

In compliance with COVID-19 guidelines this meeting will be conducted via electronic conferencing using Zoom <https://www.zoom.us/> or by phone +1 646 558 8656 US (New York)
Meeting ID: 812 9049 3143 Passcode: 470967

Direct link: <https://us02web.zoom.us/j/81290493143?pwd=L09NWU0ybWdvTHVRdGV3eIlxVVZEZz09>

In addition, members of the public may send questions or comments for inclusion during the public portion to the Borough Clerk at ewallace@capemaypoint.org by 12:00 PM the Wednesday before the meeting.

**AGENDA
BOROUGH OF CAPE MAY POINT
BOARD OF COMMISSIONERS**

BOROUGH MEETING – MAY 13, 2021 – 6:00 PM

MEETING CALLED TO ORDER / SUNSHINE STATEMENT / FLAG SALUTE

In compliance with the Open Public Meetings Act, Chapter 231, Public Laws of 1975, this meeting was properly advertised in the annual notice and this agenda was properly distributed and duly posted on the Borough Hall bulletin board as the required notice under the Statute.

ROLL CALL: Commissioner Busch, Commissioner vanHeeswyk, Mayor Moffatt

COMMISSIONERS' REPORTS/DISCUSSION

ADMINISTRATOR'S REPORT

PUBLIC COMMENT ON AGENDA ITEMS ONLY

APPROVAL OF MINUTES

March 23, 2021 Closed Session
April 8, 2021 Regular Meeting
April 27, 2021 Work Session

ORDINANCES FOR INTRODUCTION / PUBLICATION - None

RESOLUTIONS

70-21 Authorizing Special Event Permit for Derek Lillemon
71-21 Authorizing Special Event Permit for Cape May Point Civic Club, Inc.
72-21 Approval of Bill List
73-21 Authorizing Executive/Closed Session in Accordance with the Provisions of the Open Public Meetings Act, specifically N.J.S.A. 10:4-12(b) – Attorney-client Privilege/Potential Litigation – Volunteer Fire company

ORDINANCES FOR SECOND READING / PUBLIC HEARING / ADOPTION

04-2021 Ordinance Amending Chapter 146 Water and Sewer Utility of the Borough of Cape May Point Municipal Code

MAYORAL APPOINTMENTS
Planning Board

PUBLIC PORTION

ADJOURNMENT

The Board of Commissioners welcomes the participation of interested parties during the public portions of its meetings. For the Board to conduct the business of the Borough in the most productive and open manner possible, questions and comments may be limited to four (4) minutes per person. In addition, each person may only speak once per meeting on a single topic. If you wish to address the Board, please raise your hand and the moderator will try to accommodate everyone in the order in which they are recognized.

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

RESOLUTION 70-21

**AUTHORIZING SPECIAL EVENT PERMIT FOR
DEREK LILLEMON**

WHEREAS, Derek Lillemon has applied for a Special Event Permit for a wedding ceremony on the St. Pete’s beach on Saturday, May 22, 2021 from 4:00 pm to 8:00 pm; and

WHEREAS, the applicant has supplied all documentation required under Ordinance No. 551-08, including the requisite Certificate of Insurance, and has further pledged to comply with all applicable rules and regulations pertaining to the conduct of said Special Event.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Borough of Cape May Point, County of Cape May, New Jersey that the Borough Clerk is hereby authorized to issue a Special Event Permit to Derek Lillemon for a wedding ceremony on Saturday, May 22nd from 4:00 pm to 8:00 pm on St. Pete’s beach, with the condition that all CDC guidelines in effect at the time of the event are strictly followed.

	MOTION	SECOND	YES	NO	ABSTAIN	ABSENT
Busch						
Moffatt						
vanHeeswyk						

I hereby certify that the foregoing is a true copy of a Resolution duly passed and adopted by a majority of full membership of the Board of Commissioners of the Borough of Cape May Point, County of Cape May, New Jersey, at a meeting held on May 13, 2021.

Municipal Clerk

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

RESOLUTION 71-21

**AUTHORIZING SPECIAL EVENT PERMITS TO CAPE MAY POINT
CAPE MAY POINT CIVIC CLUB, INC.**

WHEREAS, the Cape May Point Civic Club, Inc. has applied for a Special Event Permit for using Pavilion Circle on Saturday, July 3, 2021 from 9 am to 1 pm for its Annual Bazaar; and

WHEREAS, the applicant has supplied all documentation required under Ordinance No. 551-08, including the requisite Certificate of Insurance, and has further pledged to comply with all applicable rules and regulations pertaining to the conduct of said Special Event.

WHEREAS, the Civic Club has respectfully requested that the Governing Body waive the usual facilities use fees as they are a non-profit organization which benefits the community of Cape May Point; and

WHEREAS, the Board of Commissioners has considered the special request and agreed to waive the fees.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Borough of Cape May Point, County of Cape May, New Jersey that the Borough Clerk is hereby authorized to issue a Special Event Permit to the Cape May Point Civic Club, Inc. for use of Pavilion Circle from 9 am to 1 pm on Saturday, July 3, 2021 for the Annual Bazaar.

BE IT FURTHER RESOLVED that the fees for the event have been waived.

	MOTION	SECOND	YES	NO	ABSTAIN	ABSENT
Busch						
Moffatt						
vanHeeswyk						

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Municipal Clerk

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

RESOLUTION 72-21

APPROVAL OF BILL LIST

WHEREAS, the Borough of Cape May Point has received certain claims against it by way of voucher, which have been duly reviewed by the Board of Commissioners.

NOW THEREFORE BE IT RESOLVED, by the Board of Commissioners of the Borough of Cape May Point, County of Cape May, State of New Jersey that the attached claims are hereby approved for payment in the total amount of \$.

	MOTION	SECOND	YES	NO	ABSTAIN	ABSENT
Busch						
Moffatt						
vanHeeswyk						

I hereby certify that the foregoing is a true copy of a Resolution duly passed and adopted by a majority of full membership of the Board of Commissioners of the Borough of Cape May Point, County of Cape May, New Jersey, at a meeting held on May 13, 2021.

Municipal Clerk

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

RESOLUTION NO. 73-21

**AUTHORIZING EXECUTIVE/CLOSED SESSION IN ACCORDANCE WITH THE
PROVISIONS OF THE OPEN PUBLIC MEETINGS ACT N.J.S.A. 10:4-12(b)**

WHEREAS, the Open Public Meetings Act (N.J.S.A. 10:4-6 et. seq.) requires all meetings of the Board of Commissioners of the Borough of Cape May Point to be held in public, except that N.J.S.A. 10:4-12(b) sets forth nine (9) types of matters that may lawfully be discussed in "Executive or Closed Session," i.e., without the public being permitted to attend; and

WHEREAS, the Board of Commissioners of the Borough of Cape May Point has determined that **ONE (1)** issue is permitted by N.J.S.A. 10:4-12(b) to be discussed without the public in attendance during the Executive or Closed Session to be held on **Thursday, May 13, 2021 at approximately 6:30 PM.**; and

WHEREAS, the nine (9) exceptions to public meetings set forth in N.J.S.A. 10:4-12(b) are listed below, and next to each exception is a box within which the number of issues to be privately discussed that fall within that exception shall be written, and after each exception is a space where additional information that will disclose as much information about the discussion as possible without undermining the purpose of the exception shall be written:

_____ **"(1) Any matter which, by express provision of Federal law, State statute or rule of court shall be rendered confidential or excluded from public discussion."** The legal citation to the provision(s) at issue is: _____ and the nature of the matter, described as specifically as possible without undermining the need for confidentiality is _____

_____ **"(2) Any matter in which the release of information would impair a right to receive funds from the state or federal government."** The nature of the matter, described as specifically as possible without undermining the need for confidentiality is _____

