum penalty clause each time a new regulatory ordinance is adopted. Subsection 1-5.2, Minimum Penalty, permits the Borough Council to establish a minimum penalty for a violation of a particular ordinance, which may be a fine that does not exceed one hundred (\$100.00) dollars. Subsection 1-5.4, Additional Fine for Repeat Offenders, provides that additional fines may

be imposed on any person who is convicted of the same violation within one (1) year of the date of conviction of the previous violation. Subsection 1-5.5, Default of Payment of Fine, provides that any person who defaults on payment of a fine may be imprisoned in the County Jail or be required to perform community service. Subsection 1-5.6 contains penalties for violations of housing or zoning codes and provides that if a municipality wishes to impose a fine greater than one thousand two hundred fifty (\$1,250.00) dollars for violations of a housing or zoning code, a thirty (30) day period shall be allowed for the owner to cure or abate this condition.

Subsection 1-5.7, Separate Violations, provides that when provided by ordinance, each and every day a violation exists shall constitute a separate violation. Subsection 1-5.8, Applicability, states the Judge of the Municipal Court has the discretion to assign the penalty for a particular violation.

Throughout the Code many of the penalty provisions have been revised to refer to Section 1-5, General Penalty, wherever appropriate.

Section 1-7, Maintenance of Code, provides that newly-adopted ordinances shall be prepared as supplements to the Code and the Borough Clerk is required to keep a certified copy of the Code current.

Section 1-9 provides for sale of the Sea Girt Borough Code and Section 1-10 prohibits altering or tampering with the Code.

CHAPTER II ADMINISTRATION

The Administrative Chapter has been organized into articles as follows:

- Article I Mayor and Borough Council**
- Article II Borough Officers**
- Article III Municipal Employees**
- Article IV Departments of Municipal Government**
- Article V Beachfront Utility**
- Article VI Municipal Court**
- Article VII Boards, Commissions and Committees**
- Article VIII Administrative Policies and Procedures**
- Article IX Administrative Fees**

Article I Mayor and Council

This Article includes the organization of the Governing Body, vacancies, meetings, powers of the Mayor, powers of the Council and procedures for the adoption of ordinances.

Article II Borough Officers

This Article provides for the appointments, qualifications, certifications, terms of office and powers and duties of Officers of the Borough. References to salaries in this Article have been revised to refer to the Salary Ordinance of the Borough.

Subsection 2-9, Office of the Municipal Clerk, is new and includes the statutory provisions of N.J.S.A. 40A:9-133 et seq. regarding the office, duties, terms of office and qualifications. Subsection 2-9.11 contains provisions from Ordinance No. 308 and statutory provisions for the office of the Deputy Municipal Clerk.

Section 2-10 contains the provisions for the Office of the Borough Administrator from Ordinance Nos. 945 and 01-2008. Subsection 2-10.2, Appointment, has been revised to change the first sentence from “shall” to “may.” Subsection 2-10.10, Duties, Responsibilities and Reporting Structure, has been revised in the second sentence to add the phrase “in conjunction with the statutorily or contractually authorized/designated department head” after the “operation of all department.”

Section 2-11, Chief Financial Officer, contains provisions regarding the appointment and duties as provided in N.J.S.A. 40A:9-140.1 et seq. and Ordinance No. 625.

Section 2-12, Borough Attorney, is new and provides for the creation of the office of the Borough Attorney as required by N.J.S.A. 40A:9-139.

Section 2-13, Borough Engineer, contains the provisions for the appointment and duties of the Borough Engineer.

Section 2-14, Tax Collector, contains additional provisions derived from N.J.S.A. 40A:9-141 et seq. regarding qualifications, tenure and removal.

Section 2-15, Tax Assessor, has been revised to include the statutory provisions of N.J.S.A. 40A:9-146 et seq. and N.J.S.A. 54:1-35.25 et seq.

Article III Municipal Employees

Section 2-22 provides for the Code Enforcement Officer and codifies Ordinance No. 635. Section 2-23 includes Ordinance No. 167 and N.J.S.A. App. A:9-40.1 et seq. and establishes the position of the Emergency Management Coordinator as required by law.

Article IV Departments of Municipal Government

Section 2-30, Department of Finance, contains the provisions of Ordinance No. 944. Subsection 2-30.1, Duties of the Department of Finance; Director of Finance, has been revised from “shall” to “may be the Director of Finance” in the first sentence. The second sentence has been revised from “shall” to “may” concurrently hold the titles of Chief Financial Officer, Treasurer, Tax Collector, and Utility Collector and the language “as determined by the Mayor with the advice and consent of the Council” has been added. Paragraph i. has been revised so that the Director of Finance reports to the Borough Administrator and the Council.

