

## REGULAR MEETING – JUNE 11, 2018

Pledge of Allegiance.

Roll Call: Commissioner Mahon, Commissioner Gorman, Mayor Magrini

Borough Clerk reads the following statement:

This is a regular meeting of the Board of Commissioners of the Borough of Avon-By-The-Sea and notice of time, date and place has been transmitted to the area newspapers, Avon Board of Education, Avon Public Library and the Avon Post Office in compliance with the rules and regulations of the Open Public Meetings Law.

Fire Exits are located in the direction I am indicating. In case of fire, you will be notified by an alarm bell. If so notified, please move in a calm, orderly manner to the nearest smoke free exit. Thank you.

Motion by Magrini seconded by Gorman that the minutes of the meeting of May 29, 2018 be approved as written.

The Vote:

Aye: All

No: None

Mayor announces that this is the time advertised for second reading and hearing on Ordinance No. 11-2018 entitled:

**“AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 64, BEACHES, BY ADDING ARTICLE V, ENTITLED “BEACH LOCKERS”, OF THE CODE OF THE BOROUGH OF AVON-BY-THE-SEA.”**

### PURPOSES

This section is adopted to regulate the use of Avon-By-The-Sea beach boxes and to set forth rules and regulations related thereto.

### DEFINITIONS

For the purpose of this section:

**Beach Box** shall mean a single storage unit located on the beach for storage of beach chairs, umbrellas and other beach related items.

**Lease Holder** shall mean a Borough property owner and/or year round renter of the Borough of Avon by the Sea who has executed a lease with the Borough of Avon-By-The-Sea for lease of a beach box.

**Property Owner** shall mean an individual who is listed on the tax rolls of the Borough of Avon-by-the-Sea.

**Renter** shall mean an individual who is a named tenant on a residential lease whose term is at least for twelve (12) months.

**Season** shall mean the period commencing the Friday immediately preceding Memorial Day and the Sunday immediately after Labor Day.

### **LEASE REQUIRED**

No person other than leaseholder and immediate family members shall use the Borough Beach Boxes.

Leases shall not be assigned nor shall any leased Boxes or privileges be sublet or reassigned.

Leases must be renewed no later than April 1 of the next year.

### **PROHIBITED ACTS**

The following acts are prohibited:

1. Using the Beach Box without a signed lease;
2. Storing flammable or toxic liquids or materials;
3. Storing food;
4. Using the Beach Box beyond the weekend after Labor Day week and prior to Memorial Day weekend.
5. Subletting, assignment and/or transfer of lease.
6. Defacing or damaging the Beach Box.
7. Nailing, anchoring or affixing anything to the interior and/or exterior of the Beach Box.
8. Placing any writing, markings or painting on the Beach Box.
9. Such other acts as amended by Resolution of the Board of Commissioners.

### **REMOVAL OF UNAUTHORIZED STORAGE**

The Avon-by-the-Sea Police Department is authorized and directed to make all necessary arrangements for the removal of anything stored in the Beach Box contrary to this Ordinance. Members of the Police Department shall have the authority to enter any Beach Box used in violation of any provision of this ordinance. The Police Department is authorized to retain the services of a locksmith to open the Beach Box used in violation of any provision of this Ordinance. Any materials and things removed from the Beach Box will be deemed abandoned.

### **OPERATION AND CONDUCT**

All matters with respect to rules and regulations not determined by this chapter shall be determined by resolution of the Board of Commissioners of the Borough of Avon-by-the-Sea and have the same force and effect as if set forth herein.

### **LEASE FEE**

The following fees shall be instituted with regard to beach boxes:

Initial Term	\$500.00
Renewal Term	\$250.00

Lease fees and rules and regulations shall be established and modified by Resolution of the Board of Commissioners.

## **VIOLATIONS AND PENALTIES**

Any person who violates any provision of this chapter shall, upon conviction thereof, be liable to the penalty provided by Chapter I, Section 1-15 and permanent prohibition from leasing a Beach Box at any time thereafter.

Would anyone like to be heard on the above ordinance? No one.

Motion by Magrini seconded by Gorman that the above Ordinance No. 11-2018 be approved on second reading and its passage published in a newspaper as required by law.