_____ **"(3) Any material the disclosure of which constitutes an unwarranted invasion of individual privacy such as any records, data, reports, recommendations, or other personal material of any educational, training, social service, medical, health, custodial, child protection, rehabilitation, legal defense, welfare, housing, relocation, insurance and similar program or institution operated by a public body pertaining to any specific individual admitted to or served by such institution or program, including but not limited to information relative to the**

individual's personal and family circumstances, and any material pertaining to admission, discharge, treatment, progress or condition of any individual, unless the individual concerned (or, in the case of a minor or incompetent, his guardian) shall request in writing that the same be disclosed publicly." The nature of the matter, described as specifically as possible without undermining the need for confidentiality is _____

“(4) Any collective bargaining agreement, or the terms and conditions of which are proposed for inclusion in any collective bargaining agreement, including the negotiation of terms and conditions with employees or representatives of employees of the public body.” The collective bargaining contract(s) discussed are between the Borough and _____

“(5) Any matter involving the purchase, lease or acquisition of real property with public funds, the setting of bank rates or investment of public funds where it could adversely affect the public interest if discussion of such matters were disclosed.” The nature of the matter, described as specifically as possible without undermining the need for confidentiality is _____

“(6) Any tactics and techniques utilized in protecting the safety and property of the public provided that their disclosure could impair such protection. Any investigations of violations or possible violations of the law.” The nature of the matter, described as specifically as possible without undermining the need for confidentiality is _____

X

“(7) Any pending or anticipated litigation or contract negotiation in which the public body is or may become a party. Any matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the attorney to exercise his ethical duties as a lawyer.” The parties to and docket numbers of each item of litigation and/or the parties to each contract discussed are Attorney-client Privilege and/or Potential Litigation – Volunteer Fire Company

“(8) Any matter involving the employment, appointment, termination of employment, terms and conditions or employment, evaluation of the performance, promotion or disciplining of any specific prospective public officer or employee or current public officer or employee employed or appointed by the public body, unless all individual employees or appointees whose rights could be adversely affected request, in writing, that such matter or matters be discussed at a public meeting.” Subject to the balancing of the public's interest and the employee's privacy rights under *South Jersey Publishing Co. v. New Jersey*

Expressway Authority, 124 N.J. 478, the employee(s) and nature of the discussion, described as specifically as possible without undermining the need for confidentiality is _____

“(9) Any deliberation of a public body occurring after a public hearing that may result in the imposition of a specific civil penalty upon the responding party or the suspension or loss of a license or permit belonging to the responding party as a result of an act or omission for which the responding party bears responsibility.” The nature of the matter, described as specifically as possible without undermining the need for confidentiality is _____

WHEREAS, the Board of Commissioners shall reconvene the public meeting at the conclusion of the authorized closed or executive session, which may or may not include formal action as a result of the discussion(s) held.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Borough of Cape May Point, assembled in public session on the date of the meeting of the governing body set forth herein above, that a closed session shall be held for the discussion of matters relating to the specific items designated above involving the Borough of Cape May Point. The governing body shall convene a closed session discussion immediately upon passage of this resolution and it is anticipated that the deliberations conducted in closed session shall be disclosed to the public upon conclusion of the matter and/or after determination of the Board of Commissioners that the public interest will no longer be served by such confidentiality and that the meeting will return to open session at the conclusion of the discussion and formal action may be taken if/as authorized.

BE IT FURTHER RESOLVED that the Municipal Clerk, at the present public meeting, shall read aloud enough of this resolution so that members of the public in attendance can understand, as precisely as possible, the nature of the matters that will be privately discussed.

BE IT FURTHER RESOLVED that the Municipal Clerk, on the next business day following this meeting, shall furnish a copy of this resolution to any member of the public who requests one at the fees authorized by N.J.S.A. 47:1A-1, et. seq.

	MOTION	SECOND	YES	NO	ABSTAIN	ABSENT
Busch						
Moffatt						
vanHeeswyk						

I hereby certify that the foregoing is a true copy of a Resolution duly passed and adopted by a majority of full membership of the Board of Commissioners of the Borough of Cape May Point, County of Cape May, New Jersey, at a meeting held on May 13, 2021.

Municipal Clerk

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

ORDINANCE 04-2021

**ORDINANCE AMENDING CHAPTER 146 “WATER AND SEWER UTILITY” OF THE
BOROUGH OF CAPE MAY POINT MUNICIPAL CODE**

BE IT ORDAINED, by the Board of Commissioners of the Borough of Cape May Point, that Chapter 146 “Water and Sewer Utility” be repealed in its entirety and replaced with the following:

Section 1.

Article I
Administration

146-1 ESTABLISHMENT; STATUTORY AUTHORITY.

There is hereby established the Water and Sewer Utility of the Borough of Cape May Point. The authority of the municipality to supply water and sewerage service and to regulate the same is provided by N.J.S.A. 40A:26A-1 et seq. and N.J.S.A. 40A:31-1 et seq. The authority to consolidate water and sewer utilities into one utility is provided by N.J.S.A. 40:62-106.

146-2 SUPERVISION OF UTILITY; POSITIONS.

- a. The Utility shall be under the supervision of the Commissioner of the Department of Public Works, Parks and Public Property.
- b. Water-Sewer Clerk. There shall be a Water-Sewer Clerk, who shall:
 1. Be responsible for all the books and records of the Water and Sewer Utility.
 2. Bill and make all collections of charges, fees and rentals for both water and sewer facilities.
 3. Perform such duties as may be assigned by the Commissioner of the Department of Public Works, Parks and Public Property.
 4. Keep and maintain a record of all connections to water and sewer systems.
- c. A representative of the utility shall inspect all connections to the water and sewer systems and furnish the Water-Sewer Clerk with written notice thereof.

- d. Superintendent. The Superintendent of the Water and Sewer Utility shall be responsible for general operation of the system under the supervision of the Commissioner of the Department of Public Works, Parks and Public Property. The Superintendent must have a current New Jersey State operator's license for water utility operation and for sewage collection system operation. (See also Chapter 29)
- e. Additional Positions. There shall be other such positions as may be needed for the operation of the Water and Sewer Utility.

Article II Water

146-3 APPLICATION FOR CONNECTION.

Application for connection to the water distribution system shall be made in writing on a form supplied by the Water-Sewer Clerk and signed by the owner of the property for which the connection is being applied for or by his authorized agent.

146-4 CONNECTION FEE.

There shall be a connection fee of \$1,200.00 for newly installed service to each domestic unit. The fee for other types of connections is to be determined by resolution of the Board of Commissioners upon receipt of application for the same. The property owner or the property owner's agent must obtain the water connection permit prior to applying for the formal new home construction permit. Additionally, the sewer and water laterals must be installed prior to the issuance of a construction permit.

146-5 TAPPING WATER MAINS.

The Water and Sewer Utility will supply the corporation stop, water meter, water meter setter, curb stop, and meter box. All laterals, including excavating costs, restoration and paving will be provided and installed at the owner's expense.

146-6 SERVICE LINES.

- a. The curb box and the meter shall be installed in the area between the curb and the sidewalk or, if not practicable, at a location to be determined by the Superintendent of the Water and Sewer Utility. All water curb boxes are the property of the Water and Sewer Utility and shall be maintained by the Water and Sewer Utility insofar as ordinary wear and tear are concerned, but damage due to hot water or external causes shall be paid by the owner.
- b. All extensions of the present water system, which shall include the laying, construction or placing of mains, fittings or other connections, shall be done in accordance with N.J.S.A. 40:56-1 et seq.

- c. All mains and other improvements made at the expense of any person shall be the property of the Water and Sewer Utility and shall, after inspection by the Borough Engineer and the Water and Sewer Utility and their approval, be the responsibility of the Utility for care, maintenance and repair.
- d. All plumbing and connections shall be designed to withstand working pressure of at least 125 pounds to the square inch.

146-7 SUPPLYING UNAUTHORIZED PARTIES PROHIBITED.

No owner or tenant of any dwelling or other establishment supplied with water by the Water and Sewer Utility shall be allowed to supply other persons or families or other establishments via use of pipes, hoses or other direct permanent connections.

146-8 DISCONNECTING AND REMOVING METERS PROHIBITED.

No property owner, plumber or other unauthorized person shall turn the water on or off at the corporation or curb stop on the street side of the meter or disconnect or remove any meter without the consent of the Water and Sewer Utility. No agent or employee of the Borough shall have authority to bind it by any promise, agreement or representation not provided for in these regulations or by express action of the Board of Commissioners.

