

**[HISTORY: Adopted by the Board of Commissioners of the Borough of Cape May Point 9-3-1974 as Ch. 85 of the 1974 Code. Sections 150-7, 150-13D, 150-31A, 150-33 and 150-34 amended at time of adoption of Code; see Ch. I, General Provisions, Art. 1. Other amendments noted where applicable.]**

GENERAL REFERENCES

- Environmental Commission — See Ch. 14.
- Beaches — See Ch. 58.
- Certificate of land use compliance — See Ch. 67.
- Flood and storm zones — See Ch. 90.
- Land use procedures — See Ch. 105.
- Subdivision of land — See Ch. 132.

*ARTICLE I Authority; Scope*

**§ 150.1. (Reserved)<sup>1</sup>**

**§ 150-2. Scope.**

The provisions of this chapter shall apply to all properties, buildings and structures within the corporate limits of the Borough of Cape May Point.

*ARTICLE II Definitions*

**§ 150-3. Terms defined.**

**[Amended 1-25-1979 by Ord. No. 173-78]**

Except where the context shows clearly that a different meaning is intended, the following terms, as used in this chapter, shall have the meanings indicated:

**ACCESSORY BUILDING**— A single-story building, including a private garage, on the same lot but subordinate to the main building and used exclusively for a purpose customarily incidental to that of the main building. No cooking facilities, toilet facilities or living quarters can exist in an accessory building. **[Amended 10-13-1988 by Ord. No. 270-88]**

**ACCESSORY USE** —A use on the same lot with but subordinate and customarily incidental to the main use of the lot or of the main building thereon.

**ARBOR/TRELLIS/PERGOLA** — A freestanding construction, including overhead members, and which is less than 50% enclosed in each plane and is used for decorative purposes or growing certain plants. **[Added 4-9-1998 by Ord. No. 394-98]**

**BOUNDARIES OF LOT or PROPERTY LINE**— The boundary lines of a parcel of land as fixed by recorded deed of conveyance or by map filed in the office of the County Clerk.

**BUILDING** — Any structure, including but not limited to open or closed attached porches, decks, enclosed patios, annexes or additions, that requires for its use a fixed location on or above the land; provided, however, that an interior change or alteration of the structure which shall create additional living quarters shall also be deemed to be a “building” for the purposes of this

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<sup>1</sup> Editor’s Note: Former § 150-1, Statutory authority; as amended, was repealed 6-14-1990 by Ord. No.291-90

chapter. This definition excludes driveways, ground level patios and sidewalks. [Amended 7-12-1984 by **Ord. No. 222-84, Amended 6-10-2003 by Ord. No. 467-03**]

**BUILDING LINE** — A line located on the lot parallel with the (front) street line and at a distance there from equal to the depth of the required front yard.

**CONSTRUCT**— In addition to its usual meaning, includes the meaning of the words “reconstruct,” “relocate,” “build,” “rebuild,” “erect,” “alter,” “adapt” and “arrange.”

**DWELLING** [Amended 10-13-1988 by **Ord. No.270-88**]:

- A. **SINGLE-FAMILY DWELLING** — A wholly detached building constructed or adopted for use exclusively as a place of residence for one family only.
- B. **MULTIPLE-FAMILY DWELLING**— A wholly detached building constructed or adopted for use as a place of residence for two or more families.

**EFFECTIVE DATE OF CHAPTER** — The date on which Ordinance No. 132-68 became operative, namely, the date of publication (in full or by title) after final passage and adoption.

**FENCE** — A freestanding, constructed barrier used to delineate a particular area, restrict ingress to or egress from an area or for decoration. [**Added 4-9-1998 by Ord. No. 394-98**]

**GROSS FLOOR AREA**—

[**Added 1-14-1992 by Ord. No. 313-92; Amended 6-2004 by Ord. No. 482-04**]

The total of

1. all floor area within the horizontal and vertical perimeter of the outside walls of the main building, without deduction for hallways, stairs, closets, thickness of walls, columns or other features,
2. the area of the floor below that portion of habitable attic ceiling, with ceiling height at or above four feet, and
3. all occupiable or habitable areas with a ceiling at least seven feet above the floor surface (including an earthen floor) and enclosed on at least three sides and located beneath other gross floor area. Decks and porches shall be included. Attached garages not located beneath other gross floor area, grade level crawl spaces, stoops and steps shall not be included. [**Added 6-2004 by Ord. No. 482-04**]

The inclusion of the areas specified in (3.) above in **GROSS FLOOR AREA** shall become effective on July 1, 2004. Structures existing prior to July 1, 2004 and proposed structures for which a valid Zoning Permit has been issued prior to July 1, 2004 otherwise in compliance with maximum gross floor area except for the provisions of (3.) above shall be deemed to be in compliance with maximum floor area. [**Added 6-2004 by Ord. No. 482-04**]

**GROUND FLOOR AREA** (of any building) [**Repealed 1-13-1994 by Ord. No. 337-93**]

**HABITABLE ATTIC**— The space between the ceiling beams of the top story of a building and its roof rafters which has a stairway as a means of access and egress and in which the ceiling area, at a height of 7 $\frac{1}{3}$  feet above the attic floor, is not more than  $\frac{1}{3}$  of the area of the next floor below. [Added 1-14-1992 by Ord. No. 313-92]

**HABITABLE FLOOR AREA** [Added 10-13-1988 by Ord. No. 270-88; repealed 1-14-1992 by Ord. No.313-92]

**LOT** — Any separate parcel of land having boundaries fixed by recorded deed of conveyance or by map filed in the office of the County Clerk.

**NONCONFORMING BUILDING OR USE** — A building or a use of land or building existing at the effective date of this chapter which does not conform to the requirements of this chapter.

**OPEN PORCH** [Repealed 1-13-1994 by Ord. No. 337-93]

**PARKING SPACE** — An open space or garage on a lot, used for parking operative motor vehicles, the area of which is not less than 200 square feet exclusive of drives, aisles or maneuvering areas and to which there is direct and unobstructed access from a street.







**PERSON**— Includes a natural person, copartnership, association, corporation and any number of them.

**PRIVATE GARAGE**— A garage not conducted as a business or used for storage of more than one commercial vehicle and two pleasure cars.

**ROOMING HOUSE** — A dwelling having rooms to let without cooking facilities for transient paying guests.

**SCREEN**— A principally freestanding constructed protective device or object used to conceal or protect a particular interior local area of the property limited to 12 feet in length and six feet above the average elevation of the lot. [Added 4-9-1998 by Ord. No. 394-98]

**SIGNS** – any object, device, display or structure or part thereof, which is used to advertise, identify, display, direct or attract to an object, person, institution, organization, business, product, service, event or location by any means including, but not limited to, words, letters, figures, designs, symbols, pictures, colors, exterior or interior, illumination or projected image. [Added 4-17-2003 by Ord. No. 463-02]

**SPECIAL BARRIER-FREE ACCESS** — A ramp, landing walkway or other constructed feature to be located on the exterior of a residential dwelling which is deemed necessary to provide access not otherwise obtainable to the interior of the building. [Added 6-10-1999 by Ord. No. 415-99]

**STREET LINE**— The side line of a street, road or highway as dedicated to the public or as otherwise acquired by the borough, township, county or state for public use, and, for the purpose of this chapter, is the boundary line between the public way and the adjacent land.

