

ORDINANCE(s):

Introduction: Mayor Long to read the ordinance by title:

ORDINANCE NO. 01-2019

AN ORDINANCE AMENDING AND SUPPLEMENTING THE CODE OF THE BOROUGH OF SEA BRIGHT, CHAPTER 130, "LAND USE", AND TO ESTABLISH AFFORDABLE HOUSING REGULATIONS AND A MANDATORY AFFORDABLE HOUSING SET-ASIDE

Councilmember _____ offered a motion to introduce Ordinance No. 01-2019 for a public hearing to be held on February 5, 2019 and advertise according to law; seconded by Councilmember _____

Roll Call: Birdsall____ Keeler____ Kelly____ Leckstein ____ Rooney____ Schwartz____

Introduction: Mayor Long to read the ordinance by title:

ORDINANCE NO. 02-2019

AN ORDINANCE OF THE BOROUGH OF SEA BRIGHT, AMENDING AND SUPPLEMENTING CHAPTER 130, "LAND USE", ARTICLE XVII, "AFFORDABLE HOUSING REGULATIONS", TO PROVIDE FOR AFFORDABLE HOUSING DEVELOPMENT FEES

Councilmember _____ offered a motion to introduce Ordinance No. 02-2019 for a public hearing to be held on February 5, 2019 and advertise according to law; seconded by Councilmember _____

Roll Call: Birdsall____ Keeler____ Kelly____ Leckstein ____ Rooney____ Schwartz____

Introduction: Mayor Long to read the ordinance by title:

ORDINANCE NO. 03-2019

CALENDAR YEAR 2019

ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK (N.J.S.A. 40A: 4-45.14)

Councilmember _____ offered a motion to introduce Ordinance No. 03-2019 for a public hearing to be held on February 5, 2019 and advertise according to law; seconded by Councilmember _____

Roll Call: Birdsall____ Keeler____ Kelly____ Leckstein ____ Rooney____ Schwartz____

INDIVIDUAL ACTION/New Business:**Vouchers: \$1,424,041.66**

Councilmember _____ offered a motion to approve the Voucher List dated January 15, 2019 as submitted by the Finance Manager; seconded by Councilmember _____

Roll Call: Birdsall____ Keeler____ Kelly____ Leckstein ____ Rooney____ Schwartz____

DISCUSSION ITEM(S):

1. Spray Foam Insulation – New Municipal Complex

COUNCIL COMMITTEE REPORTS:**A. BEACH/GRANTS:**

- Jon Schwartz, Chair
- Kevin Birdsall
- Charles Rooney

B. FINANCE/INSURANCE/COURT:

- William Keeler, Chair
- Brian Kelly
- Jon Schwartz

C. ADMINISTRATION/SHARED SERVICES/PUBLIC RELATIONS:

- Marc Leckstein, Chair
- Charles Rooney
- William Keeler

D. PUBLIC SAFETY/EDUCATION/RECREATION/LIBRARY:

- Charles Rooney, Chair
- William Keeler
- Brian Kelly

E. PUBLIC WORKS/BUILDING DEPARTMENT:

- Kevin Birdsall, Chair
- Jon Schwartz
- Marc Leckstein

F. CAPITAL PLAN/FLOOD CONTROL/BEAUTIFICATION:

- Brian Kelly, Chair
- Marc Leckstein
- Kevin Birdsall

MAYOR DINA LONG – Reports and Communications

EXECUTIVE SESSION

Councilmember _____ offered a motion to enter into Closed Session;
seconded by Councilmember _____

Resolution to discuss: Litigation

Roll Call: Birdsall___ Keeler___ Kelly___ Leckstein ___ Rooney___ Schwartz___

ADJOURNMENT

Councilmember _____ offered a motion to adjourn the meeting; seconded
by Councilmember _____

Roll Call: Birdsall___ Keeler___ Kelly___ Leckstein ___ Rooney___ Schwartz___

RESOLUTION NO. 29-2019
DONATION 2019 BEACH BADGES
BOROUGH OF SEA BRIGHT

Councilmember _____ offered the following resolution and moved for its adoption;
seconded by Councilmember _____ :

WHEREAS, the Governing Body of the Borough of Sea Bright wish to support the fundraising efforts for the local organizations listed below by donating two (2) 2019 beach badges as requested:

- | | | |
|----|------------------------------------------------------------------------------------------|-----------------|
| 1. | Eastern Monmouth Area Chamber of Commerce
Spinnaker Awards Auction – January 30, 2019 | 2 Badges |
| 2. | Leonardo Grade School PTA
Gift Auction – March 29, 2019 | 2 Badges |
| 3. | Mater Dei Prep
2019 Gala and Gift Auction – February 9, 2019 | 2 Badges |
| 4. | The Backpack Crew
Annual Gala – March 23, 2019 | 2 Badges |
| 5. | Bayview Elementary School
PTA – Bayview Gift Auction – March 8, 2019 | 2 Badges |

WHEREAS, the Borough Auditor has been informed and advised that a resolution should be considered in order to donate 2019 Season Beach Badges.