146-9 LIABILITY FOR DAMAGES.

- a. The Water and Sewer Utility shall not be held liable or accountable for any damage which may result from water leaks, burst water pipes or from any other causes connected with the supplying of water in occupied or unoccupied dwellings or other establishments.
- b. The property owner shall be responsible for the maintenance of the service line between the curb stop and the premises, except that repair of the water meter, meter setter and meter box will be the responsibility of the Utility. The property owner shall keep the service line in good repair and protected at all times from damage of any kind and shall be held liable for loss of water resulting from failure to do so. All leaks in the service line shall be promptly reported to the Water and Sewer Utility.

146-10 WATER SUPPLY.

- a. Right to Shut Off Water. The Water and Sewer Utility undertakes to use reasonable care and diligence to provide a constant supply of water through its mains to consumers, but reserves the right at any time, upon notice, to shut off the water in its mains for the purpose of making repairs or extensions or for other purposes. In the case of emergency, such repairs, extensions or other work may be made without notice. The Water and Sewer Utility shall not be liable for a

deficiency or failure in the supply of water for causes which could not be reasonably anticipated or foreseen nor for damage caused by bursting or breaking of any main or service pipe or any other attachment of the waterworks of the Water and Sewer Utility or for any causes whatsoever.

- b. Right to Limit Supply of Water. The Water and Sewer Utility may exercise the right to limit the use of water for any specific purpose. This may be necessary due to the existence of emergency conditions, as set forth in §146-11, below.

146-11 WATER EMERGENCIES

- a. Findings. There is a shortage of potable water in the southern Cape May area and it is estimated that this shortage will worsen in the immediate future due to increased population and increasing salt water intrusion into certain area aquifers. It has been determined that certain uses of water should be regulated, as determined by resolution of the governing body of the Borough of Cape May Point, in order to best conserve the supply thereof.
- b. Applicability. This section shall apply to all persons obtaining or furnishing water from the water utility that is operated by the City of Cape May and supplied to the Borough of Cape May Point through an agreement entered into between the municipalities. This section shall not apply to water obtained or furnished by private wells on private property.
- c. Declaration of Water Emergency. Whenever the Board of Commissioners shall be satisfied and finds that a water emergency exists in the Borough of Cape May Point, it may adopt a resolution declaring that a water emergency exists in the Borough. Such resolution shall be adopted by the Board of Commissioners at any regular, special, adjourned or emergency public meeting of the governing body. Such resolution shall identify that portion or portions of the Borough of Cape May Point affected by the water emergency, which may include the entire Borough, and shall specify which of the water use regulations contained below is being imposed as well as any exemptions as may be authorized. Such resolution shall be effective immediately upon publication according to law and shall continue in effect for ninety (90) days, unless extended or repealed as set forth below. For the purpose of this article, a water emergency shall exist for any of the following reasons:
 - 1. Any public utility providing water service or any municipal utility providing water service to all or a portion of the Borough of Cape May Point has adopted water use restrictions, has notified the Borough, the New Jersey Board of Public Utilities, and the New Jersey Department of Environmental Protection, as well as any other state, county or local agency entitled to notice of such restrictions, and such restrictions are not overruled or declared invalid by any state, county or local agency having the jurisdiction and power to do so; or

2. The Board of Commissioners is otherwise satisfied that a water emergency exists in the Borough of Cape May Point.
- d. **Water Use Restrictions.** Upon adoption by the Board of Commissioners of a resolution declaring that a water emergency exists in the Borough of Cape May Point in accordance with § 146-11(c)(1) & (2) above, all citizens shall be urged to observe voluntary indoor conservation measures, and any of the following water use restrictions shall be imposed and shall be applicable to all residents and tenants except where a bona fide health emergency exists and to exempt businesses, as specified herein, during the water emergency:
 1. The complete ban and prohibition of outside water usage, including the watering of lawns and plants, the filling of pools and the washing of cars; or
 2. Outside water usage on alternate days allowing outside water usage by persons or businesses having even house numbers on even days, and those having odd house numbers on odd days, with outside water usage being completely banned and prohibited on the 31st day of any month during the water emergency; or
 3. Any other water use restrictions specified by the governing body in the resolution required by § 146-11(c) above which is reasonable under the circumstances considering the nature and extent of the water emergency.
 - e. **Duration of Water Use Restrictions.** The resolution of the Board of Commissioners required by § 146-11(c), above, shall provide a period of time during which the water use restrictions imposed shall be applicable and which shall be no longer than reasonably necessary to abate the water emergency under the circumstances considering the nature and extent of the water emergency. At the expiration of the time period specified in the resolution, the water use restriction shall lapse and be inapplicable and unenforceable. If the Board of Commissioners shall be satisfied that the water emergency has been abated prior to the expiration of the time period specified in the resolution, it shall adopt a resolution declaring the water emergency ended and the water use restrictions inapplicable. If, at the expiration of the time period specified in the resolution, the Board of Commissioners shall be satisfied that the water emergency continues to exist, it may adopt a resolution in accordance with the requirements of this article continuing the water use restrictions.
 - f. **Violations.** The owner or owners of any property where water is used in violation of this section shall also be deemed to have violated this section unless it is affirmatively demonstrated that they have taken reasonable steps to prevent such unlawful use of water such as the conspicuous posting of notices on the property and including these water conservation rules in their leases to so inform their invitees, lessees and users of their property.
 - g. **Violations and Penalties.** After a first offense, in accordance with § 146-11(f) above, any person or business which thereafter violates the water use restrictions imposed pursuant to this article shall, upon conviction, be subject to the following:

1. First Offense: Written warning, which shall set forth the penalties for a second and subsequent offense of the ordinance.
2. Second Offense: A fine in the minimum amount of \$100.00 and in the maximum amount of \$500.00 or imprisonment for a term not to exceed ten (10) days, or both. In addition, an appropriate term of community service may be imposed by the Court.
3. Third and Subsequent Offense. A fine in the minimum amount of \$500.00 and in the maximum amount of \$1,000.00 or imprisonment for a term not to exceed thirty (30) days, or both. In addition, an appropriate term of community service may be imposed by the Court.

146-12 DISCONTINUANCE AND RESTORATION OF SERVICE.

- a. Reasons for Discontinuance. Water service may be discontinued for any of the following reasons:
 1. For the use of water for any other property or purposes than that described for in its application.
 2. For willful waste of water through improper or imperfect pipes, fixtures or otherwise.
 3. For failure to maintain in good order connections, service lines or fixtures owned by the property owner.
 4. For molesting or tampering or attempting to molest and tamper with any service pipe, curb stop, seal, water meter or any other appliance of the Water and Sewer Utility.
 5. For nonpayment of bills for water consumed or services rendered and fines and penalties imposed or for any other reason causing or tending to cause a loss to the Water and Sewer Utility.
- b. Discontinuance of Service.
 1. When requested by the property owner or his agent, in writing, the Water and Sewer Utility shall discontinue service to a property. A turnoff charge of \$50 shall be made for discontinuing the service, and a turn-on charge of \$50 shall be made when service is restored.
 2. No adjustment of water charges due to failure of the Water and Sewer Utility to discontinue or restore water service as requested by a property owner shall be made unless the request is in writing and duly filed in the Water and Sewer

Utility offices. When water is turned on or off at the request of the property owner, there will be no proration of the minimum quarterly charge, including the initial turn-on.