**TRAILER**— A vehicle with or without its own motive power and mounted on wheels or designed to be mounted and transported.

**VEGETATION** – Plants of an area, including, but not limited to, flowers, shrubs and trees. [Added 07/19/07 by Ordinance 534-07]

**YARD:**

- A. FRONT YARD** — The required open space the full width of the lot, extending from the front boundary or property line of the lot to the nearest main building exclusive of overhangs and decorative projections up to two and one half (2 ½) feet in horizontal width. [Amended 6-10-2003 by Ord. No. 467-03]
- B. REAR YARD** — The required open space the full width of the lot, extending from the rear boundary line or property line of the lot to the nearest main building, exclusive of overhangs and decorative projections up to two and one half (2 ½) feet in horizontal width. [Amended 1-13-1994 by Ord. No. 337-93, Amended 6-10-2003 by Ord. No. 467-03]

- C. SIDE YARD** — The required open space from the front yard to the rear yard on the lot, extending from the side boundary line or property line of the lot to the nearest main building, exclusive of overhangs and decorative projections up to two and one half (2 ½) feet in horizontal width. [Amended 1-13-1994 by Ord. No. 337-93, Amended 6-10-2003 by Ord. No. 467-03]

*ARTICLE III Prohibited Uses*

**§ 150-4. Prohibited uses enumerated.**

The use of lands and buildings permitted by this chapter shall not be construed to include the following:

- a. The erection or use of any tent for dwelling purposes.
- b. The use of any trailer, travel trailer, motor home, mobile manufactured home or similar vehicle for dwelling purposes and the use of land as a collective parking place or camp for said vehicles. [Amended 11-12-1987 by Ord. No. 254-87]
- c. A used car lot.
- d. Roller-skating rinks.
- e. Sand or gravel pits.
- f. Tourist camp, hotel or motel. [Amended 1-25-1979 by Ord. No. 173-78]
- g. Open-air theaters.
- h. Livery or boarding stables.
- i. Training or boarding kennels.
- j. Commercial warehouses, contractors' storage yards, junkyards, secondhand lumber storage yards or other building materials storage.
- k. Commercial laundries, cleaning and dyeing works, slaughtering of poultry or animals, processing of foods, meat or fish smoking, rendering of fats and by-products.
- l. Any commercial process of manufacture, assembly or treatment which is not clearly incidental to a retail business conducted on the premises or which constitutes a nuisance by reason of noise, odor, dust, smoke or vibration.
- m. The dismantling or storage of wrecked, disabled or dismantled automobiles or airplanes or parts thereof.
- n. <sup>2</sup>Storage of boats, boat trailers, trailers, and campers. [Added 11-8-2001 by Ord. No. 442-01]
  - (1) Storage of boats, with or without their detachable trailer, trailers, and campers for longer than a consecutive period of 72 hours in any calendar quarter is prohibited in the front yard of any property, or in both the front yard and side yard facing the adjacent street, when the residential property is a corner lot. For the purposes hereof, a driveway is considered part of the front yard.
  - (2) For the purposes hereof, the definitions of front yard, side yard, and rear yard shall be as set forth in § 150-3 of this Code.
  - (3) When temporarily parked within the seventy-two-hour grace period, the boat and its trailer, trailers, and campers must be a minimum of four feet from any property line and four feet from any structure.
  - (4) No portion of the boat or its trailer, trailers, or campers may encroach upon any public right-of-way, including sidewalks.

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<sup>2</sup> Editor's Note: Former Subsection N, regarding solid board fences was repealed 1-13-1994 by Ord. No. 337-93



- (5) If boat covers, either custom or otherwise, are used, they must be tightly secured to the boat.
  - (6) Existing nonconforming parked boats, trailers, and campers are not exempt from the above provisions, as of the effective date of this subsection.
  - (7) Any boat, boat trailer, trailer, or camper stored in a side or rear yard and not enclosed in a garage shall be screened from view. Such screening shall not be less than six feet in height and shall consist of either a trellis, latticework, decorative block, basket-weave fencing, open artistic block, shrubbery or other similar material approved by the Zoning Officer, except when such screening exceeds six feet in height, the same shall consist of only shrubbery.
  - (8) Only one boat, with or without a boat trailer, or trailer, or camper shall be permitted to be stored outdoors in any required yard area on any residential lot.
  - (9) As a special exception to Subsection N(8) (above), outdoor storage in any side or rear yard area of no more than two auxiliary boats of length less than 15 feet or of no more than two canoes or kayaks shall be permitted.
  - (10) Any such vehicle stored in accordance with this section shall not be occupied and shall not be provided with utility connections other than required for vehicle maintenance and shall not be used for the storage of any non-recreational material.
  - (11) No camper or trailer shall be used for dwelling purposes or as sleeping quarters, nor shall any such trailer or camper be used for storage or, space for the permanent conduct of a business, profession, occupation or trade.
  - (12) The area in which any boat, boat trailer, trailer, or camper is to be parked or stored shall not preempt any off-street parking space required to be provided by any provision of this chapter.
  - (13) For violation of any provision of this subsection, any person, firm, or corporation shall, upon conviction, be subject to punishment by one or more of the following: a fine of not more than \$1,000; imprisonment in the County Jail for a term not exceeding 90 days; or by a period of community service not exceeding 90 days. Each and every day in which a violation of any provision of this subsection or any other ordinance of the Borough shall constitute a separate violation.
- o. Club, fraternity, sorority and boat houses, except that this shall not be construed to prohibit the moving of existing buildings necessitated by shoreline erosion.
  - p. Row houses.
  - q. Public garages and motor vehicle service stations.
  - r. Apartments or living quarters in basements or below finished grade of lot.
  - s. (Reserved)<sup>3</sup>
  - t. Public auction marts; road stands.
  - u. Dumping of garbage, rubbish, refuse or other objectionable material for the purpose of regrading or landscaping land on which deposited.
  - v. Any permitted sign erected within the Borough of Cape May Point shall not be closer than fifteen (15) feet to any cart way be it borough, county, state or federally owned or owned by any subdivision thereof. Any sign previously erected prior to the effective

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<sup>3</sup> Editor's Note: Former Subsection S, regarding buildings supported on piers or pilings as amended 10-13-1988 by Ord. No. 270-88, was repealed 1-13-1994 by Ord. No. 337-93

date of this Ordinance shall be permitted to remain, subject to any easement or right-of-way unless substantially destroyed. **[Added 4-17-2003 by Ord. No. 463-02]**

- w. All permitted signs shall be maintained in good order. **[Added 4-17-2003 by Ord. No. 463-02]**

*ARTICLE IV Compliance*

**§ 150-5. Conformance required.**

No person (unless otherwise authorized by law or by order of the Board of Adjustment) shall occupy or use any land or construct or locate any building within the Borough of Cape May Point except in conformity with the restrictions and regulations established by this chapter for the zone in which such land or building is located and in conformity with all other pertinent terms and provisions of this chapter.