NOW, THEREFORE, BE IT RESOLVED, that the Borough Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey authorize the donation of ten (10) 2019 Season Beach Badges for the aforementioned charitable organizations; and

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to the following:

1. Borough Administrator
2. Borough Auditor
3. Individual Requestors

Roll Call: Birdsall, Keeler, Kelly, Leckstein, Rooney, Schwartz

January 15, 2019

CERTIFICATION

I, Christine Pfeiffer, Borough Clerk, do hereby certify that the foregoing is a resolution adopted by the Borough Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey, at a Council Meeting held on January 15, 2019.

Christine Pfeiffer, Borough Clerk

RESOLUTION NO. 30-2019
**AUTHORIZING THE BOROUGH OF SEA BRIGHT TO ENTER
INTO A JOINT PURCHASING AGREEMENT FOR
POLICE DEPARTMENT EQUIPMENT FOR TRAINING PURPOSES**

Councilmember _____ offered the following resolution and moved for its adoption;
seconded by Councilmember _____ :

WHEREAS, N.J.S.A. 40a:11-11(10) authorizes contracting units to establish a Joint Purchasing System and to enter into a Joint Purchasing Agreement for its administration; and

WHEREAS, the City of Long Branch, hereinafter referred to as the "Lead Agency" has offered voluntary participation in a Joint Purchasing System to effect substantial economies for the provision and performance of goods and services; and

WHEREAS, the governing body of the City of Long Branch, County of Monmouth, State of New Jersey, duly considered participation in a Joint Purchasing System for the provision and performance of goods for Police Department Equipment for Training Purposes, including but not limited to Simunitions Equipment; and

WHEREAS, the following towns: City of Long Branch, Borough of Allenhurst, Borough of Deal, Borough of Eatontown, Borough of Fair Haven, Borough of Little Silver, Borough of Monmouth Beach, Township of Ocean, Borough of Oceanport, Borough of Rumson, Borough of Sea Bright, Borough of Shrewsbury, Borough of West Long Branch and the Monmouth University Police Department wish to enter into such Agreement for said purposes.

NOW, THEREFORE, BE IT RESOLVED, that the Borough Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey, hereby authorize, pursuant to N.J.S.A. 40A:11-10, Captain Brett Friedman of the Sea Bright Police Department and the Borough Clerk to enter into a Joint Purchasing Agreement with the Lead Agency, the City of Long Branch for the provision and performance of Police Department Equipment for Training Purposes. The Lead Agency shall be responsible for complying with the provisions of the Local Public Contracts Law and all other provisions of the revised statutes of the State of New Jersey.

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to the following:

1. Borough Administrator
2. Police Captain Brett Friedman
3. City of Long Branch

Roll Call: Birdsall, Keeler, Kelly, Leckstein, Rooney, Schwartz

January 15, 2019

CERTIFICATION

I, Christine Pfeiffer, Borough Clerk, do hereby certify that the foregoing is a resolution adopted by the Borough Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey, at a Council Meeting held on January 15, 2019.

Christine Pfeiffer, Borough Clerk

RESOLUTION NO. 31-2019
AUTHORIZING DONATION OF BOROUGH
SURPLUS PROPERTY TO SEA BRIGHT HISTORICAL SOCIETY

Councilmember introduced and offered for adoption the following
Resolution; seconded by Councilmember :

WHEREAS, the Borough of Sea Bright is the owner of surplus property which is no longer needed for public use; and

WHEREAS, the Borough Council is desirous of donating said surplus property in an "as is" condition, as follows:

Historical Postcards – Not related to the Borough

WHEREAS, there has been formed a Sea Bright Historical Society with a mission of preserving Sea Bright history.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey, that it does hereby authorize the Borough Clerk to donate the collection of historical postcards unrelated to the Borough to the Sea Bright Historical Society; and

BE IT FURTHER RESOLVED that a certified copy of this Resolution be forwarded to the following:

1. Finance Manager
2. Sea Bright Historical Society

Roll Call: Birdsall, Keeler, Kelly, Leckstein, Rooney, Schwartz

January 15, 2019

CERTIFICATION

I, Christine Pfeiffer, Borough Clerk, do hereby certify that the foregoing is a Resolution adopted by the Borough Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey, at a Council Meeting held on January 15, 2019.

