

*Borough of Stone Harbor, NJ  
Tuesday, December 3, 2019*

## Chapter 345. Land Development Procedures

[HISTORY: Adopted by the Borough Council of the Borough of Stone Harbor as Ch. 17 of the 1982 Revised General Ordinances. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Zoning Officer — See Ch. 67, Art. VI.

Zoning — See Ch. 560.

## Article I. General Provisions

### § 345-1. Short title.

This chapter shall be known and may be cited as the “Land Use Procedures Ordinance of Stone Harbor, New Jersey.”

### § 345-2. Purpose.

The purpose of this chapter shall be to establish the functions of the Planning Board and Zoning Board of Adjustment and to provide rules, regulations and standards to guide land subdivision and site development in the Borough of Stone Harbor. It is further the purpose to promote the purposes of the New Jersey Municipal Land Use Law, as amended (N.J.S.A. 40:55D-2), including but not limited to public health, safety, convenience and general welfare of the municipality. It shall be administered to ensure orderly growth and development or redevelopment, the conservation, protection and proper use of land and adequate provision for circulation, utilities and services.

## Article II. Planning Board

### § 345-3. Establishment.

- A. There is hereby established pursuant to N.J.S.A. 40:55D-1 et seq. in the Borough of Stone Harbor a Planning Board of seven members consisting of the following four classes:
- (1) Class I: The Mayor.
  - (2) Class II: One of the officials of the Borough other than a member of the Borough Council, to be appointed by the Mayor.
  - (3) Class III: A member of the Borough Council to be appointed by it.
  - (4) Class IV: Four other citizens of the Borough to be appointed by the Mayor.
- B. The members of Class IV shall hold no other Borough office. A member of the Environmental Commission, if any, who is also a member of the Planning Board as required by N.J.S.A. 40:56A-1 shall be a Class IV Planning Board member.

- C. In addition to the members aforesaid, there shall be appointed two alternate members of the Planning Board as Class IV members.

## § 345-4. Terms.

- A. The term of the member composing Class I shall correspond with his official tenure. The terms of the members composing Class II and Class III shall be for one year or terminate at the completion of their respective terms of office, whichever occurs first. The term of the Class IV member who is also a member of the Environmental Commission shall be for three years or terminate at the completion of his term of office as a member of the Environmental Commission, whichever occurs first.
- B. The terms of all Class IV members first appointed pursuant to this chapter shall be so determined that to the greatest practicable extent the expiration of such term shall be distributed evenly over the first four years after their appointment as determined by resolution of the Borough Council; provided, however, that no term of any member shall exceed four years and further provided that nothing herein shall affect the term of any present member of the Planning Board, all of whom shall continue in office until the completion of the terms for which they were appointed. Thereafter all Class IV members shall be appointed for terms of four years except as otherwise hereinabove provided. All terms shall run from January 1 of the year that the appointment is made.
- C. Alternate members shall be appointed by the Mayor as Class IV members and shall be designated as Alternate No. 1 and Alternate No. 2. The terms of each alternate member shall be two years, except that the first term of office shall be so set to insure that only one such alternate member's term shall expire in any one year. A vacancy occurring otherwise than by expiration of the term shall be filled for the unexpired term only. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote.

## § 345-5. Vacancies.

If a vacancy of any class shall occur otherwise than by expiration of term it shall be filled by appointment as above provided for the unexpired term.

## § 345-6. Organization of Board.

The Planning Board shall elect a Chairman and Vice Chairman from the members of Class IV and select a secretary who may but need not be a Board member or another Borough employee.

## § 345-7. Planning Board Attorney.

There is hereby created the office of Planning Board Attorney. The Planning Board may annually appoint, fix the compensation of or agree upon the rate of compensation of the Planning Board Attorney who shall be an attorney other than the Borough Attorney.

## § 345-8. Experts and staff.

The Planning and Zoning Boards may also employ or contract for the services of experts and other staff and services as it may deem necessary. The Board shall not, however, exceed, exclusive of gifts or grants, the amount appropriated by the Borough Council for its use.

## § 345-9. Powers and duties generally.

The Board shall adopt such rules and regulations as may be necessary to carry into effect the provisions and purposes of this chapter. In the issuance of subpoenas, administration of oaths and taking of testimony, the provisions of the County and Municipal Investigations Law of 1953 (N.J.S.A. 2A:67A-1 et seq.) shall apply. It shall also have the following powers and duties:

- A. To make and adopt and from time to time amend a Master Plan for the physical development of the Borough, including any area outside its boundaries which in the Board's judgment bear essential relation to the planning of the Borough, in accordance with the provisions of N.J.S.A. 40:55D-28.
- B. To administer the provisions of the Land Subdivision Ordinance and Site Plan Review Ordinance of the Borough in accordance with the provisions of these ordinances, and the Municipal Land Use Law, Chapter 291, P.L. 1975, N.J.S.A. 40:55D-1 et seq.
- C. To approve conditional use applications in accordance with the provisions of Chapter **560**, Zoning, pursuant to N.J.S.A. 40:55D-67.
- D. To participate in the preparation and review of programs or plans required by state or federal law or regulations.
- E. To assemble data on a continuing basis as part of a continuous planning process.
- F. To prepare a program of Borough capital improvement projects projected over a term of six years, and amendments thereto, at the request of Borough Council.
- G. To consider and make a report to the Borough Council within 35 days after referral as to any proposed development regulation submitted to it pursuant to the provisions of N.J.S.A. 40:55D-26a, and also pass upon other matters specifically referred to the Planning Board by the Borough Council, pursuant to the provisions of N.J.S.A. 40:55D-26b, as amended and/or supplemented from time to time.
- H. When reviewing applications for approval of subdivision plats, site plans or conditional uses, to grant to the same extent and subject to the same restrictions as the Zoning Board of Adjustment:
  - (1) Variances pursuant to N.J.S.A. 40:55D-70c, as amended and/or supplemented from time to time. Whenever relief is requested pursuant to this subsection, notice of a hearing on the application for development shall include reference to the request for a variance or direction for issuance of a permit as the case may be.
  - (2) Directions for issuance of permits pursuant to N.J.S.A. 40:55D-60 as amended and/or supplemented from time to time.
- I. To perform such other advisory duties as are assigned to it by ordinance or resolution of the Borough Council for the aid and assistance of the Borough Council or other agencies or officers.

## Article III. Zoning Board of Adjustment

### § 345-10. Establishment; composition.

- A. A Zoning Board of Adjustment is hereby established pursuant to N.J.S.A. 40:55D-69 et seq. consisting of seven residents of this Borough appointed by the Mayor with the approval by the Borough Council to service for terms of four years from January 1 of the year of their appointment. The terms of the members first appointed shall be so determined that to the greatest practicable extent the expiration of such terms shall be distributed evenly over the first four years after their appointment; provided that the initial term of no member shall exceed four years. Nothing in this chapter shall, however, be construed to affect the term of any present member of the Zoning

Board of Adjustment, all of whom shall continue in office until the completion of the term for which they were appointed.

- B. No member of the Zoning Board of Adjustment may hold any elective office or position under the Borough.
- C. A vacancy occurring otherwise than by expiration of term shall be filled for the unexpired term only.
- D. In addition to the regular members of the Board of Adjustment aforesaid, there shall be appointed by the Mayor with approval by the Borough Council, two alternate members who shall be designated as Alternate No. 1 and Alternate No. 2. The terms of each alternate member shall be two years, except that the first term of office shall be so set to insure that only one such alternate member's term shall expire in any one year. A vacancy occurring otherwise than by expiration of the term shall be filled for the unexpired term only. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote.

## § 345-11. Officers.

The Board of Adjustment shall elect a Chairman and Vice Chairman from its members and shall also select a secretary who may but need not be a Board member or another Borough employee.

## § 345-12. Board of Adjustment Attorney.

There is hereby created the office of attorney to the Zoning Board of Adjustment. The Zoning Board of Adjustment may annually appoint, fix the compensation of or agree upon the rate of compensation of the Zoning Board of Adjustment attorney, who shall be an attorney other than the Borough Attorney.

## § 345-13. Experts and staff.

The Zoning Board of Adjustment may also employ or contract for and fix the compensation of such experts and other staff and services as it may deem necessary. The Board shall not authorize expenditures that exceed, exclusive of gifts or grants, the amount appropriated by the Borough Council for its use.

## § 345-14. Rules and regulations.

The Board shall adopt such rules and regulations as may be necessary to carry into effect the provisions and purposes of this chapter. In the issuance of subpoenas, administration of oaths and taking of testimony, the provisions of the County and Municipal Investigations Law of 1953 (N.J.S.A. 2A:67A-1 et seq.) shall apply.

## § 345-15. Powers of Zoning Board of Adjustment.

- A. The powers of the Zoning Board of Adjustment shall be in accordance with N.J.S.A. 40:55D-69 et seq. and amendments and supplements thereto, and with the provisions of this chapter.
- B. It is further the intent of this chapter to confer upon the Zoning Board of Adjustment as full and complete powers as may lawfully be conferred upon such Board, including, not by way of limitation, the authority, in connection with any case, action or proceeding before the Board, to interpret and construe the provisions of this chapter, of Chapter **560**, Zoning, or any term, clause,

sentence or word hereof, and the Zoning Map, in accordance with the general rules of construction, applicable to legislative enactments.

- C. The Board may, in appropriate cases and subject to appropriate conditions and safeguards grant variances from the terms of Chapter **560**, Zoning, in accordance with the general or specific rules contained herein, and with the general rules hereby laid down that equity shall be done in cases where the strict construction of the provisions of Chapter **560**, Zoning, would work undue hardship. The power and duties of the Board having been delegated to and imposed upon it by statute, the Board shall in all cases follow the provisions applicable to it in N.J.S.A. 40:55D-1 et seq. or subsequent statutes in such case made and provided, and it shall from time to time furnish to any person requesting the same a copy of its rules and information as to how appeals or applications may properly be filed with the Board for its decision thereon.

## § 345-16. Appeals and applications.

- A. Appeals to the Board of Adjustment may be taken by any interested party. Each appeal shall be taken within the 20 days prescribed by N.J.S.A. 40:55D-72, as amended and/or supplemented from time to time, by filing a notice of appeal with the officer from whom the appeal was taken together with three copies of the notice with the secretary of the Board of Adjustment. The notice of appeal shall specify the grounds for the appeal. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.
- B. Applications addressed to the original jurisdiction of the Board of Adjustment without prior application to an administrative officer shall be filed with the secretary of the Zoning Board of Adjustment. Three copies of the application shall be filed. At the time of filing the appeal or application, but in no event less than 10 days prior to the date set for hearing, the applicant shall also file all plot plans, maps, or other papers required by virtue of any provisions of this chapter or any rule of the Board of Adjustment. The applicant shall obtain all necessary forms from the secretary of the Zoning Board of Adjustment. The secretary of the Board shall inform the applicant of the steps to be taken to initiate proceeding and of the regular meeting dates of the Board.
- C. An appeal stays all proceedings in furtherance of the action in respect of which the decision appealed from was made, unless the officer from whom the appeal is taken certified to the Board of Adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Superior Court of New Jersey on application or notice to the officer from whom the appeal is taken and on due cause shown, in accordance with the provisions of N.J.S.A. 40:55D-75, as amended and/or supplemented from time to time.

## § 345-17. Power to reverse or modify decisions.

In exercising the above mentioned power, the Board of Adjustment may, in conformity with the provisions of N.J.S.A. 40:55D-74, as amended and/or supplemented from time to time, reverse or affirm wholly or partly or may modify the order, requirement, decision or determination as ought to be made, and to that end have all the powers of the administrative officer from whom the appeal was taken.

## § 345-18. Powers granted by law.

The Board of Adjustment shall have the powers as are granted by N.J.S.A. 40:55D-70, as amended and/or supplemented from time to time to:

- A. Hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, decision or refusal made by an administrative official or agency based on or made in the enforcement of Chapter **560**, Zoning.
- B. Hear and decide request for interpretation of the map or Chapter **560**, Zoning, or for decisions upon other special questions upon which such Board is authorized by the Zoning Chapter to decide.
- C. Grant variances from the strict application of the zoning regulations where appropriate.

## § 345-19. Additional powers.

The Zoning Board of Adjustment shall, in addition to the powers specified in § **345-18**, have power given by law to:

- A. Direct issuance of a permit pursuant to N.J.S.A. 40:55D-34 for a building or structure in the bed of a mapped street or public drainageway, flood control basin or public area reserved on the official map.
- B. Direct issuance of a permit pursuant to N.J.S.A. 40:55D-36 for a building or structure which does not abut a street giving access to such building or structure.
- C. Grant, to the same extent and subject to the same restrictions as the Planning Board, subdivision or site plan approval pursuant to N.J.S.A. 40:55D-37 as amended and/or supplemented from time to time.

## § 345-20. Time for decision.

- A. The Board of Adjustment shall render its decision not later than 120 days after the date:
  - (1) An appeal is taken from the decision of an administrative officer; or
  - (2) The submission of a complete application for development to the Board pursuant to the provisions of N.J.S.A. 40:55D-72b, as amended and/or supplemented from time to time.
- B. Failure of the Board to render a decision within such one-hundred-twenty-day period or within such further time as may be consented to by the applicant shall constitute a decision favorable to the applicant, pursuant to N.J.S.A. 40:55D-73b, as amended and/or supplemented from time to time.

## Article IV. Provisions Applicable to Both the Planning Board and Zoning Board of Adjustment

### § 345-21. Conflicts of interest.

No member of the Planning Board or Zoning Board of Adjustment shall act on any matter in which he has either directly or indirectly any personal or financial interest. A Board member who owns property within 200 feet of the property affected by a Board proceeding shall be disqualified. Whenever any such member shall disqualify himself or be disqualified by the Board from acting on a particular matter, he shall not continue to sit with the Board on the hearing of such matter nor participate in any discussion or decision relating thereto.

### § 345-22. Meetings.

- A. Meetings of both the Planning Board and Zoning Board of Adjustment shall be scheduled no less often than once a month and any meeting so scheduled shall be held as scheduled unless cancelled for lack of applications for development to process.
- B. Special meetings may be provided for at the call of the Chairman or on the request of any two Board members, which shall be held on notice to its members and the public in accordance with all applicable legal requirements.
- C. No action shall be taken at any meeting without a quorum being present.
- D. All actions shall be taken by majority vote of a quorum except as otherwise required by any provision of N.J.S.A. 40:55D-1 et seq.
- E. All regular meetings and all special meetings shall be open to the public. Notice of all such meetings shall be given in accordance with the requirements of the Open Public Meetings Law, Chapter 231, P.L. 1975.

## § 345-23. Minutes.

Minutes of every regular or special meeting shall be kept and shall include the names of the persons appearing and addressing the Board and of the persons appearing by attorney, the action taken by the Board, the findings, if any, made by it and reasons therefor. The minutes shall thereafter be made available for public inspection during normal business hours at the office of the Borough Clerk. Any interested party shall have the right to compel production of the minutes for use as evidence in any legal proceeding concerning the subject matter of such minutes. Such interested party may be charged a fee for reproduction of the minutes for his use as provided for in the rules of the Board.

## § 345-24. Fees.

- A. Fees for applications or for the rendering of any service by the Planning Board or Zoning Board of Adjustment or any of the professionals so designated by the Boards or any of the professionals hired by the Borough for the purpose of covering technical, investigative and administrative expenses involved in processing the application shall be as follows:  
[Amended 7-5-2005 by Ord. No. 1237; 2-19-2008 by Ord. No. 1302; 2-17-2009 by Ord. No. 1330; 6-2-2009 by Ord. No. 1339; 6-4-2013 by Ord. No. 1424; 6-20-2017 by Ord. No. 1500; 9-5-2017 by Ord. No. 1503; 10-16-2018 by Ord. No. 1532]

Category	Application Fee	Escrow Fee
Subdivision, minor	\$550	\$1,000 per lot
Subdivision, major	\$550	\$1,000 per lot
Site plan, major (preliminary)	\$550	\$2,000
Site plan, major (final)	\$550	\$2,000
Informal review	\$550	\$1,000
Variances	\$550 per variance	\$500 if no site plan required; \$2,000 if site plan required
Request for extension of time	\$100	
Subdivision or site plan amendments	50% of original fees	
Zoning permit	0.0035 of project cost (but not less than \$100)	\$350*
Certified list of property owners	\$10	

Category	Application Fee	Escrow Fee
Tax Map changes resulting from subdivisions and other applications creating new lots	\$300	
Copy of minutes, proceedings and Notice of decision	Refer to Chapter <b>92</b> , Article <b>I</b> , of the Borough of Stone Harbor Code	

\* For applications involving grading plans only.

- B. Any charitable, philanthropic, fraternal and religious nonprofit organization holding a tax-exempt status under the Federal Internal Revenue Code of 1954 shall be exempt from the payment of any application fees as noted above but shall pay all escrow fees and copying costs. A Board of Education shall be exempt from the payment of any fees noted above.
- C. The escrow fees noted above are minimums, which must accompany the application.
- D. The application shall not be deemed complete until the applicable fees have been paid. In the case of larger or more complex applications, the Zoning Officer may establish higher escrow fees at the time of submission of the application. Any escrow amounts not actually used minus any fees allowable by N.J.S.A. 40:55D-1 et seq., as amended and/or supplemented from time to time shall be refunded to the applicant upon their request and upon recommendation of the applicable Board.

## § 345-25. Hearings.

- A. Rules. The Planning Board and Zoning Board of Adjustment shall make rules governing the conduct of hearings before such bodies which rules shall not be inconsistent with the provisions of N.J.S.A. 40:55D-1 et seq. or of this chapter.
- B. The procedures in connection with the hearings are set forth in N.J.S.A. 40:55D-10, as amended and/or supplemented from time to time, and are as follows:
  - (1) Oaths. The officer presiding at the hearing or such person as he may designate shall have power to administer oaths, and issue subpoenas to require the attendance of witnesses and the production of relevant evidence, including witnesses and documents presented by the parties. The provisions of N.J.S.A. 2A:67A-1, known as the "County and Municipal Investigations Law," shall apply.
  - (2) Testimony. The testimony of all witnesses relating to an application for development shall be taken under oath or affirmation by the presiding officer and the right of cross examination shall be permitted to all interested parties through their attorneys, if represented, or directly, if not represented; subject to the discretion of the presiding officer and to reasonable limitations as to time and number of witnesses.
  - (3) Evidence. Technical rules of evidence shall not be applicable to the hearing, but the Board may exclude irrelevant, immaterial or unduly repetitious evidence.
  - (4) Records. Each Board shall provide for the verbatim recording of the proceedings by either stenographer, mechanical or electronic means. The Board shall furnish a transcript or duplicate recording in lieu thereof on request to any interested party at their expense.

## § 345-26. Notice requirements for hearings.

- A. Whenever a hearing is required on an application for development pursuant to N.J.S.A. 40:55D-1 et seq. or pursuant to the determination of the municipal board in question, the applicant shall give notice in accordance with N.J.S.A. 40:55D-12, as amended and/or supplemented from time to time.
- B. Form of notice. All notices required to be given pursuant to the terms of this chapter shall state the date, time and place of the hearing, the nature of the matter to be considered, an identification of the property proposed for development by street address, if any, or by reference to lot and block number as shown on the current tax map in the Borough Assessor's office, and the location and times at which any maps and documents for which approval is sought are available for inspection as required by law.

## § 345-27. List of property owners furnished.

Pursuant to the provisions of N.J.S.A. 40:55D-12c the administrative officer of the Borough, the zoning official, shall within seven days after receipt of a request therefor and upon receipt of the applicable fee, make and certify a list from the current tax duplicate of names and addresses of persons or entities to whom the applicant is required to give notice pursuant to N.J.S.A. 40:55D-12, as amended and/or supplemented from time to time.

## § 345-28. Decisions.

- A. Each decision on any application for development shall be set forth in writing as a resolution of the Board which shall include findings of fact and legal conclusions based thereon.
- B. A copy of the decision shall be mailed by the Board within 10 days of the date of decision to the applicant or if represented, then to his attorney, without separate charge. A copy of the decision shall also be mailed to all persons who have requested it and who have paid the fee prescribed by the Board for such service. A copy of the decision shall also be filed in the office of the Borough Clerk, who shall make a copy of the filed decision available to any interested party upon payment of a fee calculated in the same manner as those established for copies of other public documents in the Borough.

## § 345-29. Publication of decision.

A brief notice of every final decision shall be published in the official newspaper of the Borough. Such publication shall be arranged by the secretary of the Planning Board or Zoning Board of Adjustment, as the case may be, without separate charge to the applicant. The notice shall be sent to the official newspaper for publication within 10 days of the date of such decision.

## § 345-30. Payment of taxes.

Pursuant to the provisions of N.J.S.A. 40:55D-39 and N.J.S.A. 40:55D-65, every application for development submitted to the Planning Board or to the Zoning Board of Adjustment shall be accompanied by proof that no taxes or assessments for local improvements are due or delinquent on the property which is the subject of such application; or, if it is shown that taxes or assessments are delinquent on said property, any approvals or other relief granted by either Board shall be conditioned upon either the prompt payment of such taxes or assessments, or the making of adequate provisions for the payment thereof, in such manner that the Borough will be adequately protected.

## § 345-31. Expiration of variances.

Any variance granted pursuant to the terms of this chapter permitting the erection or alteration of any structure or structures or permitting a specified use of any premises shall expire by limitation unless such construction, alteration or use shall have been commenced on or in each and every structure which the variance applies, within two years from the date of publication of a notice of the variance.

## Article V. Appeals

### § 345-32. Appeals to Zoning Board of Adjustment.

An appeal to the Zoning Board of Adjustment may be taken by any interested party affected by any decision of the administrative officer of the Borough based on or made in the enforcement of Chapter 560, Zoning, or the official map. Such appeal shall be taken within 20 days by filing a notice of appeal in the manner set forth in N.J.S.A. 40:55D-72, as amended and/or supplemented from time to time.

### § 345-33. Appeals from Zoning Board of Adjustment and Planning Board to Court.

All appeals from final decisions of the Zoning Board of Adjustment or the Planning Board shall be taken to the New Jersey Superior Court pursuant to the applicable laws of the State of New Jersey, within 45 days of the passage of the memorializing resolution or the publication of the decision, whichever event is later, in accordance with the provisions of RS 4:59-6 of the New Jersey Court Rules of Civil Practice.