**§ 150-6. Aiding or assisting in violation.**

No person (unless otherwise authorized by law or by order of the Board of Adjustment) shall aid or assist any person in the occupation or use of any land or in the construction or location of any building within the Borough of Cape May Point unless such occupation or use of land or unless such building is in conformity with the restrictions and regulations established by this chapter for the zone in which such land or building is located and in conformity with all the other pertinent terms and provisions of this chapter.

**§ 150-7. Erection of new structures.**

**[Amended 1-26-1989 by Ord. No. 272-88]**

Any building or structure which shall be constructed or located on or after the effective date of this chapter in violation of the restrictions or regulations established thereby for the zone in which such building or structure is located and/or in violation of any of the other pertinent terms and provisions of this chapter shall be changed, altered, corrected and/or relocated by the person who constructed or located such building and by the owner of the land on which such building or structure is situate, so that such building or structure and the premises of which it is a part shall thereafter conform to the restrictions and regulations established by this chapter for the zone in which such building or structure is located and shall conform to all other pertinent terms and provisions of this chapter. Such change, alteration, correction and/or relocation of building or structure shall be made and effected within ten (10) days next after the Zoning Officer shall have made and shall have served upon the person who constructed or located such building and/or upon the owner of the land on which such building or structure is situate, an order in writing directing that such change, alteration, correction and/or relocation of the building or structure be made and effected within ten (10) days next after making the service of such order, which order the Zoning Officer may serve or cause to be served by delivering the same or a duplicate thereof to the person to whom such order is directed or by forwarding the same or a duplicate thereof, by first class mail, to the last known post office address of such person and by posting a duplicate of such order on the building or premises mentioned.

*ARTICLE V Zones and Zoning Map*

**§ 150-8. Classes of zones.**

**[Amended 1-25-1979 by Ord. No. 173-78]**

For the purpose of this chapter, the Borough of Cape May Point is hereby divided into the following two (2) zones:

- A. R-1 Residential Zone.
- B. P Public Grounds Zone.

**§ 150-9. Zoning Map.**

**[Amended 1-25-1979 by Ord. No.173-78]**

There is filed with the Clerk of the Borough of Cape May Point a Zoning Map, dated April 19, 1977, on which is delineated in detail the districts hereinbefore set forth, showing the boundaries thereof, which Zoning Map is an official record and may be inspected at any time during regular business hours by persons interested in the same.<sup>4</sup>

**§ 150-10. Purchase of copies of chapter and Map.**

Copies of this Zoning Map and this chapter shall be made available to all interested parties upon payment of a reasonable fee.

*ARTICLE VI - R.1 Residential Zone*

**§ 150-11. Permitted uses.**

**[Amended 1-25-1979 by Ord. No. 173-78; 1-13-1994 by Ord. No. 337-93]**

In residential areas, no building or other structure and no area shall be used, and no building or other structures shall be built, altered or erected to be used, for any purpose other than that of:

- A. One single-family dwelling.
- B. Public park or playground.
- C. Churches, Sunday schools and other places of worship.
- D. Charitable institutions, hospitals and sanatoriums.
- E. Municipal buildings, public library.
- F. Office of a resident professional person.
- G. Home occupations employing no outside help.
- H. Accessory building, provided that when housed in a separate building, other than a private garage, on the lot, no cooking facilities or living quarters shall be installed, and provided further that no permit shall be issued for an accessory building before construction and completion of the main building.

**§ 150-11-1. Affordable Housing Needs**

**[Amended 12-14-06 by Ord. No. 526-06]**

**§ 150-11-1.1. Summary**

The Borough of Cape May Point uses its zoning code to meet affordable housing needs by conditionally permitting accessory apartments. The ordinance allows owners of a principal residence to create an accessory apartment of at least 300 square feet but not greater than 25% of

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<sup>4</sup> Editor's Note: A copy of the Zoning Map is included at the end of this chapter

the total floor area. The Borough has limited the number of new permitted accessory apartments to 5.

**§ 150-11-1.2. Ordinance**

It is the specific purpose and intent of this section to allow accessory apartments on one-family parcels of minimum size of 5,000 square feet to provide the opportunity for the development of affordable housing units to meet the needs of the elderly, the young, persons of middle income, and the relatives or domestic employees of the owners of the principal residence. It is also the purpose of this limited, special-use provision to allow more efficient use of the Borough's existing stock of dwellings and the Borough's existing stock of accessory buildings, to allow existing residents the opportunity to remain in large, underutilized houses by virtue of the added income for them from an accessory apartment, and to protect and preserve property values in the Borough of Cape May Point. No new approvals of special permits will be issued whenever a total of 1 special permit has been approved. To help achieve these goals to promote the other objectives of this chapter and of the Master Plan, the following specific standards and limitations are set forth for such accessory apartment use.

A. Occupancy.

- (1) The owner(s) of the one-family lot upon which the accessory apartment is to be located shall occupy and maintain as his or her legal full-time residence at least one of the dwelling units on the lot.

B. Location and number of units.

- (1) An accessory apartment may be located in the principal dwelling building or in a permitted accessory building, such as a barn or garage, and may include existing, new, or expanded structure construction.
- (2) There shall be no more than one accessory apartment permitted per one-family building lot.
- (3) An accessory apartment is not permitted on any single lot where more than one dwelling unit already exists, regardless of whether the additional dwelling is a prior nonconforming dwelling unit or not.

C. Size.

- (1) The minimum floor area for an accessory apartment located within a principal dwelling building shall be 300 square feet, but in no case shall it exceed 25% of the total floor area of the dwelling building.
- (2) For an accessory apartment located in an existing accessory building, the minimum floor area shall also be 300 square feet.

D. Other requirements.

- (1) Exterior appearance. Principal buildings containing an accessory apartment shall have only one front or principal entry to the building, and the accessory apartment shall be located, designed, constructed, and landscaped so as to preserve the appearance of the principal building as a single-family residence to the maximum extent feasible and further to enhance and not detract from the single-family character of the principal building and the surrounding neighborhood. An accessory apartment shall have a



- separate, distinct entry, which does not detract from the single-family character of the principal building.
- (2) Off-street parking. Off-street parking requirements shall be that two off-street parking spaces must be provided for each dwelling unit on the property of the applicant. Additional parking areas shall be paved only when proven necessary and shall be screened and buffered from adjacent properties to the extent possible.
  - (3) Approval of utilities.
  - (4) The occupant must meet the established income limitations for low-income households as specified by the rules and regulations of COAH.