Christine Pfeiffer, Borough Clerk

RESOLUTION NO. 32-2019
AUTHORIZING SHARED FEASIBILITY STUDY
FOR EDUCATIONAL SHARED SERVICES BY AND BETWEEN
THE BOROUGH OF SEA BRIGHT, THE BOROUGH OF HIGHLANDS,
AND THE BOROUGH OF ATLANTIC HIGHLANDS

Councilmember _____ offered the following resolution and moved for its adoption;
seconded by Councilmember _____ :

WHEREAS, the Borough of Sea Bright would like to determine if it is in the public interest to undertake educational shared services with the Borough of Highlands and the Borough of Atlantic Highlands; and

WHEREAS, the Borough of Sea Bright, the Borough of Highlands, and the Borough of Atlantic Highlands would like to further look into the capability to share educational services by and amongst the municipalities in order to promote efficiencies and reduce expenditures for the aforesaid partnering entities; and

WHEREAS, the Borough of Sea Bright, as the lead agency, has contracted a professional consultant to produce a feasibility study as to educational shared services by and amongst aforesaid partnering entities and to address whether it can lead to cost savings and/or more efficient delivery of educational services over the life of such an agreement; and

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey, is hereby authorized to act as the lead agency for the consulting feasibility study for educational shared services by and amongst the Borough of Sea Bright, the Borough of Highlands, and the Borough of Atlantic Highlands.

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to the following:

1. Borough Administrator
2. Borough of Highlands
3. Borough of Atlantic Highlands

Roll Call: Birdsall, Keeler, Kelly, Leckstein, Rooney, Schwartz

January 15, 2019

CERTIFICATION

I, Christine Pfeiffer, Borough Clerk, do hereby certify that the foregoing is a resolution adopted by the Borough Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey, at a Council Meeting held on January 15, 2019.

Christine Pfeiffer, Borough Clerk

RESOLUTION NO. 33-2019
ACCEPTING DONATION OF JETSKI

Councilmember _____ offered the following Resolution and moved its adoption; seconded by Councilmember _____ :

WHEREAS, a resident of Rumson, New Jersey has donated a 2014 Yamaha inboard boat (Jetski) to the Borough of Sea Bright, and

WHEREAS, the Borough of Sea Bright would benefit greatly from ocean rescue equipment for use by the beach operations staff to expand and enhance safety procedures; and

WHEREAS, the Borough finds that it is appropriate to accept the donation of real and personal property, worth approximately \$7,500, for the benefit of ocean rescue operations.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Borough Council of the Borough of Sea Bright, State of New Jersey, County of Monmouth that:

1. The donation described above is accepted and shall be used by beach staff to expand and enhance safety procedures for beach operations;
2. The jetski will be the property of and maintained by beach department.

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to the following:

1. Beach Manager
2. Brown & Brown

Roll Call: Birdsall, Keeler, Kelly, Leckstein, Rooney, Schwartz

January 15, 2019

CERTIFICATION

I, Christine Pfeiffer, do hereby certify that the foregoing is a resolution adopted by the Borough Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey, at a Council Meeting held on January 15, 2019.

Christine Pfeiffer, Borough Clerk

ORDINANCE No. 01-2019

AN ORDINANCE AMENDING AND SUPPLEMENTING THE CODE OF THE BOROUGH OF SEA BRIGHT, CHAPTER 130, "LAND USE", AND TO ESTABLISH AFFORDABLE HOUSING REGULATIONS AND A MANDATORY AFFORDABLE HOUSING SET-ASIDE

WHEREAS, the New Jersey Supreme Court has determined that every municipality in the State of New Jersey has an obligation to provide the opportunity for the creation of affordable housing for low and moderate households; and

WHEREAS, the Borough of Sea Bright desires to comply with that obligation and will do so, in part, by requiring a mandatory affordable housing set-aside in connection with new multi-family residential development;

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

SECTION ONE: The Code of the Borough of Sea Bright, Chapter 130, "Land Use", be and the same is hereby amended and supplemented to add thereto a new Article XVII, to read, in full, as follows:

"Article XVII. Affordable Housing Regulations.
§130-117. Mandatory Affordable Housing Set-Aside.

A. Purpose.

Unless otherwise required by existing zoning or an adopted redevelopment plan, all new multi-family residential developments of five (5) or more units that become permissible through either a use variance, a density variance increasing the permissible density at the site, a rezoning permitting multi-family residential housing where not previously permitted, or a new or revised redevelopment plan shall be required to provide an affordable housing set-aside as follows:

- (1) Required affordable housing units shall be equal to a minimum of 20% of the number of housing units proposed in the application for units offered for sale;
- (2) Required affordable housing units shall be equal to a minimum of 15% of the number of housing units proposed in the application for units offered for rent.

B. Affordable housing units may be provided on-site or off-site within the Borough."

SECTION TWO. All Ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistencies.

SECTION THREE: If any section, subsection, paragraph, sentence or other portion of this Ordinance be adjudged by a Court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance.

SECTION FOUR: This Ordinance shall take effect immediately upon its passage and publication according to law and upon filing with the Monmouth County Planning Board.

I **HEREBY CERTIFY** this to be a true and correct Ordinance of the Mayor and Borough Council of the Borough of Sea Bright, introduced on January 15, 2019 and will be further considered after a Public Hearing held on February 5, 2019 in the Municipal Building at 1097 Ocean Avenue at 7:00 p.m.