### § 345-34. Procedure.

In connection with an appeal to the Board of Adjustment, the applicant shall attach a Schedule 1 containing a detailed narrative of the nature of the appeal, including the name of the municipal official from whom the appeal is taken and the description of his decision. Attached to that schedule should be a copy of the application made to the official and the official's decision. In addition the applicant shall attach a Schedule 2 constituting a detailed narrative of the relief sought by the appellant, including a complete description of the present size, location and character of the subject property, together with a complete description of the proposed structure or use for which approval is sought.

## Article VI. Miscellaneous Provisions

### § 345-35. Definitions of terms.

Whenever a term is used in this chapter which is defined in N.J.S.A. 40:55D-3 through 40:55D-7, such term is intended to have the meaning set forth in the definition of such term found in said statute, unless a contrary intention is clearly expressed from the context of this chapter.

### § 345-36. Pending applications.

All applications for development filed prior to the effective date of this chapter may be continued, but any appeals arising out of decisions made on any such application shall be governed by the provisions of Article V of this chapter.

### § 345-37. Copy to be filed with County Planning Board.

Immediately upon adoption of this chapter the Borough Clerk shall file a copy of this chapter with the County Planning Board as required by law. The Clerk shall also file with the County Planning Board copies of all other ordinances of the Borough relating to land use, not previously filed with the County Planning Board, such as subdivision and zoning ordinances and amendments thereto.

## Article VII. Subdivisions

### § 345-38. Subdivision approval required.

There shall be no division of any lot, tract or parcel of land in this Borough into two or more lots, tracts or parcels of land for sale or development without first obtaining subdivision approval from the Planning or Zoning Board.

### § 345-39. Subdivision defined.

The following terms, when cited in this chapter, shall have the meaning set forth in N.J.S.A. 40:55D-5 and N.J.S.A. 40:55D-7, as amended and/or supplemented from time to time: subdivision, minor subdivision and major subdivision. In no case shall a subdivision which results in more than two lots be considered a minor subdivision.

### § 345-40. Application requirements.

The owner or applicant shall submit 15 copies of all documents, including subdivision plans, a survey showing current conditions of the property, application forms and any supporting documents to the Zoning Official. The application shall be made on forms available from the Zoning Office and shall be accompanied by satisfactory written proof that all taxes or assessments for local improvements on the premises have been paid, submission of all applicable application and escrow fees as well as a completed copy of the appropriate checklist for the application. The fees shall be paid in cash or by check payable to the Borough of Stone Harbor. All documents and fees shall be submitted simultaneously.

### § 345-41. Determination of completeness.

Within 45 days of receipt of the application package, the Planning or Zoning Board or its authorized committee or designee shall review the application for administrative completeness to verify that all information as required by this chapter is included. If the application is deemed complete, the applicant shall be notified and assigned a hearing date at an upcoming Board meeting. The applicant at this time will also be authorized to serve and publish the necessary public notices. If the application is deemed incomplete, the applicant shall be notified in writing of the deficiencies of the application. The application shall be deemed incomplete if any of the required items noted in § 345-40 are not included and/or if the application lacks information required on the appropriate checklist for the application. The applicant may request that one or more of the subdivision plan requirements or checklist items be waived. In the case of a waiver request, the applicant shall submit a written narrative attached to the application indicating the specific items for which a waiver is sought and the applicants' reasoning to justify such a waiver. Notations on the checklist regarding any waivers are not sufficient to satisfy this requirement. Should the application not be certified complete within 45 days of its receipt, it shall be deemed complete, subject to the exceptions set forth in N.J.S.A. 40:55D-10.3, as amended and/or supplemented from time to time.

### § 345-42. Determination of approval.

In determining whether or not to grant subdivision approval, the Planning Board may consider and use as a guide in their deliberations the subjects discussed in N.J.S.A. 40:55D-38, 39 and 40. The time frames for granting or denying minor or major subdivision approval shall be as specified in N.J.S.A. 40:55D-1 et seq., as amended and/or supplemented from time to time.

## § 345-43. Waiving of notice and public hearing.

The Planning Board may, by its rules and regulations, waive the requirement of notice and public hearing for an application for development of a minor subdivision in accordance with the provisions of N.J.S.A. 40:55D-47, as amended and/or supplemented from time to time.

## § 345-44. County Planning Board approval.

Whenever review or approval of the subdivision application by the County Planning Board is required by N.J.S.A. 40:27-6.3, as amended and/or supplemented from time to time, the Planning Board shall condition any approvals that it grants upon timely receipt of a favorable report on the application by the County Planning Board or the approval by the County Planning Board by its failure to report thereon within the required period of time.

## § 345-45. Filing of plans.

Upon approval, all subdivision plats (both minor and major) shall be filed with the County Recording Office in accordance with the New Jersey Map Filing Law.<sup>[1]</sup> The time frames for filing of minor and major subdivision plats shall be as specified in N.J.S.A. 40:55D-1 et seq., as amended and/or supplemented from time to time.

[1] *Editor's Note: See N.J.S.A. 46:23-9.9 et seq.*

## § 345-46. Elements of subdivision plan.

All subdivision plans submitted shall clearly show the conditions of the site at the time of the application as well as any features of the site which are to remain. The plans submitted as part of the application shall be prepared by the appropriate professionals as required in N.J.A.C. 13:40-7.1 et seq., as amended and/or supplemented from time to time, as licensed to practice in the State of New Jersey.

- A. The subdivision application shall include the following information and data (where practical the information shall be included on the plan):
- (1) Owner's name and address.
  - (2) Applicant's name and address.
  - (3) Street address of the property upon which development is to take place.
  - (4) Block and lot of property upon which development is to take place.
  - (5) Applicant's standing to make application, if not the owner of the property.
  - (6) If applicant is a corporation or partnership, the name of all stockholders or partners owning 10% or more of the applicant's business.
  - (7) The nature of the application and any relief sought in connection with the application for development. The applicant shall attach a Schedule 1 containing a detailed narrative

- description of the entire application, including, but not limited to, the present size, location and character of the subject property, and the proposed development for which approval is sought. The applicant shall also attach a Schedule 2 if applicant is seeking relief from one or more specific ordinance requirements, containing the particular ordinance citation and a verbatim statement of what the ordinance says, and why the applicant should be entitled to Board approval.
- (8) All requirements necessary for filing the plat in accordance with the New Jersey Map Filing Law.
  - (9) Description of the present use of subject property.
  - (10) Description of the proposed use of subject property.
  - (11) Total cost of the project.
  - (12) Description of the plans for development, such as whether or not developer intends to sell lots only, construct houses or other buildings on property for sale, or otherwise.
  - (13) A schedule of all zoning requirements and an indication of where the application does not comply.
  - (14) A statement as to whether or not prior variances or zoning interpretations have been obtained from the Board of Adjustment in connection with this property.
  - (15) A statement as to whether or not demolition is contemplated and, if so, what is to be demolished and when.
  - (16) A statement as to whether or not all other governmental approvals have been obtained and, if not, what other governmental approvals are necessary in connection with the development.
  - (17) A statement as to whether any portion of the property has been classified as environmentally impacted, is an environmentally sensitive area or has been designated as wetlands by the State of New Jersey.
  - (18) If an agent is filing the application on behalf of his principal, evidence of the appointment on a form approved by the Board must be supplied with the application.
- B. A copy of the notices of hearing, together with an affidavit of publishing in the newspaper signed by an official of the newspaper and an affidavit of service upon property owners within 200 feet and others required to be served with the notice of hearing, shall be presented to the Board Secretary at least four days prior to the hearing. Additionally, affidavits of service upon the Cape May County Planning Board, the Commissioner of Transportation of the State of New Jersey, and the Director of the Division of State and Regional Planning of the Department of Community Affairs shall be supplied, where same are required by statute or the rules of procedure of the Board.
- C. The application for development requesting subdivision approval shall be accompanied by a survey (plat) as defined in Chapter 1, Article II, of the Code of the Borough of Stone Harbor, showing the existing and proposed lots. The plat shall indicate square footage of the lot and the subject structures and also the coverage percentage, and any other information required under local law or state statute (N.J.A.C. 13:40-5.1).

## Article VIII. Preliminary Site Plan Review

### § 345-47. Where required.

[Amended 6-2-2009 by Ord. No. 1339; 10-4-2011 by Ord. No. 1389]

- A. Preliminary site plan review and approval shall be required where a zoning, occupancy or building permit is required for any new construction (including, without limitation, enlargement or reconstruction), relocation of existing improvements, change in use or establishment of an open parking area, accessory or otherwise, whether by right, variance, or conditional use, unless deemed to be exempt from site plan requirements pursuant to Subsection **B** of this § **345-47**. Such application shall be referred to the appropriate municipal board for review of the site plan.
- B. The provisions of this § **345-47** shall not apply to:
- (1) Single-family dwellings or duplex dwellings or any use, building or structure accessory thereto.
  - (2) Any construction constituting normal maintenance or replacement, such as a new roof, painting, new siding or a similar activity.
  - (3) Any change in use to a permitted use within the Business or Waterfront Business Zoning District, provided that the proposed change in use:
    - (a) Does not include the alteration of existing conditions upon the subject property, including, without limitation, the location of existing structures, drive aisles, parking spaces, walkways, means of ingress and egress, drainage facilities, landscaping areas, or screening devices;
    - (b) Does not involve exterior construction, enlargement or reconstruction of any improvements upon the subject property, including, without limitation, structures, parking areas, drive aisles or fences;
    - (c) Does not create, expand or otherwise increase any nonconformity upon the subject property; and
    - (d) Will comply in all respects with § 560-17F or 560-17.4C, as appropriate.<sup>[1]</sup>

[1] *Editor's Note: Sections 560-17F and 560-17.4C referred to regulations regarding solid waste enclosures which were contained in the former Zoning Ordinance. See now § 560-42 of Ch. 560, Zoning.*

## § 345-48. Application requirements.

The owner or applicant shall submit 15 copies of all documents, including site plans, a survey showing current conditions of the property, application forms and any supporting documents to the Zoning Official. The application shall be made on forms available from the Zoning Office and shall be accompanied by satisfactory written proof that all taxes or assessments for local improvements on the premises have been paid, submission of all applicable application and escrow fees as well as a completed copy of the appropriate checklist for the type of application involved. The fees shall be paid in cash or by check payable to the Borough of Stone Harbor. All documents and fees shall be submitted simultaneously.

## § 345-49. Determination of completeness.

Within 45 days of receipt of the application package, the Planning or Zoning Board or its authorized committee or designee shall review the application for administrative completeness to verify that all information as required by this chapter is included. If the application is deemed complete, the applicant shall be notified and assigned a hearing date at an upcoming Board meeting. The applicant at this time will also be authorized to serve and publish the necessary public notices. If the application is deemed incomplete, the applicant shall be notified in writing of the deficiencies of the application. The

application shall be deemed incomplete if any of the required items noted in § 345-48 are not included and/or if the application lacks information required on the appropriate checklist for the application in question. The applicant may request that one or more of the site plan requirements or checklist items be waived. In the case of a waiver request, the applicant shall submit a written narrative attached to the application indicating the specific items for which a waiver is sought and the applicant's reasoning to justify such a waiver. Notations on the checklist regarding any waivers are not sufficient to satisfy this requirement. Should the application not be certified complete within 45 days of its receipt, it shall be deemed complete, subject to the exceptions set forth in N.J.S.A. 40:55D-10.3, as amended and/or supplemented from time to time.

## § 345-50. Elements of site plan.

All site plans submitted shall clearly show the conditions of the site at the time of the application, the features of the site which are to remain as well as the appearance and function of the proposed development. The plans submitted as part of the application shall be prepared by the appropriate professionals as required in N.J.A.C. 13:40-7.1 et seq., as amended and/or supplemented from time to time, as licensed to practice in the State of New Jersey. The site plan application shall include the following information and data:

- A. A current survey of the property (15 copies) prepared by a New Jersey licensed land surveyor, showing boundaries of the property, lines of all existing streets and roads, building and setback lines, reservations, deed restrictions, easements and areas dedicated to public use, rights-of-way and areas dedicated to public use within 200 feet of the development. The survey must also indicate a north arrow, scale in feet and graphic scale, name, address, professional license number and seal of the surveyor who prepared the survey.
- B. A topographic survey (15 copies) prepared by a New Jersey licensed land surveyor to delineate existing contours at one-foot intervals, up to 10 feet beyond property lines, as well as proposed grading and contours, trees (where two inches or greater in diameter), floodplains, drainage ditches, and other significant features that affect the development of the site. The topographic survey may be included as part of the outbounds survey noted in Subsection **A** above.
- C. A site plan which shall specifically include the following:
  - (1) Key Maps on the site plan all orientated in the same direction with the site delineated on each key map:
    - (a) Zoning Map.
    - (b) Tax Map.
    - (c) USGS Map.
    - (d) Soil Survey Map.
    - (e) Wetland Map.
  - (2) Indicate the title and location of the development (street address, block and lot).
  - (3) Indicate the name and address of owner of record and/or applicant.
  - (4) Indicate the name and address of the professional who prepared the site development plan.
  - (5) Indicate the proposed use or uses of the land and buildings.
  - (6) Site plans should be prepared at a scale no smaller than one inch equals 50 feet, nor larger than one inch equals 10 feet and shall indicate the scale in feet along with showing a graphic

- scale. The size of sheets should not exceed 30 inches by 42 inches and should be consistent with sizes enumerated in the Map Filing Law.
- (7) All site plans shall be provided with a North arrow with the orientation being the same direction on all sheets.
  - (8) Provide the names and addresses of the owners of record of all properties within 200 feet of the property being developed, including block and lot numbers, parcel number, and tax map number, all as certified by the Tax Assessor.
  - (9) Show proposed buildings with dimensions showing first floor elevation, existing and proposed grade elevations at all corners and entrances, proposed grading and contours, landscaped areas (with plant materials), trees (where two inches or greater in diameter), floodplains, streams and drainage ditches.
  - (10) Indicate existing buildings to remain with dimensions and floor elevations and any structures to be removed.
  - (11) Indicate the location of all existing and proposed structures, i.e. walls, fences, culverts, bridges, roadways, etc., with grade elevations for each structure.
  - (12) Indicate the existing zoning district of the development site and the area within 200 feet of the property.
  - (13) Indicate all existing schools and special district boundaries within 200 feet of the property.
  - (14) Indicate the distance from the premises in question to the nearest street intersection.
  - (15) Indicate locations of all utility structures and lines (both aerial and underground), meters, existing and proposed stormwater drainage (on-site and off-site as well as from buildings and structures), telephone, cable, satellite dishes, power and light, water (both potable and irrigation systems), hydrant locations, sewer, gas, etc., indicate whether privately or publicly owned, with manholes, inlets, pipe sizes, grades, inverts and directions of flow.
  - (16) Indicate the location, size and nature of the entire lot or lots in question or contiguous lots owned by the applicant or owner of record.
  - (17) Indicate all proposed easements and public or community areas.
  - (18) Indicate all means of vehicular ingress and egress to and from the site onto public streets, showing the size and location of driveways, curb cuts and curbing, and sight triangles.
  - (19) Indicate the location and design of off-street parking areas, showing their size, the locations of internal circulation, pedestrian circulation, traffic patterns, parking spaces, drive aisles, driveways, curbing, barriers, wearing surface finishes and construction details.
  - (20) Indicate the location, arrangement and dimensions of truck loading and unloading areas, platforms and/or docks.
  - (21) Indicate provisions for refuse and garbage disposal. Insure that these areas are not exposed to view, are nonpolluting, covered from weather, protected from wind scattering and are secure from vandalism. Incineration or burning units will not be permitted. Compactor units will be of completely sealed operation. Open dump areas for garbage or refuse are prohibited.
  - (22) Indicate provisions for screening or storage of equipment that is attached to or separate from buildings.

- (23) Indicate all existing or proposed exterior lighting (freestanding and/or on building), including size, nature of construction, lumens, height, area and direction of illumination, footcandles produced, as well as time controls proposed for outdoor lighting and displays.
- (24) Indicate all existing and proposed signs and their sizes, nature of construction and locations, height and orientation, including all identification, regulatory, traffic, directional signs and directional arrows, freestanding and facade signs and time control for sign lighting.
- (25) Indicate locations, dimensions and constructions of off-site sidewalks, on-site exits, walks and sidewalks. Provision should be made for pedestrian safety, accessways and a bicycle racking system.
- (26) Indicate proposed screening of green areas, landscaping and fencing, including a planting plan and schedule. Provision should be made for maintenance and irrigation.
- (27) Indicate improvements to adjoining streets and roads and traffic control devices necessary in streets or highways, including delineation of turning movements for vehicles entering or exiting the site.
- (28) Indicate any covenants and deed restrictions intended to cover any of the development site.
- (29) Provide a detailed written description, sketch, rendering or picture of new buildings or structures.
- (30) Provide preliminary architectural floor plans and elevations (15 copies), with the name, address, professional number and seal of the architect.
- (31) Provide appropriate places for signatures and date of approval of the Chairman and Secretary of the Board, and its engineer.
- (32) Indicate provisions for fire service, including consideration for service lines, hydrants, Siamese connections, automatic sprinkler systems, fire zone "no parking" zones, and pavement and wall signs.
- (33) Indicate flood zone and base flood elevation, including the top of curb elevations in front of the property.
- (34) Indicate postal addresses for the final building or unit configuration on the site.
- (35) Provide stormwater drainage calculations for existing and post construction conditions. If the calculations are provided in the form of a separate report from the plans, three signed and sealed copies shall be provided with the application and a summary of the calculations shall be indicated on the plans.
- (36) Indicate the total building area proposed in square footage and percent of lot coverage.
- (37) Indicate the total landscaped area in square footage and percent of lot coverage.
- (38) Indicate the total driveway, access roads, and walkways in square footage and percent of lot coverage.
- (39) Indicate the total parking area (including drive aisles) in square footage and percent of lot coverage.
- (40) Indicate the total number of parking spaces and provide a parking analysis based upon the intended uses.
- (41) Indicate the size, type and location of fences.

(42) Address delivery and shipping requirements for the site.

D. Provide a project assessment statement addressing the following minimum criteria:

- (1) An inventory of existing environmental conditions at the project site and the adjacent area, including but not limited to air quality, water quality and supply, hydrology, soils, topography, vegetation, wildlife, aquatic organisms, demography, land use and aesthetics.
- (2) An assessment of the probable impact of the project upon the topics described in Subsection **D(1)** above, including any mitigating measures to be used to minimize the impacts.
- (3) A listing of all licenses, permits or other approvals as required by law and the status of each.
- (4) Steps that will be taken during construction and operation of the facility to minimize adverse impacts. This section must include but not be limited to a discussion of temporary storage of equipment, materials and dumpsters during construction, traffic and pedestrian impact during construction as well as operational aspects of the completed facility such as noise, light, trash handling and deliveries.
- (5) An analysis of the project in terms of its compatibility with the immediate area relative to architecture, signage, landscaping and overall appearance.
- (6) Provide information regarding the size, type and location of any open space to be provided as well as the bylaws for maintenance of the open space.
- (7) Address noise generation from the site, including but not limited to noise from air-conditioning units, trash compactors, etc. Refer to Chapter **374**, Noise, of the Stone Harbor Borough Code.
- (8) Where applicable, address the project impact on adjacent waterways, including water views, dock layout and waterway access. Specific details shall be shown on the site plan where possible.

E. Submit a minimum of four color photographs of the site showing the front, rear and sides of the property.

## Article IX. Final Site Plan Review

### § 345-51. Where required.

[Amended 6-2-2009 by Ord. No. 1339]

Final site plan review and approval shall be required of all site plans approved at the preliminary submission stage, in accordance with N.J.S.A. 40:55D-46.1, as amended and/or supplemented from time to time.

### § 345-52. Application requirements.

Within three years (plus any extensions granted by the Board) the applicant shall submit to the Zoning Official 15 copies of the final plan and application form along with the applicable fees per § **345-24** of this chapter. The submission must also include all details as stipulated in § **345-50** of this chapter, submission of all additional details required at the time of preliminary approval, written proof that all taxes or assessments for local improvements on the premises have been paid and submission of all applicable application and escrow fees. The fees shall be paid in cash or by check payable to the Borough of Stone Harbor. All documents and fees shall be submitted simultaneously.

## § 345-53. Determination of completeness.

Within 45 days of receipt of the application package, the Planning or Zoning Board or its authorized committee or designee shall review the application for administrative completeness to verify that all information as required by this chapter is included. If the application is deemed complete, the applicant shall be notified and assigned a hearing date at an upcoming Board meeting. If the application is deemed incomplete, the applicant shall be notified in writing of the deficiencies of the application. The application shall be deemed incomplete if any of the required items noted in § 345-52 are not included. Should the application not be certified complete within 45 days of its receipt, it shall be deemed complete, subject to the exceptions set forth in N.J.S.A. 40:55D-10.3, as amended and/or supplemented from time to time.

## Article X. (Reserved)

[1] *Editor's Note: Former Art. X, Minor Site Plan Review, was repealed 6-2-2009 by Ord. No. 1339.*

## § 345-54. through § 345-57. (Reserved)

## Article XI. Informal Review

### § 345-58. Where permitted.

A developer may request the Planning Board to perform an informal review of a concept plan for a development for which the developer intends to prepare and submit an application for development. The fees for this informal review shall be a credit toward fees for review of the application for development. The developer shall not be bound by any concept plan for which review is requested, and the Planning Board shall not be bound by any such review.

### § 345-59. Application requirements.

The owner or applicant shall submit 15 copies of a conceptual site plan showing the general layout of the proposed facilities. In addition he shall submit at least four photographs showing the front, rear and sides of the property along with the applicable application and escrow fees. The fees shall be paid in cash or by check payable to the Borough of Stone Harbor. All documents and fees shall be submitted simultaneously.

### § 345-60. Review.

Upon the receipt of the required information, the application shall be scheduled to be reviewed at the next available meeting of the Planning Board where the agenda permits.

## Article XII. Design Standards

### § 345-61. Zoning standards.

The applicant is hereby referred to the various standards that are specified in Chapter 560, Zoning, relative to design of the site improvements and amenities.