**§ 150-12.<sup>5</sup> Area, yard and height regulations.**

**[Amended 1-25-1979 by Ord. No. 173-78, Amended 6-10-2003 by Ord. No. 467-03]**

- A. The minimum land area per building or dwelling shall be 5,000 square feet, and the minimum width of the lot at its narrowest shall be 50 feet. **[Amended 2-12-04 by 475-04]**
- B. No more than 30% of the lot area shall be occupied by the sum total of all buildings or structures on the lot, not including overhangs up to two and one-half (2 ½) feet in horizontal width. The portion of overhangs, if any, more than two and one-half (2 ½) feet in horizontal width shall be included in the calculations of the sum total of the area of the buildings. At least 60% of the lot shall be either left in its natural state or covered in vegetation pursuant to § 150-21, hereof. **[Amended 4-9-1998 by Ord. No. 394-98, Amended 6-10-2003 by Ord. No. 467-03]**
- C. No building, including an open or enclosed porch, or accessory building or structure shall be erected or extended nearer than 20 feet from the front property line of any lot, except that overhangs and decorative projections shall be permitted to extend two and one-half (2 ½) feet into the required 20 foot set back. In a block where at least 60% of the lots have been built upon, any new building shall be located so as to provide a front yard at least equal in depth to the average front yard of the existing buildings in the block, except that overhangs and decorative projections shall be permitted to extend two and one-half (2 ½) feet into the required set back.. Computation of the percentage of lots that have been built upon shall be determined by considering the lots on the same side of the street and in the same block as the subject property, from corner lot to corner lot of that block. The side yard paralleling the street side of the property on a corner lot shall not be reduced to a width of less than 15 feet from the side street property line, except that overhangs and decorative projections shall be permitted to extend two and one-half (2 ½) feet into the required 15 foot set back.. No main building shall be constructed nearer than 20 feet from the rear lot line of the parcel, except that overhangs and decorative projections shall be permitted to extend two and one-half (2 ½) feet into the required 20 foot set back.. (For garages and accessory buildings see Subchapter 150-29) **[Amended 7-12-1984 by Ord. No. 223-84; 12-12-1987 by Ord. No. 258-87, Amended 6-10-2003 by Ord. No. 467-03]**
- D. There shall be two side yards, which yards shall have a width of not less than 15 feet in the aggregate, exclusive of overhangs and decorative projections up to two and one-half (2 ½) feet in horizontal width per each side yard, the minimum width of either side yard

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<sup>5</sup> Editor's Note: Former § 150-12, Private garages, as amended 1-25-1979 by Ord. No.179-78 and 12-12-87 by Ord. No. 258-87, was repealed 1-13-1994 by Ord. No. 337-93. Said ordinances also provided for the renumbering of former § 150-13 thru 150-17 as § 150-12 thru 150-16, respectively

being not less than five feet, inclusive of overhangs and decorative projections.  
**[Amended 6-10-2003 by Ord. No. 467-03]**

- E. No building shall be constructed with a side which is within 10-feet of any existing building on the same lot or on an adjacent lot, inclusive of overhangs and decorative projections. In the event that enforcement of this subsection should require construction of a building with more side yard than the 15 feet aggregate for side yards, then the Zoning Officer shall issue a permit that permits construction of a building that is equally distant on each side from the buildings on adjacent lots; provided, however, that the aggregate required setback for side yards shall not exceed, nor be less than, 15 feet.  
**[Amended 7-14-1983 by Ord. No. 207-83; 12-12-1987 by Ord. No. 258-87; 1-26-1989 by Ord. No. 272-88; Amended 6-10-2003 by Ord. No. 467-03]**
- F. No building or dwelling shall be erected that would have less than 600 square feet of living area on the first floor, which shall be exclusive of any porch, breezeway or garage area when such garage is attached to the building.
- G. No main building shall exceed 27.5 feet in height from the first-floor level to the highest point in the building, exclusive of chimneys, weather vanes, flagpoles and television antennas. The first-floor level shall be constructed no lower than 10.5 feet above mean sea level and no higher than 11.5 feet above mean sea level. In the event that a property





owner cannot comply with the height provision of this chapter and have a two-and-one-half-foot crawl space below the first-floor level, the property owner may make application for a building with a crawl space not to exceed 2 1/2 feet above the natural contour. The burden of proof shall be on the property owner to establish clearly and convincingly, with supporting New Jersey licensed engineer's or surveyor's report, that the contour of the land in question is natural, the result of erosion, weather conditions, or other natural conditions and is in no way the result of any action on the part of any person or entity. **[Amended 7-12-1984 by Ord. No. 224-84]**

- H. For the purpose of Subsections C and D herein, all building setbacks shall be measured from the nearest projection on the structure to the property line, regardless of where said projections are located on the structure. **[Added 1-12-1984 by Ord. No. 210-84]**
- I. In order to protect each property from the necessary noise from operating, servicing or otherwise using mechanical equipment associated with any structure, all aboveground storage tanks and all exterior mechanical equipment, including heating units, ventilating units, air-conditioning units and heat pumps (other than individual air-conditioning units) hereafter installed to serve any existing building or structure, or a building structure to be erected in any zoning district, shall not be located in the front yard, shall be located at least 15 feet from any public right-of-way and at least five feet from any side or rear lot line and shall be located as far as reasonably possible from any contiguous lot. **[Added 5-9-1991 by Ord. No. 305-91; amended 4-9-1998 by Ord. No. 394-98]**
- J. **[Added 6-10-1999 by Ord. No. 415-99]** A special barrier-free access shall be permitted to a residential dwelling to exceed the requirements and/or maximum and/or minimum limitations of Subsections B and D hereinabove, provided that:
- (1) The Zoning Official of the borough be presented with substantiation by way of a doctor's permit and/or certification that at least a single identified individual residing in that dwelling requires special barrier-free access and approval of the zoning officer for same.
  - (2) The special barrier-free access is located and constructed in the least obtrusive manner possible and built in accordance with the uniform Construction Code.<sup>6</sup>
  - (3) The proof of continued necessity is renewed each calendar year through the Cape May Point Zoning Official.
  - (4) The special barrier-free access is removed in its entirety upon the departure from the subject property by the affected individual or individuals identified in the permit or any other cessation of continuous need.

#### **§ 150-13. Floor area ratio.**

**[Added 7-26-1984 by Ord. No.225-84; amended 10-10-1985 by Ord. No. 235-85; 1-14-1992 by Ord. No. 313-92]**

The floor area ratio is the sum total of the gross floor area of all main buildings and shall not exceed 0.42 of the total area of the lot.

#### **§ 150-14. Keeping of animals.<sup>7</sup>**

<sup>6</sup> Editor's Note: See Ch. 75, Construction Codes, Uniform

<sup>7</sup> Editor's Note: See also Ch. 54, Animals

No fowl or livestock shall be kept in any building, shelter or runway or on any land. This provision shall not prohibit the keeping of domestic animals such as dogs, cats or other domestic animals customarily housed in a dwelling.