3. All properties located within the Borough of Cape May Point with a dwelling structure on the lot, whether the dwelling is occupied or vacant, are responsible for the full minimum quarterly water charge plus an excess water usage (as defined in Section 146-13).
 4. All properties located within the Borough of Cape May Point that are stand alone vacant lots, containing existing curb stop connected to the Borough water main are responsible for an amount 1/3 of the minimum quarterly water charge (as defined in Section 146-13).
 5. Any vacant property within the Borough of Cape May Point that has been officially consolidated into the adjacent main lot containing the dwelling structure by Planning Board resolution, with the same registered property owner, is not responsible for any separate quarterly water charge. If this vacant lot is subsequently separated off the consolidated lot, then its water utility charge status reverts to either Section 146-12(b)(4) or not connected.
 6. If the property owner permanently converts a multiunit building into a single-family dwelling, and all required plumbing fixture adjustments are made, and the changeover action has been approved and confirmed by the Construction Official then, and in that event, separate water and sewer service for the removed units can be officially discontinued.
- c. Restoration of Service. When water service has been discontinued for any of the reasons in paragraph a, service shall not be restored until the defects have been remedied, the bills due and a charge paid to cover the cost of turning on the water as contained in paragraph b. Furthermore, the property owner shall be liable for any loss sustained by the Water and Sewer Utility as a result of the violation of its regulations.

146-13 METERED SERVICE FOR RESIDENTIAL, COMMERCIAL AND INDUSTRIAL CONSUMERS.

- a. Metered service for residential, commercial and industrial customers shall be:
 1. Minimum water charge for equivalent dwelling unit: \$110.00 per calendar quarter, payable quarterly beginning in the third quarter of 2021, for 26,000 gallons per year minimum water consumption allowance.

2. **Excess Water Charge.** Beginning in the third quarter of 2021, in addition to the minimum annual water charge set forth above, a charge will be made for all water use registered by the meter in excess of the minimum allowable usage of 6,500 gallons per quarter at the rate of \$11.05 per 1,000 gallons or a fraction thereof used for all customers.
 3. **Minimum Water Charge Annual Percentage Increase.** On the first of January beginning in 2022 and reoccurring annually thereafter, the minimum water charge for residential, commercial and industrial customers shall increase by one (1%) percent per year in order for the Borough to offset increased costs for the supply of potable water to the Borough.
 4. **Special Water Meter Requests.** Written application may be made to the Superintendent for the installation of special water meters for swimming pools, air conditioners, sprinklers and similar uses not discharging the entire volume of water into the sanitary sewer system, and the volume of water flowing through special meters shall not be subject to sewer rental. The entire cost of the meter and the installation of the meter shall be borne by the applicant.
- b. Churches operating in the summer months shall be charged \$11.05 per 1,000 gallons or a fraction thereof, as registered by the meter. There is no minimum required or an excess category. These accounts will be invoiced as a consumption account. The Marianist Family Retreat Center and St. Mary's Convent are handled as part of the overall residential system of billing. The provisions set forth in § 146-13(a)(3) and (a)(4), above, shall apply to churches as set forth herein.

146-14 FIRE HYDRANT RATES.

No person, unless authorized by the Water and Sewer Utility, shall take water from any public fire hydrant except for fire purposes. No person shall in any manner obstruct or prevent free access to any fire hydrant or place or store any object, material, debris or structure of any kind within a distance of five feet of any hydrant. Any obstruction, when discovered, shall be removed by the Water and Sewer Utility at the expense of the person responsible for the obstruction.

146-15 CONSTRUCTION RATES.

- a. The charge for a temporary connection shall be \$200 per day flat rate. This includes the water consumed.
- b. If any contractor or other person shall desire to temporarily connect to that portion of the borough water system outside the Borough, a written application, in

duplicate, must be submitted to the Municipal Clerk 24 hours prior to the time said use is desired, and an appropriate fee must be paid to the City of Cape May. Approval of said application shall be dependent upon the effect that the desired use would have upon the normal operation of the water system.

146-16 SPECIAL CASES; LATE BILLINGS.

- a. In special cases not covered in the schedule of rates or not clearly defined therein, the Borough is authorized to establish by resolution special rates which the Board of Commissioners may deem necessary to keep and maintain the Water and Sewer Utility on a self-liquidating basis.
- b. In the case of late billings, the Borough is authorized to adjust the due date for the particular quarterly bill by resolution.

146-17 COLLECTIONS.

- a. **Payment of Water Bills.** Bills for all water furnished by the Water/Sewer Utility shall be sent out quarterly and shall be due and owing in full within thirty (30) days of the mailing date thereof. Any water bill which is not paid in full within this thirty (30) day period shall thereafter bear interest on the total amount owed on the account of eighteen (18%) percent per annum. In the event that any account, including interest thereon, is not paid in full within one (1) year from the date of the bill for the past due amount shall result in a municipal lien being placed against the property. The imposition of any such municipal lien shall be in addition to any other remedies the Borough shall have to collect the full amount, including interest, of the monies owed it for the furnishing of water.
 1. At the time of any property transfer within the Borough, the quarterly payment is to be prorated to the exact date of transfer.
 2. All charges for services not specifying a due date shall be due and payable when presented.
 3. All bills shall be payable to the Water-Sewer Clerk or other authorized person in the office of the Water and Sewer Utility at the Borough Hall, 215 Lighthouse Avenue, Cape May Point, New Jersey 08212.
- b. **Discontinuance of Service for Delinquent Bills.** Water shall be shut off in the event that any bill for service provided in this section remains unpaid for sixty (60) days after it becomes due and payable, and the service shall not be restored until the arrears are paid in full, including the turnoff and turn-on charge.
- c. **Unpaid Arrearages.** Unpaid arrearages carried over past December 31 into the

following year will receive a flat rate surcharge of \$25 per residential unit, in addition to the normal monetary penalty defined in Section 146-17(a).

d. Water Leakage Policy.

1. It is the responsibility of every homeowner to prevent water leakage year-round and to take proper precautions to winterize their home. This is particularly important for homes raised off the ground on pilings. A homeowner is disqualified from receiving relief should there be a pipe breakage caused by failure to winterize the home.
2. If the home had been winterized, and there was no reasonable way for a pipe breakage to have been discovered, and there had been no other breakage or unusually large water consumption in the prior five-year period, then, and in that event, water usage shall be computed as outlined in 3(a) through 3(c) below. The property owner must provide substantiation that the house was winterized in order to receive relief.
3. If a homeowner experienced a catastrophic event not specifically related to winterizing their home, such as a broken water line or malfunctioning equipment or similar event, for which there was no reasonable way for the leakage to be discovered, and there had been no other breakage or unusually large water consumption in the prior five-year period, then, and in that event, water usage shall be computed as outlined in (a) through (c) below. A leaking toilet, faucet or outdoor shower or malfunctioning irrigations system do not qualify as a catastrophic event.
 - (a) The average five-years' usage, or a minimum of the 26,000 gallons annual usage, will be invoiced at the prevailing standard Cape May Point water customer rate; and
 - (b) The next 200,000 gallons excess will be invoiced at the interlocal bulk purchase rate, plus a one (\$1.00) dollar per 1,000 gallons' administrative charge; and
 - (c) All excess water beyond that will be invoiced directly at the interlocal bulk purchase rate for that year.
4. A request for adjustment must be made in writing and be accompanied by an affidavit from a licensed plumber or person making repairs certifying the nature of the malfunction, the date of occurrence, its duration, the repairs made to correct it and an itemized invoice detailing the services performed.

The homeowner must also give consent to the Borough to enter the property to inspect it and to investigate the request for adjustment if necessary.

146-18 RULES AND REGULATIONS.

Any person receiving a supply of water for any purpose from the Water and Sewer Utility of the Borough shall be subject to the rules and regulations established by this chapter.

- a. Private Wells and Pumps Prohibited. All buildings requiring or desiring water shall be connected with the water system of the Borough and shall not use any private well, pump or other means for the furnishing of water to any premises, other than a separate private well for lawn-watering purposes.
- b. Only one consumer to each service line is permitted. Where two or more consumers are supplied through a single service line, any violation of the rules of the Utility with reference to either of such consumers, as the case may be, shall be deemed to be a violation as to all, and the Utility may take such action as could be taken if it were used by a single consumer. After January 1, 1983, a single service line shall not be permitted to serve more than one "physical unit," which is defined as a property not divisible for sale or ownership by more than one owner.
- c. Private Water System Prohibited. No private water system shall be connected in any way to the Borough water system.
- d. Incorrect Registering of Meters. Failure of a meter to register properly shall be reported immediately to the Utility. Charges for water during the period of such failure shall be computed on the basis of average consumption over a reasonable period of time prior to the reporting of the failure. Should a consumer believe that the meter is not registering properly, the consumer shall file a written complaint with the Water and Sewer Utility, whereon the meter will be removed and tested by the Water and Sewer Utility. If it is found to register against the consumer by more than 3%, there will be no charge for removing and repairing the meter. However, if the meter is found to register against the consumer by less than 3%, a charge of \$50 will be made to the consumer to cover the time to pull, test and replace the meter, inclusive of the gallons of water required to test the meter. The Water and Sewer Utility shall have the right to make period tests of all meters at no cost to the consumer.
- e. Use of Water Without Meter Prohibited. All connections shall be metered, and the use of water without a meter makes the property owner liable for the minimum yearly fee, in addition to any penalties imposed under this section. No fixture of

any kind from which water might be drawn shall be placed on the street side of a meter. The Borough may order the water supply discontinued upon repeated offenses.

