

ORDINANCE 2024-05

ORDINANCE OF THE BOROUGH OF SHIP BOTTOM, COUNTY OF OCEAN, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER 16.44 OF THE BOROUGH CODE, WHICH PERTAINS TO THE SHORE COMMERCIAL DISTRICT, AND CHAPTER 16.48, WHICH PERTAINS TO THE GENERAL COMMERCIAL DISTRICT, AND CHAPTER 16.56, WHICH PERTAINS TO CONDITIONAL USES

WHEREAS, amusement games of chance authorized by the Amusement Games Licensing Law, N.J.S.A. 5:8-100, et seq., do not constitute a permitted use in any zoning district in the Borough of Ship Bottom (“Borough”); and

WHEREAS, two longstanding amusements game establishments which possess two amusement game licenses granted pursuant to Chapter 15.16 of the Borough Code are located on Long Beach Boulevard and in the Shore Commercial District; and

WHEREAS, those two amusement game licenses were recognized and designated as preexisting nonconforming uses and the intent of the Borough Code, in part, was to limit the number of amusement game licenses located in the Borough to two; and

WHEREAS, the Land Use Board granted a use variance to the owner of a certain property located on Long Beach Boulevard in the General Commercial District for use as a family amusement center and that resolution and the Borough’s Code were subject to litigation; and

WHEREAS, following litigation in the Law Division and Appellate Division, the Law Division invalidated provisions of §5.16.010 of the Borough Code; and

WHEREAS, following litigation in the Law Division and Appellate Division, the Law Division invalidated §5.16.010 of the Borough Code on the basis of various legal arguments advanced by the applicant and ordered the Borough to review and decide the new application for an amusement license within forty-five days of receipt and the Mayor and Council approved that application subject to certain lawful contingencies relating to a background check and State approval; and

WHEREAS, as a result of the foregoing, the Borough has elected to clarify and amend the permitted and prohibited uses in the Shore Commercial and General Commercial Districts of the Borough Code in order to maintain consistency with the licensing regulations and the revised Chapter 15.16 of the Code; and

WHEREAS, specifically, the Borough deems it necessary to amend, confirm, and clarify the permitted and non-permitted uses, including the express limitation on the location of amusement gaming licenses for the following reasons; and

WHEREAS, the Borough is comprised of .71 square land miles and has an estimated year-round population of 1,153 residents; and

WHEREAS, the Borough is often referred to as the “Gateway to Long Beach Island,” as it is located at the sole roadway access point to Long Beach Island, an approximately eighteen-mile barrier island home to six municipalities with a total year-round population of approximately 10,000 residents, over the Causeway Bridge; and

WHEREAS, 8th and 9th Streets are the main arteries for the access to and from Long Beach Island and the mainland; and

WHEREAS, the seasonal population of Long Beach Island is estimated to swell to between approximately 150,000 and 200,000 and additional day-trip and temporary visitors also visit the beaches, parks, retail establishments, businesses, amusement parks, bars, and restaurants located thereon; and

WHEREAS, the Borough is fully developed and has three hotels/motels, two miniature golf courses, three amusement license businesses, and a high density of retail establishments, including furniture, department, and clothing stores, dine-in restaurants, bars and a nightclub, take-out, ice cream, coffee, donut, and breakfast food establishments, and offices, convenience stores, realtors, and contractors, among others; and

WHEREAS, the vast majority of the aforesaid establishments are located in the Shore Commercial and General Commercial Districts on the east-west and north-south access of 8th and 9th Streets and Long Beach Boulevard; and

WHEREAS, the foregoing development is immediately adjacent to the Borough's residential properties and located on a narrow barrier island between the beach and bay, each of which generate significant visitors and activity throughout the year; and

WHEREAS, the density, parking, traffic, and population issues are significant during the ever-expanding summer and visitor seasons in the Borough and pose a significant threat to the public health, welfare, and safety; and

WHEREAS, the target market for establishments with amusement licenses and family recreation businesses are families, young adults, adolescents, and children; and

WHEREAS, the Island as a whole and the Borough have experienced a significant increase in the number of children and young adults gathering in large groups in the evening and nighttime hours and places of amusement are typical locations where such groups congregate; and