**§ 150-15. Conversion of dwellings.**  
**[Amended 1-25-1979 by Ord. No. 173-78)**

- A. Owners of large dwellings may convert such dwellings into two or more one-family apartments, but only upon compliance by the owner with the following terms and conditions:
  - (1) Each such dwelling apartment shall contain at least two rooms and, in addition, a bathroom and kitchen or cooking area.
  - (2) Each room of such dwelling apartment shall be of reasonable size for the use intended and shall have adequate light and air from the outside.
  - (3) Each such dwelling apartment shall have safe, adequate and convenient means of access and egress.
  - (4) There shall be an open area on the lot of one thousand (1,000) square feet per apartment.
  - (5) Such conversions are encouraged to preserve the borough's older, historically or architecturally significant buildings. Therefore, the following shall be required:
    - (a) Wherever any exterior change is proposed, the plans submitted shall indicate how the architectural style of the structure is to be maintained.
    - (b) No approvals shall be given where the historical or architectural significance of such structure will be materially altered or changed.
- B. No such original dwelling shall be converted into dwelling apartments and no construction work for that purpose shall be undertaken and no permit therefore shall be issued unless and until complete plans (drawn to scale) and specifications for the conversion of such dwelling into dwelling apartments shall have been submitted to and approved by the Planning Board as a conditional use and as being in conformity with the terms and conditions of this section.
- C. The plans and specifications for the conversion of any such dwelling into dwelling apartments and all work done for that purpose shall conform to reasonable and proper standards of sanitation, safety and privacy.
- D. For the purpose of constructing and applying the provisions of this section for the conversion of large dwellings into one-family dwelling apartments, a dwelling which is in existence on the effective date of this chapter and which on said date contained more than three (3) bedrooms shall be deemed to be a large dwelling.
- E. Service Connections - All utility service connections to all new construction or SUBSTANTIAL IMPROVEMENT as defined in Article II of Chapter 90 - FLOOD AND STORM ZONES, shall be underground. [Added 07/19/07 by Ordinance 534-07]

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**ARTICLE VII<sup>8</sup> Public Grounds Zone**

**§ 150-16. Properties included; permitted uses.**

- A. Public Grounds Zones owned by a public or governmental corporation or agency shall include all recreational areas and borough-owned parking areas.
- B. No building shall be built or erected and no other uses shall be permitted except for the following purposes:

<sup>8</sup> Editor's Note: Former Art. VII, concerning the C Business Zone, and Art. VIII, concerning the X Planned Business Zone, were repealed 1-25-1979 by Ord. No. 173-78, which ordinance also provided for the renumbering of subsequent Articles and sections accordingly.

- (1) Municipal buildings.
- (2) Public libraries.
- (3) Schools and playgrounds.
- (4) Parks and recreational facilities.
- (5) Public outdoor parking area.

*ARTICLE VIIA Beach Zone*

**[Added 1-13-1994 by Ord. No. 337-93]**

**§ 150-17. Intent of zone; location; permitted uses.**

- A. It is the intent that the Beach Zone protect the borough's important beach resources from development and use that is inconsistent with their natural character or which could have an adverse impact on them.
- B. The Beach Zone is that area within the Borough of Cape May Point currently known as Block 53 in its entirety.
- C. No building shall be built or erected and no other uses shall be permitted except for the following purposes:
  - (1) Beach and dune protection projects approved by the borough.
  - (2) Recreational uses of a nature ordinarily permitted on a beach and determined by the Planning Board not to be detrimental to the dune stabilization, preservation and protection.

*ARTICLE VIII Off-Street Parking, Driveways and Curb Cuts*

**§ 150-18. Requirements.**

**[Amended 1-25-1979 by Ord. No. 173-78; 12-12-1987 by Ord. No. 258-87]**

- A. Off-street parking space in amounts specified hereafter shall be provided in connection with any use of a main building in all zones. All single-family, two-family or conversion residential uses shall provide required parking area on the same lot as the principal use. Each off-street parking space shall be at least ten (10) feet wide and twenty (20) feet long.
  - (1) Boardinghouses or rooming houses: one (1) parking space for each two (2) guest accommodations.
  - (2) Residential uses: one (1) space for each dwelling unit.
- B. All parking spaces and areas shall be accessible from a driveway or curb cut.
- C. No access area, driveway or curb cut from street to garage, carport or parking area shall exceed twelve (12) feet in width or be less than ten (10) feet in width at the street line or curb line. The access opening width must be clearly defined by way of permanent fixed markers easily visible to drivers parking their vehicles and to the police.
 

**[Amended 1-13-1994 by Ord. No. 337-93]**
- D. Any property having less than one hundred (100) feet of frontage along one (1) street shall be limited to one (1) driveway curb cut from that street. **[Amended 12-14-06 by Ord. No. 527-06]**
- E. Any property having one hundred (100) or more feet of frontage along one (1) street shall be limited to two (2) driveways or curb cuts from that street.
- F. (Former Subsection F, regarding minimum distance between driveways, was repealed **1-13-1994 by Ord. No. 337-93**)

ARTICLE IX Signs; Fencing and Landscaping

**§ 150-19. Signs and billboards.**

- A. No signs or billboards shall be permitted in any residential zone except customary professional signs and rooming house or boardinghouse signs not larger than two (2) square feet and real estate signs not larger than eight (8) square feet. No sign or billboard, except regulation traffic signs and officially placed notices of the borough, shall be placed beyond the property line of any property or extend beyond or over the sidewalk, street or highway.
- B. No flashing or neon signs shall be permitted on the exterior of any building in any zone.
- C. No sign or signs larger in total area than fifty (50) square feet shall be permitted on any commercial building, and such signs must be placed on the building or on the ground which is part of the lot on which such property is located.
- D. No lot shall contain more than one (1) sign, except during the period of construction when trade signs are permitted. Any freestanding sign shall contain the advertisement for only one (1) person, partnership or corporation, whether one- or two-sided. No sign may be placed on or attached to a building or erected independently for any purpose other than to advertise a permitted business or use conducted on the same lot. A sign temporarily advertising the sale of the lot or a portion thereof shall be permitted, but said sign shall be removed, at the expense of the advertiser, within 30 days after the transfer of the title of the property. Subcontractor's and contractor's signs must be removed within 30 days of the completing of work advertised by said signs. A sign affixed to the building, indicating only the name of the house, will not be considered an advertisement for the purpose of this chapter. **[Added 10-13-1988 by Ord. No. 270-88; amended 10-8-1992 by Ord. No. 316-92]**

**§ 150-20. Fences, walls and hedges; visibility at intersections.**

- A. On a corner lot in any zone, no fence, wall, hedge or other structure or planting more than 3 1/2 feet in height, except shade trees trimmed not less than eight feet from the ground, shall be erected, placed or maintained within the triangular area formed by the intersecting rights-of-way and a straight line joining said rights-of-way at points which are 30 feet distant from the point of intersection. **[Amended 4-9-1998 by Ord. No. 394-98]**
- B. All fences shall be a maximum of four feet in height and may be constructed at the property line except as provided at intersections. Fences may be constructed to six feet in height when located in the rear yard only.
- C. **[Amended 4-9-1998 by Ord. No. 394-98]** Each of the following requires a zoning permit:
  - (1) All fences.
  - (2) Trellises which are attached to fences.
  - (3) Trellises or screens which are located at the property line.