INTRODUCED: January 15, 2019
PUBLIC HEARING: February 5, 2019
ADOPTED:

Witness:

BOROUGH OF SEA BRIGHT

CHRISTINE PFEIFFER, CLERK

DINA LONG, Mayor

ORDINANCE No. 02-2019

AN ORDINANCE OF THE BOROUGH OF SEA BRIGHT, AMENDING AND SUPPLEMENTING CHAPTER 130, "LAND USE", ARTICLE XVII, "AFFORDABLE HOUSING REGULATIONS", TO PROVIDE FOR AFFORDABLE HOUSING DEVELOPMENT FEES.

BE IT ORDAINED by the Mayor and Council of the Borough of Sea Bright, that Chapter 130, "Land Use", of the Code of the Borough of Sea Bright, Article XVII, "Affordable Housing Regulations", be and the same is hereby amended and supplemented by the addition thereto of the following:

"§130-118. Purpose of Development Fees.

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

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

C. This Ordinance establishes standards for the collection, maintenance, and expenditure of development fees that are consistent with COAH's regulations developed in response to P.L. 2008, c. 46, Sections 8 and 32-38 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7). Fees collected pursuant to this Ordinance shall be used for the sole purpose of providing low- and moderate-income housing in accordance with a Court-approved Spending Plan.

§130-119. Basic Requirements.

A. This Ordinance shall not be effective until approved by the Court.

B. The Borough of Sea Bright shall not spend development fees until the Court has approved a plan for spending such fees (Spending Plan).

§130-120. Definitions.

The following terms, as used in this Article, shall have the following meanings:

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

"COAH" or the "Council" means the New Jersey Council on Affordable Housing established under the Fair Housing Act.

“**Development Fee**” means money paid by a developer for the improvement of property as permitted at N.J.A.C. 5:97-8.3.

“**Developer**” means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an Option or contract to purchase, or other person having an enforceable proprietary interest in such land.

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

“**Green Building Strategies**” means those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

§130-121. Residential Development Fees.

A. *Imposition of Fees.*

(1) Within the Borough of Sea Bright, all residential developers, except for developers of the types of developments specifically exempted below and developers of developments that include affordable housing, shall pay a fee of one and a half percent (1.5%) of the equalized assessed value for all new residential development provided no increased density is permitted. Development fees shall also be imposed and collected when an additional dwelling unit is added to an existing residential structure; in such cases, the fee shall be calculated based on the increase in the equalized assessed value of the property due to the additional dwelling unit.

(2) When an increase in residential density is permitted pursuant to a “d” variance granted under N.J.S.A. 40:55D-70d(5), developers shall be required to pay a “bonus” development fee of six percent (6%) percent of the equalized assessed value for each additional unit that may be realized, except that this provision shall not be applicable to a development that will include affordable housing. If the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

B. *Eligible Exactions, Ineligible Exactions and Exemptions for Residential Developments.*

(1) Affordable housing developments, developments where the developer is providing for the construction of affordable units elsewhere in the municipality, and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.

(2) Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous

with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.

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

(4) Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.

(5) Where there is an improvement to, expansion of, reconstruction or replacement of an existing residential structure requiring a Construction Permit, no development fee shall be required to be paid. The construction or improvement of a permitted accessory structure on a lot containing an existing residential structure shall not require the payment of a development fee.

(6) Developers of houses of worship and other uses that are entitled to exemption from New Jersey real property tax shall be exempt from the payment of a development fee, provided that such development does not result in the construction of any additional housing or residential units, including assisted living and continuing care retirement communities.

§130-122. **Non-Residential Development Fees.**

A. *Imposition of Fees.*

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

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

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

B. *Eligible Exactions, Ineligible Exactions and Exemptions for Non-residential Development.*

(1) The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to a two and a half percent (2.5%) development fee, unless otherwise exempted below.

(2) The two and a half percent (2.5%) development fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within the existing footprint, reconstruction, renovations and repairs.

(3) Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7), as specified in Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption". Any exemption claimed by a developer shall be substantiated by that developer.

(4) A developer of a non-residential development exempted from the non-residential development fee pursuant to the Statewide Non-Residential Development Fee Act shall be subject to the fee at such time as the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final Certificate of Occupancy for the non-residential development, whichever is later.

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

(6) Pursuant to P.L. 2009, c. 90 and P.L.2011, c. 122, the non-residential statewide development fee of two and one-half (2.5%) percent for non-residential development is suspended for all non-residential projects that received preliminary or final site plan approval subsequent to July 17, 2008 until July 1, 2013, provided that a permit for the construction of the building has been issued prior to January 1, 2015.

§130-123. **Collection Procedures.**

(1) Upon the granting of a preliminary, final or other applicable approval for a development, the approving authority or entity shall notify or direct its staff to notify the Construction Official responsible for the issuance of a Construction Permit.

(2) For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/ Exemption" to be completed as per the instructions provided. The developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The Construction Official shall verify the information submitted by the non-residential developer as per the instructions provided in the Form N-RDF. The Tax Assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.