## § 345-62. Additional standards.

In addition to the standards referred to in § **345-61**, the applicant shall meet the following standards relative to the design of the site improvements and amenities:

- A. Parking and traffic. All parking and traffic design for the site shall be in accordance with appropriate standards, including but not limited to New Jersey Department of Transportation standards and the New Jersey Residential Site Improvement Standards. In addition all pavement markings and traffic control signage shall be in accordance with the US Department of Transportation Manual on Uniform Traffic Control Devices.
- B. Drainage.  
[Amended 12-3-2019 by Ord. No. 1561]
  - (1) The applicant shall demonstrate that the stormwater runoff from the site will not adversely impact an adjacent property. Detailed stormwater runoff calculations shall be submitted with the application documenting the evaluation. As a minimum the applicant shall evaluate the two-, ten- and twenty-five-year design storm using either the rational method of the USDA Soil Conservation Service (TR-55) method. Where feasible the surface drainage from the site shall be directly connected to the Borough's stormwater drainage systems.
  - (2) Natural channels shall not be modified, developed, dredged, cleared of vegetation, deepened, widened, straightened or otherwise altered without any applicable permits issued by the New Jersey Department of Environmental Protection or any other state or federal entity with jurisdiction. If approved the channel must be improved using natural approaches and should avoid the use of concrete or other hard techniques. Water should be retained or detained before it enters any natural channel in order to preserve the natural hydrodynamics of the channel and to prevent siltation or other forms of pollution.
- C. Parking. Where on-site parking is provided, the applicant shall provide buffering of said parking from adjacent properties and where possible from the street by means of landscaping, fencing or other acceptable means.
- D. Lighting. All lighting for the site whether it be for parking areas, pedestrian walks or security purposes shall be designed so as to avoid off-site light pollution. The types of light fixtures used shall be architecturally compatible with the site building and adjacent buildings and shall be placed to maintain lighting intensities suitable for the intended purpose.
- E. Loading/unloading. Where necessary for the operation of a business or other facility, off-street load and unload spaces shall be required on the site. This space shall be at least 12 feet wide and 55 feet long and shall have a paved surface approved by the Borough Engineer. The space shall not be located in any front yard area and shall be buffered from adjacent properties.
- F. Interior circulation. The interior circulation of traffic shall be designed to provide safe and efficient movement of vehicles on the site. No driveway or street used for interior circulation shall have traffic lanes less than 12 feet in width. Sufficient drive aisle width behind parking spaces shall be provided but in no case shall this width be less than 24 feet.
- G. Parking and paved areas. All parking spaces with the exception of handicapped spaces shall be 10 feet wide and 20 feet long. Handicapped parking spaces shall be provided in the quantity, location, size and grading as required by the Americans with Disabilities Act. All spaces shall be clearly delineated by painted lines or markers and shall be provided with wheel stops for the safety or protection of adjacent structures, sidewalks or landscaped areas.
- H. Outdoor storage. Outdoor storage of any type shall not be permitted unless it is enclosed in an approved structure complying with the applicable zoning requirements.

- I. Sight triangles. A clear sight triangle shall be provided at all street and driveway intersections. Nothing shall be erected, placed or allowed to grow in a manner which obscures vision above the height of 2 1/2 feet and below 10 feet, measured from the center line grade of the intersecting street or driveway. At driveway intersections with streets, a clear sign isosceles triangle shall be established for a distance of 10 feet at each side of the point of intersection with street right-of-way lines.
- J. Driveways. All driveways shall be constructed so as to be at an angle of between 75° and 105° with the intersecting street. The driveway shall be paved to the edge of the existing street paving and provided with adequate provisions for drainage.

*Borough of Stone Harbor, NJ  
Tuesday, December 3, 2019*

## Chapter 560. Zoning

[HISTORY: Adopted by the Borough Council of the Borough of Stone Harbor 12-6-2011 by Ord. No. 1394.<sup>[1]</sup> Amendments noted where applicable.]

### **GENERAL REFERENCES**

Zoning Officer — See Ch. **67**.

Adult entertainment — See Ch. **120**.

Affordable housing — See Ch. **123**.

Beaches — See Ch. **156**.

Building construction — See Ch. **178**.

Uniform construction codes — See Ch. **230**.

Display windows — See Ch. **250**.

Flood damage prevention — See Ch. **300**.

Land development procedures — See Ch. **345**.

Noise — See Ch. **374**.

Municipal parking lots — See Ch. **386**.

Stormwater management — See Ch. **470**.

[1] *Editor's Note: This ordinance also provided for the repeal of former Ch. 560, Zoning, adopted as Ch. 15 of the 1982 Revised General Ordinances, as amended.*

## Article I. Title and Purpose

### § 560-1. Short title.

This chapter shall be known and may be cited as the "Zoning Ordinance of Stone Harbor, New Jersey."

### § 560-2. Purpose.

Pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., and for the purposes set forth therein, the Borough of Stone Harbor, New Jersey, hereby establishes the Zoning Ordinance of Stone Harbor, New Jersey.

### § 560-3. through § 560-4. (Reserved)

## Article II. Establishment of Districts

### § 560-5. Classes of districts.

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

A. Residential A District (§ **560-13**).

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

## § 560-6. Zoning Map.

[Amended 2-18-2014 by Ord. No. 1434]

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

## § 560-7. through § 560-8. (Reserved)

## Article III. Definitions

### § 560-9. Inclusive words.

"Used" includes "arranged, designed or intended to be used"; "occupied" includes "designed or intended to be occupied"; and "building" includes "structure" or "structures," without limitation.

### § 560-10. Definitions.

As used in this chapter, the following words shall have the assigned meanings:

#### **ACCESSORY BUILDING**

A building subordinate to the principal building on a lot and used for purposes customarily incidental to the principal building.

#### **ACCESSORY USE**

A use subordinate to the main use on the lot and customarily incidental to the main use.

#### **ARBOR**

A constructed shelter of vines or branches or latticework.

#### **ATTIC**

A windowless space immediately below a building's roof which:

- A. Has an inside height (top of the floor to the highest inside point) of less than seven feet; and
- B. Is not designed or used as habitable space.

**AWNING**

An architectural fabric projection that provides weather protection, identity and/or decoration and is wholly supported by the building to which it is attached. An awning is comprised of a lightweight-frame structure over which a cover is attached.

**BOUTIQUE HOTEL**

A hotel having 25 or fewer guest rooms, offering rooms for rent on a nightly basis.

**BUILDING COVERAGE**

- A. The area of a lot occupied by principal buildings, including, without limitation:
- (1) Permanent structural elements protruding from principal buildings, such as cantilevered second-floor living areas;
  - (2) Attached garages; and
  - (3) Other attached accessory buildings.
- B. Building coverage shall not include:
- (1) Open porches; or
  - (2) Bay windows, eaves, gutters and similar building features having no foundation and extending not more than 20 inches from a structure.

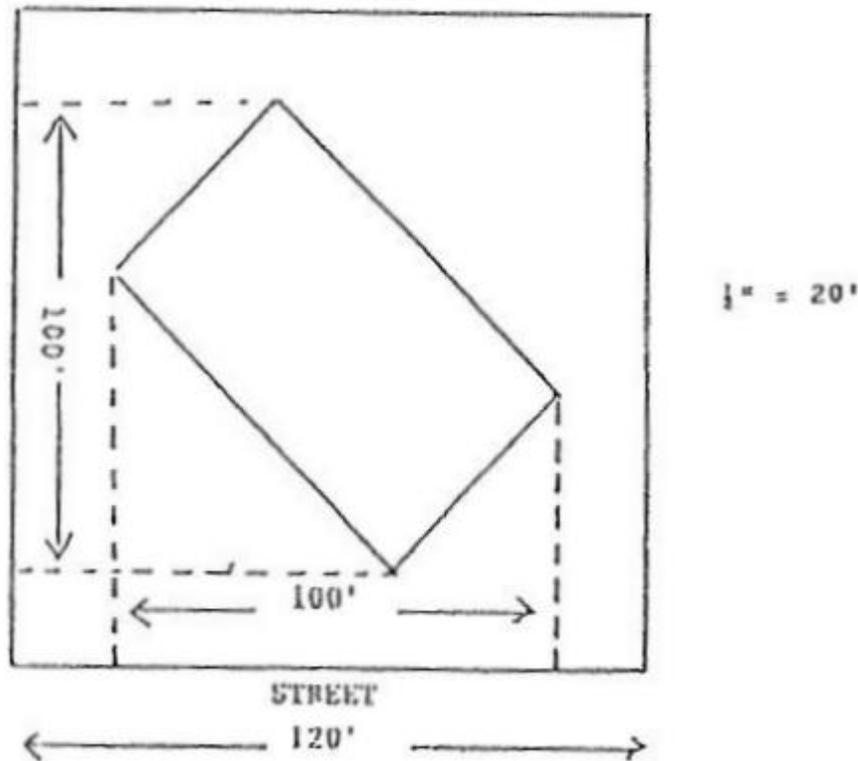
**BUILDING HEIGHT**

[Amended 10-15-2013 by Ord. No. 1432]

- A. In all residential zones (Residential A, B, B-P and C), "building height" shall be defined as the vertical measurement from design flood elevation as defined in Chapter **300** of the Borough Code to the uppermost point of a building, except as otherwise provided.  
[Amended 4-17-2018 by Ord. No. 1519]
- B. In all other zones, "building height" shall be defined as the vertical measurement from the curb level to the uppermost point of a building, except as otherwise provided.

**BUILDING LENGTH**

The distance between the furthest two points of a structure when measured along the subject lot's street frontage. Illustration: Building length is calculated graphically below as measuring 100 feet.



### CANOPY

An architectural projection that provides weather protection, identity and/or decoration and is supported by the building to which it is attached and at the outer end by not less than one stanchion or other means of support.

### CLUB

An organization of persons, having a charter from or recorded with the State of New Jersey, for social or fraternal purposes, whose building and services are for members and guests only and not operated for profit or gain.

### CORNER LOT

A lot which fronts on two streets and, hence, has two front yards. Consequently, a corner lot also has two side yards and no rear yard.

### CRAWL SPACE

The interior area of a structure located between the ground and the lowest level of the first floor, which area is not improved or otherwise used for habitation.

### CURB CUT

An area of depressed curbing providing unobstructed vehicular access to the driveway, drive aisle, parking area or other areas of a lot.

#### A. SINGLE CUT

Curb cuts measuring not less than 10 feet and not more than 12 feet in width.

#### B. DOUBLE CUT

Curb cuts measuring more than 12 feet but not more than 20 feet in width.

### CURB LEVEL

The level of the curb in front of a lot as established or determined to be established by the Borough authorities. In connection with computing the required heights of buildings, curb level shall be measured from the grade level of the top of the curb at the center point of the lot or parcel of land upon which a building is to be constructed.

**DETACHED PRIVATE GARAGE**

A private garage which is:

- A. Not connected to any other building or structure; or
- B. Connected to another building or structure only by an improvement having no walls or other form of enclosure.

**DWELLINGS****A. SINGLE-FAMILY DWELLING**

A structure designed for occupancy by one family and containing one dwelling unit.

**B. TWO-FAMILY DWELLING**

A structure designed for occupancy by two families and containing two dwelling units.

**C. MULTIPLE DWELLING**

A structure designed and/or used for permanent rather than transient guests and arranged for occupancy by three or more families and containing three or more dwelling units.

**D. DWELLING UNIT**

A room or series of connecting rooms containing living, cooking, sleeping and sanitary facilities for one housekeeping unit.

**E. RENTAL UNIT**

A room or series of connecting rooms which do not contain, in toto, living, cooking, sleeping and sanitary facilities for a housekeeping unit.

**F. TOWNHOUSE DWELLING UNIT**

A single-family dwelling in a line of at least three but not more than six such dwellings, each connected together and each located on an individual townhouse lot.

**ESTABLISHED BULKHEAD LINE**

The bulkhead line shown on the current Tax Map of the Borough of Stone Harbor.

**FAMILY**

One or more persons living as a housekeeping unit and doing their cooking on the premises.

**FENCE**

A barrier, constructed of wood, metal, cement block, or any other similar material, which is used to prevent escape or intrusion or to mark a boundary or for other similar purpose. If a fence exceeds eight inches in width, its coverage (square footage) will be considered as "lot coverage" under the definition herein.

**GAZEBO**

A freestanding roofed accessory structure open on the sides.

**HABITABLE SPACE**

Interior space having a ceiling height of seven feet or more and included in the definition of "building coverage."

**HOTEL or MOTEL**

A structure having three or more units which is designed for or used for transient guests rather than permanent residents. Rooming houses and boardinghouses are included within this definition.

**IMPERVIOUS MATERIALS**

Any natural or man-made surface that restricts the infiltration of water and causes surface runoff.

**LOT**

A parcel or tract of land, above or below water, and land on which a main building or its accessories are or may be placed, together with the required open spaces. No land area surrounding any building, used once to meet the open space requirements of this chapter or of former ordinances, shall be used a second time to fulfill the requirements of this chapter, and no lot shall be so reduced in area that any required open space will be smaller than that which is prescribed in the regulations for the district in which the lot is located.

### **LOT AREA**

The total horizontal area within the boundaries of a lot, parcel or tract of land, measured in square units.

### **LOT COVERAGE**

That area of a lot that is covered by buildings, roofs, structures, swimming pools, walkways, driveways, patios (including paver patios), decks or similar facilities that are constructed of impervious materials. Bay windows, eaves, gutters, and similar building features having no foundation and extending not more than 20 inches from a structure shall not be included in lot coverage calculations.

### **LOT FRONTAGE**

The distance between side lot lines measured along the front property line of a lot where it meets the adjacent street. For corner lots, lot frontage shall include the distance of all front property lines where they meet adjacent streets.

### **OPEN PORCH**

An exterior part of a building, including a breezeway, outside of and extending beyond the exterior walls of the building, the exterior boundaries of which are completely and permanently open to the outside air; provided that an open porch may have:

- A. A solid wall in lieu of a railing, which wall extends not more than 36 inches above the porch deck; and
- B. A solid soffit or other overhead bulkhead extending not more than 18 inches below the porch ceiling.

### **OUTDOOR DINING**

[Added 8-7-2012 by Ord. No. 1406]

- A. The consumption of food or drink at a table that is not located within a structure, which table is made available for use in conjunction with a restaurant or other food service business; provided that outdoor dining shall not include the consumption of food or drink if:
  - (1) The food and/or drink is purchased and served indoors or via window service (without table service);
  - (2) The consumption occurs at a table which is 27 inches or less in length and in width or 30 inches or less in diameter;
  - (3) The number of outdoor tables provided by the associated restaurant or other food service business does not exceed the lesser of one table for each 32 square feet of ground area or four tables; and
  - (4) The table and surrounding area are not available for the consumption of alcoholic beverages.
- B. "Ground area," as described in Subsection **A(3)** above, shall include only unimproved exterior areas (including paved areas) upon which outdoor table(s) are situated.

### **PERGOLA**

An accessory structure consisting of parallel colonnades supporting an open roof of girders and cross rafters.

**PRIVATE GARAGE**

A structure designed for the storage of automobiles, including not more than one commercial vehicle not larger than one ton in capacity, which structure is not designed or utilized as a dwelling unit or for dwelling purposes.

**PROJECTING SIGN**

A sign that is perpendicular to a building face or wall and attached to the building by means of a bar or other structural support.

**PROPERTY LINES****A. FRONT PROPERTY LINE**

The exterior boundary line of any lot where such line abuts a street or streets.

**B. SIDE OR REAR PROPERTY LINES**

The exterior boundary lines (except front property lines) of any lot.

**RESTAURANT**

A place of business serving food for on-premises consumption.

**ROOF, FLAT**

A roof having a pitch less than two inches per foot.

**ROOF, PEAKED**

A roof having a pitch of two inches or more per foot.

**SIGN**

Any device visible from a public place that displays a commercial or noncommercial message by means of graphic presentation of alphabetic or pictorial symbols or representations. The area of any sign shall be the maximum projected area of the shape, board, panel or other structure which encloses the sign, provided that the area of any sign fixed upon or making up a part of an awning shall be the maximum projected area of the letters, images, characters and graphics.

**STACKED PARKING**

On-site off-street parking whereby vehicles are parked end-to-end and whereby one or more vehicles are unable to access a driveway or street without moving one or more vehicles.

**STORY**

- A. That portion of a building included between the upper surface of a floor and the ceiling or roof next above, any part of which is above the base flood elevation and which is six feet or more in height, subject to the following exceptions:
- (1) A basement or cellar, no part of which is above base flood elevation, shall not constitute a story;
  - (2) One nonhabitable intermediate level of 69 square feet or less may be permitted, and such intermediate level shall not constitute a story; and
  - (3) An attic shall not constitute a story.
- B. Any floor level, whether on the ground or elsewhere, regardless of the height thereof, which is to be occupied in whole or in part for the parking or storage of automobiles shall, for the purpose of determining the height limit, be regarded as a story.
- C. The number of stories shall be measured as a vertical line from the roof to the ground beneath a structure, so that sunken living rooms and rooms resulting from split-level construction shall be permitted as long as, on any vertical line from the roof to the ground beneath the structure, there are no more than two floors and two ceilings in addition to the attic.

**STREET LINE**

One of the exterior boundary lines of a public street and being a line in common with the property line as shown on the Zoning Map.

**STRUCTURE**

A combination of materials to form a construction for occupancy, use or ornamentation, whether installed on, above or below the surface of a parcel of land.

**TOWNHOUSE LOT**

The parcel of land which has been or is intended to be conveyed in fee simple to a purchaser, together with a townhouse dwelling unit constructed thereon.

**TOWNHOUSE STRUCTURE**

A residential building containing at least three but not more than six townhouse dwelling units therein.

**TRELLIS**

A frame of latticework used as a screen and/or a support for climbing plants.

**WINDOW SERVICE**

The sale or delivery to any person of any goods, wares, merchandise, food, or article of any kind or description through any opening, space, or aperture in a building for use or consumption on or off the premises.

**YARD**

A. Yards are defined as follows:

**(1) FRONT YARD**

An open space, unobstructed except as herein provided, fronting on a street, the full width of the lot and extending from the property line to the front setback line.

**(2) SIDE YARD**

An open space, unobstructed except as herein provided, between the side line of a lot and the permissible building line on the side of the lot, the space to extend from the front yard to the rear yard with respect to interior lots and from the front yard to the other side yard with respect to corner lots.

**(3) REAR YARD**

An open space, unobstructed except as herein provided, the full width of the lot, extending in depth from the rear setback line to the rear line of the lot, except with respect to corner lots, which have no rear yards.

B. Exception. For the limited purpose of calculating the maximum area of accessory structures located in a front or rear yard, the area of such yard shall be deemed to include all land in the area between the main structure (including but not limited to decks, but excluding items enumerated in § 560-38) and the rear property line. (For corner lots, see § 560-34).

## § 560-11. through § 560-12. (Reserved)

## Article IV. Zoning District Regulations

### § 560-13. Residential A Zoning District.

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

- (1) Principal permitted uses:
    - (a) Single-family dwellings.
  - (2) Accessory uses:
    - (a) Private docks/boat slips.
    - (b) Private garage.
    - (c) Accessory building.
  - (3) Conditional uses: none.
- B. Area regulations. Development in the Residential A District shall be subject to the following area regulations:

- (1) Minimum requirements:

**TABLE I****Minimum Requirements**

Lot area	6,600 square feet
Lot frontage	60 feet
Setbacks (principal structure)	
Front yard	10 feet
Side yards (each)	10 feet
Rear yard	25 feet
Building coverage (principal structure only)	900 square feet

- (2) Maximum limitations:  
[Amended 10-15-2013 by Ord. No. 1432]

**TABLE II****Maximum Limitations**

Building coverage	25%
Lot coverage	70%
Building height	23 feet (flat roof)
	31 feet (peaked roof)
Building height, coastal high hazard areas	24 feet (flat roof)
	32 feet (peaked roof)
Habitable stories	2
Building length	100 feet

- C. Conditional use regulations: none.

- D. Supplemental regulations.

- (1) Private garages and accessory buildings shall not exceed one story, shall not exceed an overall height of 14 feet from the curb level to the uppermost point of the roof, and shall be a minimum of five feet from the principal structure. No cooking facilities or toilet shall be installed in any private garage or accessory building. No private garage or accessory building may be utilized for dwelling purposes; the installation or use of a sink, shower, or clothes washing or drying machine shall be permitted.

## § 560-14. Residential B Zoning District.

- A. Use regulations. In the Residential B Zoning District, lands, buildings and premises may be used for the following purposes:
- (1) Principal permitted uses:
    - (a) Single-family dwellings.
    - (b) Two-family dwellings.
  - (2) Accessory uses:
    - (a) Private docks/boat slips.
    - (b) Private garage.
    - (c) Accessory building.
  - (3) Conditional uses: none.
- B. Area regulations. Development in the Residential B District shall be subject to the following area regulations:
- (1) Minimum requirements:

**TABLE I**

**Minimum Requirements**

Lot area	
Single-family	6,600 square feet
Two-family	12,500 square feet
Lot frontage	
Single-family	60 feet
Two-family	110 feet
Setbacks (principal structure)	
Front yard	10 feet
Side yards (each)	
Single-family	10 feet
Two-family	20 feet
Rear yard	25 feet
Building coverage (principal structure only)	700 square feet

- (2) Maximum limitations:  
[Amended 10-15-2013 by Ord. No. 1432]

**TABLE II**

**Maximum Limitations**

Building coverage	25%
Lot coverage	70%
Building height	23 feet (flat roof)
	31 feet (peaked roof)

**TABLE II****Maximum Limitations**

Habitable stories	2
Building length	100 feet

C. Conditional use regulations: none.

D. Supplemental regulations.

- (1) Private garages and accessory buildings shall not exceed one story, shall not exceed an overall height of 14 feet from the curb level to the uppermost point of the roof, and shall be a minimum of five feet from the principal structure. No cooking facilities or toilet shall be installed in any private garage or accessory building. No private garage or accessory building may be utilized for dwelling purposes; the installation or use of a sink, shower, or clothes washing or drying machine shall be permitted.