Article III

Sewers

146-19 DEFINITIONS AND WORD USAGE.

- a. Unless the context of usage indicates otherwise, the meanings of specific terms in this Article shall be as follows:

ACT

Shall mean the Federal Clean Water Act, as amended.

AIR INLET VENTS

Shall mean any opening in the sanitary sewer system that allows fresh air circulation to flow through the main sewer drain line and out the building venting system.

BOD (DENOTING "BIOCHEMICAL OXYGEN DEMAND")

Shall mean the quantity of oxygen used in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20° C., expressed in milligrams per liter.

BOROUGH

Shall mean the Borough of Cape May Point and its Water and Sewer Utility.

BUILDING SEWER

Shall mean the extension from a building wastewater plumbing facility to the public wastewater facility. The installation and maintenance of a "building sewer" is the sole responsibility of the owner, not the Utility.

CLEANOUT PIPE

Shall mean at the point that the building's sanitary sewer line empties into the Borough lateral (just inside the curblin), the Borough provides a vertical PVC pipe with screwed-on cap. This vertical pipe serves as a cleanout access for maintenance of the building's sanitary sewer line. The property owner is responsible for the replacement of the screwed-on cap should it become broken.

CMCMUA

Shall mean the Cape May County Municipal Utilities Authority.

COMBINED SEWER

Shall mean a sewer intended to receive both wastewater and storm or surface water.

COMMERCIAL USER (CLASS II)

Shall mean and include any property occupied by a nonresidential establishment not within the definition of an Industrial User (Class III) and which is connected to the wastewater facilities.

CURB TRAP

Shall mean a device, fitting or assembly of fittings installed in the building sewer line to prevent, circulation of air between the drainage system of the building and the municipal sewer system.

DAY

Shall mean the twenty-four-hour period beginning at 12:01 a.m.

EPA

Shall mean the United States Environmental Protection Agency.

EXTRAORDINARY EXPENSE

Shall mean those costs which are over and above normal operating and maintenance costs incurred as a result of actions of a person or persons.

GARBAGE

Shall mean the solid animal and vegetable wastes resulting from the domestic or commercial handling, storage, dispensing, marketing, preparation, cooking and serving of foods or food products.

INDUSTRIAL USER (CLASS III)

Shall mean any nonresidential user whose waste does not meet the restricted discharge requirements set forth in Section 146-41 of this Article.

INTERFERENCE

Shall mean inhibition or disruption of any sewer system, wastewater treatment process, sludge disposal system or their operation which substantially contributes to a violation of applicable discharge permits.

LATERAL

Shall mean the extension between the Utility's main and the owner's building sewer inside the curb at a point of connection determined by the Superintendent. The Utility shall maintain the lateral from the main to the point inside the curb and where the owner's building sewer is connected.

NATURAL OUTLET

Shall mean any outlet into a watercourse, pond, ditch, lake or any other body of surface or ground water.

NJDEP

Shall mean the New Jersey Department of Environmental Protection.

NPDES

Shall mean the National Pollutant Discharge Elimination System permit program, whether administered by the EPA or by the State of New Jersey.

OWNER

Shall mean the person or persons who legally own, lease or occupy private property with wastewater facilities which discharge or will discharge to the wastewater facilities.

PERSON

Shall mean any individual, firm, company, association, society, partnership, corporation, municipality or other similar organization, agency or group.

pH

Shall mean the logarithm of the reciprocal of the hydrogen ion concentration, expressed in grams per liter, of solution, as determined by standard methods.

PRETREATMENT

Shall mean the reduction of the amount of pollutants, the elimination of pollutants or the alteration of the nature of pollutant properties in wastewater prior to discharge to the wastewater facilities.

PROPERLY SHREDDED GARBAGE

Shall mean garbage that has been shredded to such a degree that all particles will be carried freely under flow conditions normally prevailing in the wastewater sewers, with no particle greater than 1/2 inch in any dimension.

RESIDENTIAL USER (CLASS I)

Shall mean a premises used only for human residency, which does not have any commercial uses and which is connected to the wastewater facilities.

SANITARY WASTEWATER

Shall mean wastewater discharged from the sanitary conveniences of dwellings, office buildings, industrial plants or institutions.

SLUG

Shall mean the discharge of water, sewerage or industrial waste which, in concentration of any constituent or in quantity of flow, exceeds, for any period of duration longer than 15 minutes, more than five times the average twenty-four-hour flow or concentration under normal operating conditions.

STANDARD METHODS

Shall mean the latest edition of Standard Methods for the Examination of Water

and Wastewater, published by the American Public Health Association, Water Pollution Control Federation and American Water Works Association.

STATE

Shall mean the State of New Jersey.

STORM SEWER

Shall mean a sewer for conveying storm, surface and other permitted waters which is not intended to be transported to a treatment facility.

SUPERINTENDENT

Shall mean the person designated by the Board of Commissioners or by the Commissioner of the Department of Public Works, Parks and Public Property to supervise the Water and Sewer Utility.

SURFACE WATER

Shall mean water which occurs when the rate of precipitation exceeds the rate at which water may infiltrate into the soil.

SUSPENDED SOLIDS

Shall mean the total suspended matter that either floats on the surface of, or is in suspension in, water or wastewater as determined by standard methods.

TOXICS

Shall mean any of the pollutants designated by Federal regulations pursuant to Section 307(a)(1) of the Act.

UTILITY

Shall mean the Borough of Cape May Point Water and Sewer Utility.

WASTEWATER

Shall mean a combination of liquid and water-carried wastes from residences, commercial buildings, industries and institutions, together with any groundwater, surface water or stormwater or other infiltration that may be present.

WASTEWATER FACILITY

Shall mean the combination of the wastewater sewers, pumping stations, appurtenances and treatment facilities.

WASTEWATER SEWER

Shall mean the structures, processes, equipment and arrangements necessary to collect and transport wastewaters to the treatment facility.

WASTEWATER TREATMENT FACILITY

Shall mean the structures, processes, equipment and arrangements necessary to treat and discharge wastewater.

WPCF

Shall mean the Water Pollution Control Federation.

- b. Word Usage. The word "shall" is mandatory: "may" is permissive.

146-20 PURPOSE.

The purpose of this Article is to provide for the maximum possible beneficial public use of the wastewater facilities through regulation of sewer construction, sewer use and wastewater discharges; to revise rates to allocate the costs thereof; and to provide procedures for complying with the requirements contained herein.

146-21 SCOPE.

The definitions of terms used in this Article are found in Section 146-19. The provisions of this Article shall apply to the discharge of all wastewater to facilities in the Borough. This Article provides for use of the wastewater facilities, regulation of sewer construction, control of the quantity and quality of wastewater discharged, wastewater pretreatment required, sewer construction plans, issuance of wastewater discharge permits, minimum sewer connection standards and conditions, rates to allocate costs of providing wastewater facilities and penalties and other procedures in cases of violation of this Article.

146-22 ADMINISTRATION; ENFORCEMENT.

Except as otherwise provided herein, the Superintendent of the Water and Sewer Utility or his designee shall administer, implement and enforce the provisions of this Article.

146-23 NOTICE OF VIOLATION.

