

LAW OFFICE

## *Cafiero & Kaufmann*

Andrew J Cafiero  
[andrew.cafiero@cafierolaw.com](mailto:andrew.cafiero@cafierolaw.com)  
Andrea Cafiero Balliet  
Of Counsel

a PROFESSIONAL ASSOCIATION  
3303 NEW JERSEY AVENUE  
WILDWOOD, NJ 08260

William J Kaufmann  
[william.kaufmann@cafierolaw.com](mailto:william.kaufmann@cafierolaw.com)  
Bruce B. Conwell, Jr.  
[bruce.conwell@cafierolaw.com](mailto:bruce.conwell@cafierolaw.com)

(P)(609) 522-0511  
(F)(609) 729-3441  
[info@cafierolaw.com](mailto:info@cafierolaw.com)

December 4, 2018

Scott Jett, R.M.C., City Clerk  
CITY OF NORTH WILDWOOD  
901 Atlantic Avenue  
North Wildwood, NJ 08260

Re: ***Ordinance 1770 Amending and Supplementing Ordinance 1177, as Amended and Supplemental***

Dear Scott:

Enclosed please find a draft Notice to be published in connection with the referenced Ordinance pursuant to the provisions of N.J.S.A. 40:49-2.1. You may recall that when an ordinance to be adopted pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1, *et. seq.*, is in length six or more octavo pages of ordinary print then a summary of the ordinance may be published, notwithstanding the publication requirements that otherwise are set forth in N.J.S.A. 40:49-2. The within Notice is intended to be that summary.

In addition to the above, N.J.S.A. 40:49-2.1b requires that three copies of the full ordinance be placed on file in your office for public inspection until such time as final action is taken on the ordinance. Also, N.J.S.A. 40:49-2.1c requires the "publication or arranging for the publication of the proposed ordinance in pamphlet or other similar form, which may be sold by the municipality at a price not to exceed the cost of publication and distribution." I think that paragraph may be satisfied by simply providing a copy of the full ordinance to anyone who asks for one, charging copying fees at the costs established under OPRA. Since this is a zoning ordinance, there are a few other statutory provisions to bear in mind.

N.J.S.A. 40:55D-64 requires that, prior to the hearing on adoption of the ordinance, it *shall* be referred to the Planning Board pursuant to N.J.S.A. 40:55D-26. This is true and applicable even though the ordinance may have been drafted by the Planning Board and sent to City Council by the Planning Board. Under the provisions of N.J.S.A. 40:55D-26a, upon referral, the Planning Board has 35 days to make and transmit a report to the governing body. That report is to include an identification of any provisions of the proposed ordinances that are inconsistent with the Master Plan along with recommendations concerning those inconsistencies. Since the 35 days that the Planning Board has to act will not expire until January 2019, in this case if the report is not received from the Planning Board prior to December 31, 2018 then this ordinance cannot be adopted in 2018 and the entire process, beginning with introduction on first reading, will have to be repeated and will have to take place in 2019.

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The subject ordinance will affect property within 200 ft. of the Borough of Stone Harbor, the Township of Middle, the Borough of West Wildwood and the City of Wildwood. Therefore, N.J.S.A. 40:55D-15a requires notice to be given to the clerks of those communities. That statute provides that notice by personal service, certified mail or by email, with confirmation that the email was delivered, shall be made to the clerk of an adjoining municipality of all hearings on the adoption, revision or amendment of a development regulation involving property situated within 200 ft. of such adjoining municipality at least ten days prior to the date of any such hearing. N.J.S.A. 40:55D-15b further requires that notice by personal service, certified mail or by email, with confirmation that the email was delivered, be served upon the County Planning Department of all hearings on the adoption, revision or amendment of any development regulation at least ten days prior to the date of the hearing. With regard to the County Planning Department, the notice shall include a copy of the proposed ordinance. To play it safe, I suggest that copies of the ordinance be given to the clerks of the adjoining municipalities as well.

In addition to the usual requirement to publicize notice of adoption of an ordinance, upon passage of this ordinance N.J.S.A. 40:55D-16 requires that a copy must be filed with the County Planning Department. The ordinance does not become effective until such filing is made. Also, since the summary publication provisions of N.J.S.A. 40:49-2.1 will be used, that statute requires that upon adoption of the ordinance a copy be transmitted to the Tax Assessor.

In conclusion, upon your review of the foregoing should you have any questions or require any additional information please do not hesitate to contact me.

Thank you for your consideration of all of the above.

Sincerely,



William J. Kaufmann

WJK/sd

Enclosure

Via email delivery

Cc: Patrick Rosenello, Mayor  
Salvatore Zampirri, Council President  
Kevin Yecco, City Administrator  
Ronald Simone, Administrative Assistant  
Robert Belasco, Esquire, Planning Board Solicitor  
Robert Davis, Planning Board Chairman