## § 560-15. Residential B Parking (B-P) District.

A. Use regulations. In the Residential B Parking B-P District, lands, buildings and premises may be used for the following purposes:

- (1) Those permitted in Residential A and B Districts, subject to the use, area, conditional use and supplemental regulations of those districts.
- (2) Motor vehicle parking lots which are open to the public or to which the public is invited, whether maintained or operated separately or in conjunction with any business or enterprise, subject to the following conditions and restrictions:
- The applicant shall submit plans which shall clearly establish the size and location of the lot; the size and location of each parking area on the lot; the size, location and type of construction of the fences; the size and location of the vehicular accessways; the size and location of the sign or signs; the size, location and type of lighting to be used; and the type of construction of the surface of the lot.
  - In the event that a parking lot shall be located in such a fashion as to be contiguous to two residential lots fronting on the same street, the vehicular accessway or accessways for ingress and egress shall be located equally distant from each residential property, to the extent that the same is practical. No vehicular accessway shall exceed a width of 15 feet.
  - An opaque fence of a height of four feet shall be erected upon the rear and the two sides of the parking lot. Between the parking area and any sidewalk fronting on a street, a nonopaque fence four feet in height, of construction materials similar to the fence on the other three sides, shall be erected.
  - On the outside of the fence fronting on a street, except for sidewalks and driveways, crushed stone, washed stone, grass or concrete cement shall be the ground cover. Between the fence and sidewalk, aesthetic and decorative plantings shall be installed.
  - No building or structure shall be permitted on the parking lot, with the exception of signs, fences and lights pursuant to the regulations herein set forth.
  - The use of lights for illumination purposes shall be erected upon standards which shall not be greater than 12 feet in height. Such lights shall be operated by an automatic electric timing device which shall cause the lights on the parking lot to be extinguished

1/2 hour after the parking lot is closed. Such lights shall also be shaded and angled downward in such a manner as to confine the direct light entirely within the parking lot.

- (g) Each parking lot shall have a sign, not in excess of five square feet, mounted in its entirety upon the fence at each vehicular accessway to the lot. The sign shall warn that loud noises are prohibited and what the hours of operation of the lot are, together with any other limitations set forth by the owner.
  - (h) The parking lot shall be constructed of bituminous asphalt. Each parking space on the lot shall be striped, and the lot shall be kept clean and free of potholes and other dangerous or unsightly objects. The owner of the property shall be responsible for the proper operation and maintenance of the parking lot.
- B. Intent and purpose. It is the intent and purpose of the Borough Council, in creating this district, to provide additional needed parking near the main business district in the Borough. Any development in the B-P Zoning District, including development involving or otherwise resulting from variance relief granted by the Planning Board or Zoning Board of Adjustment, shall be designed to preserve, to the maximum extent possible, the use and enjoyment of residential properties located within and adjacent to the B-P Zoning District.

## § 560-16. Residential C Zoning District.

- A. Use regulations. In the Residential C Zoning District, lands, buildings and premises may be used for the following purposes:
- (1) Principal permitted uses:
    - (a) Single-family dwellings.
    - (b) Two-family dwellings.
  - (2) Accessory uses:
    - (a) Private docks/boat slips.
    - (b) Private garage.
    - (c) Accessory building.
  - (3) Conditional uses: none.
- B. Area regulations. Development in the Residential C District shall be subject to the following area regulations:
- (1) Minimum requirements:

**TABLE I**

**Minimum Requirements**

Lot area	
Single-family	5,500 square feet
Two-family	9,100 square feet
Lot frontage	50 feet
Setbacks (principal structure)	
Front yard	
Lots more than 2,200 square feet	10 feet

**TABLE I****Minimum Requirements**

Lots 2,200 square feet or less	5 feet
Side yards (each)	
Single-family	5 feet for lots having an area of 2,200 square feet or less, plus 1 additional foot for each 560 square feet of lot area or portion thereof in excess of 2,200 square feet; 10 feet maximum
Two-family	20 feet
Rear yard	
Single-family	5 feet for lots having an area of 2,200 square feet or less, plus 1 additional foot for each 360 square feet of lot area or portion thereof in excess of 2,200 square feet; 10 feet maximum
Two-family	25 feet
Building coverage (principal structure only)	560 square feet

- (2) Maximum limitations:  
[Amended 10-15-2013 by Ord. No. 1432]

**TABLE II****Maximum Limitations**

Building coverage	40% for lots having an area of 2,200 square feet or less, minus 1% for each 200 square feet of lot area or portion thereof in excess of 2,200 square feet; maximum building coverage shall not be less than 25%
Lot coverage	85% for lots having an area of 2,200 square feet or less, minus 1% for each 200 square feet of lot area or portion thereof in excess of 2,200 square feet; maximum lot coverage shall not be less than 70%
Building height	23 feet (flat roof) 31 feet (peaked roof)
Habitable stories	2
Building length	100 feet

C. Conditional use regulations: none.

D. Supplemental regulations.

- (1) Private garages and accessory buildings shall not exceed one story, shall not exceed an overall height of 14 feet from the curb level to the uppermost point of the roof, and shall be a minimum of five feet from the principal structure. No cooking facilities or toilet shall be installed in any private garage or accessory building. No private garage or accessory building may be utilized for dwelling purposes; the installation or use of a sink, shower, or clothes washing or drying machine shall be permitted.
- (2) For lots having street frontage only on Bower Court, Stone Court, Weber Court or Linden Lane, the requirements set forth in § 560-16B above shall be amended as follows, provided that the provisions of § 560-16B not altered by this subsection shall remain unaffected:

- (a) Minimum lot area: 1,400 square feet.
  - (b) Minimum lot frontage: none.
  - (c) Maximum building height: 15 feet above base flood elevation.  
[Amended 10-15-2013 by Ord. No. 1432]
  - (d) Maximum number of stories: one.
- (3) A single-family dwelling may be constructed upon a lawfully existing isolated undersized lot without variance relief from the minimum lot area and lot frontage requirements in § **560-16B(1)**, provided that the lot shall have a minimum lot area of 2,200 square feet or a minimum lot frontage of 40 feet.  
[Added 5-15-2012 by Ord. No. 1403]

## § 560-17. (Reserved)

## § 560-18. Business District.

- A. Use regulations. In the Business Zoning District, lands, buildings and premises may be used for the following purposes:
- (1) Principal permitted uses:
    - (a) Residential uses [subject to § **560-18D(1)**]:
      - [1] Those permitted in Residential A, B and C Districts.
      - [2] Multiple dwellings.
      - [3] Townhouse dwelling units.
    - (b) Commercial uses:
      - [1] Hotels/motels.
      - [2] Restaurants.
      - [3] Theaters; bowling alleys.
      - [4] Individual retail stores, other than live poultry or fowl; retail repair shops, including, without limitation, plumbing, heating and electrical shops; personal service stores or shops.
      - [5] Business offices.
      - [6] Funeral parlors.
      - [7] Docks or boathouses for rental or storage of boats.
      - [8] Public taverns or bars.
      - [9] Printing businesses; photographic studios.
      - [10] Signs, as provided in § **560-32**.

[11] Amusement arcades for coin-operated machines (subject to the regulations contained in Chapter **141**) and adult businesses (to be located in structures no part of which is within 150 feet of a residential district and only upon a parcel of ground contiguous to a public use district; further subject to the regulations contained in Chapter **120** of the Borough of Stone Harbor Code).

[12] Any combination of permitted commercial uses.<sup>[1]</sup>

[1] *Editor's Note: Former Subsection A(1)(c), regarding mixed uses, which immediately followed, was repealed 11-6-2018 by Ord. No. 1533.*

(2) Accessory uses:

(a) (Reserved)<sup>[2]</sup>

[2] *Editor's Note: Former Subsection A(2)(a), regarding accessory apartments, was repealed 11-6-2018 by Ord. No. 1533.*

(b) Private garages, accessory buildings and private docks/boat slips, provided that such use is accessory to a residential use authorized in § **560-18A(1)(a)[1]** above.

(c) Boat hoists.

(3) Conditional uses:

(a) Outdoor dining.

B. Area regulations. Development in the Business District shall be subject to the following area regulations:

(1) Minimum requirements:

**TABLE I**

**Minimum Requirements for Buildings Utilized Solely for Commercial Use(s)**

Lot area	N/A
Lot frontage	N/A
Setbacks	
Front yard	See supplemental setback requirements in § <b>560-18D(3)</b>
Rear/side yards (each)	
Adjacent to Residential A or B	10 feet/10 feet
Adjacent to Residential C	5 feet/5 feet
With window service	
Front yard	15 feet
Side yards (each)	15 feet
Interior ground-level floor area (per unit)	600 square feet

**TABLE II**

**Minimum Requirements for Buildings Utilized Partly or Wholly for Residential Use(s)**

Lot area	4,000 square feet
Lot frontage	N/A
Setbacks	
Front yard	See supplemental setback requirements in § <b>560-18D(3)</b>

**TABLE II****Minimum Requirements for Buildings Utilized Partly or Wholly for Residential Use(s)**

Rear/side yards (each)	10 feet
With window service:	
Front yard	15 feet
Side yards (each)	15 feet
Interior floor area — multiple dwellings (per unit)	600 square feet
Interior ground-level floor area (per unit)	600 square feet

## (2) Maximum limitations:

**TABLE I****Maximum Limitations**

Building coverage	100%
Lot coverage	100%
Building height	28 feet
Building length (applicable only to buildings utilized partly or wholly for residential uses)	120 feet
Habitable stories	2

## C. Conditional use regulations.

- (1) Outdoor dining shall be permitted as a conditional accessory use to a restaurant or other eating establishment, subject to the following conditions:
- Prior to the institution of outdoor dining, such establishments shall be required to obtain site plan review and approval.
  - Any outdoor dining area must be clearly defined and limited by way of a barrier such as fencing, landscaping, a wall, or as approved by the Planning Board.
  - No signage of any nature shall be permitted in the outdoor dining area.
  - Any establishment serving alcohol products in the outdoor dining area shall be required to do so only in connection with food service at tables.
  - Any outdoor dining area shall have adequate buffering from adjacent buildings or sites, consisting of landscaping and/or fencing or as approved by the Planning Board.
  - There shall be no sound amplification or video devices located within the outdoor dining area and no sound amplification to the outdoor dining area from other areas of the establishment.
  - In the event that the outdoor dining area is located in the front yard of the establishment, there shall be a minimum of six feet between the building and the front property line in order for the dining area to be approved.
  - In the event that the outdoor dining area abuts a parcel which is residentially zoned, the outdoor dining area shall be located a minimum of five feet from the common property line. In the event that the outdoor dining area abuts a commercial zone, no dining area setback shall be required except that the requirements of Subsection **C(1)(b)** and **(e)** above shall be satisfied.

- (i) Bulkhead setback. With regard to bulkhead setbacks in general, refer to § **560-38B**. With regard to properties on back bay waters and lagoons, tables and chairs used in connection with outdoor dining may be located up to the actual, physical bulkhead.  
[Amended 5-15-2012 by Ord. No. 1402]
- (j) Umbrellas and retractable awnings. Umbrellas and retractable awnings may be utilized in conjunction with outdoor dining areas adjacent to back bay waters and lagoons without the need for site plan review, provided that:  
[Added 5-15-2012 by Ord. No. 1402]
  - [1] Umbrellas and retractable awnings shall be located within approved outdoor dining areas only;
  - [2] Retractable awnings shall be made of fabric over a rigid frame;
  - [3] Retractable awnings (including their supporting poles, stanchions and other means of support) shall be fully retracted during all times the outdoor dining area is not in use;
  - [4] No signage shall be permitted on umbrellas or retractable awnings;
  - [5] Retractable awnings shall not be enclosed with screens, curtains or other materials;
  - [6] Retractable awnings shall maintain a minimum height (ground clearance) of seven feet.

D. Supplemental regulations.

- (1) Residential prohibition. Except as may be permitted in connection with affordable housing pursuant to § **560-48**, no residential use (including, without limitation, living quarters contained in business uses) shall be permitted in any of the following areas within the Business District:
  - (a) Those blocks of land bounded by 95th Street on the northeast, Second Avenue on the southeast, 97th Street on the southwest and Third Avenue on the northwest.
  - (b) Third Avenue (southeasterly side) between 94th and 95th Streets and between 97th and 99th Streets, both to a depth of 110 feet.
  - (c) Third Avenue (northwesterly side) between 94th and 96th Streets, to a depth of 110 feet.
  - (d) 96th Street (northeasterly side) between Third Avenue and Sunset Drive, to a depth of 65 feet.
- (2) Business entrances/unit width. Each business operated at or near ground level, and each business operated at the lowest level of the building in which any business is operated, shall have its main entrance fronting on a street. The view, by a person located at any location at the exterior of the front of the building, of the street upon which the entrance fronts shall not be obstructed by any other building or any portion thereof. At the entrance level for each business, the minimum distance(s), measured inside at floor level, along the wall(s) containing entrance(s) and the average width of such business establishment, measured inside at floor level, shall be at least 14 feet.
- (3) Supplemental setback requirements.
  - (a) Structures in the Business District shall be subject to a minimum front yard setback of 10 feet, except as follows:
    - [1] On the southwesterly side of 96th Street between Second Avenue and Third Avenue: the minimum front yard setback shall be 5 1/2 feet.

- [2] On the southwesterly side of 96th Street between Third Avenue and the bulkhead at the Great Channel: the minimum front yard setback shall be four feet.
  - [3] On the southeasterly side of Third Avenue from the northeasterly side of 83rd Street to and including the southwesterly side of 80th Street: the minimum front yard setback shall be 10 feet.
- (b) In the event that the front yard setback of another building located on another property in the same block, fronting on the same street and located in the same zoning district, is set back less than 10 feet from its property line, any newly constructed building, addition or alteration shall not be required to be set back any further from the front property line than such other building.
- (4) Multiple structure regulations. In the event that there is more than one structure on a lot or series of lots which is used partly or wholly for residential purposes, there shall be at least 10 feet of open space between such structures, provided that such structures may be connected by one walkway per floor if such walkways are:
    - (a) Located between the sides of the buildings at the rear;
    - (b) Open (with no sidewalls or roofs);
    - (c) Constructed of nonflammable materials;
    - (d) No wider than six feet; and
    - (e) Constructed to provide a minimum ground clearance of eight feet.
  - (5) Curb cuts. Curb cuts are prohibited in the following areas of the Business Zoning District:
    - (a) 96th Street between Second and Third Avenues (both sides).
    - (b) Third Avenue between 95th and 96th Streets (both sides).
    - (c) Third Avenue between 96th and 99th Streets (easterly side only).
  - (6) Townhouse regulations.
    - (a) No townhouse structures shall be constructed on 96th Street or on Third Avenue between 93rd and 99th Streets, inclusive.
    - (b) No townhouse structure shall exceed two stories in height, and it shall not exceed 28 feet in height above the curb level, and townhouse dwelling units shall not be constructed one on top of the other. No townhouse lot shall be less than 20 feet wide, and each townhouse dwelling unit shall abut a public street. Each townhouse structure shall have minimum side yards of 10 feet, and each townhouse dwelling unit shall have minimum front and rear yards of 10 feet. However, garages for townhouse units shall be so located that access to them shall be in the front or rear yards; if access is in the front yard, the garage shall be set back 20 feet from the front property line of the parcel on which the townhouse structure is located, and if the access is in the rear yard, the garage shall be set back 40 feet from the rear property line of the parcel on which the townhouse structure is located. It is the intention of this provision to provide two parking spaces per townhouse unit, one in the garage and one directly behind the vehicle in the garage, and variances from these requirements should be liberally granted where the appropriate on-premises parking is otherwise supplied. No townhouse structure shall be closer than 10 feet to any other building.
    - (c) All portions of the parcel of land not utilized either by the structure or by paved parking surfaces or recreational areas shall be landscaped. All landscaped areas shall contain

plantings of trees or shrubs and either a plant-type ground cover or a stone or similar ground cover substance such as bark or chips commonly used for this purpose.

- (d) Every townhouse dwelling unit shall have a minimum floor space of 600 square feet, measured at ground level.
- (e) For off-street parking requirements, see Subsection **D(6)(b)** hereof. In addition thereto, unless each townhouse lot contains provision for the parking of two motor vehicles by direct access from the street, then a portion of the townhouse structure's parcel of land shall be deeded to an association made up of all the owners of the townhouse dwelling units, which association shall have the responsibility of maintaining said portion of the parcel as a parking area to comply with the on-premises, off-street parking requirements of the Borough.
- (f) No building permit for the construction of a townhouse structure nor any conversion of an existing structure into a townhouse structure shall be permitted until subdivision approval and approval of the plans for the townhouse structure have been given by the Stone Harbor Planning Board in order to ensure compliance with all the terms of this section.
- (g) Any subdivision approvals granted by the Planning Board shall continue only so long as the premises is vacant or used for townhouses. If any other use is to be made of said premises, a new application for subdivision shall be directed to the Planning Board, which shall consider subdivision as though the entire parcel of land is one complete, undivided parcel sought to be subdivided for the first time or converted into one lot.
- (h) If an association is required pursuant to this section or an association is formed to establish and/or maintain common ground or facilities, then all owners of townhouse dwelling units shall become members of the association and shall be responsible individually for the maintenance and upkeep of the parking area and any other association-owned ground or facilities in the event that the association fails to act.
- (7) (Reserved)<sup>[3]</sup>  
 [3] *Editor's Note: Former Subsection D(7), regarding mixed uses, was repealed 11-6-2018 by Ord. No. 1533.*
- (8) (Reserved)<sup>[4]</sup>  
 [4] *Editor's Note: Former Subsection D(8), regarding accessory apartments, was repealed 11-6-2018 by Ord. No. 1533.*
- (9) Outdoor tables.  
 [Added 8-7-2012 by Ord. No. 1406]
- (a) Tables may be placed on private property in connection with a restaurant or other food service business in the Business District without the need for site plan review or prior zoning approval; provided that:
- [1] No table service shall be provided;
- [2] The tables shall not exceed 27 inches in length and in width or 30 inches in diameter;
- [3] The number of outdoor tables provided by the associated restaurant or other food service business shall not exceed the lesser of one table for each 32 square feet of ground area or four tables;
- [4] The tables and surrounding area are not available for the consumption of alcoholic beverages.

- (b) "Ground area," as described in Subsection **D(9)(a)[3]** above, shall include only unimproved exterior areas (including paved areas) upon which outdoor table(s) are situated.

## § 560-19. Waterfront Business District.

[Amended 5-15-2012 by Ord. No. 1402; 8-7-2012 by Ord. No. 1406; 10-6-2015 by Ord. No. 1466]

- A. Purposes and objectives. The purpose and objectives of the Waterfront Business District are as follows:
- (1) To strengthen the vitality of the district and capitalize on the asset of the waterfront;
  - (2) To promote the waterfront district as a unique destination place that brings pedestrian traffic to the Borough's business districts;
  - (3) To maximize the potential utility and enjoyment of the Shelter Haven Basin through active and passive uses, such as waterfront dining and seating areas;
  - (4) To encourage a core area of retail shops, public amenities, restaurants and upscale hotel rooms within the waterfront district;
  - (5) To enhance the scenic, recreational, and social elements of the public realm as they relate to the Shelter Haven Basin through viewsheds and appropriate outdoor uses; and
  - (6) To provide for vehicular and pedestrian linkages between the waterfront district, the business district and other destinations throughout the Borough, through walkways, wayfinding signs, parking, and other appropriate measures.
- B. Description. The Waterfront Business District includes the following areas: all properties located on the south side of the 300 block of 96th Street, with the exception of the area described hereinbelow; and all properties located on the west side of Third Avenue from 96th Street to 99th Street. Those properties within the area from the easterly property line of Block 96.04, Lot 154, to the westerly property line of Block 96.04, Lot 177.02, inclusive, are not part of the Waterfront Business District but are part of the Business District as described in § **560-18**; all Business District regulations shall be applicable to said area, and the Business District designation shall be reflected on the Zoning Map of the Borough of Stone Harbor for this area.
- C. Use regulations. In the Waterfront Business District, lands, buildings and premises may be used for the following purposes:
- (1) Principal permitted uses: business, professional and medical offices, retail (goods and services), docks for rental or storage of boats, public taverns or bars, restaurants, (excluding drive-in and take-out only restaurants) and water-dependent recreational uses.
  - (2) Accessory uses:
    - (a) Docks for rental or storage of boats.
    - (b) Boat hoists.
  - (3) Conditional uses:
    - (a) Single-family residential dwellings.
    - (b) Mixed-use commercial and residential buildings.
    - (c) Boutique hotels.

- (d) Outdoor dining.
- D. Area regulations. Development in the Waterfront Business District shall be subject to the following area regulations:
- (1) Front yard setback:
    - (a) First and second floors: minimum four feet from the property line.
    - (b) Third floor: minimum nine feet from the property line, provided that a railing measuring up to 42 inches above a third-floor exterior deck shall be subject to a minimum front yard setback of four feet from the property line.
  - (2) Side yard setback: minimum five feet; minimum 10 feet if abutting a residential district.
  - (3) Rear yard setback: minimum 10 feet from the established bulkhead line.
  - (4) Building height: maximum three stories and 42 feet from the curbline (including all appurtenances, except for construction code requirements, such as vent pipes and solar panels, but in no event shall these be higher than 45 feet). The curbline shall be measured from the grade level of the top of curb and center of the lot or parcel of land upon which a building is to be constructed.
  - (5) Interior first-floor unit width measured at entrance: minimum 14 linear feet, provided that no minimum shall apply to entrances to boutique hotels.
  - (6) Interior area for each business: minimum 600 square feet.
- E. Conditional use regulations.
- (1) Outdoor dining shall be permitted as a conditional accessory use to a restaurant or other eating establishment, subject to the following conditions:
    - (a) Prior to the institution of outdoor dining, such establishments shall be required to obtain site plan review and approval.
    - (b) Any outdoor dining area must be clearly defined and limited by way of a barrier such as fencing, landscaping, a wall, or as approved by the Planning Board.
    - (c) No signage of any nature shall be permitted in the outdoor dining area.
    - (d) Any establishment serving alcohol products in the outdoor dining area shall be required to do so only in connection with food service at tables.
    - (e) Any outdoor dining area shall have adequate buffering from adjacent buildings or sites, consisting of landscaping and/or fencing or as approved by the Planning Board.
    - (f) There shall be no sound amplification or video displays located within the outdoor dining area and no sound amplification to the outdoor dining area from other areas of the establishment.
    - (g) Outdoor dining areas adjacent to Shelter Haven Basin shall be designed to minimize the emission of sound, including, without limitation, the use of noise barriers, sound absorbers, and silencers in accordance with an acoustical engineering report to be supplied with the applicant's application for conditional use approval.
    - (h) In the event that the outdoor dining area is located in the front yard of the establishment, there shall be a minimum of six feet between the building and the front property line in order for the dining area to be approved.