The Vote:

Aye: All

No: None

Mayor announces that this is the time advertised for second reading and hearing on Ordinance No. 12-2018 entitled:

**“AN ORDINANCE ADDING CHAPTER  
62, “COMMERCIAL FILM MAKING”  
TO THE CODE OF THE BOROUGH  
OF AVON-BY-THE-SEA.”**

### **62-1 Definitions.**

As used in this section, these terms shall have the following meanings:

- a. *Filming* shall mean the taking of still or motion pictures either on film, videotape, or similar recording medium, for any purpose intended for viewing on television, in theaters or for institutional uses. This term shall not include family videos and photography and news media, as defined herein, or as otherwise provided herein.
- b. *Motion picture, television pictures, still photography* shall mean all activities attendant to the staging and/or shooting of commercial motion pictures, television series, television movies, commercials and to the taking of single or multiple photographs for sale or commercial use where the photographer sets up stationary equipment in any one (1) location for longer than five (5) consecutive minutes.
- c. *Major motion picture* shall mean any film which is financed and/or distributed by a major motion picture studio or corporation for presentation in movie theaters, including any filming activity connected with any part of such a production; provided that the production has an overall budget of two million (\$2,000,000.00) dollars or more.
- d. *News media* shall mean photographic, filming, and/or videotaping for the purpose of a television news broadcast or reporting for print media by reporters, photographers or cameramen.
- e. *Student films* shall mean motion picture, television or still photography produced to satisfy a course or curriculum requirement at an accredited educational institution. The student filmmaker must supply proof that he/she is currently enrolled in any such educational institution.
- f. *Family videos and photography* shall mean the filming or videotaping of motion pictures, or still photography, intended solely for private use.

- g. *Public lands* shall mean the areas including but not limited to any public building, street, sidewalk highway, sidewalk, square, park, playground, the beachfront, boardwalk, the marina, and other public places, which is within the jurisdiction and control of the Borough of Avon-by-the-Sea.**

#### **62-2 Permit Required.**

- a. No person shall use any public lands or private property, public right-of-way, facility, and/or residence for the purpose of taking motion pictures, television pictures or still photography without first applying for and receiving a permit from the Borough Administrator of the Borough.**
- b. The permit shall set forth the approved location of such filming and also the approved duration of such filming by specific reference to day or dates. No permit shall authorize filming for more than three (3) consecutive days in any one (1) location and in no event shall filming at one (1) location within the Borough exceed a total of six (6) days in any one (1) calendar year, regardless of the number of permits utilized in reaching this six-day maximum. Either or both of the three-consecutive-day and the six-day limitations may be extended only if the filming requested satisfies the major motion picture exception defined by subsection 62.11. Said permit must be readily available for inspection by Borough officials at all times at the site of the filming.**
- c. All permits shall be applied for and obtained from the office of the Borough Clerk during normal business hours. Applications for such permits shall be in a form approved by the Borough Administrator and be accompanied by permit fees in the amounts established by this section in subsection 62.12.**
- d. If a permit is issued and filming does not in fact take place on the dates specified due to good cause, including but not limited to reasons of inclement weather, the Borough Administrator may issue a new permit for filming on other dates subject to full compliance with all other provisions of this section. No additional fee shall be paid for this new permit.**
- e. The provisions of this subsection shall not apply to news media, family videos and/or student films.**
- f. The provisions of this subsection shall not apply to all activities attendant to the staging and/or shooting of a segment of a television series where all such activities occur on private property and within a commercial building or other structure which is not in a residential area and is not visible outside of such building or structure provided that the filming activities do not exceed three (3) days.**

#### **62-3 Issuance of Permits.**

- a. Permits shall be issued by the Borough Administrator after consultation with the Chief of Police, and the Superintendent of Public Works. The Borough Administrator may determine whether any additional municipal services may be reasonably required depending upon the nature of the activities proposed.**
- b. No permits shall be issued unless all fees and reasonably necessary reimbursable expenses are paid to the Borough.**