(3) The Construction Official responsible for the issuance of a Construction Permit shall notify the Borough Tax Assessor of the issuance of the first Construction Permit for a development which is subject to a development fee.

(4) Within 90 days of receipt of such notification, the Borough Tax Assessor shall prepare an estimate of the equalized assessed value of the development based on the plans filed.

(5) The Construction Official responsible for the issuance of a final Certificate of Occupancy shall notify the Borough Tax Assessor of any and all requests for the scheduling of a final inspection on a property which is subject to a development fee.

(6) Within 10 business days of a request for the scheduling of a final inspection, the Borough Tax Assessor shall confirm or modify the previously estimated equalized assessed value of the improvements associated with the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.

(7) Should the Borough of Sea Bright fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in Subsection b. of Section 37 of P.L. 2008, c.46 (C.40:55D-8.6).

(8) Except as provided in Section 130-122 A.(3) hereinabove, fifty percent (50%) of the initially calculated development fee shall be collected at the time of issuance of the Construction Permit. The remaining portion shall be collected at the time of issuance of the Certificate of Occupancy. The developer shall be responsible for paying the difference between the fee calculated at the time of issuance of the Construction Permit and that determined at the time of issuance of the Certificate of Occupancy.

§130-124. **Appeal of Development Fees.**

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

B. A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by the Borough of Sea Bright. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law,

R.S.54:48-1, *et seq.*, within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

§130-125. **Affordable Housing Trust Fund.**

A. There is hereby created a separate, interest-bearing Affordable Housing Trust Fund to be maintained by the Chief Financial Officer of the Borough of Sea Bright for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.

B. The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:

(1) Payments in lieu of on-site construction of a fraction of an affordable unit, where permitted by Ordinance or by Agreement with the Borough of Sea Bright;

(2) Funds contributed by developers to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached dwelling unit development accessible;

(3) Rental income from municipally operated units;

(4) Repayments from affordable housing program loans;

(5) Recapture funds;

(6) Proceeds from the sale of affordable units; and

(7) Any other funds collected in connection with Sea Bright's affordable housing program.

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

D. Any party may bring a motion before the Superior Court presenting evidence of such condition(s), and the Court may, after considering the evidence and providing the municipality a reasonable opportunity to respond and/or to remedy the

non-compliant condition(s), and upon a finding of continuing and deliberate non-compliance, determine to authorize LGS to direct the expenditure of funds in the Trust Fund. The Court may also impose such other remedies as may be reasonable and appropriate to the circumstances.

E. Interest accrued in the Affordable Housing Trust Fund shall only be used to fund eligible affordable housing activities approved by the Court.

§130-126. Use of Funds.

A. The expenditure of all funds shall conform to a Spending Plan approved by the Court. Funds deposited in the Affordable Housing Trust Fund may be used for any activity approved by the Court to address the Borough of Sea Bright's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls; housing rehabilitation; new construction of affordable housing units and related costs; accessory apartments; a market to affordable program; Regional Housing Partnership programs; conversion of existing non-residential buildings to create new affordable units; green building strategies designed to be cost saving and in accordance with accepted national or State standards; purchase of land for affordable housing; improvement of land to be used for affordable housing; extensions or improvements of roads and infrastructure to affordable housing sites; financial assistance designed to increase affordability; administration necessary for implementation of the Housing Element and Fair Share Plan; and/or any other activity permitted by the Court and specified in the approved Spending Plan.

B. Funds shall not be expended to reimburse the Borough of Sea Bright for past housing activities.

C. At least 30 percent of all development fees collected and interest earned on such fees shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30 percent or less of the median income for the Housing Region, in which Sea Bright is located.

(1) Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, and assistance with emergency repairs. The specific programs to be used for affordability assistance shall be identified and described within the Spending Plan.

(2) Affordability assistance to households earning 30 percent or less of median income may include buying down the cost of low or moderate income units in the municipal Fair Share Plan to make them affordable to households earning 30 percent or less of median income. The specific programs to be used for very low income affordability assistance shall be identified and described within the Spending Plan.

(3) Payments in lieu of constructing affordable housing units on site, if permitted by Ordinance or by Agreement with the Borough of Sea Bright, and funds from

the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.

D. The Borough of Sea Bright may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including its programs for affordability assistance.

E. No more than 20 percent of all revenues collected from development fees may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultants' fees necessary to develop or implement a new construction program, prepare a Housing Element and Fair Share Plan, and/or administer an affirmative marketing program or a rehabilitation program.

(1) In the case of a rehabilitation program, the administrative costs of the rehabilitation program shall be included as part of the 20 percent of collected development fees that may be expended on administration.

(2) Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or related to securing or appealing a judgment from the Court are not eligible uses of the Affordable Housing Trust Fund.