- (i) In the event that the outdoor dining area abuts a parcel which is residentially zoned, the outdoor dining area shall be located a minimum of five feet from the common property line.
- (j) Bulkhead setback. With regard to bulkhead setbacks in general, refer to § **560-38B**. With regard to properties on back-bay waters and lagoons, tables and chairs used in connection with outdoor dining may be located up to the actual physical bulkhead.
- (k) Umbrellas and retractable awnings. Umbrellas and retractable awnings may be utilized in conjunction with outdoor dining areas adjacent to back bay waters and lagoons without the need for site plan review, provided that:
  - [1] Umbrellas and retractable awnings shall be located within approved outdoor dining areas only;
  - [2] Retractable awnings shall be made of fabric over a rigid frame;
  - [3] Retractable awnings (including their supporting poles, stanchions and other means of support) shall be fully retracted during all times the outdoor dining area is not in use;
  - [4] No signage shall be permitted on umbrellas or retractable awnings;
  - [5] Retractable awnings shall not be enclosed with screens, curtains or other materials;
  - [6] Retractable awnings shall maintain a minimum height (ground clearance) of seven feet.
- (2) Single-family residential dwellings shall be permitted as a conditional use in the Waterfront Business District, provided that:
  - (a) The use of the subject property was single-family or two family residential at all times after October 9, 2009.
  - (b) The structure complies with the following bulk regulations.
    - [1] Minimum lot area: 3,300 square feet.
    - [2] Minimum lot frontage: 30 feet.
    - [3] Minimum side yard setback (each side): the greater of 15% of the lot width or five feet.
    - [4] Minimum front yard setback: four feet.
    - [5] Minimum rear yard setback: 10 feet from the established bulkhead line, subject to § **560-38B**.
    - [6] Maximum building height: 35 feet.
    - [7] Maximum number of stories: two.
    - [8] Maximum building coverage: 25%.
- (3) Mixed-use commercial and residential buildings shall be permitted as a conditional use in the Waterfront Business District, provided that:
  - (a) First-floor uses shall be restricted to those uses permitted by § **560-19C(1)**.

- (b) Residential uses shall be permitted on the second and third floors only.
  - (c) No on-site parking shall be permitted.
- (4) Boutique hotels shall be permitted as a conditional use in the Waterfront Business District, provided that:
- (a) Hotel units shall not be in excess of 500 square feet.
  - (b) Required off-street parking is provided off site upon a property located, in whole or in part, outside the Waterfront Business District, which off-site property shall be located not more than 1,320 feet from the subject site. Both the subject site and the site providing off-street parking shall be deed-restricted to require that the operation of the boutique hotel is conditioned upon the continued use and availability of the site providing off-street parking. One parking space shall be provided for each hotel unit.
  - (c) The proposed development shall comply with the provisions of § **560-19D** above.
- (5) Except as otherwise provided herein, off-street parking requirements for conditional uses shall be satisfied in accordance with § **560-31**.

F. Supplemental regulations.

- (1) No curb cuts shall be permitted in the Waterfront Business District, except that curb cuts shall be permitted for single-family residences.
- (2) Outdoor tables.
  - (a) Tables may be placed on private property in connection with a restaurant or other food service business in the Waterfront Business District without the need for site plan review or prior zoning approval; provided that:
    - [1] No table service shall be provided;
    - [2] The tables shall not exceed 27 inches in length and in width or 30 inches in diameter;
    - [3] The number of outdoor tables provided by the associated restaurant or other food service business shall not exceed the lesser of one table for each 32 square feet of ground area or four tables; and
    - [4] The tables and surrounding area are not available for the consumption of alcoholic beverages.
  - (b) "Ground area," as described in Subsection **F(2)(a)[3]** above, shall include only unimproved exterior areas (including paved areas) upon which outdoor table(s) are situated.

## § 560-20. through § 560-21. (Reserved)

## § 560-22. Light Industry District.

A. Use regulations. The buildings and uses permitted in this district shall be:

- (1) Those permitted in business districts, except that business establishments licensed for the retail sale of alcoholic beverages for consumption upon the licensed premises, including but not limited to hotels, motels, bars, taverns, restaurants and clubs, shall not be permitted in

this district. However, the existing Yacht Club of Stone Harbor license shall not be affected by this subsection.

- (2) Boat building and repair, lumberyards, building material in enclosed yards, automobile repair shops and retail gasoline and oil stations. All automobile storage and incidental automobile repair work shall be done in a building or structure erected for that purpose; and all gasoline, oil and incidental services shall be conducted within the confines of the lot, which shall have a frontage on a public street of at least 110 feet. Signs shall be as provided in § 560-32.
- (3) Other uses granted or recommended by the Board of Adjustment as provided by law, except those prohibited in § 560-22B.

B. Prohibited uses. The following uses shall be prohibited:

- (1) Boatyard.
- (2) Seafood packing plants.
- (3) Storage of crude oil or its volatile products.
- (4) Any use which is a prima facie nuisance in the vicinity of residential or business districts by reason of smoke, odor, or noise, such as but not restricted to:
  - (a) Manufacture of corrosive acids, glue, gelatin, paint, oil, varnish, fertilizer, oilcloth, cork products, alcohol, plastics, bleaching compounds or soap.
  - (b) Tanning or curing hides.
  - (c) Crude oil refining.
  - (d) Blast furnace.
  - (e) Rubber treatment or manufacture.
  - (f) Ore smelting.
  - (g) Garbage or offal reduction or dumping.
  - (h) Asphalt refining or manufacture.
  - (i) Abattoir, stable or livestock, including poultry.
  - (j) Junk storage.
  - (k) Automobile wrecking.
  - (l) Bulk storage of products which create an unusual danger of explosion or fire hazard, such as fireworks, explosives or gases such as ammonia, chlorine, acetylene, illuminating and others of like characteristics.

C. Area, height and density of population. The regulations for this district shall be the same as for business districts.

## § 560-23. Public Use P District.

A. Use regulations. No building or structure shall be erected, constructed, altered or used for any purpose other than the following:

- (1) Public buildings and uses. Placement of cellular or wireless facilities upon Borough property shall be a public use.
  - (2) Schools, playgrounds, libraries, museums, and art galleries.
  - (3) Buildings erected for public or semipublic use.
  - (4) Parks, athletic fields, bird sanctuaries, public beaches, marinas, fishing piers, swimming pools, tennis courts and other public recreation areas.
  - (5) Parking lots.
  - (6) Public safety or governmental communications antenna towers.
  - (7) Accessory uses and structures incidental to any of the above-listed principal uses.
  - (8) Those portions of the Public Use District south of 122nd Street are limited to the following uses: playgrounds, parks, athletic field, bird sanctuaries, public beaches, marinas, fishing piers, swimming pools, tennis courts, other public recreation areas, structures for protection of the environment, for beach access, to enhance nature watching, bird watching and fishing, and to protect the district from erosion, together with accessory uses and structures incidental to any of the above-listed principal uses.
- B. Area, yard, height and density of population regulations.
- (1) Occupied area. The occupied area of P District lots shall not exceed 75%.
  - (2) Yard setbacks. Front, back and side yard setbacks shall be a minimum of 10 feet.
  - (3) Height. No structure in the P District shall exceed 36 feet in height measured above base flood level, except for the following:
    - (a) Communications towers: as recommended by independent study and deemed necessary by the Borough Council, with a maximum height of 120 feet, not inclusive of antennas.
    - (b) Water towers: as recommended by independent study and deemed necessary by the Borough Council.

## § 560-24. Conservation Management CM District.

- A. Use regulations. No building or structure may be constructed in this district except those structures authorized by the Borough Council for recreation, protection of the environment, to enhance nature walking, for beach access, bird watching and fishing, and to protect the district from erosion, it being the intention of the Borough that this district be protected to serve as a wildlife habitat and as a recreational-educational area for the public.
- B. Prohibitions.
- (1) It shall be unlawful for any persons, either on foot or in or on some other form of conveyance, to come within the following limits of nesting habitats in the Conservation Management District:
    - (a) Within any area in which the Borough has posted signs indicating the presence of nesting sites.
    - (b) Within any area enclosed by fencing erected by the Borough for the protection of nesting sites.

- (c) In all other areas as may from time to time be specifically posted by order of the governing body of the Borough of Stone Harbor.
- (2) Dogs shall not be permitted to run loose in the Conservation Management District.  
[Amended 5-21-2019 by Ord. No. 1550]
- C. Maintenance. The Borough of Stone Harbor shall be responsible for the maintenance of all signs and fencing in the Conservation Management District. The Borough shall annually evaluate nesting sites and conditions and may from time to time redesignate the areas of importance for nesting and relocate signs and fencing in response to the shifting of nesting site locations. The Borough shall have the authority and power to maintain a public information display or displays illustrating the various forms of wildlife in the Conservation Management District, giving educational information with respect thereto and containing information concerning regulations and penalties for violations of such regulations in this district.
- D. Motor vehicles. The parking or operation of motor vehicles in the Conservation Management District is prohibited, except upon parking areas and roadways, if any, designated and properly marked by signs in the Borough of Stone Harbor. Motor vehicles shall be permitted upon the beach, subject to the provisions of Chapter **156** of the Code of the Borough of Stone Harbor.
- E. Authority to enter protected areas. Anything to the contrary herein notwithstanding, it shall be lawful for officials of the Borough of Stone Harbor, the State of New Jersey and the United States of America, their agents, representatives and contractors, to enter upon the protected areas in the Conservation Management District where necessary in connection with the erection of shore protection devices, the erection of signs and fencing, and for the construction and maintenance of facilities located therein.

## § 560-25. through § 560-27. (Reserved)

# Article V. General Provisions and Exceptions

## § 560-28. Interpretation of permitted uses.

Any use not explicitly permitted by this Chapter **560** is prohibited. In particular, but without limitation, the following uses are prohibited: trailers, mobile homes and windmills and similar wind-operated electrical-generating devices.

## § 560-29. Public utility buildings.

A public utility building deemed necessary to the service, convenience, or welfare of the public by the Board of Public Utility Commissioners in accordance with the laws of New Jersey may be placed in any district, provided that the building is in keeping with the neighborhood in which it is located, and provided that the building is not used as a storage depot for materials, a garage, or a repair shop in residential districts.

## § 560-30. Detached private garage or accessory building.

- A. Generally. Except as otherwise set forth in this § **560-30**, detached private garages and accessory buildings shall be subject to the following regulations:
- (1) Detached private garages and accessory buildings shall be subject to a minimum front yard setback equal to the greater of the setback to the principal structure on the subject lot or 20

- feet.
- (2) Detached private garages and accessory buildings shall be set back not less than 10 feet from side lot lines, provided that all portions of such structures located in the rear yard shall be set back not less than five feet from the side and rear lot lines.
  - (3) The total square footage for all detached private garages and accessory buildings shall not exceed the lesser of 20% of the area of the rear yard or 440 square feet. A "rear yard," for the limited purpose of this § **560-30A(3)** only, shall be defined as the area between the rear lines of the principal building as extended to the side lines of the lot, the side lines of the lot, and the rear lot line.
- B. Notwithstanding any other provision in this § **560-30** to the contrary, upon waterfront lots, the following additional regulations shall apply:
- (1) Detached private garages and accessory buildings shall be subject to a minimum front yard setback of 20 feet, regardless of the setback to the principal structure, provided that garages having no vehicle access door adjacent to the front property line shall be subject to a minimum front yard setback of 10 feet.
  - (2) No portion of any detached private garage or accessory building shall be located between the rear setback line (including setback lines measured from the established bulkhead line as set forth in § **560-38B**) and the rear lot line.
- C. Detached private garages shall not be constructed upon lots fronting on courts, lanes or alleys.

## § 560-31. Parking of motor vehicles.

- A. Generally.
- (1) Except with respect to municipal off-street parking and parking regulated by the New Jersey Residential Site Improvement Standards, all off-street parking spaces shall be not less than 10 feet wide and 20 feet long for each vehicle to be accommodated and shall be so located so as to prevent parked vehicles from obstructing the sidewalk.
  - (2) Existing curbing shall not be depressed or removed except when it is necessary to establish access to a driveway, garage, carport or parking area.
- B. Hotel/motel/multiple dwelling parking requirements.
- (1) Multiple dwellings, motels and hotels shall provide continuous around-the-clock, on-premises, off-street parking areas. Parking spaces shall be marked off in clearly distinguishable lines or other suitable marking device. Each parking space must be accessible from the street without the necessity of moving other cars, except that each unit in a multiple dwelling may utilize stacked parking as permitted by state law. Access to the parking area from and to the street for the purpose of ingress and egress shall be limited to one two-way driveway or two one-way driveways.
  - (2) Motels and hotels shall provide 1.5 parking spaces for each unit.
  - (3) Multiple dwellings shall provide two off-street parking spaces for each dwelling unit.
  - (4) Any structure containing 10 or more units (dwelling or rental in any combination) shall, in addition to the off-street parking requirements set forth above, provide not less than two on-premises, off-street parking spaces at or near the main entrance of such structure, in an area of at least 300 square feet, for the sole purpose of providing temporary parking to permit the loading or unloading of persons and luggage.

- C. Parking lots in residential zones. Any business operating as a permitted, conforming use in any zone shall be permitted to operate one parking lot on property located in any residential district, provided that:  
[Amended 10-6-2015 by Ord. No. 1467]
- (1) The parking lot shall be immediately adjacent to, and abut for at least 10 feet, the lot upon which the associated business is situate.
  - (2) The parking lot shall be reserved for the exclusive use of the associated business's customers and/or employees.
  - (3) No fee shall be charged for use of the parking lot.
  - (4) No such parking lots shall be permitted without conditional use approval and site plan approval.
  - (5) No such parking area shall exceed a frontage of 100 feet in any such residential zone.
  - (6) No portion of the vehicular accessway providing ingress to and egress from the parking lot shall be located in excess of 35 feet from the district to which such parking lot is contiguous. However, in the event that a parking lot shall be located in such a fashion as to be contiguous to two residential lots having frontage on a common street with the said parking lot, the vehicular accessway for ingress and egress shall be located equally distant from each residential property.
  - (7) A solid privacy fence shall be erected between the parking area and the residential district and between the parking area and any sidewalk fronting on a street. All portions of said fence located between the parking area and any sidewalk fronting on a street shall be four feet in height. All portions of said fence located between the parking area and the residential district shall be:
    - (a) A height of four feet from the front property line to the required front setback line for the residential district; and
    - (b) A height of six feet from the required front setback line for the residential district to the rear property line.
  - (8) Any change in use on a lot served by a parking lot pursuant to this § **560-31C**, which change in use requires site plan review pursuant to Chapter **345**, shall terminate the parking lot use.
  - (9) No building or structure shall be permitted on the parking lot, with the exception of signs, fences and lights pursuant to the regulations herein set forth.
  - (10) Lights for illumination purposes may be erected upon standards which shall not be greater than six feet in height. Such lights shall be shaded and angled downward in such a manner as to confine the direct light entirely within the parking lot. Such lights shall be operated by an automatic electric timing device which shall cause the lights on the parking lot to be dimmed between the hours of 11:00 p.m. and 7:00 a.m.
  - (11) (Reserved)
  - (12) Each parking lot shall have a sign, not in excess of five square feet, mounted in its entirety upon the fence at each vehicular accessway to the lot. The sign shall indicate that use of the parking lot is restricted to customers and employees of the associated business, the hours of operation (if applicable), and any other limitations set forth by the owner. Such sign shall be approved in connection with the application for the conditional use permit and site plan approval.

- (13) The parking lot shall be constructed of bituminous asphalt, concrete or pavers. Each parking space on the lot shall be striped, and the lot shall be kept clean and free of potholes and other dangerous or unsightly objects. The operator of the business property shall be responsible for the proper operation and maintenance of the parking lot.
  - (14) On the outside of the fence adjacent to the front property line, except for sidewalks and driveways, crushed stone, washed stone or grass shall be the ground cover. Between the fence and sidewalk, landscaping, including decorative plantings, shall be installed.
  - (15) The provisions of this § **560-31C** shall not be applicable to those parking lots located in a residential zone on June 10, 1980, which lots are hereby declared to be lawful; however, the owners of such lots shall be encouraged to conform to as many of these conditions and requirements as possible in order to avoid unnecessary interference with the residential uses in the district.
- D. Residential off-street parking standards. The following regulations shall apply to residential lots having an uninterrupted street frontage of 40 feet or more and to lots having an area of 2,200 square feet or more. These regulations shall be applicable in addition to parking regulations imposed by state law, provided that, in the event of a conflict, state law shall control.
- (1) For all single-family and two-family dwellings, there shall be provided a minimum of two off-street parking spaces per unit, with parking for each unit having independent street access.
  - (2) Residential off-street parking spaces shall be at least nine feet wide and 18 feet long; shall be improved with stones, paving, or such surface as may be approved by the Construction Official for the parking of motor vehicles; and shall be directly accessible from a driveway or a curb cut, provided that residential parking spaces which are accessory to a common dwelling unit may utilize stacked parking.
  - (3) Curb cut regulations.
    - (a) The width of a curb cut shall be:
      - [1] Not less than 10 feet;
      - [2] Not more than 12 feet when providing access to a driveway or parking area measuring less than 18 feet in width; and
      - [3] Not more than 20 feet when providing access to a driveway or parking area measuring 18 feet or more in width.
    - (b) Single-family dwellings. For a single-family dwelling, only one curb cut shall be permitted; provided that lots having a lot frontage of 65 feet or more and corner lots, which lot or lots have four or more off-street parking spaces, are further subject to the following regulations:
      - [1] On a corner lot, one single cut and one double cut, or two single cuts, one on each frontage, shall be permitted; provided that if a corner lot has a width (continuous property frontage) of 65 feet or more, both cuts shall be permitted on one frontage, with at least 20 feet of curbing between the cuts; and further provided that no curb cut shall be located within 25 feet of an intersecting street.
      - [2] On a lot other than a corner lot having a width (continuous property frontage) of 65 feet or more, two single cuts shall be permitted, with at least 20 feet of curbing between the cuts.
    - (c) Two-family dwellings. For two-family dwellings, only one double curb cut, or two single curb cuts with at least 20 feet of curbing between the cuts, shall be permitted, provided

that lots having a width (continuous property frontage) of 65 feet or more and corner lots are further subject to the following regulations:

- [1] On a corner lot, one single cut and one double cut, or two single cuts, one on each frontage, shall be permitted; provided that if a corner lot has a width (continuous property frontage) of 65 feet or more, both cuts shall be permitted on one frontage, with at least 20 feet of curbing between the cuts; and further provided that no curb cut shall be located within 25 feet of an intersecting street.
- [2] On a lot other than a corner lot having a width (continuous property frontage) of 65 feet or more, one single cut and one double cut or two single cuts shall be permitted, with at least 20 feet of curbing between the cuts.

## § 560-32. Signs.

No signs shall be permitted in the Borough of Stone Harbor except as hereinafter set forth and except as otherwise permitted by the ordinances of this Borough.

A. In residential districts, the following signs will be permitted:

- (1) Signs advertising real estate for sale or rent, including open-house signs, provided that at no time shall more than two such signs, in any combination, be permitted upon the lot.
- (2) One sign advertising the business of a building contractor, subcontractor or architect; provided that such contractor or subcontractor or architect's sign shall only be permitted while the structure is under construction, or while an alteration or addition is being constructed, and such sign shall be removed immediately upon the issuance of a certificate of occupancy or the completion of the work, whichever occurs first.
- (3) The signs permitted by § **560-32A(1)** and **(2)** above shall not exceed the overall size of 18 inches in height and 24 inches in width, including the main sign area and any panels or posts contiguous to the main sign, except that supporting posts not to exceed one inch by one inch, or one inch in diameter, may be used to mount the sign. The tops of all such signs, including the posts for same, shall be erected at a height above the ground not to exceed three feet.
- (4) Boardinghouses or rooming houses may use a sign on the premises not in excess of two square feet.
- (5) Churches may utilize a sign or bulletin board, not in excess of 20 square feet, to announce services and display other religious notices.
- (6) Neon and flashing signs are not permitted in Residential A and B and C Districts.
- (7) Sold signs are not permitted.