- c. No permit shall be issued for filming upon public lands unless the applicant shall provide the Borough of Avon-by-the-Sea with satisfactory proof of the following:
1. Proof of insurance coverage including but not limited to, for bodily injury to any one (1) person in the amount of one million (\$1,000,000.00) dollars and any occurrence in the aggregate amount of three million (\$3,000,000.00) dollars;
  2. For property damage for each occurrence in the aggregate amount of one million (\$1,000,000.00) dollars;
  3. A written hold harmless and indemnification agreement acceptable to the Borough Attorney;
  4. The posting of cash or maintenance bond for the value of five hundred (\$500.00) dollars protecting and insuring that the location utilized for the filming will be left, in a satisfactory condition, free of debris, rubbish, and equipment, and that due observance of all Borough ordinances, laws, and regulations will be followed. Within seven (7) days of the completion of the filming, the Borough will return the bond if there has been no damage to the public property or public expense caused by the filming.
- d. The holder of the permit shall take all reasonable steps to minimize interference with the free passage of pedestrians and traffic over public lands and shall comply with all lawful directives issued by the Avon-by-the-Sea Police Department, the Fire Marshal and the Borough Administrator with respect thereto.
- e. The applicant shall conduct filming in such a manner as to minimize the inconvenience or discomfort to adjoining property owners as a result of such filming and shall, to the extent practicable, abate noise and park vehicles off the public streets. All vehicles parked on public streets and rights-of-way shall be done so in accordance with all applicable State and local regulations.
- f. The holder shall not interfere with previously scheduled activities upon public lands and limit, to the extent possible, any interference with normal public activity on such public lands.
- g. The applicant shall give written notice of the filming to all businesses and residents within two hundred (200') feet of the filming location and further provide written proof of such notice at least three (3) business days prior to the submission of a completed permit application. Such written notice shall be in a form acceptable to the Borough Administrator and shall inform such businesses and residents that objections may be filed with the Borough Administrator within the next three (3) business days, said objections to form a part of applicant's application and be considered in the review of the same.

#### **62-4 Filming on Oceanfront.**

Filming in any area east of Ocean Avenue is permitted Monday through Friday between the hours of 7:00 a.m. and 6:00 p.m. except from the Friday before Memorial Day and the Tuesday after Labor Day.

### **62-5 Filming in Residential Areas is Prohibited.**

Filming in residential areas shall be prohibited at all times except with the written authorization of the owner of the subject property and upon notice to all property owners within 200 feet of the filming location. Under no circumstance is filming permitted after sunset and before sunrise.

### **62-6 Filming on or Near Properties Containing Liquor Licenses**

No filming shall occur on or within two hundred (200') feet of any property which has an establishment with a liquor license at any time the establishment is open for business, unless permit applicant obtains approval from the Business Administrator who, in consultation with the Avon Police Department, may grant a temporary exemption.

### **62-7 Refusal to Issue Permit; Employment of Patrolmen and Electrician.**

- a. The Borough of Avon-by-the-Sea may refuse to issue a permit whenever it determines, on the basis of objective facts and after a review of the application by the Police Department and by other Borough agencies involved with the proposed filming site, that filming at the location and/or the time set forth in the application would violate any law or ordinance or would unreasonably interfere with the use and enjoyment of adjoining properties, unreasonably impede the free flow of vehicular or pedestrian traffic or otherwise endanger the public's health, safety or welfare.
- b. The Borough reserves the right to require one (1) or more Avon Police Officer(s), Fire Department personnel or any such other specialized Borough officials to remain on site during the times indicated on the permit, in situations where the production may impede the proper flow of traffic, or otherwise impact upon public safety. The cost of all such personnel shall be borne by the applicant as cost of production. Where existing electrical power lines are to be utilized by the production, an on-site licensed electrician may be similarly required if the production company does not have a licensed electrician on staff.

### **62-8 Waiver of Requirements by Borough.**

The Borough may authorize filming other than during the hours herein described. In determining whether to allow an extension of hours under this section, the Borough shall consider factors including but not limited to the following:

- a. Traffic congestion at the location;
- b. The applicant's ability to remove film-related vehicles off the public streets;
- c. Whether the applicant is requesting restrictions on the use of public streets or public parking during the course of the filming;
- d. Nature of the film shoot itself; e.g. indoor or outdoor; day or night; on public lands or private lands; proximity to residential neighborhoods; potential for disruption of normal residential or business activities; and
- e. Prior experience of the film company/applicant with the Borough, if any.

### **62-9 Copies of Permit; Inspections.**

Copies of the approved permit shall be sent to the Police and Fire Departments before filming takes place. The applicant shall permit the Police Department, the Fire Marshal or other Borough inspectors to inspect the site and equipment to be used. The applicant shall comply with all safety instructions issued by the Police Department, the Fire Marshal, or other Borough inspections.

