

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

ORDINANCE NO. 375-07

**AN ORDINANCE OF THE BOROUGH OF WEST CAPE MAY TO AMEND ITS
ZONING ORDINANCE UNDER CHAPTER XXVII OF THE CODE
(FLOOR AREA RATIO)**

Whereas, pursuant to the Municipal Land Use Law, the Borough of West Cape May has in effect a Master Plan and Zoning Ordinance; and

Whereas, the purpose of that Plan and Zoning Ordinance is to regulate development in the Borough in accordance with certain Borough-wide goals and objectives; and

Whereas, the Master Plan and Master Plan Reexamination Report have articulated among its goals the need to balance the preservation of farmland, open space and environmentally sensitive lands with the encouragement of infill development; and

Whereas, the Board of Commissioners has considered the matter, and believes that the following changes to the Zoning Ordinance are appropriate to better achieve the objectives of the Municipal Land Use Law and the Borough Master Plan.

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 27-6 of the revised general ordinances of the Borough of West Cape May is hereby amended as follows (inserted language is underlined, deleted language is stricken through):

27-6 Definitions.

For the purposes of this Chapter, the following terms, phrases and words shall be defined as follows: Words in the plural shall include the singular. Words used in the present tense shall include the future. The word "shall" is always mandatory and not discretionary. The word *lot* shall include the words *plot*, *premises* and *tract*. The word *used* shall include the words arranged, designed, constructed, altered, converted, rented, leased or intended to be used. The word *building* shall include the words *structure*, *dwelling*, and *residence*. Any word, phrase or term not defined in this Chapter shall have its meaning of standard of common usage.

Accessory building or use shall mean a building or use which is located on the same lot as the principal building or use and which is subordinate and customarily incident to the principal building or use. An accessory building which is attached to the principal building shall be considered part of the principal building and shall not be considered as an accessory building.

Alteration shall mean any change in, enlargement of, rearrangement or addition to a building.

Apartment building shall mean a building other than a hotel, motel, or tourist/guest house which offer residential dwelling units for rent primarily intended for permanent occupancy.

Applicant shall mean any person, firm or entity having sufficient interest in a parcel or parcels of land and submitting an application for development under the provisions of this or the Subdivision and Site Plan Ordinance of the Borough of West Cape May.

Application for Development shall mean the application forms and all accompanying documents required by this Chapter or Subdivision and Site Plan Ordinances of the Borough for approval of a subdivision, site plan, conditional use, planned unit development, zoning variance or direction for the issuance of a permit pursuant to N.J.S.A. 40:55D-34 or N.J.S.A. 40:55D-36.

Bedroom shall mean a room planned, used, designed or situated so as to be used primarily for sleeping.

Building shall mean any structure or addition to an existing structure having a roof and adopted to or intended for the shelter or occupancy of persons, animals, property or a business use.

Building front shall mean that part of a building facing a street or pedestrian walkway and which contains its principal entrance as indicated from the building's layout.

Building height shall mean the vertical distance measured to the highest point of a building from the finished grade at the foundation of the lot on which it is located as measured at the front of the building. In all "R" zoning districts the maximum height of a building shall be the vertical distance measured to the highest point of a building from the existing grade of the lot at the edge of the public right of way. Maximum height limitations shall not be applicable to customary appurtenances not used for living or business area such as antennas, heating and air conditioning units or chimneys.

Cartway shall mean that portion of a street or right-of-way which is paved.

Common Property shall mean a portion or piece of a lot, tract or other property, together with the improvements thereon, designated and intended for the ownership use of enjoyment of the residents or occupants of the particular development.

Conditional use shall mean a use which is permitted in a particular zoning district only upon a showing that such use complies with the specific provisions thereof in a particular zoning district and approval thereof by the Planning Board.

Development shall mean the division of a parcel into two (2) or more parcels, the resubdivision of a parcel and the construction, reconstruction, conversion, alteration or enlargement of any building or other structure, or any mining, excavation or any use or change in use of any building, structure or land or extension of the use of land.

Dwelling shall mean:

a. *Single family dwelling* shall mean a dwelling designed for occupancy by one (1) family and containing one (1) dwelling unit.

b. *Duplex dwelling* shall mean a duplex designed for occupancy by two (2) families and containing two (2) dwelling units.

c. *Dwelling unit* shall mean a room or series of connecting rooms containing living, cooking, sleeping and sanitary facilities for one (1) housekeeping unit.

Floor area ratio shall mean the sum of the gross floor area of all floors of buildings or structures compared to the total area of the site.