**§ 150-21, Landscaping and vegetation plan.**

**[Added 10-13-1988 by Ord. No. 270-88; amended 7-13-1989 by Ord. No. 277-89; 6-14-1990 by Ord. No. 291-90]**

- A. Prior to the issuance of any zoning permit for the following:

- 1. An addition or alteration to an existing structure which increases the lot coverage in excess of 10%;

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2. Construction of a new residential dwelling unit; or  
3. Removal of more than 25% of the existing vegetation covering the lot.

A landscaping and vegetation plan must be submitted to and approved by the Cape May Point Zoning Officer to ensure substantial compliance with criteria and requirements set forth in this Section, which landscaping and vegetation plan must constitute a minimum of 60% overall area of the lot and incorporate the parameters of Subsection E(1) hereafter.

For purposes of calculating the area of removal or disturbance of vegetation, trees shall be considered to cover an area equal to that encompassed by their drip line.”

**[Amended 4-9-1998 by Ord. No. 394-98, Amended 07/19/07 by Ordinance 534-07]**

- B. The utilization of natural indigenous vegetation is encouraged. **[Amended 4-9-1998 by Ord. No. 394-98]**
- C. The Zoning Officer may require such information as is reasonably necessary to enable him to make the determinations required under the provisions of this chapter.
- D. All driveways and parking areas shall be a pervious surface.
- E. Trees.
- (1) All existing trees outside a building footprint having a three-inch-diameter trunk measured from three feet above the ground shall remain if said trees are in excess of six feet from the outside of the exterior wall of the proposed structure. In the event that an applicant wishes to remove a tree or trees as above described, that applicant shall then be required to plant two trees for each tree removed, which such replacement trees shall be of at least two inches in diameter at three feet above the ground at a location on the property to be chosen by the applicant.
  - (2) In addition to replacement of removed trees above described, the applicant shall replace, at a location of his or her choice on the property, any trees located within the footprint of the proposed structure if said trees have a trunk at least three inches in diameter measured at three feet above the ground according to the same formula above. Therefore, in addition to the above-required replacement of removed trees outside the proposed footprint, plus six feet, the applicant shall plant one tree along the side yard and rear yard, which tree shall be of the same size as the replacement tree above described excepting that the applicant shall be permitted to plant two bushes in lieu of a tree if said bushes are a minimum of two feet in diameter and are classified by the Backyard Habitat for Birds, A Guide for Landowners and Communities in New Jersey, published by the New Jersey Audubon Society. This requirement is to make up for the replacement of shrubs and is in addition to the requirement for replacement trees above described where said trees are to replace removed trees from outside the building envelope. However, the applicant shall not be required to plant trees closer than 10 feet between the two, said distance measured from center trunk to center trunk. The replacement trees need not be of the same species as the trees removed, however, they shall be of the same height classification as the tree removed. The guide to height classifications contained in the Backyard Habitat for Birds shall be considered as sufficient evidence of compliance.
- F. Except as otherwise herein provided, the landscaping and vegetation plan shall retain as much of the natural vegetation as is possible.

- G. Nothing herein is to be interpreted as indicating that an applicant is prohibited from planting additional trees, bushes, grasses or flowers.
- H. Existing lots. **[Amended 4-9-1998 by Ord. No. 394-98]**
- (1) Any existing improved lots with structures shall be allowed to exist in their current state, together with routine maintenance, expansion, trimming, planting and replanting of vegetation.
  - (2) Existing improved lots with structures having less than 60% overall vegetation coverage will be allowed to remain as such, but will be considered an existing nonconforming landscaped property in which the nonconformity must be corrected should the primary structure be altered, outbuildings added or the property be significantly altered or re-landscaped. New landscaping and vegetation plan must constitute a minimum of 60% overall vegetation coverage of the lot, and incorporate the parameters of Subsection E(1).
- I. In lieu of replacing bushes, vines and grasses, the applicant shall plant or leave in place one tree at approximately twenty-foot intervals along the side yard and rear yard, which trees shall be at least two inches in diameter, or the applicant shall plant two bushes of a minimum of two feet in diameter in lieu of every second replacement tree. The requirements of this subsection are in addition to other tree requirements.
- J. In the case of the issuance of a zoning permit for alteration or construction, the property owner shall be required to plant any new vegetation provided for by the landscaping and vegetation plan within six months of the issuance of a certificate of occupancy for such structure. In the case of the issuance of a permit only for the removal of natural vegetation, the property owner will be required to plant any new vegetation provided for by the landscaping and vegetation plan within six months of the issuance of said permit.
- K. Any property owner or person aggrieved by a determination of the Zoning Officer under the provisions of this chapter may appeal to the Cape May Point Board of Adjustment; provided, however, that said appeal is filed, in writing, within 45 days after said property owner or person receives notice of the decision by the Zoning Officer.

*ARTICLE X Nonconforming Lots and Uses*

**§ 150-22. Designation.**

All buildings, structures and uses not conforming to the regulations of the district in which they are located at the time of the enactment of this chapter shall be known and regarded as nonconforming.

**§ 150-23. Continuation of nonconforming uses.  
[Amended 10-13-1988 by Ord. No. 270-88]**

A use of land for purposes other than those permitted by this chapter existing on the effective date of this chapter may be continued upon the lot or in the building so occupied. Any such structure may be restored or repaired in the event of partial destruction or be relocated in the event of water encroachment or erosion. No structure used for purposes other than those permitted by this chapter shall be enlarged or rebuilt to a size larger than that existing as of the enactment of this chapter, unless it is shown that the remodeling or additional construction is reasonably necessary to and incidental to the continuation of the nonconforming use.

**§ 150-24. Change of use.**

No nonconforming use shall, if changed into a conforming use, be changed back into a nonconforming use.

**§ 150-25. Abandonment.**

Where a nonconforming use has been abandoned for a consecutive period of two (2) years and, in the opinion of the Zoning Board, has been in fact abandoned, said building shall not be reoccupied except in conformity with the use regulations for the district in which it is located and the use may not be resumed.