### **62-10 Reimbursement of Certain Costs.**

In addition to any and all other fees or costs mentioned in this section, the applicant shall reimburse the Borough for any lost revenue, including but not limited to, repairs required to public property, and any revenues that the Borough was prevented from earning because of the filming.

### **62-11 Special Regulations for Major Motion Pictures.**

- a. With regards to filming being done on a major motion picture, and upon a favorable review of the factors set forth in subsection 62-7 and 62-8, the Borough may grant an exemption of the three (3) consecutive filming day limit and/or the six (6) total filming days within a calendar year limit as defined in subsection 62-2b.
- b. Any days that are necessary for setup and preparation of a major motion picture filming may, at the discretion of the Borough, be counted as a filming day where such setup is anticipated to involve one (1) or more of the factors set forth in subsection 62-8 hereof.

### **62-12 Fees.**

The schedule of fees for the issuance of permits authorized by this section is as follows:

- a. Basic filming permit: \$1,000.00
- b. Daily filming fee payable in addition to basic filming permit: \$500.00 per day.
- c. Daily filming fee payable for filming a major motion picture: \$1,500.00 per day.
- d. Filming permit for nonprofit applicants filming for educational purposes: \$25.00 one-time fee.
- e. Police/Fire protection: at cost.
- f. Use of Borough buildings or public parks: \$1,500.00 per day.

### **62.13 Penalties.**

Where the owner of the premises is not the applicant for a permit required by this section, both the owner and the applicant shall each be liable for violations hereof. Any person violating this section or these rules and regulations, upon conviction thereof, shall be punished by a fine not exceeding one thousand (\$1,000.00.) dollars per day or by imprisonment in the County jail for a term

not exceeding ninety (90) days, or both. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

Would anyone like to be heard on the above ordinance?

Rich Monahan - Asked what the ordinance means. Mayor explained that it intended to regulate the T.V. producers who want to film in town.

Motion by Magrini seconded by Gorman that the above Ordinance No. 12-2018 be approved on second reading and its passage published in a newspaper as required by law.

The Vote:

Aye: All

No: None

Mayor announces that this is the time advertised for second reading and hearing on Ordinance No. 13-2018 entitled:

**“AN ORDINANCE ADDING CHAPTER  
63, “BENCH DEDICATION PROGRAM”  
TO THE CODE OF THE BOROUGH  
OF AVON-BY-THE-SEA.”**

The Borough of Avon-by-the-Sea shall permit memorials to remember individuals and families through a bench dedication program. Memorial plaques shall be placed on benches according to the following regulations:

A. The fee for a plaque shall be \$250.

B. Applications shall be obtained from and, after completion, returned to the Borough Administrator. Upon approval of the application by the Borough Administrator and receipt of the correct fee, the application shall be forwarded to the Department of Public Works for plaque preparation and installation.

C. Plaques shall be of a size, style and material as determined by the Borough of Avon-by-the-Sea.

D. The Borough of Avon-by-the-Sea shall not be responsible for the replacement of plaques/benches that have been damaged or destroyed due to vandalism or natural occurrences such as fire or hurricane. Applicants shall be responsible for replacement of damaged or destroyed plaques/benches at their sole expense. Replacement cost will be determined by the Borough of Avon.

Would anyone like to be heard on the above ordinance? No one.

Motion by Gorman seconded by Magrini that the above Ordinance No. 13-2018 be approved on second reading and its passage published in a newspaper as required by law.

The Vote:

Aye: All

No: None



**RESOLUTION offered by Magrini seconded by Mahon that,**

**BE IT RESOLVED that the Board of Commissioners do hereby grant a renewal of the Plenary Retail Distribution License No. 1305-44-002-004 to JAI MATAJI AVON, INC. at the fee of \$1,425.00. Said license effective July 1, 2018.**

**The Vote:**

**Aye: All**

**No: None**

**RESOLUTION offered by Magrini seconded by Mahon that,**

**BE IT RESOLVED that the Board of Commissioners do hereby approve the renewal of the Seasonal Retail Consumption License No. 1305-34-004-003 for the Avon Hotel Corp., T/A the Columns at the fee of \$1,500.00 effective July 1, 2018 with the following conditions:**