§130-127. **Monitoring.**

The Borough of Sea Bright shall provide annual reporting of Affordable Housing Trust Fund activity to the State of New Jersey, Department of Community Affairs, Council on Affordable Housing or Local Government Services or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing or Local Government Services. The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the sources and amounts of funds collected and the amounts and purposes for which any funds have been expended. Such reporting shall include an accounting of development fees collected from residential and non-residential developers, payments in lieu of constructing affordable units on site (if permitted by Ordinance or by Agreement with the Borough), funds from the sale of units with extinguished controls, barrier free escrow funds, rental income from Borough owned affordable housing units, repayments from affordable housing program loans, and any other funds collected in connection with Sea Bright's affordable housing programs, as well as an accounting of the expenditures of revenues and implementation of the Spending Plan approved by the Court.

§130-128. **Ongoing Collection of Fees.**

A. The ability of the Borough of Sea Bright to impose, collect and expend development fees shall expire with the expiration of the repose period covered by its Judgment of Compliance unless the Borough of Sea Bright has first filed an adopted Housing Element and Fair Share Plan with the Court or with a designated State administrative agency, has petitioned for a Judgment of Compliance from the Court or for Substantive Certification or its equivalent from a State administrative agency authorized to approve and administer municipal affordable housing compliance and has received approval of its Development Fee Ordinance from the entity that will be reviewing and approving the Housing Element and Fair Share Plan.

B. If the Borough of Sea Bright fails to renew its ability to impose and collect development fees prior to the expiration of its Judgment of Compliance, it may be subject to forfeiture of any or all funds remaining within its Affordable Housing Trust Fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to Section 20 of P.L. 1985, c. 222 (C. 52:27D-320).

C. The Borough of Sea Bright shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its Judgment of Compliance, nor shall the Borough of Sea Bright retroactively impose a development fee on such a development. The Borough of Sea Bright also shall not expend any of its collected development fees after the expiration of its Judgment of Compliance."

SECTION TWO: All Ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistencies.

SECTION THREE: If any section, subsection, paragraph, sentence or other portion of this Ordinance be adjudged by a Court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance.

SECTION FOUR: This Ordinance shall take effect immediately upon its passage and publication according to law and upon filing with the Monmouth County Planning Board.

I HEREBY CERTIFY this to be a true and correct Ordinance of the Mayor and Borough Council of the Borough of Sea Bright, introduced on January 15, 2019 and will be further considered after a Public Hearing held on February 5, 2019 in the Municipal Building at 1097 Ocean Avenue at 7:00 p.m.

INTRODUCED: January 15, 2019

PUBLIC HEARING: February 5, 2019

ADOPTED:

Witness:

BOROUGH OF SEA BRIGHT

CHRISTINE PFEIFFER, CLERK

DINA LONG, Mayor

ORDINANCE NO. 03-2019
CALENDAR YEAR 2019
ORDINANCE TO EXCEED THE MUNICIPAL BUDGET
APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK
(N.J.S.A. 40A: 4-45.14)

WHEREAS, the Local Government Cap Law, N.J.S. 40A: 4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget up to 2.5% unless authorized by ordinance to increase it to 3.5% over the previous year's final appropriations, subject to certain exceptions; and,

WHEREAS, N.J.S.A. 40A: 4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and,

WHEREAS, the Borough Council of the Borough of Sea Bright in the County of Monmouth finds it advisable and necessary to increase its CY 2019 budget by up to 3.5% over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and,

WHEREAS, the Borough Council hereby determines that a 3.5 % increase in the budget for said year, amounting to \$ 47,509.82 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and,

WHEREAS the Borough Council hereby determines that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years.

NOW THEREFORE BE IT ORDAINED, by the Borough Council of the Borough of Sea Bright, in the County of Monmouth, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2019 budget year, the final appropriations of the Borough of Sea Bright shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by 3.5 %, amounting to \$166,284.37, and that the CY 2019 municipal budget for the Borough of Sea Bright be approved and adopted in accordance with this ordinance; and,

BE IT FURTHER ORDAINED, that any that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance upon adoption, with the recorded vote included thereon, be filed with said Director within 5 days after such adoption.

INTRODUCED: January 15, 2019

PUBLIC HEARING: February 5, 2019

ADOPTION:

I HEREBY CERTIFY this to be a true and correct Ordinance of the Mayor and Borough Council of the Borough of Sea Bright, introduced on January 15, 2019 and will be further considered after a Public Hearing held on February 5, 2019 in the Municipal Building at 1097 Ocean Avenue at 7:00 p.m.