B. In Business and Light Industry Districts:

- (1) Up to two signs advertising real estate for sale or rent and no more than one sign for a contractor, subcontractor or architect shall be permitted and shall conform to the residential district requirements for such signs.
- (2) Signs not in excess of one square foot per foot of street frontage of a building may be erected on the building as accessory to the business(es), except that in no case shall any neon sign in excess of two square feet be erected thereon or located therein where it would be clearly visible from a distance of 10 feet or more from the outside of the building. For a building which fronts upon more than one street, the permitted signage aforesaid for a particular side of the building shall be limited by the street frontage for that particular side. Each business shall be permitted a sign or signs not in excess of one square foot per foot of street frontage for that

portion of the building occupied by the particular business, except where there are businesses on more than one floor in the building, in which case the signage shall be as follows:

- (a) Each business on the first floor shall be entitled to the same signage as businesses in buildings having only one floor.
  - (b) Each business on the second floor shall be entitled to 2/3 of the signage area permitted for the first floor.
  - (c) Each business on the third floor shall be entitled to 1/3 of the signage area permitted for the first floor.
- (3) Signs shall extend from or be attached to buildings on the lot wherein the business to be advertised is located, and such signs shall not extend beyond the front property line, except that a sign may be affixed flush against a building which encroaches over its property line as long as no hazards for people walking by is created and as long as said sign has a depth or thickness of no more than four inches. Signs shall be located on the building at the particular floor level of the business only, so that, for example, a business on the second or third floor may not have its sign located at the first-floor level of the building. No signs shall advertise a business not located within the building to which the sign is attached. Signs on the top of the building shall not be permitted. This Subsection **B(3)** shall not apply to projecting signs.  
[Amended 9-3-2019 by Ord. No. 1556]
- (a) Freestanding signs shall not be permitted from Memorial Day to Labor Day. They will be permitted from the day after Labor Day to the day before Memorial Day according to the following rules:
    - [1] No more than one sign per business.
    - [2] Permitted only when business is open.
    - [3] Shall not exceed 36 inches in height and 24 inches in width.
    - [4] Must not be in the public right-of-way (shall not extend beyond the property line).
    - [5] Shall not have any type of lighting whatsoever.
    - [6] Must immediately be taken down in inclement weather.
  - (4) Not more than 10% of the total front window area shall be used for signs, whether painted upon the windows or affixed to the outside or inside thereof.
  - (5) The lettering shall consist of only the business name, specialty, and messages concerning the conduct and quality of the business.
  - (6) All sign and building front lighting is to be arranged to minimize glare. Unshielded lights, blinking lights, flashing lights, and rotating signs shall not be used. In addition, signs advertising businesses and events shall not be carried, whether in the hands, over the shoulders as a sandwich board sign, or otherwise, along the streets and sidewalks of this Borough.
  - (7) Boardinghouses, rooming houses, motels and multifamily dwellings may have a sign on the premises not in excess of 20 square feet.
  - (8) Sold signs and subcontractors' signs shall not be permitted, except that subcontractors' signs and general contractors' signs, in conformance with the regulations of this section, shall be permitted upon the business office building of such subcontractors and general contractors.

- (9) All first-floor businesses in the Business District and Waterfront Business District shall be permitted one projecting sign not to exceed five square feet in total area (per side) and not to exceed three feet in width or height, provided that this Subsection **B(9)** shall not apply to businesses in buildings upon which an awning or canopy is constructed. The area of projecting signs shall be included in the total permitted sign area established in § **560-32B(2)**. Projecting signs shall be designed by a professional sign maker and constructed of natural materials (such as wood or iron) or a synthetic replica of natural materials. Lettering shall consist of only the business name, specialty, and messages concerning the conduct and quality of the business conducted on the premises and shall not include phone numbers. Projecting signs shall be perpendicular to the facade of the building to which they are attached and hung by a decorative bar, which bar shall not be constructed of wood. Projecting signs shall be attached directly to the building housing the business advertised thereon or under a canopy (see § **560-40**) thereof, provided that no sign shall extend more than four feet from the building facade. Projecting signs shall have a minimum height of 7 1/2 feet above the surface of the sidewalk and shall have a maximum height of 12 feet above the surface of the sidewalk. Projecting signs shall not obstruct other signs or movable windows or doors.
- C. Nonconforming buildings and uses. Signs to be located upon property upon which nonconforming buildings, structures and/or uses exist shall conform with the provisions of this section for signs in business and light industry districts; provided that no such sign shall exceed five feet in length or four feet in height; and further provided that, if the sign is to be located in a residential district, it shall be permitted despite the general prohibition against such signs, but said sign shall be subject to the specific prohibitions and regulations contained in Subsection **A**.
- D. Temporary advertising devices, signs, flags, banners and other symbols. No device, including sign, banner, flag, balloon or symbol of any type, used for temporary advertising shall be permitted unless it complies with all Borough sign and flag ordinances and a permit has been obtained from the Construction Official of this Borough. Any such advertising device shall be permitted only once in any calendar year and for a period of time not to exceed 10 consecutive days. Temporary signs conforming to Section **560-32B(3)(a)** will be exempt from this constraint.  
[Amended 9-3-2019 by Ord. No. 1556]
- E. (Reserved)<sup>[1]</sup>  
[1] *Editor's Note: Former Subsection E, Political signs, was repealed 9-19-2017 by Ord. No. 1508.*
- F. Signs on Borough property. The Borough of Stone Harbor has certain police power obligations that require the posting of a host of various types of signs upon Borough property throughout the Borough. That authority exists independent of the zoning power, the administration of which has been delegated to the land use boards under the Municipal Land Use Law, thus allowing the posting of these types of signs independent of zoning considerations. Signs that do not come within the police power obligations of the Borough, but which are approved by resolution of Borough Council, shall be allowed on the property of the Borough.

## § 560-33. Height regulations.

- A. (Reserved)<sup>[1]</sup>  
[1] *Editor's Note: Former Subsection A, Residential building height, as amended, was repealed 10-15-2013 by Ord. No. 1432.*
- B. Interpretation. Except as otherwise expressly provided, "building height" shall include all appurtenances attached or erected upon any roof or top of a building, such as signs, radio towers, water tanks, elevators, penthouses, parapet walls or structures of any kind, nature or description.
- C. Height exceptions. Mechanical structures affixed to and rising above a roof, including, without limitation, chimneys, solar panels and air conditioners, shall be excepted from height limitation;

provided that they are built no higher than the minimum height required by building or construction codes or, in absence of such codes, no higher than three feet above the highest point of the roof.

D. Height of decks.

[Amended 11-19-2019 by Ord. No. 1560]

- (1) The floor of all decks located above a flat roof shall be no greater than six inches above the height of the roof below.
- (2) The floor of all decks which are not located above a flat roof shall be no higher than the floor of the highest habitable floor in the principal structure.
- (3) Every deck having a floor higher than the highest habitable story of the principal structure shall be situated directly above a fully enclosed habitable area.
- (4) In no event shall any deck having a floor situated above two habitable stories be covered with a roof, fixed awning or other permanent cover.
- (5) On a single-story structure having a pitched roof, the floor of an outside deck shall be no higher than 10 feet above floor level.

E. Proof of compliance with height restrictions required during construction. At specific intervals during the construction of all new construction and/or the renovation/alteration of any structure where such renovation/alteration may potentially change the height of the structure, a site survey prepared by a New Jersey Professional Land Surveyor shall be provided to the Zoning Officer for review and approval as follows:

[Amended 10-16-2018 by Ord. No. 1532]

- (1) Upon completion of the foundation, a survey indicating the elevation to the top of the block, top of the freeboard and finished grade in relation to the top-of-curb height applicable to the property. In addition, all setbacks from property lines shall be indicated.
- (2) Upon completion of the roof framing and sheathing, a survey of the elevation to the highest peak of the roof from the top of the block, top of the freeboard and finished grade in relation to the top-of-curb height applicable to the property. In addition, all setbacks from the property line shall be indicated. This shall include the height and location of any accessory structures on the lot. No framing inspection shall be performed on the property unless and until this provision is complied with.
- (3) Upon application for the final certificate of occupancy, a survey showing the elevation to the highest roof peak from the top of the block, top of the freeboard and finished grade in relation to the top-of-curb height applicable to the property. In addition, the height and location of all structures on the lot, both in size and setbacks from the property lines. Where applicable, grade throughout the property shall also be shown to indicate conformance with the approved grading plan and shall indicate all impervious surfaces along with any underground storage provided in conformance with the code.

## § 560-34. Corner lot exceptions.

On corner lots, all portions of all buildings, except buildings which are two-family dwellings, must be at least 10 feet inside of all property lines, except a detached accessory building, which may be within five feet of a property line abutting an adjacent rear yard. The total width requirements for two-family-dwelling side yards is also applicable to corner lots with two-family structures. Private garages and other accessory buildings shall not occupy more than 20% in toto of the remaining unoccupied ground area of the lot, exclusive of required front and side yard areas.

## § 560-35. Nonconforming lots, structures and uses.

- A. Right to continued existence and expansion in certain cases.
- (1) A lawful conforming structure or use which becomes nonconforming by a change in the zoning ordinances of this Borough may be continued upon the lot or in the structure occupied.
  - (2) No additions to or expansion of nonconforming uses shall be permitted.
  - (3) Additions to or expansion of conforming structures (containing only conforming uses situated upon nonconforming lots) and additions to or expansions of nonconforming structures (containing only conforming uses) shall be permitted without regard to lot area and lot frontage requirements as long as the addition or expansion does not create, expand or increase any nonconformity. This Subsection **A(3)** shall not permit the vertical expansion of any improvements located in a required setback area.  
[Amended 7-16-2013 by Ord. No. 1426; 11-19-2019 by Ord. No. 1559]
  - (4) Exception to permit raising a nonconforming structure. It shall be lawful to raise a nonconforming structure which is below the Borough's flood elevation requirements as set forth in Chapter **300** up to the Borough's flood elevation requirements as set forth in Chapter **300**, provided the nonconforming structure is not otherwise expanded or relocated in such a manner as to increase or create a nonconformity. In so doing, the structure may be disconnected from all utilities without losing its protected status as a nonconforming structure. This § **560-35A(4)** shall not relieve any applicant from maximum building height regulations, except as may be permitted by state law.  
[Amended 2-19-2013 by Ord. No. 1416; 10-15-2013 by Ord. No. 1432; 11-19-2019 by Ord. No. 1559]
- B. Abandonment/termination of nonconforming uses. Whenever a nonconforming use has been abandoned or changed to a conforming use or to a different nonconforming use, it may not revert to the previous nonconforming use nor to any other nonconforming use. Discontinuance of a nonconforming use for a period of 18 or more consecutive months shall create a rebuttable presumption of abandonment. Upon the abandonment of any nonconforming use, any subsequent use of the land or structures shall conform to the regulations of the district wherein it is located.
- C. Grandfather clause for isolated undersized lots.  
[Amended 11-19-2019 by Ord. No. 1559]
- (1) Any isolated, undersized lot which fails to meet minimum lot area and/or minimum lot frontage requirements may be developed with a single-family home without the need for lot area or lot frontage variance relief; provided the following conditions are met:
    - (a) In the Residential A and Residential B Zoning Districts, the property shall have minimum lot area of 5,000 square feet and minimum lot frontage of 50 feet;
    - (b) In the Residential C Zoning District, the property shall have minimum lot area of 2,200 square feet and minimum lot frontage of 40 feet; and
    - (c) The property shall not have been subdivided otherwise reduced in lot area or lot frontage since September 16, 1986.
  - (2) For the purposes of this § **560-35C**, a lot shall not lose its character as an isolated lot if.
    - (a) It is only contiguous to another lot in common ownership at a point, or
    - (b) It is only contiguous with another lot in common ownership having lot frontage on a different street, court or lane at one or both of the rear lot lines.
  - (3) This § **560-35C** shall be strictly construed to grant relief solely from minimum lot area and lot frontage requirements.

## § 560-36. Lots in two districts.

For a lot located in two districts, the regulations of the more-restrictive district shall be applied to the entire lot.

## § 560-37. Merger of adjacent lots.

- A. Back-to-back lots. If a lot is combined with an adjacent lot to its rear having frontage on a different street, court, lane or alley (commonly referred to as "back-to-back" lots), no merger of the lots shall occur, and the applicable rear yard setbacks and other zoning requirements must be maintained on both of such lots.
- B. Transfer of contiguous lots.
  - (1) Permit required. Whenever an owner or group of owners owns contiguous lots, no transfer of less than all of such contiguous lots shall be permitted without obtaining a land transfer permit from the Zoning Officer. Each applicant shall supply the Zoning Officer with an accurate survey, as defined by Chapter 1, Article II, of the Code of the Borough of Stone Harbor. Such land transfer permit shall automatically expire unless a deed making such transfer is recorded in the office of the Cape May County Clerk within 90 days of the issuance of the permit.
  - (2) Lots to conform with zoning ordinances. No land transfer permit shall be issued in any situation where the transfer of some contiguous lots results in any nonconformity with the zoning ordinances of the Borough either to the lots transferred or the lots retained.

## § 560-38. Supplemental area regulations.

- A. Bulkhead setback (beachfront). On properties contiguous to a public beach adjacent to the Atlantic Ocean, no building or other structure shall be constructed or expanded within 12 feet of the Borough bulkhead; provided that any property owner who executes and delivers to the Borough a written easement, in form and content satisfactory to the Borough, which authorizes the Borough to come onto private property and remove any obstructions necessary for the purpose of removing, repairing or replacing the bulkhead, may be permitted to construct certain structures within said 12 feet (as long as said construction is on said property owner's property only), such as open decks, fences, wave barriers and other similar structures. A construction permit for the construction or repair of any existing structures within said 12 feet shall be issued upon the execution and delivery to the Borough of their written easement above set forth. Open decks and similar structures may be built no higher than the horizontal plate of the bulkhead, except for handrails. Fences, wave barriers and similar structures can be built to a height not to exceed four feet above the top of the horizontal plate of the bulkhead. All such structures, however, may be subject to damage or removal in connection with removal, repair or replacement of the bulkhead, and the expense of the removal, repair and/or replacement of such structures shall be borne by the property owner. All such structures must comply in all respects with the zoning and other ordinances of the Borough.
- B. Bulkhead setback (bay waters and lagoons). On properties contiguous to back bay waters and lagoons, no building or other structure shall be located or erected within 10 feet of the established bulkhead line, except that an uncovered open deck, with or without hand railings, may be located or constructed between the main building and the bulkhead to a maximum of 8.7 feet NAVD 88; a private residential swimming pool may be located or constructed between the main building and a point which is five feet inland of the bulkhead to a maximum of 8.7 feet NAVD 88; and a landing measuring four feet or less in width and four feet or less in depth may be constructed at or below the height of the lowest finished floor of the principal structure along with stairs from said landing to a deck permitted under Subsection B(1) above, provided that such landing and stairs are

constructed for the purpose of gaining access to the principal structure, and no such landing or stairs may be constructed in any side yard or within six feet of the established bulkhead line.

[Amended 10-15-2013 by Ord. No. 1432; 8-7-2018 by Ord. No. 1526]

- C. Piers and docks. Piers or docks, with or without hand railings, located or constructed between a bulkhead and the rear property line (or beyond with appropriate municipal approval) shall not exceed the height of the top of the horizontal plate of the bulkhead, except for hand rails and exclusive of stairways and ramps, and shall not occupy more than 50% of the area bounded by the bulkhead and the property lines.
- D. Setback exceptions.
- (1) Notwithstanding the setback requirements set forth in Article **IV** above, the following shall be permitted in yard spaces in all zoning districts:
- (a) Landings/stairs.  
[Amended 2-19-2013 by Ord. No. 1416; 10-15-2013 by Ord. No. 1432; 3-19-2019 by Ord. No. 1541]
- [1] For all residential buildings having an elevation at or above design flood elevation, as defined in Chapter **300**, stairs or steps leading to a first-floor entrance landing or porch shall be permitted in yard spaces in all zoning districts, provided that (i) no such stairs or steps shall be located less than five feet from a front property line or less than 3 1/2 feet from a side or rear property line, except in the Residential C Zoning District, where no such stairs or steps shall be located less than two feet from a side property line; and (ii) stairs or steps located in a front yard setback shall not exceed 25% of the building length as defined in § **560-10**.
- [2] For all residential buildings having an elevation below design flood elevation as defined in Chapter **300**, stairs or steps leading directly to a first-floor entrance landing or a porch shall be permitted in yard spaces in all zoning districts, provided that (i) no such stairs or steps shall be located less than five feet from a property line, except in the Residential C Zoning District, where no such stairs or steps shall be located less than two feet from a side property line; and (ii) stairs or steps located in a front yard setback shall not exceed 25% of the building length as defined in § **560-10**.
- [3] This § **560-38D(1)(a)** shall not permit landings to be located in any front yard setback.
- [4] Landings not exceeding five feet in length or five feet in width shall be permitted in side yard and rear yard setbacks; provided that no such landing shall (i) be located less than five feet from a property line, except in the Residential C Zoning District, where no such landing shall be located less than two feet from a side or rear property line; nor (ii) be elevated above design flood elevation.
- (b) Outside shower enclosures, which shall not exceed four feet by eight feet in length and width, shall not exceed seven feet in height, and shall not encroach more than four feet into the yard space; provided that no shower enclosure shall be less than six feet from a side property line in the Residential A and Residential B Zoning Districts nor less than two feet from a side property line in the Residential C Zoning District. Outside showers are prohibited in front yards.
- (c) Trash receptacle enclosures which shall not exceed four feet in height; provided that encroachments into side yards or front yards shall not exceed four feet; and further provided that no trash receptacle enclosure shall be closer to the front or side property lines than five feet in the Residential A and Residential B Zoning Districts nor closer than two feet in the Residential C District.

- (d) Bay windows, chimneys, and window seats having no floor area; provided that they do not extend more than 20 inches into the yard space; and further provided that the windows, chimneys, and window seats having no floor area shall not exceed 10 feet in width and shall be separated from each other by a minimum horizontal distance of 10 feet. Should bay windows, chimneys, and window seats having no floor area not have footings or foundations, they shall not be counted as lot coverage or building coverage. Any and all bay windows, chimneys, and window seats which have footings or foundations shall be counted as lot coverage and building coverage and shall comply with all applicable setback requirements. The purpose of the aforesaid deviations from the setback requirements is to permit aesthetic enhancement to structures in the case of bay windows and window seats and for proper ventilation in the case of chimneys. This section shall supersede and control to the extent its provisions conflict with the definitions of "lot coverage" and "building coverage."
  - (e) Eaves; provided that they do not extend more than 20 inches into any yard space; and further provided that eaves extending from bay windows and/or window seats permitted under § 560-38D(4) may extend an additional eight inches into a side yard space. In no event shall any eave extend to within three feet of any property line.
  - (f) Heating, air-conditioning and circulating equipment; provided that they do not encroach more than five feet into any yard space; and further provided that they are no closer than two feet to any side or front property line.
  - (g) Fences; provided that no fence shall exceed four feet in height, with the exception of fences enclosing swimming pools subject to § 560-43.
  - (h) Lampposts, which shall be of a single-globe type only, at a height not to exceed seven feet above grade. The light intensity shall not exceed the lumen output of a standard one-hundred-watt frosted incandescent lamp or 1,750 lumens, whichever is higher.
  - (i) Arbors and trellises, provided that:
    - [1] No arbor or trellis shall exceed eight feet in height, five feet in width (inside dimension) or five feet in depth.
    - [2] Arbors and/or trellises greater than four feet in height and located on a single lot or parcel shall be separated by a minimum distance of 25 feet.
    - [3] Arbors and trellises shall not be placed in the site triangle on any corner lot.
    - [4] Any fence, latticework, bench or decorative structure attached to, extending from or running with an arbor or trellis shall not exceed four feet in height, if these structures are contained within a required yard setback.
- (2) Notwithstanding the foregoing, no provision of this § 560-38D shall permit the construction of improvements in any required yard space which is adjacent to any beach or bay waters.

## § 560-39. Home occupations.

- A. General purpose: to permit certain home occupations which are incidental to the residential use of the premises, are compatible with residential uses, are limited in extent, degree and time, and do not detract from the residential character and quality of the neighborhood; to protect residential areas from any adverse impacts associated with home occupations and protect residential property values; and to ensure that the health, safety and welfare of neighbors and residents are protected and that their rights are not compromised in any manner whatsoever by the operation of the particular home occupation.

- B. Use limitations. A home occupation shall be conducted in a manner which does not give an outward appearance of nor manifest any external tangible characteristics of a business which would infringe upon or in any way interfere with the right of neighboring residents to enjoy the peaceful occupancy of their dwelling units or infringe upon or change the intent, character and/or ambiance of the residential zone. Home occupations shall be clearly incidental and secondary to the use of a dwelling for residential purposes. Home occupations shall be an acceptable and allowable use in all residential zoning districts, subject to the following limitations:
- (1) No home occupation use is permitted if it shall constitute a threat to public health, safety, welfare or morals, such as the following.
  - (2) No illegal or illicit uses shall be allowed under any circumstances.
  - (3) No sign or notice is permitted in connection with a home occupation.
  - (4) Uses which produce fluctuations in utility service, disruptions in communications systems, radio, television and other communications transmissions of other persons are not permitted.
  - (5) There shall be no uses which result in or cause interference with the delivery of utilities or other services to the area.
  - (6) Home accessory uses shall comply with all local, state and federal laws and regulations pertinent to the activities involved.
  - (7) There shall be no storage of equipment, supplies or products associated with the home occupation outside the dwelling.
  - (8) No machinery, equipment or materials of any kind other than that which is typically associated with residential uses, home offices or personal hobbies are permitted to be physically located on the premises.
  - (9) There shall be no outside storage or window display and similar conditions.
  - (10) The parking of customer or client vehicles shall not create safety hazards or congestion. On-site, off-street parking or parking in public parking lots off the street shall be required for all employees, clients, customers and others present on the premises for a period of more than one hour in connection with the home occupation.
  - (11) Wholesale or retail sales are prohibited unless they are conducted via mail or telecommunications and do not involve the sale, shipment or delivery of merchandise to and from the premises.
- C. Enforcement and penalties. The responsibility for the administration and enforcement of the provisions of this article are assigned to the Administrative Officer.

## § 560-40. Canopies (Business, Waterfront Business, and Light Industry Zones).

Canopies or similar devices shall be permitted to extend into a front yard and to extend over the sidewalk in the Business, Waterfront Business and Light Industry Zoning Districts, subject to the following regulations:

- A. No portion of the canopy shall be constructed or used for dwelling purposes, which purpose shall be deemed to include the use thereof as a sun deck or balcony.
- B. The lowest portion of the canopy shall maintain a minimum clearance height of nine feet above the average sidewalk level.

- C. Projection out over the sidewalk from the main building shall not exceed the lesser of seven feet or the distance from the main building to the curb.
- D. Height shall not exceed 16 feet above the average sidewalk level.
- E. This § **560-40** shall in no way diminish the right of the Borough of Stone Harbor to require the removal of improvements located in or above the public right-of-way.

## § 560-41. Awnings and flags.

[Amended 4-17-2012 by Ord. No. 1401]

- A. Retractable awnings of canvas or similar material and all permitted flags shall be allowed to extend over a portion of the sidewalk in Business and Light Industry Districts. However, the lowest portion of the awning or flag that extends over the sidewalk shall be no lower than seven feet above the level of the sidewalk.
- B. No portion of the awning or flagpole shall extend outward from the building further than six feet.
- C. No flag shall exceed either five feet in length or three feet in width, and no more than one flag may be flown by any business or industry at one time.
- D. "Open" flags are permitted all year in business districts. "Open" flags are those flags that indicate the business is open.
- E. A "permitted flag," as the term is used in this section, is limited to a flag of the United States of America, of the State of New Jersey, of the Borough of Stone Harbor, or of the Stone Harbor Chamber of Commerce.