Any person found in violation of this Article or of any requirement of a permit issued hereunder may be served with a written notice stating the nature of the violation and providing a reasonable time limit for compliance. Any such notice given shall be in writing and served in person or by registered or certified mail. The notice shall be sent to the last known address of the violator. Where the address is unknown, service may be made upon the owner of record of the property involved. If satisfactory action is not taken in the time allotted by the notice, Section 146-24 of this Article shall be implemented.

146-24 VIOLATIONS AND PENALTIES.

- a. Violation of Discharge Regulations. Any person who continues to violate the discharge provisions of this Article beyond the time limit provided for in Section 146-23 shall, upon conviction, be liable to the penalty stated in Chapter 1, Section 1-5. Such person shall also be subject to disconnection from the wastewater facilities. In addition, if a violation causes an extraordinary expense to any operating component of the wastewater facilities, the person causing such

violation shall be liable for the full amount of the extraordinary expense, plus any costs incurred by the entity pursuing enforcement of these provisions. If legally permissible, the Borough will transfer any such reimbursement to the person suffering the injury or incurring the expenses. Any person violating any other section of this Article shall likewise be subject, as applicable, to the aforesaid penalties and costs. Each day or portion thereof a violation continues shall constitute a separate violation.

b. Violation of Chapter Provisions.

1. Unless otherwise stated herein, any person who violates the provision of this chapter shall, upon conviction, be liable to the penalty stated in Chapter 1, Section 1-5.
2. Unless otherwise provided, each calendar week that a violation continues shall be considered a separate violation.
3. In the event a violation causes extraordinary expenses to the operating component of the wastewater facilities, the person causing such violation shall be liable for the full amount of the extraordinary expense related thereto.

146-25 FEES AND CHARGES.

All fees and charges payable under the provisions of this Article are due and payable to the Borough upon the receipt of notice of charges; unpaid charges shall become delinquent and shall be subject to penalty and interest charges.

146-26 INSPECTIONS.

In accordance with due process of law, borough personnel or contracted designees bearing proper credentials and identification shall be permitted to enter the property of any residential, commercial or industrial user of the wastewater sewer at any reasonable time for the purpose of inspection, observation, measurement and sampling of the wastewater discharge to ensure that discharge to the wastewater facilities is in accordance with the provisions of this Article.

146-27 VANDALISM.

No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is part of the wastewater facilities. Any person violating this provision shall, upon conviction, be subject to such penalties as the court, in accordance with law, shall impose. Further, any person violating this provision shall be responsible for the correction and repair of the damages incurred by a wastewater facility.

146-28 ACCIDENTAL SPILLS.

Any person, persons or businesses responsible in part or in whole for an accidental spill into the sewer system, onto public or personal property or into surrounding bodies of water shall immediately report each occurrence to the Superintendent and to the CMCMUA.

146-29 REPORT OF SPILLS OR INABILITY TO COMPLY WITH REQUIREMENTS.

In the case of an accidental discharge or if for any reason a user does not comply, or will be unable to comply, with any prohibition or limitation in this Article, the user responsible for such discharge shall immediately telephone and notify the Superintendent and the CMCMUA of the incident. The notification shall include location of discharge, type of waste, concentration and volume. Furthermore, such user shall take immediate action to prevent interference with the wastewater treatment process and/or damage to the wastewater facilities. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the wastewater facilities or other damage to persons or property; nor shall such notification relieve the user of any fines, civil penalties or other liability which may be imposed by this Article or other applicable law.

146-30 UNAUTHORIZED DUMPING PROHIBITED.

It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the Borough of Cape May Point or in an area under the jurisdiction of said Borough any human or animal excrement, garbage or other objectionable waste.

146-31 UNAUTHORIZED WASTEWATER DISCHARGES PROHIBITED.

It shall be unlawful to discharge without an NPDES permit to any natural outlet within the Borough of Cape May Point or in any area under its jurisdiction. Wastewater discharges to the wastewater facilities are not authorized unless in accordance with provisions of this Article.

146-32 PRIVATE WASTEWATER DISPOSAL SYSTEMS UNLAWFUL; EXCEPTION.

Except as provided in this Article it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of wastewater.

146-33 DIRECT CONNECTIONS TO COUNTY SEWERS.

Any person requesting connection to the wastewater facilities may only do so through the wastewater sewers owned by the Borough. No person may be permitted to directly discharge into the wastewater facilities owned by the Cape May County Municipal Utilities Authority (CMCMUA) unless prior written consent is received from the CMCMUA.

146-34 PRIVATE WASTEWATER DISPOSAL SYSTEMS PROHIBITED WHERE AVAILABLE.

No private wastewater disposal system shall be permitted in the geographic areas of the Borough which have wastewater sewers provided.

146-35 CONNECTION TO SEWERS REQUIRED; COSTS; EXCEPTION; TIME LIMIT; NOTICE; REMEDIES.

- a. Connection to Sewers Required. The owner of any house, building or structure or separate residential or commercial unit located on a lot which can be serviced by the Borough sewage collection system which is now in operation or which is constructed in the future in the Borough, shall connect the drainage of all sources of wastewater in his or her house, building or structure to the Borough wastewater sewer. Each dwelling unit shall have a separate connection to the sewer system.
- b. The Borough shall provide and be responsible for all component parts of the connection from the curb stop to the main, including all labor, materials, excavating, restoration and paving costs. The required connection fee shall be deemed the payment for such installation as is specified in the connection application.
- c. The Governing Body may, by resolution, exempt any premises from the requirements of connection with a public sewer if it finds that requiring the premises in question to connection would impose an unnecessary hardship upon the owner of the premises, provided that the exemption will not result in the creation of a nuisance or an unhealthy or unsanitary condition. Any exemption granted by the Governing Body shall expire one year from the date that it is granted. Exceptions may be renewed by the Governing Body from year to year.
- d. Time Limit. Connections shall be made within 90 days after the service of notice as provided in paragraph e hereof.
- e. Notice to Connect.
 1. Notice Required. The Governing Body shall give at least 90 days' notice to the owner of property affected before proceeding to award a contract for the making of a connection or causing it to be made by the borough as provided in paragraph f.
 2. Contents of Notice. A notice given under this section shall contain a description of the property affected sufficient to identify it and a statement that if the connection is not made within 60 days after service of the notice, the

borough shall make it or cause it to be made at the owner's expense. No special form of notice shall be required.

3. Service of Notice. Notices under this section shall be served as follows:
 - (a) Upon owners resident in the Borough, personally or by leaving the notice at their usual place of residence with some member of the family above the age of 14 years.
 - (b) Upon owners not resident in the Borough, personally or by mailing the notice to the owners' last known post office address or by service upon an occupant of the property or an agent of the owner in charge of the property.
 - (c) Where service cannot be made under paragraph e3(a) or (b), the notice may be served by publishing it once in a newspaper circulating in the Borough. One published notice may relate to several different properties.
 - (d) Owners who are infants or of unsound mind or the beneficiaries of trusts shall be given notice by service upon their guardians or trustees. Where there is more than one owner of the same piece of property, service upon one owner shall be notice to all.
 - (e) Proof of service. Proof of service shall be filed with the Tax Collector of the Borough within 10 days after service is made.
 - (f) Defective notice. Failure to file proof of service, misstatement of the name of the property owner or similar errors or omissions in the giving of notice shall not invalidate any charge imposed for a sewer connection where an actual benefit to the property results.

f. Connection by Borough.

1. Failure to Connect After Notice. If any property owner fails to make the required connection with the sewer system within 60 days after being served with notice to do so, the Governing Body may cause the connection to be made by awarding one or more contracts to make it.
2. Contracts. Contracts for the making of sewer connections shall be awarded in the same manner and after the same advertising as any other municipal contract. In lieu of awarding separate contracts for the making of each connection, the Governing Body may award the contract for the making of all connections which the Borough may desire to have made within a period of

one year or less.

g. Recovery of Costs.

