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

ORDINANCE NO. 578-2025

AN ORDINANCE AMENDING CITY CODE TO INCLUDE PROHIBITION ON DEMOLITION BY NEGLECT

WHEREAS, in 1976, the City of Cape May was designated as a National Historic Landmark District. Landmark designation is the highest honor the nation can bestow on a building or group of buildings. In turn, designation entails a responsibility to treasure and maintain the aesthetic and historical value of those buildings.

WHEREAS, City Council took on this responsibility by designating a local Historic District in the Cape May Zoning Ordinance and establishing a "strong" Historic Preservation Commission ("HPC") under the Municipal Land Use Law (MLUL) to steward the town's architectural heritage. The HPC surveys historic sites, recommends the designation of Historic Districts, and develops standards to promote historic preservation. Cape May has also been designated a Certified Local Government, allowing the City to benefit from the Historic Preservation Fund federal grants program; and

WHEREAS, pursuant to N.J.S.A. 40:48-2.3 et seq., whenever any municipality finds that there exists any building which is unfit for habitation, occupancy, or use, due to dilapidation, defects increasing the hazards of fire, accidents or other calamities, lack of ventilation, light or sanitation facilities, or due to other conditions rendering such building unsafe, insanitary, dangerous, detrimental to health or safety, or otherwise inimical to the welfare of the residents, the municipality has the authority to exercise its police powers to repair, close or demolish, or cause or require the repairing, closing or demolition of such building or buildings; and

WHEREAS, on August 18, 2025, the Historic Preservation Commission reviewed and recommended the establishment of an ordinance prohibiting demolition by neglect; and

WHEREAS, the City Council has determined that it is in the best interest of the public health, safety, and general welfare to preserve and protect its historic resources and that the City should exercise its police power to prevent such resources from being destroyed or demolished through neglect; and

WHEREAS, in order to address these concerns, City Council has determined that it is in the best interest of the City to amend the code to prohibit certain light pollution within the residential zones in the City of Cape May; and

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

Section 1. The Cape May City Code is hereby amended to include the following NEW SUBSECTION "C" under Section 525-40 of the City Code entitled "Preservation of Certain Structures; Demolition by Neglect":

C. Preservation of Certain Structures; Demolition by Neglect

(1) Policy. It is the intent of this section to preserve from deliberate or inadvertent neglect deterioration of the exterior features of any historic site or landmark or building, structure, site or object within the Local Historic District, and the interior portions thereof when such maintenance is necessary to prevent deterioration and decay of the exterior.

(2) Determination of Neglect. No owner or person responsible for a historic landmark, or a Key or Contributing property in Cape May's Historic District, may permit it to remain damaged or in a state of disrepair that is likely to result in its destruction, cause significant damage to its exterior, diminish its historical value, harm the Historic District, or otherwise endanger the public safety and general welfare of the City's residents.

The determination of whether a property, or portion thereof, meets the above criteria for neglect may include, but is not limited to, consideration of one or more of the following factors:

a. The deterioration of exterior walls or other vertical supports;

b. The deterioration of roofs or other horizontal members; The deterioration of exterior chimneys;

c. The deterioration of crumbling of exterior plasters or mortar;

d. The ineffective waterproofing of exterior walls, roofs and foundations, including broken windows or doors;

e. The peeling of paint, rotting, holes and other forms of decay;

f. The lack of maintenance of surrounding environment, e.g., fences, gates, sidewalks, street signs, accessory structures and landscaping;

g. The deterioration of any feature so as to create or permit the creation of any hazardous or unsafe condition or conditions.

For the avoidance of any doubt, a determination of neglect is not dependent on all of the above factors being met. The presence of any one or more of the above factors may serve as a basis to find neglect. The below examples are provided for illustration purposes only and are not intended to limit the circumstances under which a determination of neglect may be made:

> *Example 1*: A property is rated as Contributing in the Historic District pursuant to the most recent property historic survey on file with the HPC. The foundation of the entire structure is in a visible state of deterioration with cracked block and crumbling piers. In addition, the building appears to be uninhabited and with

multiple windowpanes visibly broken. The combination of factors and observations would give rise to a determination of neglect as to the entire structure.

Example 2: A property is rated as Contributing in the Historic District. The front porch is in a state of disrepair with visibly deteriorated or rotted wood piers and the front porch is noted in the historic survey as being a character defining element or otherwise connected to a period of significance in the district. The rest of the building and foundation appear to be sound. The observations here could give rise to a determination of neglect for that specific portion of the building.

