CITY OF CAPE MAY, COUNTY OF CAPE MAY, STATE OF NEW JERSEY

ORDINANCE NO. 574-2025

AN ORDINANCE AMENDING ZONING CODE TO CONFIRM THE INTENT AND PURPOSE OF POOL SETBACK REQUIREMENTS

WHEREAS, the City of Cape May Zoning Code Section 525-62 regulates private and semiprivate recreational facilities, including swimming pools; and

WHEREAS, pursuant to Planning Board Resolution No. 07-22-2025:2, the City of Cape May Planning Board reviewed the City's current regulations concerning pools and recommended that the intent of the Code be confirmed and clarified to guide the Planning and Zoning Board for future applications and as to what circumstances may justify deviation of the setback requirements; and

WHEREAS, having considered the matter, the Cape May City Council has determined that it is in the best interest of the public health, safety, and general welfare to amend the code to implement the recommendations contained in Planning Board Resolution No. 07-22-2025:2 attached hereto as EXHIBIT A and incorporated herein by reference; and

WHEREAS, City Council has further determined that all applications for the installation or construction of accessory swimming pools, shall be subject to review by the Fire Department prior to the issuance of a zoning permit; and

WHEREAS, pursuant to N.J.S.A. 40:55D-26, prior to the final adoption of this development regulation, the City Council has reviewed the report and any recommendation of the Planning Board.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Cape May as follows:

SECTION 1. Section 525-62 of the City Code is hereby amended as follows (with ~~strikethrough~~ portions indicating deleted language and **bold/underlined** portions indicating new language):

§ 525-62 Private and semiprivate recreational facilities.

For purposes of this section, "private" shall mean personal use or use by members only. "Semiprivate" shall mean use if accompanied by a member.

A. Swimming pools.

(1) All swimming pools, including any aprons, walkways, or patios connected with any swimming pool; (a) shall be at least 10 feet from any property line; (b) may not be within the required front yard setback area; and (c) shall be set back from the front

property line by a distance greater than the actual front yard setback of the principal structure to which the swimming pool is accessory.

(2) All swimming pools, measured from the waters edge, shall be at least 10 feet from any principal structure; provided that this Subsection A(2) shall not apply to any swimming pool which (a) is wholly above grade; (b) occupies an area less than 100 square feet; and (c) is covered by a rigid cover when not in use.

(3) All swimming pools shall be enclosed by a fence as required by state law and shall comply with the requirements of the Historic Preservation Commission, as applicable, and the guidelines adopted pursuant to Article VIII of this chapter.

(4) All swimming pools shall provide a four-foot-wide planted green space along the rear and side property lines within the rear yard, to increase infiltration, add additional buffering, improve aesthetics, and provide space for grading and the conveyance of stormwater. Plant selection shall conform to the following general design principles:

(a) All landscape plants shall be typical full specimens to provide an effective buffer for the location of the pool consistent with the requirements herein. The Environmental Commission and Shade Tree Commission may provide an informational list of recommended plantings.

(b) Local soil conditions and water availability shall be considered in the plant selection. All plants shall be tolerant of specific site conditions.

(c) Landscaping shall not inhibit access by emergency vehicles or inhibit visibility within required vehicular sight triangles.

(d) Irrigation systems are recommended for all new plantings. Draught-resistant plantings are also recommended.

(e) Deciduous shade trees shall have a minimum caliper of 2 1/2 inches. Ornamental trees shall be a minimum six feet in height. Evergreen trees shall be a minimum six feet in height. The spacing of all trees shall be a maximum of 12 feet on center so that a continuous buffer is provided. These shall be the minimum measurements at the time of planting.

(f) All trees shall be planted with proper subterranean preparation of the ground.

(g) A shed, garage, or similar existing accessory structure may serve as part of the "buffer" area contemplated herein for purposes of surrounding the pool, so long as it provides substantially similar protection and complies with all other applicable codes and regulations.

(5) For the avoidance of any doubt, the bulk requirements set forth herein for swimming pools are established to advance the following public health, safety, and general welfare objectives:

(a) Ensure adequate access for emergency response personnel, including but not limited to firefighters and emergency medical services, by providing sufficient space for staging, movement, and operational clearance around the entirety of the pool structure and other nearby structures;

(b) Enhance life safety by maintaining an unobstructed perimeter to facilitate prompt and effective emergency access from multiple directions;

(c) Preserve adequate light, air, and open space on the lot and for adjacent properties, thereby reducing the potential for overcrowding and minimizing adverse impacts on neighboring uses; and

(d) Promote orderly development consistent with sound planning and zoning principles, including the mitigation of hazards and detrimental impacts associated with proximity between pools, structures, and property boundaries.