1. Record of Costs. When any sewer connection is made by the Borough or under a contract awarded by the Governing Body, an accurate record of all expenses shall be kept. Where several properties are involved, the expenses shall be apportioned among them. Upon completion of the work, a sworn statement as to the expenses incurred shall be filed by the Municipal Clerk with the Governing Body. The Governing Body shall examine the statement and, if it is properly made, shall confirm it and file it with the Borough Tax Collector. The Tax Collector shall record the sewer connection charge in the same manner in which assessments are recorded.
2. Lien; Interest. Every sewer connection charge shall, from the time of its confirmation, be a first lien upon the property affected and shall bear interest and penalties and be collected and enforced in the same manner as assessments for local improvements.
3. Installment Payments. The Governing Body may, by resolution, provide for the payment of sewer connection charges in installments. In that event, they shall be payable, bear interest and be collected and enforced in the same manner as assessments for local improvements.

- h. Abandoned Septic System. Any abandoned septic system must be pumped out and filled in with gravel or soil as outlined in N.J.A.C. 7:9A-12.8A. The Plumbing Subcode Inspector will provide oversight and final site approval. The property owner is responsible to fill the abandoned septic structure.

146-36 CONNECTION PERMITS; FEES.

- a. No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any wastewater sewer or a storm sewer without first obtaining a written permit from the Water-Sewer Clerk or Municipal Clerk.
- b. For each newly installed four-inch lateral for each dwelling unit connection to the Borough sewage collection line shall be \$1,500.00. The fees for all other size collections connections or greater depth are to be determined by specific site resolution of the Board of Commissioners. The property owner or property owner's agent must obtain the sewer connection permit prior to applying for the formal new home construction permit.
- c. The owner shall be responsible for the corporation stops of the connection from

the curb stops to the main, including all labor, material, excavating, restoration and paving costs. The installer must meet Borough standards.

- d. It shall be the responsibility of the property owner to remove existing curb traps and air vents. The Water and Sewer Utility may notify property owners who appear to have existing curb traps and air vents. The property owner shall have thirty (30) days from notification to correct the situation without penalty.

146-37 EXISTING BUILDING SEWERS.

- a. All existing building sanitary sewer lines and any other openings in that building's sanitary sewer system shall be kept sealed.
- b. Where the existing building sanitary sewer line contains a curb trap or air inlet vents, these (curb trap and air inlet vent) must be removed and the removal void replaced with solid PVC pipe filler, appropriately sealed to code.
- c. Where terra cotta or transite sanitary sewer pipe exists between the building and the Borough connection (cleanout pipe), these must be replaced in their entirety with PVC pipe with appropriate sealing to code.
- d. Any modification to an existing building sanitary sewer line inside the Borough connection (cleanout pipe) made pursuant to the provisions of this chapter shall be performed by a New Jersey licensed plumber.
- e. Any modification to an existing building sanitary sewer line inside the Borough connection (cleanout pipe) shall be installed in such a manner so as to avoid the creation of a hazard or impediment to pedestrian or vehicular traffic on the public right-of-way or a private driveway.
- f. Joints for Sanitary Sewer Piping. Any modification of the building's sanitary sewer line to implement the requirements of this section requires joints by proper adapter fittings as specified in Section 4.3 of the National Standard Plumbing Code.
- g. Permits Required. A permit shall be obtained for the inspection, removal or correction of the curb trap/air inlet vent system by the property owner or his agent from the Borough Construction Office. A fee of \$35 shall be charged for each permit.

146-38 SURFACE RUNOFF AND GROUNDWATER DRAINS.

- a. No person shall connect roof, foundation, areaway, parking lot, roadway or other surface runoff or groundwater drains to any sewer which is connected to a

wastewater treatment facility.

- b. All roof, foundation, areaway, parking lot, roadway or other surface runoff or groundwater drains shall discharge to natural outlets or storm sewers.

146-39 CONFORMANCE WITH APPLICABLE CODES.

- a. The connection of a building sewer into a wastewater sewer shall conform to the requirements of the Construction Code and Plumbing Subcode or other applicable requirements of the Borough and/or the NJDEP. The connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved, in writing, by the Plumbing Subcode Official before installation.
- b. The connection of a surface runoff or groundwater drain to a storm sewer or natural outlet designed to transport surface runoff or groundwater drainage shall conform to the requirements of the applicable Construction Code or other applicable requirements of the Borough.

146-40 PROTECTION OF SEWER CAPACITY FOR EXISTING USERS.

The Borough shall not issue a permit for any connection to the wastewater sewers or wastewater treatment facilities unless there is sufficient capacity, not legally committed to other users, in the wastewater sewers and treatment facilities to convey and adequately treat the quantity of wastewater which the requested connection will add to the system.

146-41 RESTRICTED CONNECTIONS.

All discharges of stormwater, surface water, groundwater, roof runoff and subsurface drainage shall be made to storm sewers or natural outlets designed for such discharges. Any connection, drain or arrangement which will permit any such waters to enter any wastewater sewer shall be deemed to be a violation of this section and this Article.

146-42 RESTRICTED DISCHARGES.

- a. No person shall discharge, or cause to be discharged, to any of the wastewater facilities any substances, materials, waters or wastes in such quantities or concentrations which will:
 - 1. Create a fire or explosion hazard, including but not limited to gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas, including but not limited to any liquid having a flash point lower than two hundred thirty-five degrees Fahrenheit (235° F.), as determined by the Tagliabue closed-cup method.

2. Cause corrosive damage or hazard to structures, equipment or personnel of the wastewater facilities, but in no case discharge having a pH lower than five point five (5.5) or greater than nine point zero (9.0).
3. Cause obstruction to the flow in sewers or other interference with the operation of wastewater facilities due to accumulation of solid or viscous materials.
4. Contain fats, wax or grease or oils, whether emulsified or not, in excess of 100 milligrams per liter or containing substances which may solidify or become viscous at temperatures between thirty-two degrees and one hundred fifty degrees Fahrenheit (32° and 150° F.).
5. Have a temperature higher than one hundred fifty degrees Fahrenheit (150° F.) or sixty-five degrees Celsius (65° C.).
6. Contain phenolic compounds over one parts per million, expressed as phenol.
7. Contain any radioactive substances.
8. Have a biochemical oxygen demand (five-day BOD) in excess of 350 milligrams per liter (mg/l).
9. Have a suspended solids content in excess of 300 milligrams per liter or containing suspended solids of such character of specific gravity that unusual attention or expense is required to handle or treat such materials.
10. Contain corrosive, toxic, deleterious or poisonous substances in sufficient quantity to cause injury, damage or hazard to personnel, structures or equipment or interfere with the wastewater facilities, including but not limited to any portion of the liquid or solids treatment or handling processes or that which will pass through the treatment facilities in such condition that they will not achieve State, Federal or other existing, pending or future requirements for the effluent discharge, including but not limited to the NPDES permit requirements imposed upon the CMCMUA.
11. Cause unusual volume or concentration of wastes being delivered in a slug manner, by which it is meant that the normal (i.e., twenty-four-hour average) concentration of loadings shall not be exceeded by more than a factor of four for any sixty-minute period.
12. Have an objectionable color which is not removable in the wastewater treatment facility.

13. Be discharged by tank trucks into manholes or appurtenances of the wastewater sewer system, including but not limited to septic tank wastes. These septic tank wastes will, however, be accepted directly at designated CMCMUA wastewater treatment facilities.
 14. Contain noxious, malodorous gas or substances which are present in quantities that create a public nuisance or a hazard to public health.
 15. Contain any garbage that has not been properly shredded.
 16. Contain substances interfering with sludge management any substance which may cause the wastewater treatment facilities sludge to be unsuitable for reclamation and reuse or to interfere with the reclamation process where the CMCMUA is pursuing a reuse and reclamation program. In no case shall a wastewater discharged to the wastewater facilities cause the wastewater treatment facilities to be in noncompliance with sludge use and disposal criteria, guidelines or regulations developed by the NJDEP, the United States Environmental Protection Agency or any criteria, guidelines or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act or the "New Jersey Guidelines for the Utilization and Disposal of Municipal and Industrial Sludges and Septage."
- b. If any wastewaters are discharged or are proposed to be discharged to the wastewater facilities, which consist of the substances or possess the characteristics enumerated above or which may be set forth by regulatory agencies now or in the future and which, in the judgment of the Borough and/or the CMCMUA, have a deleterious effect upon the wastewater facilities or constitute a public nuisance, the Borough may:
1. Reject the wastes;
 2. Require pretreatment to an acceptable condition prior to discharge into the wastewater sewer system;
 3. Require control over the quantities and rate of discharge; and/or
 4. Take such other action as it may deem appropriate.