WHEREAS, given the limited size of the Borough, the location of the existing and proposed additional amusement license, the density of development, the significant vehicular and pedestrian traffic, and the proximity of the residential zones to the various commercial zones in the Borough, the amendment and clarification of the permitted and non-permitted uses in the zoning districts is necessary and proper to preserve the common good and the public health, welfare, and safety, and the regulations authorized by law and set forth herein are substantially connected with the public interest designed to be advanced; and

WHEREAS, the Borough believes that the nature of amusement games, the age of much of the market, and the strong likelihood of increased pedestrians and groups requires the Borough to restrict the conditional use to properties that are on Long Beach Boulevard and to exclude the conditional use from properties that are on 8th and 9th Streets; and

WHEREAS, the Borough Engineer, who is also a licensed professional planner, has prepared a report documenting and establishing the various reasons in support of this ordinance; and

WHEREAS, based upon the foregoing, the Borough finds that amusement game license uses authorized by Chapter 15.16 shall be limited as conditional uses in the Shore Commercial and General Commercial Districts on properties bordering Long Beach Boulevard.

NOW, THEREFORE, BE IT ORDAINED by the Mayor Council of the Borough of Ship Bottom as follows.

STATEMENT OF PURPOSE

The purpose of this Ordinance is to amend Chapters 16.44, and 16.48 to clarify and confirm the permitted and prohibited uses in the Shore Commercial and General Commercial Districts and add a conditional use in each District.

SECTION I

§16.44.010AJ is hereby added as follows.

- J. Prohibited uses and buildings. All uses, buildings, and structures not expressly permitted in A and B above are prohibited.

SECTION II

§16.48.010J is hereby added as follows.

- J. Prohibited uses and buildings. All uses, buildings, and structures not expressly permitted in A and B above are prohibited.

SECTION III

§16.56.010C is repealed and replaced as follows.

C. Amusement Game License Establishments.

1. Amusement game license establishments shall be permitted as conditional uses on any lot bordering and fronting upon Long Beach Boulevard within the Shore Commercial District and General Commercial District, provided the requirements of this subsection are met.
2. The use shall be conducted within a totally enclosed, permanent building.
3. Compliance with Chapter 5.16 of the Code shall be required.
4. The use shall be conducted within a totally enclosed permanent building.
5. The minimum lot size shall be 10,000 square feet.

SECTION IV

All ordinances, or parts of ordinances, inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

SECTION V

If any word, phrase, clause, section, or provision of this ordinance shall be found by any Court of competent jurisdiction to be unenforceable, illegal, or unconstitutional, such word, phrase, clause, section, or provision shall be severable from the balance of the ordinance and the remainder of the ordinance shall remain in full force and effect.

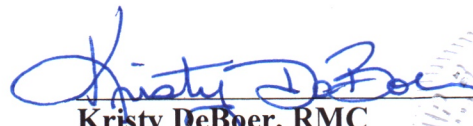
Effective date.

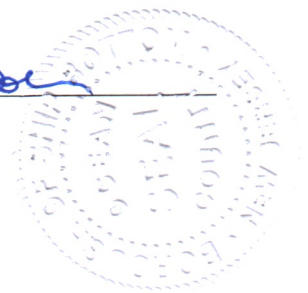
This ordinance shall take effect after final adoption and publication as required by law.

NOTICE

Public Notice is hereby given that the foregoing Ordinance was introduced and passed on the first reading at a regular meeting of the Mayor and Council of the Borough of Ship Bottom, County of Ocean, State of New Jersey, held on Tuesday, January 23,, 2024, at 6:30 p.m.

Further public notice is hereby given that said ordinance shall be considered for final passage and adoption at a regular meeting of the Mayor and Council to be held on February 27, 2024, at 6:30 p.m. at the Municipal Building, 1621 Long Beach Boulevard, Ship Bottom, New Jersey 08008.


Kristy DeBoer, RMC
Municipal Clerk



CERTIFICATION

I, KRISTY DEBOER, RMC, Municipal Clerk for the Borough of Ship Bottom do hereby certify that the foregoing Ordinance 2024-05 was duly adopted by the Mayor and Council at the meeting held on February 27, 2024, at 6:30 p.m.

Kristy DeBoer, RMC
Municipal Clerk

William Huelsenbeck
Mayor