Garage may be either attached to the principal structure or detached from the principal structure. The floor area of a garage shall be included when calculating lot coverage. The floor area of a garage will not be included when calculating gross floor area. If the garage has habitable space, the habitable space will also be included when calculating gross floor area.

Gross floor area (GFA) shall mean the total habitable floor area contained within the outermost surfaces of the house structure, including hallways, closets, stairs, columns and wall thickness.

Home occupation shall mean that which is customarily carried on in a detached residential living unit or accessory building thereto and which is clearly incidental to and secondary to the primary residential use. Home occupations may include a single doctor's office, single dentist's office, single lawyer's office, area for sewing taken in by a resident, sharpening service, and professional business office operated solely by a single resident of the property. Whether any other uses shall be allowed as home occupations shall be determined by the Planning Board in accordance with the customary, incidental and secondary standards set forth herein. No home occupation shall be permitted any signs. No home occupation may utilize more than four hundred (400) square feet or twenty-five (25%) percent, whichever is less, of the principal

structure or accessory structure, but not both. No home occupation shall have the exterior storage of any products, goods or equipment nor shall it involve any employees on the property other than one (1) of the residents of the property.

Hotel and motel shall mean a dwelling having three (3) or more individual sleeping units and which is designed or intended for transient travelers and not for permanent residency.

Lot shall mean a designated parcel, tract or area of land established by an approved plat or otherwise established by law and including any improvements thereon. Contiguous undersized lots, under one (1) legal beneficial ownership, shall, however, be considered and one (1) lot once the dimensions thereof comply with the provisions of this Chapter.

Lot area shall mean the area contained within the lot lines of a lot.

Lot corner shall mean a lot which occupies the interior angle formed by the intersection of two (2) or more streets.

Lot coverage shall mean that area of a lot which is covered by buildings, structures, paved areas or areas otherwise covered or covered by improvements of any type which displaces or otherwise covers the natural vegetation or terrain of the lot. It is to be expressed as a percentage.

Lot depth shall mean the shortest distance between the front lot line and a line drawn perpendicular to the front lot line through the midpoint of the rear lot line.

Lot width shall mean the straight and horizontal distance between side lot lines at the front yard setback points on each side lot line.

Nonconforming building or structure shall mean a building or structure which is so situated on a lot or is so sized as to not be in conformance with the provisions of this Chapter.

Nonconforming lot shall mean a lot of record which does not conform with the applicable minimum size, width, depth or frontage requirements for the zoning district in which it is located under the provisions of the Chapter.

Nonconforming use shall mean a use or activity which was lawful prior to the adoption of this Chapter but which does not now conform with the use regulations set forth in this Chapter.

Parking space shall mean a space not less than nine (9') feet wide by eighteen (18') feet in length designated for the parking of one (1) motor vehicle exclusive of driveways, access drives, drive aisles, and public rights-of-way except that driveways

may be utilized as parking spaces for one (1) or two (2) family dwellings provided they meet the applicable size requirements.

Principal use shall mean the main purpose for which a lot or building is used.

Residential density shall mean the number of dwelling units per gross area or residential land area of a development including new streets, easements, and open space areas.

Setback line shall mean a line drawn parallel with a street line or lot line and drawn through the point of a building nearest to a street line or lot line.

Sign shall mean any device for unusual communication that is used or designed for the purpose of bringing a subject to the attention of the public. Any sign shall be considered as including all sides thereof as well as the enclosure therefore if not attached directly to the wall of a building.

Street shall mean any street, avenue, boulevard, road or other way which is either (a) an existing State, County or Borough roadway; (b) is shown and designated on a plat heretofore approved pursuant to law; or (c) has received final approval therefore pursuant to N.J.S.A. 40:55D-1, et seq.

Structure shall mean anything constructed, assembled or erected for occupancy, use or decoration whether installed on, above or below the surface of a lot or lots and which includes but is not limited to fences, tanks, towers, signs, advertising devices, swimming pools, animal enclosures and tennis courts.

Swimming pool shall mean any facility which is constructed, used or maintained to provide facilities for swimming or bathing and which is capable of containing water to a depth of eighteen (18") inches or more.

Tourist/guest house shall mean any residential appearing structure offering rooms for rent on a transient basis which does not appear when viewed as a hotel or motel.

Use shall mean the specific purpose for which land or a building or structure is designed, arranged, intended or for which it is or may be occupied or maintained. The term *permitted use* shall not be deemed to include any nonconforming use.

Yard, front shall mean that part of a lot being open space and extending across the entire width of the lot between the front or street line of the lot and the closest point of any building on the lot to the front street line. The depth of the required front yard shall be measured at right angles to the front or street line of the lot across the entire width of the lot.