(3) Enforcement. The HPC Compliance Officer, Zoning Officer, and Code Enforcement Officer are designated with enforcement of this section. Any of the above officers may proceed with enforcement after preliminary investigation reveals probable cause for violation of this section.

Nothing in this section shall be construed to impair or limit in any way the power of the City to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise, nor is anything in this act intended to limit the authority of the enforcing agency or construction official under the "State Uniform Construction Code Act," P.L.1975, c. 217 (C. 52:27D-119 et seq.) or any rules or regulations adopted thereunder.

(4) Remedies. To serve the purposes of preservation and restoration underlying this Section, the below remedies are intended to be cumulative, and not to be construed as exclusive to the other:

(a) Municipal Court Summons. The Enforcement Officer may direct the issuance of a summons based on a violation of this chapter. Violations of this chapter shall be further subject to the general penalty provisions of Chapter 1, Article III of the City Code, which includes the provisions under Section 1-21 that each and every day in which a violation continues to exist will constitute a separate violation; and/or

(b) Finding of Neglect and Notice to Cure; Right to Appeal; Municipal Lien.

(i) Finding of Neglect and Notice to Cure. Upon a finding of a violation of this section, the Enforcement Officer may cause notice to be sent to the Owner(s) setting forth the conditions found to be in violation and affording the Owner(s) thirty (30) days from the date of said notice to correct the defects or present a plan for remediation if the defects cannot be rectified within the thirty-day period. The notice shall also indicate that if the owner fails to address or cure the areas of neglect, the City may cause such building to be repaired, altered or improved, or to be vacated and closed and that a notice may be posted on the property to indicate the same. Nothing herein shall restrict or otherwise prohibit the Construction Official from acting in accordance with applicable state regulations, building codes or municipal building codes if there is reason to believe circumstances present an immediate concern for health or safety.

(ii) Right to Appeal. If an Owner disagrees with the administrative finding of neglect by the Enforcement Official, they may appeal the determination to the Historic Preservation Commission by filing a notice of appeal with the Enforcement Officer and Secretary of the HPC within the thirty (30) day period provided in the Notice to Cure and paying the applicable $750 HPC review of demolition fee. The HPC will then schedule the appeal for consideration by the full commission at any regular meeting, or the HPC may schedule a Special Meeting to consider the same.

At the time of the hearing, the HPC may consider all relevant materials and information pertaining to the condition of the property from any source and will provide both the applicant and Enforcement Officer with the opportunity to present any materials, information, or testimony relating to its condition. The proceedings will be open to the public.

The HPC may evaluate the potential for resolution by consent of the parties during the course of hearing and discussion. If no resolution is reached, the HPC will consider the standards set forth herein and all relevant information available, and may affirm, modify (including any conditions), or reverse the initial Finding of Neglect.

(iii) Municipal Lien. In the event the Owner(s) shall refuse or otherwise ignore a Finding of Neglect and Notice to Cure issued under (a) or (b) above, the City of Cape May may undertake such repairs as may be necessary to stabilize and protect the structure. The cost of repairs may be paid by the City, who will thereafter charge all related costs and expenses for all such repairs and improvements to the record owner(s). Any such cost or expense so charged shall be assessed and filed as a lien against the subject property including all costs associated with the preparation and filing of the lien documents. The City, and its authorized agents, employees or contractors are hereby expressly authorized to enter the subject property at all reasonable hours for the purpose of completing those repairs necessary for the stabilization and repair of the structure. Neither the City, its authorized agents, employees nor contractors shall be answerable for damage to the subject property due to the enforcement of this section.

The Enforcement Officer may post on the main entrance of any building subject to enforcement under this section, a placard indicating the property has been determined to be in a state of neglect and is unfit for habitation, occupancy, or use and that continued use or occupation of this building is prohibited and unlawful. Furthermore, removal of such placard or notice without City approval shall be a separate violation of this Section.

(c) Injunctive relief. In addition to the above remedies, the City may apply to the Superior Court of New Jersey for such injunctive relief as may be necessary to prevent the destruction of any property covered by this section.

Section 3. 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 4. 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 578-2025 was introduced at a regular meeting of the City Council of the City of Cape May, held on September 16, 2025 and was further considered for final passage during a meeting of the City Council, held at the Cape May City Hall Auditorium, 643 Washington Street, Cape May, New Jersey, on October 7, 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: September 16, 2025
1st Publication: September 24, 2025
2nd Reading & Adoption: October 7, 2025
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