Section 2-31, Police Department, has been revised to add “other members and personnel” to the establishment of the Police Department in subsection 2-31.5. Subsection 2-31.7, Special Police Officers, has been revised to refer to the appointment provisions contained in Section 2-32. Subsection 2-31.13, Disciplinary Regulations, has been amended,

after the words “Committee of Public Safety” in the first sentence, to add “a hearing officer appointed by the Committee of Public Safety”

Article V Beachfront Utility

This Article contains the establishment of the Sea Girt Beachfront Utility as codified from Ordinance No. 612.

Article VI Municipal Court

This Article contains the establishment of the Municipal Court and the appointments to the positions of Judge of the Municipal Court, Court Administrator, Municipal Prosecutor and Public Defender pursuant to law.

Article VII Boards, Committees and Commissions

Contained in this Article are the establishment of the Board of Health, Board of Recreation Commissioners and Shade Tree Commission.

Article VIII Administrative Policies and Procedures

Article VIII contains Fire Insurance Claims policies, LOSAP for First Aid Squad volunteers, procedure for issuance of beach badges for Police and Fire volunteers, Defined Contribution Retirement Program, background checks and indemnification of employees and officers.

Article IX Administrative Fees

This article contains the fees for vital statistics and other records of the Borough. Copying costs have been added as required by N.J.S.A. 47:1A-1 et seq.

CHAPTER III POLICE REGULATIONS

This chapter contains regulations enforced by the Police Department including noise, drug-free zones, alcoholic beverages, litter, the parking of trucks, trailers and boats, recreational vehicles, bonfires, helmet regulations, attire in certain premises and improvements to Borough-owned property.

Section 3-1, Noise, has been revised at subsection 3-1.2a, to add “or well-being” after “health.” Subsection 3-1.2, b. has been revised as follows: “unnecessary and unusual” has been amended to read “disturbing or excessive.” Subsection 3-1.3 has been revised to add paragraph 6, “The frequent or habitual howling, barking, meowing or other noise making by an animal.”

Section 3-8, Consumption or Possession of Alcoholic Beverages on Private Property by Persons Under the Legal Age. This section has been revised to comply with N.J.S.A. 40:48-1.2.

Subsection 3-15.3, Commercial Vehicles, Tractors and Trailers on Residential Lands, has been revised and the language “and erodes the residential character of said districts” has been added to paragraph a. Paragraph d. has been amended to include the Police

Department, Code Enforcement Officer and Health Officer as enforcement official under this section.

Subsection 3-27.1, Obstructing Public Travel, is new. Subsection 3-27.2, Playing of Instruments Producing or Transmitting Sound, has been revised to include the language “which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the Borough.” Subsection 3-27.3, Orchestras and Bands; Hours, has been amended from midnight to 10:00 p.m. to retain consistency with the noise regulations in the Borough. Subsection 3-27.4, has been amended to prohibit urinating in public or on private property in the Borough.

CHAPTER IV LICENSING AND BUSINESS REGULATIONS

Included in this chapter are licensing procedures and fees, business regulations and taxicabs.

Subsection 4-1.2, Application for Hawkers, Peddlers and Itinerant Vendors, has been revised from an application fee of fifty (\$50.00) dollars to seventy-five (\$75.00) dollars. Subsection 4-2.2, Canvassers – Application for a Permit, has been amended to establish a fee of fifty (\$50.00) dollars for a permit and the permitted times for canvassing have been revised in subsection 4-2.3 to read from “10:00 a.m. to 8:30 p.m.”

Subsection 4-3.1, False Alarms, has been amended to revise the penalty for a fourth false alarm from fifty (\$50.00) dollars to one hundred (\$100.00) dollars; and the penalty for a fifth or subsequent false alarm in a twelve month period has been revised from one (\$100.00) dollars to a maximum of one thousand (\$1,000.00) dollars.

Section 4-4, Retail Food Establishments has been amended to reflect the following fee revisions to the licensing of retail food establishments - Subsection 4-4.3, Fees Established - Per Year:

- a. Licensing
 - 1. Minimum fee all establishments..... \$125.00 per year
 - (a) Mobile vehicles..... \$ 75.00 per year
 - (b) Special events lasting one week in duration or less \$ 50.00 per year
 - 2. Establishments other than licensed restaurants:
 - (a) Between 4,000 and 10,000 square feet..... \$500.00 per year
 - (b) Over 10,000 square feet..... \$800.00 per year
 - 3. Restaurants:
 - (a) Seating capacity up to 50 \$150.00 per year
 - (b) Seating capacity from 51 to 100 \$225.00 per year
 - (c) Seating capacity over 100 \$400.00 per year
- b. Fees for the plan review of retail food establishments are hereby fixed as follows:
 - 1. Establishments other than restaurants:
 - (a) Between 0 and 4,000 square feet.....\$275.00 per plan
 - (b) Between 4,001 and 10,000 square feet.....\$525.00 per plan
 - (c) Over 10,001 square feet.....\$1,000.00 per plan