- 1. No amplifiers inside or outside that disturb neighbors.**
- 2. No interior or exterior lighting be directed at neighbors.**
- 3. No loud music.**
- 4. No additional bars shall be constructed on premises.**
- 5. The following dress code shall be enforced: No bathing suits after 7:00 p.m.**
- 6. Any recommendations of the Fire Inspector and/or Hotel/Rooming House Inspector are complied with.**
- 7. The Board of Commissioners have the right to restrict the operation of the porch.**
- 8. Alcoholic beverages served with food service only on the porch. No new porch seating after 10:00 p.m. All porch service ceased by 11:00 p.m.**
- 9. Raw bar/grille room will provide food & bar service as per submitted plans to the Borough.**
- 10. Licensee must establish and maintain a smoking area outside their establishment on their own property. A map of said area must be submitted to the Borough office for approval.**

**The Vote:**

**Aye: All**

**No: None**

**Chris Solomita - wants conditions attached to the Columns liquor license to be enforced. Comm. Gorman- Will work with the Police Department.**

**Joe Burns – Discussed issue of Uber cars parked around the Columns.**

**RESOLUTION offered by Mahon seconded by Magrini that,**

**WHEREAS, application has been made for a Seasonal Retail Consumption License No. 1306-34-001-005 by Norwood Inn, LLC; and**

**NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners that Seasonal Retail Consumption License No. 1306-34-001-005 for the period from July 1, 2018 to June 30, 2019, dates inclusive, be renewed as an inactive license held in pocket for the fee of \$1,500.00.**

**BE IT FURTHER RESOLVED that the Borough Clerk be and is authorized to sign and deliver license certificate to the said applicant.**

**The Vote:**

**Aye: All**

**No: None**

**RESOLUTION offered by Magrini seconded by Mahon that the Board of Commissioners hereby approve a special events application for the JDRF 5K fundraiser walk to be held on October 7, 2018.**

**The Vote:**

**Aye: All**

**No: None**

**RESOLUTION offered by Magrini seconded by Mahon that the Board of Commissioners hereby approve a special events application for the Alzheimer's Association charity walk to be held on October 20, 2018.**

**The Vote:**

**Aye: All**

**No: None**

**RESOLUTION offered by Mahon seconded by Gorman that the Board of Commissioners hereby appoint Lorraine Ernst to the Library Board of Trustees for a five (5) year term. Effective June 11, 2018.**

**The Vote:**

**Aye: All**

**No: None**

**RESOLUTION offered by Mahon seconded by Gorman that the Board of Commissioners hereby re-appoint Jodi Hopkinson & Adrienne Mahon to the Library Board of Trustees for a five (5) year term. Effective January 1, 2018.**

**The Vote:**

**Aye: All**

**No: None**

**RESOLUTION offered by Gorman seconded by Magrini that the bills in the amount of \$202,050.32 be approved for payment.**

**The Vote:**

**Aye: All**

**No: None**

**Historical Society makes scholarship awards presentation.**

**Mo Hinman and Janice Scrabis present two scholarships to Sheila Magrini and Bobby Mahon.**

**Bob Duerr- Gives presentation on the program called "Leave only your footprints". The goal is to get locals and tourists alike to keep beaches and public places clean. Mayor- thanked Bob for the presentation and encouraged him to coordinate his efforts with Public Works.**

**Mayor asks if anyone would like to be heard?**

**Sheila Watson- Library has started summer hours.**

**Ms. O'Keefe - Asked about the big cups which do not fit in the recycling bins and are falling on the ground instead.**

**Scott - Will make the holes bigger. Also, the summer seasonal employees have started for Public Works.**

**Mayor - Oystercatcher has moved into Bradley Beach and the DEP has contacted Bradley to notify them.**

**Barry - The Borough has received the letter from the County Tax Board ordering us to have a Revaluation. Further Reval discussion.**

**Judy O'Connell - Wants to initiate a swim lesson for adult water aerobics.**

**Mayor & Kerry - Have to review certain insurance issues and coordinate with a new pool manager with potential to start the program in August as a trial run.**

**Jim Tuohy - Process of dedicating a bench?**

**Mayor - There will be a waiting list for 35 remaining bench plaques.**

**Ms. O'Keeffe - What about placing two plaques on each bench. Mayor - Not at this time**

**Mary Norris- Asked about the fee for the plaques**

**Motion by Magrini seconded by Mahon that being there is no further business, the meeting is adjourned.**

**The Vote:**

**Aye: All**

**No: None**

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**John B. Magrini, Mayor**

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**Robert Mahon, Commissioner**

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**Francis E. Gorman, Commissioner**

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**Marc Freda, RMC  
Borough Clerk**