Christine Pfeiffer
Clerk, Borough of Sea Bright

Dina Long
Mayor, Borough of Sea Bright

VOUCHER LIST
January 15, 2019
BOROUGH OF SEA BRIGHT

ADT Security 18-01620	12/29/2018	Alarm System Library	\$42.18
ADP, Inc. 18-01604	12/28/2018	Payroll Processing Finance	\$965.80
Antonides & Simone 19-00047	1/10/2019	Fiscal Officer Services	\$3,312.50
Apollo Sewer & Plumbing 18-01566	12/13/2018	Plumbing Service Bldgs & Grds.	\$675.00
Avaya 18-01619	12/29/2018	Phone System Police	\$145.29
Bain's Hardware 19-00022	1/9/2019	Materials & Supplies Multi Dept.	\$451.33
Barg's Lawn & Garden 18-01567	12/13/2018	Equipment Maintenance Bldgs & Grds.	\$66.36
Benemax 19-00023	1/9/2019	Dental Health Insurance	\$336.00
Borough of Oceanport 19-00048	1/10/2019	Shared Services Court	\$6,372.45
Borough of Sea Bright 19-00053	1/11/2019	Petty Cash Fund Boro Hall	\$100.00
Borough of Sea Bright Current Fund 19-00054	1/11/2019	Admin Fees Police Special Duty	\$5,257.50
Bricks 4 Kidz 18-01511	11/30/2018	Children's Program Library	\$40.00
Bullet Lock & Safe 18-01104	8/28/2018	Keys New Beach Pavilion	\$22.50
Chesapeake Exterminating 19-00060		Pest Control Bldgs. & Grds.	\$90.00
C.I.T. Financial 19-00052	1/10/2019	Copier Lease Police	\$157.00
CJM Associates (J. Howland) 19-00045	1/10/2019	Rental Garage Police/DPW/Beach/Sewer	\$500.00
Cleary, Giacobbe, etal. 19-00010	1/9/2019	Tax Appeals Legal Services	\$345.00
Comcast 19-00035	1/10/2019	Internet Police/Boro/Library/Beach	\$576.04
Cooperative Industries 19-00020	1/9/2019	Natural Gas	\$404.83
Costa, Valeria 18-01603	12/28/2018	Cleaning Services Bldgs. & Grds.	\$1,950.00
DCH Ford 18-01562	12/12/2018	Vehicle Maintenance DPW	\$58.01
DiFrancesco, Bateman, etal. 19-00002	1/9/2019	Tax Appeals Legal Services	\$501.32
Dog Waste Depot 18-01596	12/20/2018	Dog Waste Bags Beautification	\$999.90
Edmunds & Associates		Annual Renewal/Software	\$11,174.00

19-00008	1/9/2019	Multi Dept.	
Finegan, George 19-00042	1/10/2019	Reimb. Purchases Feral Cat Program	\$503.77
Gannett NJ 19-00058	1/11/2019	Legal Ad B/O 2016-16	\$25.30
Gigi's NY Style Pizza 19-00061	1/11/2019	Food Jr. Lifeguard Program	\$255.00
First United Methodist Church 19-00055	1/10/2009	Bldg. Lease Library	\$1,000.00
Hoder, David 19-00017	1/9/2019	Cover Code Enfrcmnt. Officer Bldg. Dept.	\$195.00
Holistic Wellness 18-01515	12/1/2018	Yoga Class Library	\$45.00
Interglobe Communications 19-00057	1/11/2019	Local & Long Distance Phone	\$492.71
JCP & L 19-00038	1/10/2019	Electric Service	\$8,557.23
Jersey Shore Powersports 18-01597	12/20/2018	Vehicle Maintenance Beach	\$329.50
Jesse Howland & Son 19-00050	1/10/2019	Garage Rentals DPW	\$1,705.00
Jesse Howland & Son 19-00049	1/11/2019	Garage Rentals Fire Dept.	\$3,845.00
Jungle Lasers 19-00009	1/9/2019	Yrly Agreement/Nov. Billing Bldg. Dept/Fire Marshall	\$1,920.00
Junior's Venture 18-01249	9/26/2018	Music Program Library	\$175.00
Kag Designs 18-01328	10/16/2018	Shadow Box/Chief A&E	\$150.00
Kanen Psychology 18-01617	12/29/2018	Evaluations/Recruits Police Dept.	\$1,425.00
Kempton Flags 19-00013	1/9/2019	Flags/Beach Pavilion A&E	\$636.20
Liberty Safes 18-01598	12/24/2018	Clothing Allowance Police	\$778.08
Live Vault 19-00046	1/11/2019	Server Back Up	\$256.21
Manning, Ty 18-01599	12/28/2018	Clothing Allowance Police	\$1,119.96
McKenna, Dupont, etal. 19-00014	1/9/2019	Legal Services Planning Board	\$580.00
McLaughlin, Stauffer, etal. 19-00025	1/9/2019	Legal Services	\$9,074.34
MGL Forms-Systems 18-00843	1/12/2019	2019 Dog/Cat Tags Clerk	\$315.00
Monmouth Cty. Public Works 19-00001	1/9/2019	Vehicle Maintenance Fire Dept.	\$5,247.36
Monmouth Cty. Reg. Health 19-00056		Public Health Service Fees 1/Q Payment	\$14,443.00
Monmouth Telecom 19-00004	1/9/2019	Phone Service Multi Dept.	\$1,220.27