- 2. Restaurants:
 - (a) Seating capacity up to 100\$350.00 per plan
 - (b) Seating capacity over 100\$650.00 per plan
- c. Limited establishment alterations.....\$150.00 per plan

Section 4-5, Garage Sales, has been revised so that residents obtain a garage sale license from the Police Department. Subsection 4-5.2, Permits and Fees, has been revised to increase the permit fee to ten (\$10.00) dollars. Subsection 4-5.8, has been revised to include enforcement by the Code Enforcement Officer, Zoning Officer or other official so authorized by the Borough.

Section 4-6, Hotels, Boarding Houses and Rooming Houses, has been revised to increase the registration fees to one hundred (\$100.00) dollars for Class A (15 rooms or less) and Class B (for first 15 rooms) with an additional fee of twenty (\$20.00) dollars for each additional room. Subsection 4-6.9, Investigations and Inspections, has been revised to include enforcement by the Fire Official, Code Enforcement Officer or other official authorized by the Borough. Subsection 4-6.21, Fire Gongs, Audible Alarms and Stations, has been revised to include the term “audible alarms.” Subsection 4-6.22, Inspection and Approval of Equipment, has been revised to include the Fire Prevention Officer for approval of certain fire equipment.

CHAPTER V ANIMAL CONTROL

Subsection 5-3.2, Barking or Crying (Control of Dogs), has been amended to include “which either annoys, disturbs, injures or endangers the comfort, repose, health, peace, calm or safety of others with the limits of the Borough” has been added to the last sentence.

CHAPTER VI ALCOHOLIC BEVERAGE CONTROL

Subsection 6-3.4, License Fees; Maximum Number, has been revised to reflect fee changes for various alcoholic beverage licensed premises as follows:

Class of License	Annual License Fee	2012	2013	2014	2015	Maximum Number
Plenary Retail Consumption License	\$1,491.60	\$1,789.92	\$2,147.90	\$2,500.00	\$2,500.00	3
Seasonal Retail Consumption License	\$1,118.40	\$1,342.44	\$1,610.92	\$1,875.00	\$1,875.00	1
Plenary Retail Distribution License	\$ 621.60	\$745.92	\$895.10	\$1,074.12	\$1,288.94	1

CHAPTER VII TRAFFIC

The Borough's traffic ordinances have been codified for submission to the New Jersey Department of Transportation, where applicable, and the Borough Engineer.

CHAPTER VIII PERSONNEL POLICIES

The adoption of the Borough’s personnel policies as adopted in 2010 by Ordinance No. 11-2010 are codified in this chapter.

CHAPTER IX BEACHES, BOARDWALK AND DUNES

This chapter codifies the Borough’s use regulations for the beach and boardwalk and regulations for the preservation of dunes and beaches.

Section 9-3, Fishing, has been revised to define “waters adjacent thereto” for the regulation of goggle and spearfishing off the Borough’s beaches. The dates for goggle and spearfishing have been revised from June 1 to Memorial Day.

Section 9-4, Sailboats and Catamarans, has been revised to establish fees according to resolutions of the Borough Council. Section 9-5, Kayak Storage, has been revised to agree with the most recent time restrictions of the Borough’s ordinances.

Subsection 9-11, Structures Prohibited on Beach or Dune Areas; Exception, has been revised to include the following fees:

Application fees:	
Pathways or walkways providing beach access	\$250.00
Permanent structure in dune area - (bulkhead, seawall)	\$350.00
Property Abutting the Beachfront between Trenton Boulevard and New York Boulevard	
Permanent Structures (bulkhead, Seawall)	\$350.00
Beach Access, Pathway or Walkway	\$250.00

CHAPTER X PARKS AND RECREATION

Section 10-2, Platform Tennis, has been revised to incorporate the following fees: annual family membership is one hundred fifteen (\$115.00) dollars; annual individual membership (\$65.00) dollars; and a daily permit is fifteen (\$15.00) dollars.

CHAPTER XI RESERVED

CHAPTER XII BUILDING AND HOUSING

Section 12-1, State Uniform Construction Code Enforcing Agency, has been revised to include the fees as determined by the Construction Official in the Regional Construction Office. Subsection 12-2.2, Additional Regulations, has been revised at paragraph g. to change the permitted location for portable toilets on construction sites.

