

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

ORDINANCE NO. 517-17

**AN ORDINANCE REPEALING SECTIONS 3-4 AND 3-5 OF CHAPTER III OF THE
REVISED GENERAL ORDINANCES OF THE BOROUGH OF WEST CAPE MAY**

WHEREAS, Chapter III, Section 3-4 of the Revised General Ordinance of the Borough of West Cape May entitled, "Pornography," defines and prohibits the sale or exhibit of pornography within the Borough and provides for the establishment of a Community Standards Review Board; and

WHEREAS, having consulted with its solicitor, the Board of Commissioners of the Borough of West Cape May has determined that Section 3-4 is preempted by New Jersey State Law, specifically N.J.S.A. 2C:34-1 through 7; and

WHEREAS, Chapter III, Section 3-5 of the Revised General Ordinance of the Borough of West Cape May entitled, "Paraphernalia Relating to Controlled Dangerous Substances," prohibits the advertisement, display, or sale of paraphernalia ordinarily used to process, smoke, or inject a controlled dangerous substance; and

WHEREAS, having consulted with its solicitor, the Board of Commissioners of the Borough of West Cape May has determined that Section 3-5 is preempted by New Jersey State Law, specifically N.J.S.A. 2C:36-1 through 9; and

WHEREAS, the Board of Commissioners of the Borough of West Cape May has accordingly determined that the Borough should repeal Sections 3-4 and 3-5 under Chapter III based on preemption by State Law; and

WHEREAS, the Board of Commissioners desires to repeal Sections 3-4 and 3-5 of Chapter III of the Revised General Ordinance of the Borough of West Cape May.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Borough of West Cape May as follows:

1. The averments of the preamble are incorporated herein by reference.
2. Section 3-4, Chapter III of the Revised General Ordinances of the Borough of West Cape May, entitled, "Pornography" is hereby repealed.
3. Section 3-5, Chapter III of the Revised General Ordinances of the Borough of West Cape May, entitled, "Paraphernalia Relating to Controlled Dangerous Substances" is hereby repealed.
4. All other ordinances in conflict or inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

5. Should any section, paragraph, sentence, clause, or phrase of this ordinance be declared unconstitutional or invalid for any reason, the remaining portions of this ordinance shall not be affected thereby and shall remain in full force and effect, and to this end the provision of this ordinance are hereby declared to be severable.
6. This Ordinance shall take effect within twenty days of final passage and publication, according to law.

Pamela M. Kaithern, Mayor

Peter. C. Burke, Deputy Mayor

Carol E. Sabo, Commissioner

Suzanne M. Stocker, RMC
Municipal Clerk

Introduced: January 4, 2017
Adopted: January 25, 2017

NOTICE OF PENDING ORDINANCE

The foregoing Ordinance was introduced at a Regular Meeting of the Board of Commissioners of the Borough of West Cape May held on January 4, 2017, when it was read for the first time and then ordered to be published according to law. This Ordinance will be further considered for final passage by the Board of Commissioners of the Borough of West Cape May at a meeting to be held at Borough Hall, 732 Broadway, West Cape May, New Jersey on January 25, 2017, at 4:00pm or as soon thereafter as possible, at which time and place, all persons interested will be given an opportunity to be heard concerning such ordinance.

Suzanne M. Stocker, RMC
Municipal Clerk

NOTICE OF FINAL ADOPTION

The above captioned Ordinance was passed on Second Reading, Public Hearing and Final Adoption by the Board of Commissioners of the Borough of West Cape May, in the County of Cape May, State of New Jersey, at a Regular Meeting of the Board of Commissioners held on January 25, 2017.

I hereby certify that the foregoing is a true copy of an Ordinance duly passed and adopted by a majority of full membership of the Board of Commissioners of the Borough of West Cape May, County of Cape May, New Jersey, at a meeting held on January 25, 2017.

Municipal Clerk