## § 560-42. Solid waste enclosures (refuse, garbage and recyclables).

The following shall apply to all uses in all zones except single-family and two-family dwellings:

- A. Solid waste must be housed within the confines of a structure and kept out of sight of the public and customers when not being loaded or collected. There must be provision for protection against odor and leakage as well.
- B. Accessibility for collection by the Borough must be maintained.
- C. Wash-down facilities must comply with Chapter **466**, Article **VII**, of the Code of the Borough of Stone Harbor.
- D. Approval by the Construction Official's office is required of the plans and specifications for solid waste enclosures.

## § 560-43. Swimming pools.

Subject to the provisions of the definition of "lot coverage" in § **560-10**:

- A. Definitions. As used in this section, the following terms shall have the meanings indicated:

### **ABOVEGROUND POOL**

Any portable or nonportable pool located above the ground level having a water surface area of more than 25 square feet.

**NONREGULATED POOL**

Sunken pools having a depth of less than 18 inches and portable aboveground pools with a water surface area of less than 25 square feet.

**PORTABLE SWIMMING POOL**

Those pools which are not permanently installed, do not require water filtration, circulation or purification, do not exceed a water surface area of 25 square feet and do not require braces or supports.

**PRIVATE RESIDENTIAL SWIMMING POOL**

Any sunken pool having a depth of 18 inches or more and designed, used or maintained for swimming by a property owner, his household and guests and located on his lot as an accessory use to a single-family dwelling or two-family dwelling.

**PUBLIC SWIMMING POOL**

Any sunken pool designed, used or maintained for swimming and bathing purposes by a hotel, motel, multiple dwelling, club, person or association of persons, for use by its owners, members and guests and/or members of the general public, or any other pool not designated as a private residential swimming pool.

**SUNKEN POOL**

Any swimming pool having more than 25 square feet of water surface and protruding above the average natural grade not more than eight inches; or in the case of pools adjacent to bay waters and lagoons, having a height not to exceed 8.7 feet NAVD 88.

[Amended 8-7-2018 by Ord. No. 1526]

- B. Requirements for nonregulated pools. Nonregulated pools are permitted anywhere on a property owner's lot at any time.
- C. Permit required. It shall be unlawful to construct, install or enlarge any swimming pool in the Borough without a building permit.
- D. Location of swimming pools.
  - (1) No portion of a private residential swimming pool shall be located within 10 feet of any side or rear property line or within 20 feet of a front property line.
  - (2) No portion of a public swimming pool shall be located within 10 feet of any property line.
  - (3) Pumps, filters, pool water disinfectant equipment and other similar equipment accessory to a swimming pool's use shall be located not less than five feet from any side or rear property line nor less than 10 feet from any front property line.
  - (4) Aboveground pools shall comply with all yard and lot coverage requirements of the particular zone in which they are located, shall not exceed a height of six feet above curb level, and shall be screened by landscaping.
  - (5) Public swimming pools are prohibited in residential zones.
  - (6) Pools located above the first floor of a commercial structure, multifamily structure or motel structure, located within the Business Zone, Waterfront Business Zone or the Light Industry Zone, shall not be considered aboveground pools for the purpose of this § **560-43D**.
- E. Fencing. Swimming pools, other than nonregulated pools, shall be completely enclosed by a fence not less than four feet and not more than six feet in height, which shall be measured from the ground immediately contiguous to the fence. All fencing, gates and latching devices shall be in compliance with state regulations and codes. All fences exceeding four feet in height shall be no closer than five feet to any property line.

- F. Lighting restrictions. Lights shall be shaded and angled downward in such a manner as to confine the direct light entirely within the fenced-in pool area.
- G. Health requirements. The physical, chemical and bacterial qualities of the water of all pools shall comply with all federal and state regulations and requirements. All swimming pools shall have the necessary equipment for the disposal of all water, including pool water, pool overflow water and wastewater, into the sanitary sewage system of the Borough of Stone Harbor. Disposal of any such wastewater into the Borough's storm drainage system or any natural waters of this state shall be prohibited, unless a permit for same has been obtained, prior to said disposal, from the State Department of Environmental Protection.
- H. Inspections. Owners or occupants of land containing swimming pools shall permit officials of the United States, the State of New Jersey, Cape May County and the Borough of Stone Harbor to inspect such pools at all reasonable times.
- I. Noise and nuisances. The owners and occupants of any property containing a pool shall comply with all noise and nuisance regulations of the Borough.

## § 560-44. Radio and television reception devices; antennas.

Radio and television reception devices, antennas and similar devices shall:

- A. Be erected at a height no higher than 10 feet above the roof;
- B. Be affixed to a chimney or mounted upon the roof or eaves; and
- C. Be grounded electrically.

## § 560-45. Reconstruction of buildings.

Subject to the provisions of § 560-35, any building substantially destroyed by fire, explosion, flood, windstorm or other phenomena of nature shall be demolished or necessary permits for the repair or reconstruction shall be obtained within one year from the date it was substantially destroyed.

## § 560-46. Tents.

- A. As used in this section, "tent" shall mean a portable shelter of canvas or skins or similar material stretched over a supporting framework of poles, ropes and/or pegs.
- B. The erection of tents on a temporary basis, not to exceed 72 hours, shall be permitted upon private property, or upon public property with the consent of the Borough of Stone Harbor Borough Council.
- C. It shall be unlawful to erect a tent exceeding 120 square feet prior to obtaining a zoning permit. Permits for a tent or tents shall be granted no more than twice in any calendar year for a property, provided that any nonprofit charitable organization, as hereinafter defined, shall be permitted to erect tents on any property in the Business District or Waterfront Business district, without limit, in any calendar year. A "nonprofit charitable organization" is defined as an organization determined by the Internal Revenue Service to be a tax-exempt organization pursuant to § 501(c)(3) or (4) of the Internal Revenue Code of 1986, 26 U.S.C. § 501(c)(3) or (4), further provided that if the property of any such organization is used for the placement of a tent by the Borough in connection with official Borough functions, such tents shall not be included in calculating the number of occasions tents were erected on such property.  
[Amended 5-17-2016 by Ord. No. 1481; 7-5-2016 by Ord. No. 1483]

- (1) There shall be a tent permit flat fee charge in the amount of \$ 275 per permit.

<b>Type</b>	<b>Fee</b>
Minimum fee for building	\$100
Minimum fee for zoning	\$100
Certificate of occupancy	\$35
Utility fee added	\$40

- D. It shall be unlawful to permit any tent to remain erected on a property in excess of 72 hours.

- E. Fee for water anchors; penalty.  
[Added 3-3-2015 by Ord. No. 1457]

- (1) In connection with a zoning permit issued under § **560-46C**, for tents that are erected upon the property of organizations that are exempt from the payment of water rents to the Borough, the list of these organizations being maintained in the Borough Clerk's office, there shall be required the payment of a fee of \$100, in addition to any other applicable fee, for the erection of any tent where the anchors used require filling vessels with water drawn from the Borough's water system. In order to assist with conservation efforts, persons erecting such tents are encouraged to utilize alternative anchoring systems that don't require the use of water. The Zoning Officer shall be responsible for collecting the fee established hereunder.
- (2) Any person utilizing water anchors for such tents without disclosing the use of same to the Zoning Officer and failing to pay the required fee shall be deemed in violation of this section, subject to the issuance of a summons by the Zoning Officer, and shall be subject to a minimum fine of \$100 and up to an amount not to exceed the maximum amount allowed by law in the Municipal Court.

## § 560-47. Underground utilities required for new construction.

- A. Purpose. The Borough Planning Board of the Borough of Stone Harbor has adopted a Master Plan which includes a recommendation that all public utilities provided by wire transmission and currently located upon poles within the Borough be placed underground in order, among other things, to minimize storm damage to such utilities and skyline clutter caused thereby.
- B. Definition of "new construction." For purposes of this section, the following terms shall have the meanings indicated:

### **NEW CONSTRUCTION**

Includes:

- (1) Construction of a new dwelling unit or units or a new commercial unit or units.
- (2) Renovation, alteration or remodeling which alters 50% or more of the total assessed value of the structure as determined by the Stone Harbor Tax Assessor.
- C. Utilities to be placed underground. All new construction projects shall place all of their wires and/or cables associated with utilities, including but not limited to those required for all electric, communication and cable TV services, underground in subsurface conduits or other suitable and acceptable method of underground installation in accordance with the provisions of the applicable standard terms and conditions incorporated as part of the servicing utility's tariff and on file with the State of New Jersey Board of Public Utility Commissioners and in compliance with all applicable safety standards to prevent danger to members of the public.
- D. Limitations on location of underground utilities. All utility services placed underground in compliance herewith shall be located upon the property of the owner. All services required to cross

any roadway shall cross under such roadway via processes that do not result in the opening of the street, such as those commonly known as "moling" or tunneling under the roadway, except that, as allowed or required under the authority of the statutes of the State of New Jersey related to identifying the location of underground utilities such as gas lines, water lines or similar facilities, as limited an opening as possible may be made for purposes of such location. All services shall be placed as a continuous run from the utility pole underground to the termination point on the structure to be supplied with electric, communication and cable TV services. Any aboveground facilities necessary for the placement of such utilities underground shall not be placed in any public right-of-way but shall be placed upon the property of the owner.

- E. Exceptions. If such utilities cannot reasonably be placed underground due to topographic or geologic condition of the land or due to technological circumstances, and the applicant can provide documentation from the relevant utility provider to adequately demonstrate the lack of feasibility of the same to the satisfaction of the Borough Engineer, a waiver of this requirement may be granted by the Borough Engineer.
- F. Application of this section. This section shall apply to any and all construction permits issued on or after May 1, 2003.

## § 560-48. Affordable housing.

[Added 11-6-2018 by Ord. No. 1533]

- A. Affordable housing obligations.
- (1) This section 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 section shall apply except where inconsistent with applicable law.
  - (2) The Borough of Stone Harbor 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 Stone Harbor 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).
  - (3) This section implements the Borough's Fair Share Plan, addresses the requirements of the Court and the terms of the settlement agreement, and also implements a Borough-wide requirement that all new multifamily residential development of five or more units shall have a mandatory affordable housing set aside for low- and moderate-income units, subject to certain enumerated conditions.
  - (4) The Borough of Stone Harbor 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 9508 Second Avenue, Stone Harbor, NJ 08247.
- B. Definitions. The following terms when used in this § 560-48 shall have the meanings given in this section:

### **ACCESSORY APARTMENT**

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**

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

**ADAPTABLE**

Constructed in compliance with the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.

**ADMINISTRATIVE AGENT**

The entity responsible for the administration of affordable units in accordance with this section, 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**

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**

The average percentage of median income at which restricted units in an affordable housing development are affordable to low- and moderate-income households.

**AFFORDABLE**

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**

A housing development all or a portion of which consists of restricted units.

**AFFORDABLE HOUSING DEVELOPMENT**

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% affordable development.

**AFFORDABLE HOUSING OVERLAY DISTRICT or OVERLAY DISTRICT**

The geographic area designated in § 560-48D(1) below.

**AFFORDABLE HOUSING PROGRAM(S)**

Any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality's fair share obligation.

**AFFORDABLE UNIT**

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.

**AGE-RESTRICTED UNIT**

A housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population such that: all the residents of the development where the unit is situated are 62 years or older; or at least 80% of the units are occupied by one person that is 55 years or older; or 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.

**AGENCY**

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

**ASSISTED LIVING RESIDENCE**

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**

A household that has been certified by an administrative agent as a low-income household or moderate-income household.

**DCA**

The State of New Jersey Department of Community Affairs.

**DEFICIENT HOUSING UNIT**

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**

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**

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**

A development containing both affordable units and market rate units. Inclusionary developments must have a 20% 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 nonresidential structure to residential and the creation of new affordable units through the reconstruction of a vacant residential structure.

**LOW-INCOME HOUSEHOLD**

A household with a total gross annual household income equal to 50% or less of the median household income.

**LOW-INCOME UNIT**

A restricted unit that is affordable to a low-income household.

**MAJOR SYSTEM**

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**

Housing not restricted to low- and moderate-income households that may sell or rent at any price.

**MEDIAN INCOME**

The median income by household size for the applicable county, as adopted annually by the Department.

**MODERATE-INCOME HOUSEHOLD**

A household with a total gross annual household income in excess of 50% but less than 80% of the median household income.

**MODERATE-INCOME UNIT**

A restricted unit that is affordable to a moderate-income household.

**NONEXEMPT SALE**

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**

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**

The maximum housing value in each housing region affordable to a four-person household with an income at 80% of the regional median as defined by the Department's adopted Regional Income Limits published annually by the Department.

**REHABILITATION**

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

**RENT**

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**

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 UHORP or MONI.

**THE DEPARTMENT**

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.).

**UHAC**

The Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26.1 et seq.

**VERY-LOW-INCOME HOUSEHOLD**

A household with a total gross annual household income equal to 30% or less of the median household income.

**VERY-LOW-INCOME UNIT**

A restricted unit that is affordable to a very-low-income household.

**WEATHERIZATION**

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.

C. Affordable housing programs. The Borough of Stone Harbor will use the following mechanisms to satisfy its affordable housing obligations:

(1) A rehabilitation program.

(a) The Borough of Stone Harbor and Fair Share Housing Center have agreed upon a rehabilitation program of three units. To satisfy this obligation, the Borough shall either participate in the Cape May County Affordable Housing Program; or establish and implement its own rehabilitation program.

(b) The Borough of Stone Harbor shall dedicate an average of \$8,000 hard costs and \$2,000 administrative costs, totally \$10,000 on average for each unit to be rehabilitated through this program.

(c) If the Borough chooses to establish and implement its own rehabilitation program, it shall designate an administrative agent to administer said program in accordance with N.J.A.C. 5:91 and N.J.A.C. 5:93. The administrative agent shall provide a rehabilitation manual for the owner-occupancy rehabilitation program to be adopted by resolution of the governing body and subject to approval of the Court. Said rehabilitation manual shall be available for public inspection in the Office of the Municipal Clerk and in the office of the administrative agent.

(2) Percentage of mandatory set-asides for all future residential developments.

(a) If the Borough permits the construction of multifamily or single-family attached residential development that is "approvable" and "developable," as defined at N.J.A.C. 5:93-1.3, at a gross residential density of six units to the acre or more, the Borough shall require that an appropriate percentage of the residential units be set aside for low- and moderate-income households. This requirement shall apply to any multifamily or single-family attached residential development, including the residential portion of a mixed-use project, which consists of five or more new residential units, whether permitted by a zoning amendment, a variance granted by the Borough's Land Use Board, or adoption of a redevelopment plan or amended redevelopment plan in areas in need of redevelopment or rehabilitation. For any such development for which the Borough's land use ordinances (e.g. zoning or an adopted redevelopment plan) already permitted residential development as of the effective date of this agreement, this requirement shall only apply if the Borough permits an increase in approvable and developable gross residential density to at least twice the permitted approvable and developable gross residential density as of the effective date of this agreement. Nothing in this subsection precludes the Borough from imposing an affordable housing set-aside in a development not required to have a set-aside pursuant to this paragraph consistent with N.J.S.A. 52:27D-311(h) and other applicable law. For inclusionary projects in which the low- and moderate-income units are to be offered for sale, the appropriate set-aside percentage is 20% for projects in which the low- and moderate-income units are to be offered for rent, the appropriate set-aside percentage is 15%. This requirement does not create any entitlement for a property owner or applicant for a zoning amendment, variance, or adoption of a redevelopment plan or amended redevelopment plan in areas in need of redevelopment or rehabilitation, or for approval of any particular proposed project. This requirement does not apply to any sites or specific zones otherwise identified in the settlement agreement or Fair Share Plan, for which density and set-aside standards shall be governed by the specific standards set forth therein.

- (b) Furthermore, this section shall not apply to developments containing four or less dwelling units. All subdivision and site plan approvals of qualifying residential developments shall be conditioned upon compliance with the provisions of this section. Where a developer demolishes existing dwelling units and builds new dwelling units on the same site, the provisions of this section shall apply only if the net number of dwelling units is five or more.
- (3) 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

- (4) Fractional units. If 20% of the total number of units in a development results in a fraction or decimal, the developer shall be required to provide an additional affordable unit on site. Example: an eight-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.
- (5) Design. In inclusionary developments, low- and moderate-income units shall be integrated with the market units.
- (6) Payments-in-lieu and off-site construction. The standards for the collection of payments-in-lieu of constructing affordable units or standards for constructing affordable units off-site, shall be in accordance with N.J.A.C. 5:93-8 and the Borough's Affordable Housing Development Fee ordinance.
- (7) Utilities. Affordable units shall utilize the same type of heating source as market units within the affordable development.

D. Affordable Housing Overlay District.

- (1) An Affordable Housing Overlay District is hereby created, which District shall consist of all properties that are located within the Business District between 93rd Street and 99th Street.
- (2) Development in the Overlay District shall be subject to the bulk regulations set forth in § **560-18**, except as set forth in this § **560-48**.
- (3) Affordable housing units shall be permitted in the Overlay District as second and third floor residential accessory apartments, subject to the following regulations:
  - (a) Construction in excess of the story and height limitations set forth in § **560-18** shall require not less than 20% of all for-sale residential units and not less than 15% of all rental units to be designated as affordable housing units.
  - (b) The first floor of any building in which affordable housing units exist on the second and third floor shall be operated as a commercial use in accordance with § **560-18**.
  - (c) Structures housing third floor affordable housing units shall be subject to the following supplemental bulk regulations, which shall control in the event of a conflict with § **560-18**:

[1] Maximum stories: three.

- [2] Maximum building height: 42 feet from top of curb.
- [3] Minimum lot area: 4,000 square feet.
- [4] Minimum front yard setback:
  - [a] First and second floors: as per § **560-18**.
  - [b] Third floor: Ten feet, provided that a railing measuring up to 42 inches above a third-floor exterior deck shall be subject the minimum front yard setback set forth in § **560-18**.
- [5] Minimum side yard setback: zero feet.
- [6] Minimum rear yard setback: zero feet.
- [7] Affordable housing unit gross floor area (min): 650 square feet.
- [8] Affordable housing unit parking: zero spaces.

E. Multifamily residential set-aside requirements:

- (1) All newly constructed multifamily residential developments of five units or more, whether located within or outside in the Affordable Housing Overlay District, shall be required to set aside a percentage of the units as affordable housing as follows:
  - (a) The set-aside for rental developments shall be 15% of the total units;
  - (b) The set-aside for for-sale developments shall be 20% of the total units.
- (2) The provisions of this § **560-48E** shall not apply to residential expansions, additions, renovations, replacement, or any other type of residential development that does not result in a net increase in the number of dwelling units by five or more.

F. Accessory apartments. Accessory apartments are permitted within or outside the Affordable Housing Overlay District, subject to the following regulations:

- (1) Accessory apartments shall be permitted in a principal building or in an existing permitted accessory building, such as a barn or garage, which principal or accessory structure may be expanded in order to create affordable housing units.
- (2) No more than 10 accessory apartments shall be permitted within the Borough pursuant to this § **560-48F**;
- (3) Not less than five accessory apartments approved pursuant to this § **560-48F** shall be designated as low-income units, of which one unit will be required to be deed restricted for a very-low-income household.

G. New construction requirements. 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.

- (1) Low/moderate split and bedroom distribution of affordable housing units.
  - (a) 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.
  - (b) In each affordable development, at least 50% of the restricted units within each bedroom distribution shall be low-income units. If there is only one affordable unit it must be a low-

income unit.

- (c) Thirteen percent of all affordable units in the Borough shall be designated as very-low-income households at 30% of the median income, with at least 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 (10%). 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 section.
  - (d) Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
    - [1] The combined number of efficiency and one-bedroom units shall be no greater than 20% of the total low- and moderate-income units.
    - [2] At least 30% of all low- and moderate-income units shall be two-bedroom units;
    - [3] At least 20% of all low- and moderate-income units shall be three-bedroom units; and
    - [4] The remaining units may be allocated among two- and three-bedroom units at the discretion of the developer.
  - (e) 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.
- (2) Accessibility requirements:
- (a) 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.
  - (b) 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:
    - [1] An adaptable toilet and bathing facility on the first floor;
    - [2] An adaptable kitchen on the first floor;
    - [3] An interior accessible route of travel on the first floor;
    - [4] An interior accessible route of travel shall not be required between stories within an individual unit;
    - [5] 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
    - [6] 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 Stone Harbor has collected funds from the developer sufficient to make 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 10% of the affordable units that have been constructed with adaptable entrances.
  - [c] The funds deposited under Subsection G(2)(b)[6][b] above shall be used by the Borough of Stone Harbor 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% of median income, and the average rent for restricted low- and moderate-income units shall be affordable to households earning no more than 52% 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.
  - [4] At least 13% of all low- and moderate-income dwelling units shall be affordable to households earning no more than 30% of median income.
  - [5] The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70% of median income, and each affordable development must achieve an affordability average of 55% 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.

- [6] 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.
- [7] 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.
- [8] 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% 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% 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.
- [9] The initial rent for a restricted rental unit shall be calculated so as not to exceed 30% 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.
- [10] 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.
- [11] 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 9% 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.
- [12] 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.

#### H. Affirmative marketing requirements.

- (1) The Borough of Stone Harbor 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.
- (2) 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.
- (3) The affirmative marketing plan shall provide a regional preference for all households that live and/or work in Housing Region 4.
- (4) The administrative agent designated by the Borough of Stone Harbor shall assure the affirmative marketing of all affordable units consistent with the affirmative marketing plan for the municipality.
- (5) 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.
- (6) The affirmative marketing process for available affordable units shall begin at least four months prior to the expected date of occupancy.
- (7) 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.

#### I. Occupancy standards.

- (1) 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:
  - (a) Provide an occupant for each bedroom;
  - (b) Provide children of different sex with separate bedrooms; and
  - (c) Prevent more than two persons from occupying a single bedroom.
- (2) Additional provisions related to occupancy standards (if any) shall be provided in the municipal operating manual.