(6) All applications for the installation or construction of accessory swimming pools, whether or not any variance relief is required, shall be subject to review by the Fire Department Chief, or his designee, prior to the issuance of a zoning permit. The purpose of this review is to ensure that the proposed pool location, access, and surrounding conditions do not interfere with fire department operations, access routes, or fire safety requirements.

SECTION 2. All other ordinances in conflict or inconsistent with this Ordinance are hereby repealed, to the extent of such conflict or inconsistency. Should any portion of this Ordinance be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or repeal the remainder of this Ordinance.

SECTION 3. This ordinance shall take effect 20 days after passage and publication, according to law.

ATTEST:

Erin C. Burke, City Clerk

CITY OF CAPE MAY, a municipal corporation of the State of New Jersey

BY: Zachary M. Mullock, Mayor

NOTICE

Ordinance 574-2025 was introduced at a regular meeting of the City Council of the City of Cape May, held on August 5, 2025 and was further considered for final passage during a meeting of the City Council, to be held at the Cape May City Hall Auditorium, 643 Washington Street, Cape May, New Jersey, on September 3, 2025 at 5:00 P.M. at which time a Public Hearing was held.

Erin C. Burke, City Clerk

Roll Call	Ayes	Nays	Absent	Abstain	Motion	Second
Meier	**X**					
McDade	**X**					**X**
Bodnar	**X**					
Baldwin	**X**				**X**	
Mullock	**X**					

Introduced: August 5, 2025
1st Publication: August 13, 2025
2nd Reading & Adoption: September 3, 2025
Final Publication: September 10, 2025
Effective Date: September 30, 2025

EXHIBIT A

Planning Board Resolution No. 07-22-2025:2 and
May 9, 2025 Memorandum to the Planning Board prepared by Craig R. Hurless, PE, PP, CME

Roll Call	Ayes	Nays	Absent	Abstain	Motion	Second
Meier	**X**					
McDade	**X**				**X**	
Bodnar	**X**					**X**
Baldwin	**X**					
Mullock	**X**					

Introduced: August 5, 2025
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cc: Civic Affairs
CFO

HURLESS PLANNING & ENGINEERING, LLC

Civil / Municipal Engineering
Land Use Planning and Design
Site Plan and Subdivision Design
Water, Septic and Wastewater Design
Environmental Consulting
Inspection / Construction Management

Craig R. Hurless, PE, PP, CME

MEMORANDUM

TO: Cape May City Planning Board

DATE: August 22, 2025

FROM: Hurless Planning & Engineering
Craig R. Hurless, PE, PP, CME
Planning Board Engineer & Planner

RE: **Cape May Master Plan Consistency Review**
Ordinance 574-2025 AN ORDINANCE AMENDING ZONING CODE TO CONFIRM THE INTENT AND PURPOSE OF POOL SETBACK REQUIREMENTS
HPE No. 1206.09

DESCRIPTION: The Master Plan Reexamination was adopted on March 12, 2019 by the City of Cape May Planning Board pursuant to Resolution 03-12-2019:3. The Master Plan represents the City's vision for itself and a means for guiding land development policy and planning decisions. Once adopted by the Planning Board, the Master Plan serves as the basis for governing land use throughout the City on both a private and public level. Goals and objectives serve as the crux of the Master Plan, outlining a vision for a community and delineate actions that can achieve that vision.

Ordinance No. 574-2025 has been forwarded for master plan consistency review and recommendation. The ordinance is titled "AN ORDINANCE AMENDING ZONING CODE TO CONFIRM THE INTENT AND PURPOSE OF POOL SETBACK REQUIREMENTS". I offer the following comments for review:

RECEIVED
AUG 22 2025
CITY OF CAPE MAY

507 Heritage Court, Galloway, NJ 08205
Phone: 609.204.0798 E-mail: c.hurless@comcast.net
COA# 24GA28385200

MASTER PLAN CONSISTENCY REVIEW COMMENTS:

As part of the consideration of any proposed land use ordinances, a Master Plan consistency review is conducted. The specific language and recommendations contained in the 2019 Master Plan, Section 3.10 of the Land Use Element of the Master Plan Reexamination that relate to the proposed ordinance are as follows:

