

**BOROUGH OF CAPE MAY POINT
COUNTY OF CAPE MAY
STATE OF NEW JERSEY**

ORDINANCE NO. 13-2026

**AN ORDINANCE AMENDING CHAPTER 130 "STREETS AND SIDEWALKS" OF
THE CODE OF THE BOROUGH OF CAPE MAY POINT**

BE IT ORDAINED by the Board of Commissioners of the Borough of Cape May Point, County of Cape May, State of New Jersey, that Chapter 130 "Streets and Sidewalks", Article I "Street Openings and Excavations" and Article II "Right of Way Permits" of the Code of the Borough of Cape May Point be and is hereby amended as follows (deletions in ~~striketrough~~ and additions in underline):

Section 1.

130-7 BONDING REQUIREMENTS.

- c. The purpose of depositing the performance bond is to guarantee to the Borough that any construction, excavation or road opening will be performed and completed in an acceptable fashion consistent with the provisions of this Article. In the event that the Borough Engineer determines that the excavation, construction or restoration and refilling has not been performed consistent with the requirements of this Article, he shall be entitled, after reasonable notice to the applicant, to correct such deficiencies, to take the performance bond, surety bond or cash posted by the applicant and utilize them to correct any deficiencies, and have the area restored to its proper condition.
- d. Upon completion of a construction project to which a performance bond has been deposited with the Borough, and upon request by the contractor and/or owner for inspection of the construction by the Borough, a determination shall be made by the Borough as to whether the performance bond amount shall be released. In the event that it is determined that the performance bond shall be released related to a particular construction project, such performance bond shall be replaced with a maintenance bond, in the amount of \$5,000.00 or such other amount as may be deemed necessary and appropriate by the Borough Engineer. Such maintenance bond shall be required to remain in place for a period of one (1) year after the date of its original posting unless it is determined by the Borough Engineer that such maintenance bond may be released prior to that one (1) year anniversary date.

Section 2.

130-8 RESURFACING AND MAINTENANCE REQUIRED.

The applicant shall fill in and resurface any excavated section and shall maintain the same in a condition similar to the surrounding surface area for a minimum period of one year. During this one-year period the ~~performance~~ maintenance bond shall remain in full force and effect. Upon certification of the Borough Engineer, by inspection made thereof, to the ~~Board of Commissioners~~ Public Works Superintendent, the bond shall be ~~cancelled by motion of the Board of Commissioners~~ released. If such inspection does not show the surface to have been substantially returned and maintained in its original condition and level, the Borough shall use the bond proceeds on notice of intent to do so by 10 days' registered mail or direct service notice from the Borough Engineer. The Borough may use the same for the proper leveling and surfacing of the section, returning any balance of the deposit or charging the applicant for any excess required to place the section in proper condition. If, during the ten-day period, the applicant corrects the condition and notifies the Borough Engineer, in writing, then the notice shall be conditioned as a new application subject to reinspection and maintenance for one year from date of correction notice.

Section 3.

130-20 RIGHT-OF-WAY PERMIT FEES AND DEPOSIT TOWARD ANTICIPATED MUNICIPAL EXPENSES

- a. Every Right-of-Way Permit application for a Utility Regulated by the Board of Public Utilities must include a Right-of-Way Permit Fee in the following amounts:
 - 1. One to five sites - \$500.00
 - 2. Each additional site - \$100.00
- c. Every Right-of-Way Permit application submitted by an individual or entity related to real property that abuts the right of way for which the application is submitted shall be required to submit a Right-of-Way application fee in the amount of \$100.00 at the time of application submission. In the event that such application is approved by the Borough, there shall be no permit fee required to be submitted by the applicant to the Borough.

Section 4.

130-21 MISCELLANEOUS PROVISIONS.

- c. The Borough's consent for use of County Roads, as required pursuant to N.J.S.A. 27:16-6, shall take the form of a Right-of-Way Permit subject to the standards and application process set forth in this chapter. No such applicant shall be required to enter into a Right-of-Way Agreement with the Borough.
- d. In addition to the terms, conditions, and requirements of Chapter 130, Sections 15-21(c), set forth above, no person shall cause, assist in, contribute to, or otherwise permit, without the written consent of the Borough Commissioners that is memorialized through entry into a Right-of-Way

Agreement, the construction or placement of any natural or man-made structure or object of any kind that is non-vegetative in, on, over, or under any municipal right-of-way or easement area that is owned by, held by, or otherwise dedicated to the Borough.

- e. Any determination as to the approval or denial of any request for entry into a Right-of-Way Agreement with the Borough shall be in the sole and absolute discretion of the Borough Commissioners and the approval of any particular request shall not be deemed to be precedential or otherwise binding upon the Borough Commissioners as it relates to subsequent applications seeking approval of a Right-of-Way Agreement with the Borough whether such subsequent application is filed by the same individual or entity or a third-party individual or entity.
- f. Any approval of a Right-of-Way application by the Borough shall be subject to any, and all, insurance requirements that are determined to be necessary and appropriate by the Borough's professionals. In the event that an Applicant is not willing to abide by the insurance requirements imposed by the Borough as a condition to approval of a Right-of-Way application, such approval shall be revoked in the sole and absolute discretion of the Borough.

Section 5. All other ordinances in conflict or inconsistent with this Ordinance are hereby repealed, to the extent of such conflict or inconsistency. Should any portion of this Ordinance be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or repeal the remainder of this Ordinance.

Section 6. This ordinance shall take effect twenty (20) days after passage and publication, according to law.

Final Adoption	MOTION	SECOND	YES	NO	ABSTAIN	ABSENT
Geiger						
vanHeeswyk						
Yunghans						

ATTEST:

Elaine L. Wallace, Borough Clerk

Elise Geiger, Commissioner

FIRST READING: September 8, 2026
1ST PUBLICATION: September 8, 2026
PUBLIC HEARING
AND ADOPTION: September 22, 2026
2ND PUBLICATION: September 22, 2026
EFFECTIVE DATE: October 12, 2026

Anita vanHeeswyk, Mayor

Suzanne Yunghans, Commissioner