Yard, rear shall mean that part of the lot being open space and extending across the entire width of the lot between the rear lot line of the lot and the closest point of any building on the lot to the rear lot line. The depth of the required rear lot line of the lot across the entire width of the lot.

Yard, side shall mean that part of a lot being open space and extending across the entire length of the lot between each side lot line and the closest point of any building or the lot to each of the side lot lines. The width of each required side yard shall be measured at right angles to each side lot line of the lot across the entire length of each lot.

3. Section 27-10.2 of the Revised General Ordinances of the Borough of West Cape May is hereby amended as follows:

The minimum area and bulk requirements in the R-1 zoning district shall be as follows:

	<i>Single Family Dwelling</i>	<i>Two Family Dwelling</i>
Lot area	5,000 sq. ft.	10,000 7,500 sq. ft.
Lot frontage	50'	75'
Lot width	50'	75'
Front yard Setback	20'	20'
Each side yard Setback	6'	6'
Total side yard Setback	16'	16'
Rear yard setback	20'	20'
Lot depth	100'	100'
Lot coverage	60% <u>30%</u>	60% <u>30%</u>
Building height	35'	35'

4. There is hereby added to the revised general ordinances of the Borough of West Cape May a new section, to be codified as Section 27-10.5

27-10.5 R-1 Maximum Floor Area Ratio

The maximum floor area ratio allowed in the R-1 zoning district is 45%.

5. There is hereby added to the revised general ordinances of the Borough of West Cape May a new section, to be codified as Section 27-10.6

27-10.6 R-1 Front Porch

a. Each single family dwelling in the R-1 zoning district with a front porch that is fully open on the front and at least one side may deduct 200 square feet of porch space from the dwelling's gross floor area lot coverage.

b. Each two family dwelling in the R-1 zoning district with a front porch that is fully open on the front and at least one side may deduct 400 square feet of porch space (200 square feet per unit) from the dwelling's gross floor area lot coverage.

6. There is hereby added to the revised general ordinance of the Borough of West Cape May a new section, to be codified as Section 27-10.7

27-10.7 R-1 Additional Impervious Ground Coverage

An additional 5% of the total lot size is allowed for all additional impervious ground coverage. This includes, but is not limited to, sheds, gazebos, swimming pools, tennis courts, driveways and walkways.

7. Section 27-11.2 of the Revised General Ordinances of the Borough of West Cape May is hereby amended as follows:

The minimum area and bulk requirements in the R-2 zoning district shall be as follows:

	<i>Single Family Dwelling</i>	<i>Two Family Dwelling</i>	
Lot area	7,500 sq. ft.	15,000	<u>10,000</u> sq. ft.
Lot frontage	50'		<u>40' 75'</u>
Lot width	50'		<u>40' 75'</u>
Front yard setback	20'		20'
Each side yard			
Setback	6'		<u>4' 6'</u>
Total side yard			
Setback	16'		<u>2' 16'</u>
Rear yard setback	20'		20'
Lot depth	150'		<u>133'</u>
Lot coverage	50% <u>30%</u>	50%	<u>30%</u>
Building height	35'		35'

	<i>Three Dwelling Unit Property</i>		<i>Four Dwelling Unit Property</i>	
Lot area	22,500	<u>12,500</u> sq. ft.	30,000	<u>15,000</u> sq. ft.
Lot frontage	50'	<u>100'</u>		<u>45' 125'</u>
Lot width	150'	<u>100'</u>		<u>45' 125'</u>
Front yard setback	20'			20'
Each side yard				
Setback	40'	<u>6'</u>		<u>4' 6'</u>

Total side yard				
Setback	20'	16'	20'	16'
Rear yard setback	20'		20'	
Lot depth	125'		120'	
Lot coverage	50%	30%	50%	30%
Building height	35'		35'	

8. There is hereby added to the revised general ordinances of the Borough of West Cape May a new section, to be codified as Section 27-11.8

27-11.8 R-2 Maximum Floor Area Ratio

The maximum floor area ratio allowed in the R-2 zoning district is 45%.

9. There is hereby added to the revised general ordinances of the Borough of West Cape May a new section, to be codified as Section 27-11.9

27-11.9 R-2 Front Porch

a. Each single family dwelling in the R-2 zoning district with a front porch that is fully open on the front and at least one side is allowed to deduct 200 square feet of porch space from the dwelling's gross floor area lot coverage.

b. Each two family dwelling in the R-2 zoning district with a front porch that is fully open on the front and at least one side is allowed to deduct 400 square feet of porch space from the dwelling's gross floor area lot coverage.

c. Each three dwelling unit in the R-2 zoning district with a front porch that is fully open on the front and at least one side is allowed to deduct 600 square feet of porch space from the dwelling's gross floor area lot coverage.

d. Each four dwelling unit in the R-2 zoning district with a front porch that is fully open on the front and at least one side is allowed to deduct 800 square feet of porch space from the dwelling's gross floor area lot coverage.