#### J. Control periods for restricted ownership units and enforcement mechanisms.

- (1) 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 section until the Borough of Stone Harbor 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.
- (2) The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.

- (3) 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 nonrestricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value.
  - (4) 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 nonexempt sale after the unit's release from the requirements of this section, an amount equal to the difference between the unit's nonrestricted 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.
  - (5) The affordability controls set forth in this section shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
  - (6) 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.
- K. Price restrictions for restricted ownership units, homeowners 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:
- (1) The initial purchase price for a restricted ownership unit shall be approved by the administrative agent.
  - (2) The administrative agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
  - (3) 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.
  - (4) 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.
- L. Buyer income eligibility.
- (1) 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% of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80% of median income.
  - (2) 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% of the household's certified monthly income.
- M. Limitations on indebtedness secured by ownership unit; subordination.
- (1) 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.

- (2) 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% 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).

N. Control periods for restricted rental units.

- (1) 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 section until the Borough of Stone Harbor 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.
- (2) 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 Cape May. A copy of the filed document shall be provided to the administrative agent within 30 days of the receipt of a certificate of occupancy.
- (3) A restricted rental unit shall remain subject to the affordability controls of this section, despite the occurrence of any of the following events:
  - (a) Sublease or assignment of the lease of the unit;
  - (b) Sale or other voluntary transfer of the ownership of the unit; or
  - (c) The entry and enforcement of any judgment of foreclosure.

O. Price restrictions for rental units; leases.

- (1) A written lease shall be required for all restricted rental units, except for units in an assisted living residence, 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.
- (2) 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.
- (3) Application fees (including the charge for any credit check) shall not exceed 5% 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 section.

P. Tenant income eligibility.

- (1) 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:
  - (a) Very-low-income rental units shall be reserved for households with a gross household income less than or equal to 30% of median income.
  - (b) Low-income rental units shall be reserved for households with a gross household income less than or equal to 50% of median income.

- (c) Moderate-income rental units shall be reserved for households with a gross household income less than 80% of median income.
- (2) 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% (40% 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:
- (a) The household currently pays more than 35% (40% for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
  - (b) The household has consistently paid more than 35% (40% for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
  - (c) The household is currently in substandard or overcrowded living conditions;
  - (d) The household documents the existence of assets with which the household proposes to supplement the rent payments; or
  - (e) 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.
- (3) The applicant shall file documentation sufficient to establish the existence of the circumstances in Subsection **P(2)(a)** through **(e)** above with the administrative agent, who shall counsel the household on budgeting.

**Q. Administration.**

- (1) The position of Municipal Housing Liaison (MHL) for the Borough of Stone Harbor is established by this section. The Borough shall make the actual appointment of the Municipal Housing Liaison by means of a resolution.
- (a) The Municipal Housing Liaison must be either a full-time or part-time employee of Stone Harbor.
  - (b) The person appointed as the Municipal Housing Liaison must be reported to the Court and thereafter posted on the Borough's website.
  - (c) The Municipal Housing Liaison must meet all the requirements for qualifications, including initial and periodic training.
  - (d) The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Borough of Stone Harbor, including the following responsibilities which may not be contracted out to the administrative agent:
    - [1] Serving as the Municipality's primary point of contact for all inquiries from the state, affordable housing providers, administrative agents and interested households;
    - [2] The implementation of the affirmative marketing plan and affordability controls;
    - [3] When applicable, supervising any contracting administrative agent;
    - [4] Monitoring the status of all restricted units in the Borough's Fair Share Plan;

- [5] Compiling, verifying and submitting annual reports as required;
  - [6] Coordinating meetings with affordable housing providers and administrative agents, as applicable; and
  - [7] 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) The Borough of Stone Harbor 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.
  - (3) 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).
  - (4) 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:
    - (a) 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) Affirmative marketing;
    - (c) Household certification;
    - (d) Affordability controls;
    - (e) Records retention;
    - (f) Resale and rental;
    - (g) Processing requests from unit owners; and
    - (h) Enforcement, though the ultimate responsibility for retaining controls on the units rests with the municipality.
    - (i) The administrative agent shall have authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.
  - (5) The fees of the administrative agent shall be paid by the owners for the affordable units for which the services of the administrative agent are required.

R. Enforcement of affordable housing regulations.

- (1) 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.
- (2) 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:

- (a) 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:
    - [1] A fine of not more than \$10,000 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;
    - [2] 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 Stone Harbor Affordable Housing Trust Fund of the gross amount of rent illegally collected;
    - [3] 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.
  - (b) 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.
- (3) 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.
  - (4) 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.
  - (5) 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.

- (6) 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.
  - (7) 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.
  - (8) 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.
- S. Appeals. Appeals from all decisions of an administrative agent designated pursuant to this section shall be filed with the Superior Court of New Jersey, Cape May County.

## § 560-49. Wireless telecommunications towers and antennas.

### A. Applicability.

- (1) New towers and antennas. All new towers or antennas shall be subject to these regulations, except as provided in Subsection **A(2)** and **(3)**.
- (2) Amateur radio station operators/receivers-only antennas. This section shall not govern any tower, or installation of any antenna, that is under 70 feet in height and is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receive-only antennas.
- (3) Preexisting towers and antennas. Preexisting towers and preexisting antennas shall not be required to meet the requirements of Subsection **B(7)** and **(8)**.

### B. General requirements.

- (1) District locations. Towers and antennas may be located in only the following districts: B, P and LI.
- (2) Principal or accessory uses. Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.
- (3) Lot size. For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased or licensed parcels within such lot.

- (4) Inventory of existing sites. Each applicant for an antenna and/or tower shall provide to the appropriate land use board, Zoning Officer and Construction Official an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of the Borough or within any adjacent or contiguous municipality, including specific information about the location, height and design of each tower. The Zoning Officer or Construction Official may share such information with other applicants applying for municipal approvals, site plan review or variances under this section or other organizations seeking to locate antennas within the jurisdiction of the Borough; provided, however, that the Zoning Officer or Construction Official, or both, by sharing such information, is not in any way representing or warranting that such sites are available or suitable.
- (5) Aesthetics. Towers and antennas shall meet the following requirements:
  - (a) Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of either the FAA or the FCC, be painted a neutral color so as to reduce visual obtrusiveness.
  - (b) At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
  - (c) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- (6) Lighting. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the view of the surrounding properties.
- (7) State and federal requirements. All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this section shall bring such towers and antennas into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations within the required time frame shall constitute grounds for the immediate removal of the tower or antenna at the owner's expense.
- (8) Building codes; safety standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Borough concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then, upon notice being given to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards; provided, however, that if the nature of such defect or noncompliance is such that it causes an immediate threat to the life or safety of any person or property, then the owner shall take immediate corrective action in order to eliminate such risk. Temporary repairs shall be taken immediately, with permanent repairs to be completed within the thirty-day period aforesaid. Failure to bring such tower into compliance within said 30 days shall constitute grounds for the immediate removal of the tower or antenna at the owner's expense.
- (9) Measurement. For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the Borough irrespective of municipal and county jurisdictional boundaries.

- (10) Not essential services. Towers and antennas shall be regulated and permitted pursuant to this section and shall not be regulated or permitted as essential services, public utilities, or private utilities.
- (11) Franchises. Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the Borough have been obtained and shall file a copy of all required franchises with the Zoning Officer.
- (12) Public notice. For purposes of this section, any notice required shall conform to the requirements of the Municipal Land Use Act, as may from time to time be amended and supplemented.
- (13) Signs. No signs, other than safety or warning signs as required by the FCC or the appropriate state or federal agency, shall be allowed on an antenna, tower or ancillary structure.
- (14) Buildings and support equipment. Buildings and support equipment associated with antennas shall comply with the requirements of this § 560-49.
- (15) Multiple antenna/tower plan. The Borough encourages the users of towers and antennas to submit a single application for approval of multiple antennas.

C. Permitted uses.

- (1) General. The uses permitted in this section are deemed to be permitted uses. Site plan approval shall be required, however. In the event that the construction is to occur on Borough property, the written consent and approval of the Borough Council shall be required, and the Borough Council may impose such terms and conditions as it deems necessary or advisable.
- (2) Permitted uses. The following uses are specifically permitted:
  - (a) Antennas or towers located on property owned, leased, or otherwise controlled by the Borough, provided that a license or lease authorizing such antenna or tower has been approved by the Borough Council.
  - (b) In the following districts, as defined by the Zoning Ordinance of the Borough: P, B and LI.

D. Site plan review and approval requirements.

- (1) Site plan review shall be required with respect to all antennas or towers located within the Borough.
- (2) No person shall construct or erect, or cause to be constructed or erected, a tower or antenna unless site plan approval is obtained from the appropriate land use board. The following provisions shall apply:
  - (a) Applications for site plan approval under this section shall be subject to the procedures and requirements of the Site Plan Review Ordinance of the Borough, except as modified herein.
  - (b) In granting site plan approval, the appropriate land use board may impose conditions to the extent that such board concludes such conditions are necessary to minimize any adverse effect of the proposed tower to adjoining properties.
  - (c) Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.
  - (d) An applicant for site plan approval shall submit the information described in this section and a nonrefundable fee, as established by the Borough Council or pursuant to existing

Borough escrow fee regulations, to reimburse the Borough for the cost of reviewing the application.

- (3) Information required for site plan approval of towers. In addition to any information required for the application for site plan approval pursuant to the applicable ordinance of the Borough, applicants for site plan approval for a tower shall submit the following information:
- (a) A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), Master Plan classification of the site and all properties within the applicable separation distances set forth in Subsection **F**, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the appropriate land use board to be necessary to assess compliance with this section.
  - (b) A survey of the property, signed and sealed by a surveyor licensed in the State of New Jersey, dated no earlier than 12 months prior to the date of application.
  - (c) The distance between the proposed tower and the nearest structure or use, residential and otherwise, platted residentially zoned properties, and unplatted residentially zoned properties.
  - (d) The separation distance from other towers described in the inventory of existing sites submitted pursuant to Subsection **B(4)** shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.
  - (e) A landscape plan showing specific landscape materials.
  - (f) The method of security fencing and finished color and, if applicable, the method of camouflage and illumination.
  - (g) Identification of all entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the municipality.
  - (h) A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.
  - (i) A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide services to be provided through the use of the proposed new tower.
  - (j) A description of the feasible location(s) of future towers or antennas within the Borough or within contiguous municipalities based upon existing physical, engineering, technological or geographical limitations in the event that the proposed tower is erected.
  - (k) A line-of-sight analysis detailing the view of the proposed tower from various directions and angles from adjacent areas. The analysis shall be utilized to determine buffer requirements.
- (4) Factors considered in granting site plan approval for towers. In addition to any standards for consideration of site plan applications pursuant to the Site Plan Ordinance of the Borough, the appropriate land use board shall consider the following facts in determining whether to issue site plan approval, although such board may waive or reduce the burden on the applicant of one or more of these criteria if the land use board concludes that the goals of this section are better served thereby:

- (a) Height of the proposed tower;
  - (b) Proximity of the tower to residential structures and residential district boundaries;
  - (c) Nature of uses on nearby and adjacent properties;
  - (d) Surrounding topography;
  - (e) Surrounding tree foliage and coverage;
  - (f) Design of the tower, with particular preference to the design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
  - (g) Proposed ingress and egress of that site; and
  - (h) Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed in this section.
- E. Availability of suitable existing towers, other structures, or alternative technology. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the appropriate land use board that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the land use board related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:
- (1) No existing towers or structures are located within the geographic area which meet the applicant's engineering requirements.
  - (2) Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.
  - (3) Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.
  - (4) The applicant's antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
  - (5) The fees, costs or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable.
  - (6) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
  - (7) The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.
- F. Separation. The following separation requirements shall apply to all towers and antennas for which site plan approval is required; provided, however, that the appropriate land use board may reduce the standard separation requirements if the goals of this section would be better served thereby:
- (1) Separation from off-site uses/designated areas.

- (a) Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in Table 1, except as otherwise provided in Table 1.
- (b) Separation requirements for towers shall comply with the minimum standards established in Table 1, except that such standards shall not apply to water towers.

**TABLE 1**

<b>Off-Site Use/Designated Area</b>	<b>Separation Distance</b>
Single-family or two-family residential units	100 feet or 100% of the height of the tower, whichever is greater
Vacant or single-family or two-family residentially zoned land which is either platted or has preliminary subdivision plan approved which has not expired	100 feet or 100% of the tower height, whichever is greater
Vacant unplatted residentially zoned lands	100 feet or 100% of the tower height, whichever is greater
Existing multifamily residential units greater than two-family units	100 feet or 100% of the tower height, whichever is greater
Nonresidentially zoned lands or nonresidential uses	None; only setbacks apply

- (2) Separation distances between towers. Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The separation distances (listed in linear feet) shall be shown in Table 2.

**TABLE 2**

	<b>Existing Tower Types</b>			
	<b>Lattice</b>	<b>Guyed</b>	<b>Monopole 75 feet in Height or Greater</b>	<b>Monopole Less than 75 feet in Height</b>
Lattice	5,000	5,000	1,500	750
Guyed	5,000	5,000	1,500	750
Monopole 75 feet in height or greater	1,500	1,500	1,500	750
Monopole less than 75 feet or greater	750	750	750	750

- G. Security fencing. Towers shall be enclosed by security fencing not less than six feet in height and shall also be equipped with appropriate anticlimbing devices.
- H. Landscaping. The following requirements shall govern the landscaping surrounding towers; provided, however, that the appropriate land use board may waive such requirements if the goals of this section would be better served thereby:
  - (1) Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four feet wide outside the perimeter of the compound.
  - (2) In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.

- (3) Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. In some cases of such towers sited on large wooded lots, natural growth around the property perimeter may be sufficient buffer.
- I. Regulations and standards; antennas. The following regulations and standards shall apply to all antennas:
- (1) Antennas on existing towers. An antenna which is attached to an existing tower may be approved by the appropriate land use board and, to minimize adverse visual impacts associated with the proliferation and clustering of towers, collocation of antennas by more than one carrier on existing towers shall take precedence over the construction of new towers, provided that such collocation is accomplished in a manner consistent with the following:
    - (a) A tower which is modified or reconstructed to accommodate the collocation of an additional antenna shall be of the same tower type as the existing tower, unless the appropriate local land use board allows reconstruction as a monopole.
    - (b) Height. An existing tower may be modified or rebuilt to a taller height, not to exceed 30 feet over the tower's existing height, to accommodate the collocation of an additional antenna.
    - (c) On-site location. After the tower is rebuilt to accommodate collocation, only one tower may remain on the site.
  - (2) Antennas on existing structures. Any antenna which is not attached to a tower may be approved by the appropriate land use board, or by the Borough Council with respect to any municipally owned or controlled structure, as an accessory use to any commercial, public, professional, institutional or multifamily structure of eight or more dwelling units, provided that:
    - (a) The antenna does not extend more than 30 feet above the highest point of the structure;
    - (b) The antenna complies with all applicable FCC and FAA regulations; and
    - (c) The antenna complies with all applicable building codes.
- J. Building or other equipment storage. The equipment cabinet or structure used in association with antennas shall comply with the following:
- (1) The cabinet or structure shall not contain more than 200 square feet of floor area nor be more than 12 feet high.
  - (2) If the equipment cabinet is located on the roof of the building, the area of the equipment cabinet and other equipment and structures shall not occupy more than 10% of the footprint of the roof area. In addition, the building plus the equipment cabinet shall not exceed 30 feet in height in order to conform to the Borough's height limitation. The height limitation, however, shall not apply to the tower or antenna.
  - (3) Equipment storage buildings or cabinets shall comply with all applicable zoning codes.
  - (4) If the equipment structure is located on the roof of a building, it shall be camouflaged.
  - (5) The equipment cabinet or structure shall be screened from view of all residential properties which abut or are directly across the street from the structure or cabinet.
  - (6) Modification of building size requirements. The requirements of this section may be modified by the land use board in order to encourage collocation.

- K. Removal of abandoned antennas and towers. Any antenna or tower that is not operated for a continuous period of six months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within 45 days of receipt of notice from the Borough notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said forty-five-day period shall be grounds to remove the antenna or tower at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower. Any unused antenna shall be promptly removed from the tower.

## § 560-50. Lot grading.

[Added 10-16-2018 by Ord. No. 1532]

This § **560-50** shall not apply to any application for development which undergoes site plan review pursuant to Chapter **345**.

- A. All lots shall be graded to prevent the accumulation of stormwater. Topsoil shall be provided and/or redistributed on the surface as cover and shall be stabilized with stones, seeding or planting. Grading plans shall be submitted with all zoning permit applications involving new construction; any alterations which increase the total impervious coverage by 5% or more of the total lot area and result in total impervious coverage that is 80% or more of the maximum permitted impervious coverage; installation of any impervious improvements of within four feet of a side or rear property line; any change in grade which alters the course of stormwater; or construction of any retention wall; for review and approval by the Borough's engineer. The plan shall conform to the following requirements:
- (1) Wherever possible, the land shall be graded to maintain all existing drainage paths while directing stormwater to the street. In the event directing stormwater to the street will interfere with existing drainage paths involving adjacent properties, stormwater shall be directed to an existing drainage path or interior yard collection system designed in accordance with this chapter. Stormwater will not be permitted to run directly onto an adjacent property unless a preexisting drainage path is present; provided that in no event shall any construction result in an increase in runoff to adjacent properties.
  - (2) The minimum slope for lawns and disturbed areas shall be 1 1/2% and for smooth, hard-finished surfaces shall be 4/10 of 1%.
  - (3) The maximum grade for lawns and disturbed areas within five feet of a building shall be 10%, and for lawns and disturbed areas more than five feet from a building, 25%; except that, for the driveway the maximum grade shall be 15%.
  - (4) Retaining walls installed in slope-controlled areas shall be constructed of reinforced concrete or other reinforced masonry, or of another construction acceptable to the Borough Engineer and shall be adequately designed by a New Jersey licensed professional engineer and detailed in the plan to carry all earth pressures, including any surcharges. The heights of retaining walls shall not exceed 1/3 of the horizontal distance from the foundation wall of any building to the face of the retaining wall.
  - (5) All new construction and substantial improvements as defined in Chapter **300** will be required to furnish and install an underground stormwater recharge system to limit the amount of runoff generated by the construction. The system shall conform to the following requirements:
    - (a) The applicant shall install five linear feet of underground storage (Detail S-1) for every 500 square feet of impervious coverage or provide and install a system equivalent to the recommended design as approved by the Borough's engineer.
    - (b) The system shall be designed to collect stormwater runoff from the roof leaders or an equivalent amount of runoff through inlets or yard drains.

(c) The system will be designed to convey the excess stormwater to the street.

## § 560-51. through § 560-59. (Reserved)

## Article VI. Administration

### § 560-60. Designation of administrative officer.

The Borough's Zoning Officer is designated as the Borough's "administrative officer" in accordance with N.J.S.A. 40:55D-3.

### § 560-61. Enforcement.

The provisions of this chapter shall be enforced by the Zoning Officer of the Borough. It shall be the Zoning Officer's duty to examine all applications for zoning or occupancy permits for compliance with this chapter, to issue such zoning permits when the application complies with the regulations of this chapter or upon authorization by the Planning or Zoning Board after a public hearing, and to file and record all applications and plans received and permits issued.

### § 560-62. Zoning permits.

[Amended 10-16-2018 by Ord. No. 1532]

No zoning permit shall be issued with respect to any property for which the payment of real estate taxes is in arrears. A zoning permit shall be required prior to the erection, construction or alteration of any building or structure or portion thereof. Application for permits shall be made in duplicate to the Zoning Officer in writing by the owner of the premises or his authorized agent. Included with the application shall be two complete sets of plans, drawn to scale, showing the proposed structure or alteration and all existing structures on the lot, their relation to each other and to bounding streets, and the use or intended use of all buildings and land. For applications which are subject to § 560-50 two sets of grading plans prepared by a licensed engineer or surveyor, showing all existing and proposed grading within 50 feet of the subject site and conforming to the requirements of § 560-50 shall also be provided. All lots shall be surveyed and marked out on the ground prior to the erection or construction of any building. Permits shall be granted or refused within 10 days of the date of application. Zoning permits shall terminate on the occurrence of any of the following events:

- A. If no building permit is issued in connection therewith within six months after issuance of the zoning permit.
- B. Upon the expiration or other termination of a building permit issued in connection therewith.
- C. Upon the enactment of any amendment to the Zoning Chapter which is inconsistent with the zoning permit in cases where no building permit has been issued in connection therewith.

### § 560-63. Fee Schedule.

The Fee Schedule shall be as set forth in Chapter 345.

### § 560-64. Violations and penalties.

- A. The following activities shall constitute a violation of this chapter:

- (1) The failure to secure a zoning permit before commencing to erect or alter any building or structure.
  - (2) Failure to obtain an occupancy permit prior to using or arranging for the use of any land, building or structure.
  - (3) Using or building on a premises contrary to the terms of any permit issued for the premises under this chapter.
  - (4) Any failure to strictly comply with any requirement imposed by this chapter.
- B. Any person, firm or corporation that shall violate any provisions of this chapter shall, upon conviction thereof by any court authorized by law to hear and determine the matter, be fined such sum not exceeding \$1,000 as such court, in its discretion, may impose; and if the party so convicted is a natural person, such person may be imprisoned for such term not exceeding 90 days.
- C. Each day that any violation of this chapter exists shall constitute a separate offense.
- D. Any person, corporation or other entity responsible for causing, creating, permitting or maintaining any violation of this chapter, including, without limitation, the owner and/or tenant of any building, structure, lot or land, or part thereof, and any entity that assists in the commission of any such violation shall each be guilty of a separate violation.
- E. In the event that any building or structure is erected, constructed, reconstructed, altered, moved or converted, or any building, structure or land is used, in violation of the provisions of this chapter, the Borough may institute an action to enjoin such violation.

## § 560-65. Severability.

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

## § 560-66. Repealer.

All ordinances or parts thereof inconsistent with the terms of this chapter are hereby repealed insofar as such inconsistency exists.

## § 560-67. Amendments.

All amendments to this chapter shall be in accordance with the provision of N.J.S.A. 40:55D-1 et seq.