3.10 Recommended Changes in the City's Master Plan, Development Regulations, and Zoning Map

Cape May's current master planning reexamination efforts represent the first comprehensive reexamination of land use changes in almost a decade. Sea level rise, resiliency planning, flood insurance and affordable housing changes, demographic and economic change further demonstrated the need to reform or amend the City's zoning code to facilitate appropriate and resilient development. This Master Plan Reexamination has resulted in the following recommendations:

19. *Discuss and possibly address standards for pool regulations. Swimming pools are currently counted towards lot coverage. Citing Cape May's summer tourism and homeowner/tourists expectations, consideration of relaxing pool regulations has been mentioned with the possibility of evaluating lot coverage requirements and pools. Overdevelopment of lots and impacts from pools has been cited as concerns. No recommendation is made at this time. Further study and discussion should be made to develop any pool-related recommendations.*

CONSISTENCY REVIEW COMMENTS:

1) The following Ordinance changes are proposed:

SECTION 1. Section 525-62 of the City Code is hereby amended as follows (with ~~strikethrough~~ portions indicating deleted language and **bold/underlined** portions indicating new language):

§ 525-62 Private and semiprivate recreational facilities.

For purposes of this section, "private" shall mean personal use or use by members only. "Semiprivate" shall mean use if accompanied by a member.

A. Swimming pools.

(1) All swimming pools, including any aprons, walkways, or patios connected with any swimming pool; (a) shall be at least 10 feet from any property line; (b) may not be within the required front yard setback area; and (c) shall be set back from the front property line by a distance greater than the actual front yard setback of the principal structure to which the swimming pool is accessory.

RESOLUTION NO. 08-26-2025: 3
FINDINGS OF FACT AND CONCLUSIONS OF LAW OF THE CITY OF CAPE MAY PLANNING BOARD

WHEREAS, the City of Cape May Planning Board at its regular meeting on August 26, 2025 discussed and considered the Master Plan recommendations regarding pool regulations in the City of Cape May as well as proposed Ordinance No. 574-2025;

WHEREAS, the City of Cape May Planning Board is tasked pursuant to N.J.S.A 40:55D-26 and 62 to review any change to the zoning ordinance for consistency with the Master Plan, and report thereon, and also to make recommendations regarding zoning ordinances as requested by the Governing Body; and

WHEREAS, the City of Cape May Planning Board has been presented with and considered the report of the Board Planner Craig Hurless of Hurless Planning and Engineering dated May 9, 2025 ("Hurless Recommendation") as well as his written review dated August 22, 2025 and oral report on August 26, 2025 regarding the regulation of pools and proposed Ordinance No. 574-2025;

NOW THEREFORE, BE IT RESOLVED, the City of Cape May Planning Board has determined to make the following recommendations:

1. The Board accepts and adopts the findings of its Board Planner Craig Hurless as set forth in his report dated May 9, 2025 and as orally presented on August 26, 2025, and recommends and approves the adoption of proposed Ordinance No. 574-2025 as consistent with the purposes and objectives of the Master Plan and purposes of zoning set forth in N.J.S.A. 40:55D-2, as well as those specifically identified in the body of the proposed Ordinance. The Board also acknowledges and appreciates that the Ordinance reflects the governing body's consideration of the recommendations of the Planning Board set forth in Resolution No. 07-22-2025:2.

I hereby certify the foregoing to be an original resolution adopted by the Planning Board of the City of Cape May at a meeting held on August 26, 2025.

Karen Keenan, Board Secretary

Roll Call	Ayes	Nays	Absent	Abstain	Motion	Second
Mr. Riggs	X					
Mr. Gorgone	X					
Mayor Mullock			X			
Deputy Mayor McDade	X					X
Mrs. Reed	X				X	
Mr. Crowley	X					
Mr. Lundholm	X					
Mr. Padussis, Alt. 1	X					
Mr. Crippen, Alt. 2			X			
Mr. Jones			X			
Mr. Bezaire	X					

cc:City Council via City Clerk
Zoning Board of Adjustment

(2) All swimming pools, measured from the waters edge, shall be at least 10 feet from any principal structure; provided that this Subsection A(2) shall not apply to any swimming pool which (a) is wholly above grade; (b) occupies an area less than 100 square feet; and (c) is covered by a rigid cover when not in use.

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2) City Council has proposed this ordinance in response to the Board's recommendation. The Board may find that the proposed changes are consistent with the Master Plan as the proposed ordinance is consistent with the stated goals, objectives, and recommendations cited above. The Board should discuss the proposed ordinance changes. Other recommendations for changes may also be forwarded to the governing body for consideration.

Should there be any questions regarding the contents of this report, please feel free to contact this office.

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