146-43 DILUTION OF WASTE PROHIBITED.

In an effort to conserve water resources, no discharger shall be permitted to dilute his waste to avoid violation of Section 146-42 of this Article.

146-44 INDUSTRIAL DISCHARGE RESTRICTIONS.

No person shall discharge or cause to be discharged to any wastewater facilities wastewaters containing substances and/or concentration of substances prohibited in Sections 146-41 through 146-43, as indicated herein.

146-45 APPLICATION FOR INDUSTRIAL DISCHARGE.

Should an industrial discharger (Class III) request connection to the wastewater facilities, the Borough shall:

- a. Prior to authorizing such discharge, require that sufficient information be provided in order to evaluate the waste material proposed to be discharged to ascertain compliance with Sections 146-41 through 146-43 of this Article.
- b. If, in the opinion of the Borough and the CMCMUA, the waste is not in compliance with the requirements of Sections 146-41 through 146-43, the potential discharger will be required to provide adequate pretreatment facilities for the wastes in order to bring the material proposed for discharge into the wastewater facilities into full compliance, or the industrial discharger will be denied access to the wastewater facilities.

146-46 NONCOMPLIANCE WITH RESTRICTIONS.

- a. If the Borough and/or the CMCMUA has reason to believe that any discharger is in violation of Sections 146-41 through 146-43, one or both of the following actions may be taken:
 1. It may request additional information in an effort to evaluate the quality and quantity of the material discharges.
 2. It may monitor the wastewater.
- b. If the discharger is found to be in violation of Sections 146-41 through 146-43, the Borough shall require the installation of pretreatment facilities within a specified time to be determined by the Borough and/or the CMCMUA. If such facilities are not constructed and delivering a waste in compliance with the provisions of this Article within the specified time, the Borough may disconnect the discharge from the wastewater facilities according to provisions set forth in Sections 146-20 through 146-29.
- c. The requirements of this section shall be applicable to all industrial discharges in existence prior to and after the adoption of this Article.

146-47 DETERMINATION OF WASTEWATER CHARACTERISTICS.

- a. Measurements, tests and analyses of the characteristics of wastewater to which reference is made in this Article shall be determined in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, or such alternate methods approved by the Borough in compliance with State and Federal law. Sampling methods, locations, times, durations and frequencies are to be determined on an individual basis, subject to approval by the Borough and the CMCMUA. The discharger shall have the option to use, at his own expense, more complete sampling methods, locations, times and frequencies than specified by the Borough and the CMCMUA.
- b. Measurements, tests and analyses of the characteristics of wastewater required by this Article shall be performed by a laboratory certified by the State of New Jersey.
- c. When required by the Borough, the user shall install a suitable control manhole, together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastewater. Such manhole or other appurtenances, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the Borough. The manhole shall be installed by the user at his expense and shall be maintained by him so as to be safe and accessible at all times.

146-48 SPECIAL AGREEMENTS.

Nothing in Sections 146-44 through 146-50 shall be construed as preventing any special agreement or arrangement between the Borough and any user of the wastewater facilities whereby wastewater of unusual BOD or suspended solids strength is accepted into the system, subject to any surcharge payments or user charges as may be applicable; provided, however, that such acceptance does not cause a violation of the NPDES discharge permit requirements for the wastewater treatment facility. The surcharge rates shall be in conformance with the then prevailing rates developed by the CMCMUA.

146-49 REMOVAL OF DEPOSIT OR OBSTRUCTION BY SEWER AUTHORITY; COSTS.

If the drainage or discharge from any person/owner causes a deposit, obstruction or damage to any of the wastewater facilities located within the Borough, the Borough or the CMCMUA, depending upon which of those entities has operating responsibility for the obstructed section of the wastewater facility, shall cause the deposit or obstruction to be promptly removed or shall cause the damage to be promptly repaired. The cost for

such work, including materials, labor, supervision, permits and engineering and legal fees, shall be borne by the person/owner causing such deposit, obstruction or damage.

146-50 CONFIDENTIALITY OF INDUSTRIAL INFORMATION.

The Borough and the CMCMUA shall implement reasonable measures to ensure the confidentiality of the information provided by a Class III discharger, if so requested by the owner, in writing.

146-51 APPLICABILITY OF SEWER CHARGES.

The rates set forth in this Article are applicable for all classes and users within the Borough of Cape May Point.

146-52 SERVICE CHARGES.

- a. Each dwelling unit shall be charged for direct or indirect connections or use of the Borough sewer system at the rate of \$114.00 quarterly per equivalent dwelling unit.
- b. For the purpose of paragraph a hereof, equivalent dwelling units shall be charged in accordance with the following schedule:

Type of User	Number of Equivalent Dwelling Units
Single-family residence	1
Apartments or multifamily dwelling units (per unit)	1
Rooming house	2
Restaurant	2
Store	1
Office	1
Other business use	1
Large institutional rooming house on 1 1/2-inch meter	9
Large institutional rooming house on 2-inch meter	35
Park	15

- c. Excess Sewage Usage Charge. Sewage Usage Charges will consist of a “minimum sewer rate” of 6,500 gallons of water allowance per quarter. Beginning in the first quarter of 2022, in addition to the minimum sewer rate as set forth above, a charge will be made for each gallon of water use in excess of the minimum allowable usage of 6,500 gallons per quarter at the rate of \$5.05 per 1,000 gallons or a fraction thereof used for all customers.
- d. Payment of Sewer Bills. Sewer user services charges furnished by the Water/Sewer Utility shall be sent out quarterly and shall be due and owing in full within thirty (30) days of the mailing date thereof. Any sewer usage bill which is

not paid in full within this thirty (30) day period shall thereafter bear interest on the total amount owed on the account of eighteen (18%) percent per annum. In the event that any account, including interest thereon, is not paid in full within one (1) year from the date of the bill for the past due amount shall result in a municipal lien being placed against the property. The imposition of any such municipal lien shall be in addition to any other remedies the Borough shall have to collect the full amount, including interest, of the monies owed it for sewage usage charges.

- e. Unpaid Arrearages. Unpaid arrearages carried past December 31 into the following year, will receive a flat rate surcharge of \$25 per equivalent dwelling unit, in addition to the monthly penalty defined in Section 146-52d.
- f. Sewage Service Annual Percentage Increase. On the first of January beginning in 2022 and reoccurring annually thereafter, the minimum sewage usage charge for residential, commercial and industrial customers shall increase by one (1%) percent per year in order for the Borough to offset increased costs to the Borough.

Section 3. Any article, section, paragraph, subsection, clause, or other provision of the Borough of Cape May Point Municipal Code that is inconsistent with the provisions of this ordinance is hereby repealed to the extent of any such inconsistency.

Section 4. If any section, paragraph, subsection, clause, or provision of this ordinance shall be adjudged by a court of competent jurisdiction to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provision so adjudged, and the remainder of this ordinance shall be deemed valid and effective.

Section 5. This ordinance shall take effect twenty (20) days after final passage and publication, as provided for by law.

Final Adoption Vote	MOTION	SECOND	YES	NO	ABSTAIN	ABSENT
Busch						
Moffatt						
vanHeeswyk						

Catherine Busch, Commissioner

Anita vanHeeswyk, Commissioner

Robert Moffatt, Mayor

ATTEST:

Elaine L. Wallace, Borough Clerk

FIRST READING: April 27, 2021

PUBLICATION: May 5, 2021

PUBLIC HEARING: May 13, 2021

PUBLICATION: May 19, 2021

I hereby certify that the foregoing is a true copy of an Ordinance adopted by a majority of the full membership of the Board of Commissioners of the Borough of Cape May Point, County of Cape May, New Jersey, at a meeting held on .

Elaine L. Wallace, RMC, CMR
Municipal Clerk