Section 12-6, Swimming Pools, has been revised to include a fee of five hundred (\$500.00) dollars which includes the zoning and engineering fees for a swimming pool.

Section 12-8, Buildings Unfit for Human Habitation, has been revised and designates the Zoning Officer, Code Enforcement Officer or other official designated by the Borough as the Public Officer in this section.

CHAPTER XIII PROPERTY MAINTENANCE

Section 13-1, International Property Maintenance Code, has been revised to refer to and adopt the “International Property Maintenance Code, 2009.” Subsection 13-1.3, Amendments to the Code, has been revised at paragraph g: Certificate of Occupancy is one hundred (\$100.00) dollars, re inspections - fifty (\$50.00) dollars.

Subsection 13-1.4, Rental Properties; Rental Certificate of Occupancy has been revised: Minimum fee – one hundred (\$100.00) dollars, over five (5) units – ten (\$10.00) dollars per room to a maximum of one hundred (\$100.00) dollars, re inspections – fifty (\$50.00) dollars.

CHAPTERS XIV – XVIII LAND USE VOLUME

Previously adopted as the Borough of Sea Girt Land Use Volume.

CHAPTER XIX RESERVED

CHAPTER XX FIRE PREVENTION AND PROTECTION

Chapter XX contains the Uniform Fire Safety Act Enforcing Agency.

Section 20-2, Additional Duties of the Bureau of Fire Prevention, is new.

CHAPTER XXI STREETS AND SIDEWALKS

This chapter contains provisions for street openings, sidewalk construction and repair, driveway construction and removal of snow and ice from sidewalks.

CHAPTER XXII SOLID WASTE MANAGEMENT

Chapter XXII contains provisions for the collection of solid waste. Section 22-3.3, Leaves, has been revised to include separation of leaves from other vegetative waste.

Subsection 22-4.2, Application for Collection; Issuance of Sticker; Fee, has been revised to twenty-five (\$25.00) dollars for the collection of items containing refrigerant fluids.

CHAPTER XXIII WATER

This chapter contains regulations for water usage in the Borough.

CHAPTER XXIV SEWERS

Chapter XXIV contains the regulations for connections to and use of the sanitary sewer system in the Borough.

Section 6. A copy of The Code of the Borough of Sea Girt, 2011 in the County of Monmouth and State of New Jersey, has been filed in the office of the Municipal Clerk of the Borough of Sea Girt and shall remain there for the use and examination by the public until final action is taken on this ordinance; and if this ordinance shall be adopted, such copy shall be certified by the Clerk in the Borough of Sea Girt by impressing thereon the seal of the Borough of Sea Girt, as provided by law, and such certified copy shall remain on file in the office of the Municipal Clerk of the Borough of Sea Girt to be made available to persons desiring to examine the same during all times while the Code is in effect.

Section 7. Amendments to the Code. Any and all additions, amendments and supplements to the Code when passed and adopted in such form as to indicate the intent of the Borough Council to make them a part thereof shall be deemed to be incorporated into such Code so that reference to "The Code of the Borough of Sea Girt, 2011" shall be understood and intended to include such additions and amendments. Whenever such additions, amendments and supplements to the Code shall be adopted, they shall thereafter be printed and, as provided hereunder, inserted in the book containing the Code as amended and supplemented thereto.

Section 8. It shall be the duty of the Municipal Clerk or someone authorized and directed by the Clerk to keep up-to-date the certified copy of the book containing "The Code of the Borough of Sea Girt, 2011," required to be filed in his or her office for the use of the public. All changes in the Code and all ordinances adopted subsequent to the effective date of this codification shall be adopted specifically as part of the Code and shall when finally adopted be included therein by reference until such changes or new ordinances are printed as supplements to the Code, at which time such supplements shall be inserted therein.

Section 9. The Municipal Clerk of the Borough of Sea Girt, pursuant to law, shall cause to be published in the manner required a copy of this adopting ordinance in a newspaper of general circulation in the Borough of Sea Girt. Sufficient copies of "The Code of the Borough of Sea Girt, 2011" shall be maintained in the office of the Municipal Clerk for inspection by the public at all times during regular office hours. The enactment and publication of this adopting ordinance coupled with availability of copies of the Code for inspection by the public shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

Section 10. Copies of the book containing "The Code of the Borough of Sea Girt, 2011" may be purchased from the Municipal Clerk upon the payment of a fee to be set by resolution of the Council which may also arrange by resolution the procedures for the periodic supplementation thereof.

Section 11. Each section of "The Code of the Borough of Sea Girt, 2011" and every part of each section is an independent section or part of a section and the holding of any section or part thereof deemed to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.

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