**§ 150-25.1. Expansion of nonconforming structures and expansion of structures on nonconforming lots. [Added 9-14-1989 by Ord. No. 281-89]**

- A. No structural expansion or alteration which creates any nonconformity or extends or expands any existing nonconformity shall be permitted unless a variance has been granted, except that raising an entire structure to put the first floor ten and one-half (10 1/2) feet above sea level is permitted so long as the structure is not otherwise expanded or relocated.
- B. Structures on lots that do not conform to all of the area and bulk requirements of the applicable zone may not be altered or expanded unless the alteration or expansion does not create any further nonconformity nor extend or expand any existing nonconformity.

*ARTICLE XI Irregular Lots*

**§ 150-26. Approval for use.**

With approval of the Board of Adjustment and subject to such conditions as it may impose, a building for a permitted use may be erected on a lot which by reason of its limited area or odd or irregular shape or other exceptional characteristics could not be used as a site for a proposed building in conformity with the restrictions or regulations established in this chapter.

**§ 150-27. deleted 07/19/07 by Ordinance 534-07]**

*ARTICLE XII General Regulations*

**§ 150-28. (Reserved)<sup>1</sup>**

**§ 150-29. Garages and accessory buildings.**

A. (Reserved)<sup>2</sup>

- B. No garage or accessory building shall be placed closer to a side or rear property line than five (5) feet, which shall be measured from the nearest projection of the structure to the property line. A detached garage or accessory building on a corner lot shall not be nearer the street than a main building is permitted under this chapter. **[Amended 12-12-1987 by Ord. No. 258-87]**

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<sup>1</sup> Editor's Note: Former § 150-28, Foundation requirements; septic was repealed 1-13-1994 by Ord. No. 337-93

<sup>2</sup> Editor's Note: Former Subsection A, regarding the erection of garage and accessory buildings, was repealed 1-13-94 by Ord. No. 337-93.

- C. On lots of less than ten thousand (10,000) square feet, no garage shall have a capacity for storing more than two(2) motor vehicles.
- D. On lots of ten thousand (10,000) or more square feet, no garage shall have a capacity for storing more than three (3) motor vehicles.
- E. No accessory building shall be erected prior to the construction of the main building. The maximum height of an accessory building shall be fifteen (15) feet measured from the finished grade. **[Added 10-13-1988 by Ord. No. 270-88; amended 2-8-1990 by Ord. No. 286-90; 1-13-1994 by Ord. No. 337-93]**

**§ 150-30. Satellite television antennas.**  
**[Added 8-8-1985 by Ord. No. 233-85]**

No satellite television antenna shall be erected, constructed, maintained or operated in the Borough of Cape May Point except in conformance with the following regulations:

- A. Definitions. As used in this section, the following terms shall have the meanings indicated:

**SATELLITE TELEVISION ANTENNA** — An apparatus capable of receiving communications from a transmitter or a transmitter relay located in planetary orbit and, for the purpose of this chapter, is hereby declared an accessory structure.

**USABLE SATELLITE SIGNAL**— A satellite signal which, when viewed on a conventional television set, is at least equal in picture quality to that received from a local commercial television station or by way of cable television.

- B. Satellite antenna location.

- (1) Such antenna shall be located at the finished grade of the lot and the rear yard. If a usable satellite signal cannot be obtained from such rear yard, the antenna may be located on a side or front yard of the property. The location of such antenna shall be in accordance with the provisions of § 150-12 herein. For the purpose of measuring setback distance, setbacks shall be determined when the dish is in its most-horizontal position, and any concrete foundation pad shall be considered when determining the percentage of lot cover.
- (2) Such antenna shall not exceed twelve (12) feet in height when in its most-vertical position, including any platform or structure upon which said antenna is mounted or affixed. The maximum diameter of such a dish antenna shall be ten (10) feet.
- (3) Satellite television antennas shall be located and designed to reduce visual impact from surrounding properties and from public streets. Screening or buffering shall be required such that any dish antenna shall be substantially screened from view at ground level from any street. The dwelling on the lot, storage buildings, other accessory buildings, landscaping and plantings or a combination of these may be used to screen the antenna. All screening shall have a minimum height of three (3) feet. If landscaping or plantings are utilized, evergreen plantings shall be used. All



screening or buffering shall be installed when the dish antenna is installed and shall be maintained so long as the dish antenna is in place.

- (4) Only one (1) antenna shall be permitted on any tract, lot or parcel as the case maybe.
- C. Permit/plans. In order for a permit to be issued for the installation of a dish antenna, in addition to the standard building permit application, the owner/developer shall also submit for review by the Zoning Officer and Construction Code Official a plot plan prepared by a licensed engineer, surveyor or architect, containing the following:
- The location of all existing structures and the proposed dish.
  - The setbacks from lot lines of all existing structures and the proposed dish.
  - The percentage of lot coverage after the proposed dish is installed.
  - The location, height and type of proposed screening/buffering.
  - The distance from the proposed dish to buildings on adjoining lots.
  - The diameter and height of the dish measured pursuant to this section.
- D. Construction.
- All antennas and the construction and installation thereof shall conform to manufacturer's installation, Building Code and Electrical Code.<sup>3</sup>
  - Antennas shall meet all manufacturer's specifications, be of noncombustible and corrosive-resistant material and be erected in a secure, wind-resistant manner.
  - Every antenna must be adequately grounded for protection against a direct strike of lightning.
  - All wiring must be installed underground in accordance with the Electrical Code provisions therefore.

***ARTICLE XIII Administration and Enforcement***

**§150-31. Enforcing official designated; duties.**

- The provisions of this chapter shall be strictly enforced by the Zoning Officer or other persons designated by the Commissioners of the Borough of Cape May Point. **[Amended 1-26-1989 by Ord. No. 272-88]**
- It shall be his duty to examine all applications for zoning or occupancy permits for compliance with this chapter and to issue such zoning permits when the application complies with the regulations of this chapter or upon authorization of the Board of Adjustment.
- He shall file and safely keep copies of all plans submitted, and the same shall form a part of the records of his office and shall be a public record available for inspection.
- He shall submit quarterly reports to the Assessor, showing the owner, location and stated value of all proposed structures and/or additions for which he has issued permits.
- He shall report to the Commissioners all items which are in violation of the terms and provisions of this chapter.

**§ 150-32. Zoning permits**

**. [Amended 1-12-1984 by Ord .No. 212-83]**

- Definitions. As used in this section, the following terms shall have the meanings indicated:  
**BOROUGH** — The Borough of Cape May Point

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<sup>3</sup> Editor's Note: See Ch. 75, Construction Code, Uniform

**ZONING OFFICER** — An official of the Borough of Cape May Point appointed by resolution of the Borough Commissioners, whose duty shall be the issuance of zoning permits and the inspection of structures and properties to determine compliance with all the zoning ordinances of the borough. [Amended 12-12-1987 by Ord. No. 258-87]

**ZONING PERMITS** — A document issued by the Zoning Officer of the borough, which acknowledges that any use, structure or building complies with the provisions of the Borough Zoning Ordinance(s) or variance(s) there from authorized by the Borough Planning Board or Zoning Board of Adjustment.