Municipal Capital 19-00051	1/11/2019	Copier Lease Boro Hall	\$224.73
Munc. Construction Officials 19-00036	1/10/2019	2019 Membership Dues Bldg. Dept.	\$75.00
Napa Auto 18-01612	12/28/2018	Vehicle Maintenance DPW	\$49.99
NJ American Water 19-00039	1/10/2019	Hydrant Service Nov/Dec. 2018	\$4,576.49
NJ American Water 19-00040	1/10/2019	Water Service Multi Location	\$1,213.70
N.J. Conference of Mayors 19-00007	1/9/2019	Yearly Dues A&E	\$295.00
N.J. DEP 19-00005	1/9/2019	Yearly Renewal Tidelands License/Fees	\$1,250.00
Oceanport Board of Ed 18-00756-07	1/10/2019	Elementary School Tax Jan. 2019	\$43,033.75
One Call Concepts 19-00024	1/9/2019	"Call Before You Dig"	\$35.00
Oriental Trading Co. 18-01503	11/30/2018	Tree Lighting Supplies Recreation	\$177.67
Pfeiffer, Christine 19-00012	1/9/2019	Reimb. Reorg. Meeting Costs A&E	\$26.96
Poor John's 18-01621	12/29/2018	Rental Units Beach	\$296.00
Porzio, Bromberg, et al. 19-00003	1/9/2019	Legal Services Special Counsel	\$12,287.31
Power DMS 19-00016	1/9/2019	Annual Software Renewal Police Dept.	\$3,344.50
Public Storage 19-00044	1/10/2019	Storage Unit Police	\$360.00
QBE Specialty Insurance 19-00033	1/10/2019	Legal Services Insurance	\$113.00
Realty Appraisal Co. 18-01607	12/28/2018	Appraisal Report Tax Assessor	\$1,000.00
Ryser's Landscape 18-01606	12/28/2018	Mulch Bldgs & Grds.	\$281.00
Seaboard Welding Supply 19-00059	1/11/2019	Rental Cylinders DPW	\$29.00
Sea Bright Municipal Court 19-00041	1/10/2019	Reimbursement Dec. Credit Card Fees	\$125.30
Sea Bright Service Center 18-01563	12/12/2018	Vehicle Maintenance Police	\$89.85
Shore Regional High School 18-00754-07	1/10/2019	High School Tax/Debt Srvc. Jan. 2019	\$269,820.00
Spahr, Patricia 18-01608	12/28/2018	Office Supplies Reimb. Purchase	\$145.00
Suburban Disposal 19-00030	1/10/2019	Recycling Tax Tipping fees	\$6,772.03
Suburban Disposal 19-00031	1/10/2019	Dumpster Disposal Fee	\$345.69

Suburban Disposal 19-00032	1/10/2019	Trash/Recycling Remvoal	\$10,294.59
Suburban Propane 19-00011	1/9/2019	Propane Deliveries	\$486.43
T & M Associates 19-00037	1/10/2019	General Services Engineer	\$3,642.45
T & M Associates 18-01616	12/29/2018	Meeting Attendance Engineer	\$798.70
T & M Associates 18-01615-01	12/29/2018	2017/2018 Road Program Engineer	\$1,680.00
The Home Depot 18-01609	12/28/2018	Materials & Supplies Bldgs. & Grds.	\$100.54
Thomas, Shawn 18-01601	12/28/2018	Reimb. CPW License DPW	\$50.00
Unimak, LLC 19-00043	1/10/2019	New Municipal Complex Payment Cert. No. 8	\$305,996.28
Unimak, LLC 18-01614	12/28/2018	New Municipal Complex Payment Cert. No. 7	\$535,134.35
Verizon 19-00027	1/9/2019	Fios Service Police Dept.	\$99.99
Verizon Wireless 19-00028	1/9/2019	Cell Phone & MDT Service Police Dept.	\$573.37
Verizon Wireless 19-00058	1/11/2019	MDT Service Fire Dept.	\$192.05
Verizon 19-00029	1/9/2019	Local/Long Distance Beach/Library	\$188.13
Verizon 19-00034	1/10/2019	Fios Service Beach/Library	\$128.64
Wex Bank 19-00021	1/9/2019	Gasoline Police/Fire/DPW	\$3,612.29
			\$1,297,781.72
MANUAL CHECKS			
Hoder, David & Assoc. 19-00018	1/9/2019	Engineer Review Plan. Brd./Escrow Acct.	\$520.00
JCP Developers, LLC 19-00019	1/9/2019	Release of Escrow Performance Guarantee	\$21,719.25
McKenna, Dupont, etal 19-00015	1/9/2019	Legal Service Plan. Brd./Escrow Acct.	\$480.00
Mon. Munc. Joint Ins. Fund 19-00006	1/9/2019	Insurance 2019 1st Installment	\$102,983.00
NJNG 18-01622	12/29/2018	Natural Gass New Beach Pavilion	\$313.39
United States Postal Service 19-00026	1/9/2019	Bulk Mailing Sewer Bills	\$244.30
			\$126,259.94
			GRAND TOTAL:
			\$1,424,041.66