10. There is hereby added to the revised general ordinance of the Borough of West Cape May a new section, to be codified as Section 27-11.10

27-11.10 R-2 Additional Impervious Ground Coverage

An additional 5% of the total lot size is allowed for all additional impervious ground coverage. This includes, but is not limited to, sheds, gazebos, swimming pools, tennis courts, driveways and walkways.

11. Section 27-12A.2 of the Revised General Ordinances of the Borough of West Cape May is hereby amended as follows:

The minimum area and bulk requirements in the R-4 zoning district shall be as follows:

Lot area	15,000 sq. ft.
Lot frontage	100'
Lot depth	150'
Lot width	100'
Front yard Setback	20'
Each side yard Setback	6'
Total side yard Setback	16'
Rear yard setback	20'
Lot coverage	25% <u>20%</u>
Building height	35'

12. There is hereby added to the revised general ordinances of the Borough of West Cape May a new section, to be codified as Section 27-12A.9

27-12A.9 R-4 Maximum Floor Area Ratio

The maximum floor area ratio allowed in the R-4 zoning district is 30%.

13. There is hereby added to the revised general ordinances of the Borough of West Cape May a new section, to be codified as Section 27-12A.10

27-12A.10 R-4 Additional Impervious Ground Coverage

An additional 5% of the total lot size is allowed for all additional impervious ground coverage. This includes, but is not limited to, sheds, gazebos, swimming pools, tennis courts, driveways and walkways.

14. Section 27-12B.2 of the Revised General Ordinances of the Borough of West Cape May is hereby amended as follows:

The minimum area and bulk requirements in the R-5 zoning district shall be as follows:

Lot area	35,000 sq. ft.
Lot frontage	100' <u>150'</u>
Lot depth	<u>200'</u>
Lot width	100' <u>150'</u>
Front yard Setback	20'
Each side yard Setback	6' <u>15'</u>
Total side yard Setback	16' <u>30'</u>
Rear yard setback	<u>20'</u>
Lot coverage	45% <u>10%</u>

Building height

35'

15. There is hereby added to the revised general ordinances of the Borough of West Cape May a new section, to be codified as Section 27-12B.8

27-12B.8 R-5 Maximum Floor Area Ratio

The maximum floor area ratio allowed in the R-5 zoning district is 17%.

16. There is hereby added to the revised general ordinances of the Borough of West Cape May a new section, to be codified as Section 27-12B.9

27-12B.9 R-5 Additional Impervious Ground Coverage

An additional 5% of the total lot size is allowed for all additional impervious ground coverage. This includes, but is not limited to, sheds, gazebos, swimming pools, tennis courts, driveways and walkways.

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

ORDINANCE NO. 375-07

**AN ORDINANCE OF THE BOROUGH OF WEST CAPE MAY TO AMEND ITS ZONING
ORDINANCE UNDER CHAPTER XXVII OF THE CODE
(FLOOR AREA RATIO)**

This ordinance amends the borough's zoning code to require a maximum floor area ratio, defined as "the sum of the gross floor area of all floors or buildings or structures compared to the total area of the site," in the R-1, R-2, R-4 and R-5 zoning districts. The ordinance also reduces the maximum permitted lot coverage and provides for an additional 5% of lot coverage for accessory structures. In the R-1 and R-2 zones, the ordinance exempts a portion of front porch space from lot coverage and gross floor area calculations. Additionally, the ordinance redefines "building height" so that it is measured "from the existing grade of the lot at the edge of the public right of way." The ordinance is intended to control density, encourage livable neighborhoods, and increase open space and green areas in accordance with the objectives of the borough Master Plan.

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 24, 2007, when it was read for the first time and ordered to be published according to law. The foregoing Ordinance was amended and reintroduced at a Regular Meeting of the Board of Commissioners of the Borough of West Cape May held on February 14, 2007 when the amended Ordinance was read for the first time and ordered to be published according to law. Copies of the Ordinance are on file in the Municipal Clerk's office located in Borough Hall, 732 Broadway, West Cape May, New Jersey. 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 February 28, 2007 at 7:00 p.m. 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.

Lisa Stefankiewicz, RMC
Municipal Clerk

February 14, 2007

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 February 28, 2007.

Lisa Stefankiewicz, RMC
Municipal Clerk

Date: February 28, 2007

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