B. Establishment of requirement for zoning permit.

[Amended 3-12-1987 by Ord. No. 246-87]

- (1) Prior to the issuance of any building permit for the erection, construction, reconstruction, alteration, conversion or installation of a structure or building or commencement of a use, the owner or occupant thereof shall first obtain a zoning permit from the Zoning Officer.
- (2) Application for a zoning permit may be made at any time prior to or contemporaneous with the application for a building permit. Proposed changes in structure from plans as approved by the Zoning Officer during construction will also be referred to the Zoning Officer for approval of said changes prior to construction.
- (3) No such zoning permit shall be issued unless, prior thereto, the following fees have been paid in regard to the following zoning permit applications:
  - (a) New dwellings, building additions and property transfers: one hundred dollars (\$100.) per application.
  - (b) New accessory buildings, fences, landscaping, satellite antennas, and all other construction: fifty dollars (\$50.) per application.

C. Appointment of Zoning Officer and duties. The Borough Commissioners shall designate, by resolution, a Zoning Officer, who shall be responsible for reviewing all applications for development and issuing zoning permits and inspecting structures and properties to determine compliance with all of the zoning ordinances of the borough. If the Zoning Officer determines that an application for development does not comply with the zoning ordinances of the borough, then he shall deny the application for a zoning permit and state his reasons therefor to the applicant. No zoning permit or building permit shall be issued until the applicant demonstrates compliance with all of the zoning ordinances of the borough or obtains a variance from the Zoning Board of Adjustment of the borough. [Amended 12-12-1987 by Ord. No. 258-87]

D. Contents of application for zoning permit. The application for a zoning permit shall be on such forms as provided by the Zoning Officer. The application shall include the name and address of the owner of the real estate, the tax lot and block numbers of the real estate and the zone in which the real estate is located. The permit

shall be accompanied by a set of architectural plans or, in the case of an accessory structure, a drawing to scale showing the structure or building to be constructed or used, including overhangs, porches, decks, bay windows, fireplaces, stairs and all other projections from the side walls of the building or structure. The application shall also be accompanied by a location survey prepared by a licensed surveyor, which shall show the proposed location of the building or structure on the lot, the location of all existing structures on the lot and the location of all structures or projections thereon on adjacent lots which are within ten (10) feet of any projection of the structure for which the application is being sought.

- E. Issuance of zoning permit. All applications for a zoning permit shall be submitted to the Zoning Officer or to the Construction Code Official. The Zoning Officer shall review all applications for completeness. No application shall be acted upon until it is complete in accordance with Subsection D hereof. The time within which the application shall be approved or denied shall not begin until the application is complete. The Zoning Officer shall have ten (10) days within which he must notify the applicant that his application is incomplete and what is needed for the application to be made complete. Otherwise the application shall be deemed complete. At the expiration of ten (10) days, the Zoning Officer shall have ten (10) additional days to review the complete application and issue or deny a zoning permit. The Zoning Officer shall communicate the contents of any denial to both the applicant and the Construction Code Official. The application for the zoning permit and the findings of the Zoning Officer shall remain in the office of the Construction Code Official and shall be a public record.
- F. Whenever an owner or group of owners own contiguous lots, no transfer of less than all of said contiguous lots or relocation of buildings shall be permitted without obtaining a permit from the Zoning Officer. Each applicant shall apply to the Zoning Officer with an accurate survey or plot plan, showing the dimensions of all lots involved and the location, including distances from all lines of all improvements situated thereon. Said permit shall only be issued in the situation where the transfer of the contiguous lots, a portion of those lots or the relocation creates no nonconformity with zoning ordinances of the Borough of Cape May Point either with reference to the lots transferred, the lots retained or the lots to which the building is relocated. In the event that a nonconformity should be disclosed during the course of the application to obtain the necessary permit, the property owner may seek relief by way of application to the appropriate Board. **[Added 7-12-1984 by Ord. No. 226-84]**

**§ 150-33. Occupancy permits.**

**[Amended 1-26-1989 by Ord. No. 272-88]**

- A. After the effective date of this chapter, no building shall be occupied or used wholly or partly or changed in usage prior to issuance of an occupancy permit by the Construction Code Official, showing that the building complies with this chapter.
- B. Endorsement on the building permit when requested by the owner of the premises or his authorized agent for the permit of occupancy, shall be made by the Construction Code Official when he is satisfied all provisions of this chapter have been met.
- C. A building shall be deemed ready for occupancy when the exterior has been finished in a permanent fashion according to the plans and specifications submitted to the

Construction Code Official and when plumbing and sanitary facilities have been installed, connected and are operational.

- D. Persons building all or part of their own structure or additions thereto for which a building permit has been issued may apply to the Board of Adjustment for a temporary occupancy permit pending completion of the structure. This temporary occupancy permit may be granted to the owner of the property only by the Board of Adjustment for an agreed period of time for the completion of certain exterior finish of the property or addition according to the approved plans as submitted, but shall not exceed twenty-four (24) months from the date of the original building permit and shall be binding upon all parties, their heirs or assigns for the fulfillment of the completion of the structure according to the original approved plans and specifications.

**§ 150-34. Violations and penalties.**

**[Amended 1-26-1989 by Ord. No. 272-88]**

- A. Any person who shall violate this chapter or do any act or thing herein prohibited or refuse or fail to do any act or thing herein required to be done or refuse or fail to comply with an order of the Zoning Officer or an order of the Board of Adjustment shall, upon conviction thereof before any judicial officer authorized to hear and determine the matter, forfeit and pay such fine, not exceeding the sum of one thousand dollars (\$1,000.), as shall be imposed by such judicial officer in his discretion, or, if the party so convicted shall be a natural person, be imprisoned in the county jail for such term, not exceeding ninety (90) days, or be subject to a period of community service not exceeding ninety (90) days, as such judicial officer, in his discretion, shall determine; provided, however, that if the party so convicted shall be a natural person, such judicial officer shall have power, in his discretion, to impose sentence of fine, imprisonment and community service. Each day thereafter during any part of which any such violation is permitted to exist shall constitute a separate offense.
- C. The Zoning Officer, Construction Code Official and any and all other aggrieved persons shall have the right of recourse to any and all remedies (whether by injunction, restraining order, mandamus or otherwise) which are or may hereafter be available by law.

**§ 150-35. Amendment or appeals.**

**[Amended 1-9-1986 by Ord. No. 237-85, 6/17/07 by Ordinance 502-07]**

As provided by law, the regulations, limitations and restrictions established by this chapter may be amended, changed, modified or repealed, and the boundaries of the zones herein established may be changed, by ordinance adopted by the Commissioners of the Borough of Cape May Point, in the manner prescribed by law, and such general power of amendment, change or modification and repeal is hereby expressly reserved to the Commissioners of the Borough of Cape May Point. Pursuant to N.J.S.A. 40:55D-17a, as amended.

