

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

ORDINANCE NO. 516-17

AN ORDINANCE AMENDING THE PROPERTY MAINTENANCE CODE

WHEREAS, Section 10-9 of the West Cape May Code sets forth the regulation of property maintenance; and

WHEREAS, the Borough Commission of West Cape May has determined that Section 10-9 should be revised to provide clearer standards for maintaining property in the Borough; and

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

Section 1. The averments of the preamble are incorporated herein.

Section 2. Subsection 10-9 of the West Cape May Code is hereby deleted in its entirety and replaced with the following:

10-9.1 Purpose.

The purpose and intent of the regulations contained herein are as follows:

- A. To define as public nuisances and violations of this chapter those conditions which constitute visual blight or which could result in conditions which are harmful or deleterious to the public health, safety and welfare;
- B. To develop regulations that will promote the sound maintenance of property and the enhancement of the livability, community appearance, and the social, economic and environmental conditions of the community;
- C. To establish guidelines or procedures for the correction of property maintenance violations and nuisances that afford due process and procedural guarantees to affected property owners and tenants; and
- D. To provide proper authority guidelines, regulations, administration and enforcement for the implementation of the purposes and intent of this chapter.

10-9.2 Definitions

"Backyard" means that portion of property between a building and the back property line.

"Building" means any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, or property.

"Borough" means the Borough of West Cape May.

"Code enforcement officer" means that individual employed by the Borough whose primary responsibility is enforcement of this chapter; and, code enforcement activities. A code enforcement officer, for the purpose of enforcing provisions of this code, shall also include a code enforcement employee, building inspector, fire safety inspector, street and sidewalk inspector, water/wastewater inspector, engineering inspector and a police officer.

"Driveway" means the accessway between the street and the garage or carport.

"Front yard" means that portion of property between the street and a building.

"Owner" and "property owner," as used in this chapter, and unless otherwise required by the context, shall be deemed to include any person owning, leasing, renting, occupying, or having charge or possession of any property in the Borough to and including any person identified as owning property as shown on the last assessment roll.

"Person" means any individual, partnership, corporation, association, or other organization, however formed.

"Property" means any real property, or improvements thereon.

"Public nuisance" includes anything which is or is likely to become injurious to health or safety or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, or unlawfully obstructs the free passage or use, in the customary manner, of any public park, square, street or highway; and includes a condition of visual blight. Enumeration of such nuisances in Section 10-9.3 shall not be deemed exclusive.

"Side yard" means that portion of property between a building and the side property line.

"Visual blight" means any unreasonable, unsafe, or unlawful condition or use of premises or of building exterior which by reason of its appearance as viewed at ground level from public street or from neighboring premises, is detrimental to the property of others.

10-9.3 – Public Nuisance Conditions

It is a public nuisance for any person owning, leasing, occupying or having charge of any property within the Borough to maintain such property in a condition detrimental to the public health, safety, general welfare, or is so

defective, or in such condition of deterioration or disrepair that the same causes a material detrimental to proximal properties and improvements.

The following is a non-exclusive list of example conditions or activities, any one of which shall constitute a public nuisance under this section:

- A. Land configuration of which whether in natural state or as a result of grading operations, excavation or fill, causes erosion, subsidence, silting of the Borough storm drain system or surface water drainage problems of such magnitude as to be injurious or potentially injurious to the Borough stormwater system, public health, safety and welfare or to adjacent properties
- B. Building exteriors, doors, windows, walls, fences, driveways, curbs, gutters, sidewalks, walkways and parking areas which are maintained in such condition as to become so defective or in such condition of deterioration or disrepair that the same causes an unsafe condition, interference with public convenience or is materially detrimental to nearby properties and improvements;
- C. Dead, decayed, diseased trees or overgrown vegetation, likely to harbor vermin and other nuisances, or causing detriment to neighboring properties, or causing or adding to a fire hazard.
- D. Obstruction or encroachment of any public property, including but not limited to any public street, public alley, highway, right-of-way, park, building, or other land dedicated to public use;
- E. Any violation of the standards, regulation or codes for buildings and construction adopted by the Borough;
- F. Any condition recognized in law or in equity as constituting a public nuisance, or any condition existing on property which, in the opinion of the code enforcement officer, constitutes visual blight;

10-9.4 Code Enforcement Officer to Act as Enforcement Officer.

The Code Enforcement Officer of the Borough of West Cape May shall act as the officer of the Borough to enforce the provisions hereof. (Ord. No. 418-08 § 3)

10-9.5 Notice of Violation.

Should the Code Enforcement Officer determine that a violation of these provisions exists, he shall cause notice to be given to the owner or tenant or both, which notice shall describe the violation and state that unless the described violation is abated, removed and remedied within ten (10) days from the date of the giving of the notice the violation shall be abated, removed and remedied by the Borough and the cost thereof assessed as a lien against that land. (Ord. No. 418-08 § 4)

10-9.6 Service of Notice.

Any notice given under authority of this section shall be served personally when such service is practical; or it may be mailed, registered mail and postage prepaid, addressed to the owner at the last known Post Office address as the same may appear on the Tax Collector's records. (Ord. No. 418-08 § 5)

10-9.7 Abatement of Nuisance.

Upon failure of the owner or tenant to abate, remove or remedy the violation in manner satisfactory to the Code Enforcement Officer within the ten (10) days following notification, the Borough may cause the violation to be abated, removed and remedied. (Ord. No. 418-08 § 6)

10-9.8 Record of Expenses.

The Borough shall keep an accurate record of all expenses incurred in causing the abatement or removal; and upon completion of the work the Code Enforcement Officer shall certify in writing the total costs thereof. (Ord. No. 418-08 § 7)

10-9.9 Cost of Removal to be Lien Against Premises.

Upon receipt of any such certification, the same shall be examined by the Governing Body if found to be correct, the Governing Body shall declare by the passage of a resolution that the costs be certified to the Tax Collector as a lien against the land in question. Upon receipt by the Tax Collector of any such resolution and certification of costs, the same shall be entered upon the Tax Collector's records as a lien against the property and shall become and form a part of the taxes next to be assessed and levied upon the property. Thereafter, if the lien remains unpaid it shall bear interest when it becomes delinquent at the same rate as other delinquent taxes and shall be collected and enforced by the same officers and in the same manner as taxes. (Ord. No. 418-08 § 8)

Section 3. The provisions of this ordinance are severable. Should any provision be found invalid, that finding shall not affect the validity of the remaining provisions.

Section 4. All ordinances or parts of ordinances of the Borough of West Cape May, heretofore adopted, which are inconsistent with any of the terms and provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

Section 5. This Ordinance shall become effective 20 days after final passage and publication as provided by 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

