

NOTICE OF INTRODUCTION FOR FIRST READING

BOROUGH OF AVALON
CAPE MAY COUNTY
NEW JERSEY

ORDINANCE No. 809-2020

AN ORDINANCE ESTABLISHING A PROCEDURE FOR PROPERTY OWNERS TO OBTAIN A RELEASE AND DISCHARGE OF CERTAIN DEED RESTRICTIONS IMPOSED BY THE BOROUGH OF AVALON IN CERTAIN DEEDS OF CONVEYANCES EXECUTEED AND DELIVERED BY THE BOROUGH OF AVALON PRIOR TO 1979

1. This Ordinance establishes a procedure whereby certain deed restrictions may be released by Resolution of Borough Council. It is based on certain explicit findings of fact contained in Section 1 inclusive of the decision of the Superior Court of New Jersey holding that a “two-story height restriction” is void and unenforceable by reason of vagueness. *Willcox v. Sorgenti*, Docket No. C-119-91 recorded in the Cape May County Clerk’s Office in DB 2450, pages 333-336 on March 14, 2014.

2. This Ordinance deals with 3 categories of deed restrictions:

A. Restrictions limiting structure height of “two-stories” or other similar height restriction that does not contain an explicit quantitative measurement will be released by Resolution of Borough Council, upon request, as a matter of law. (*Willcox v. Sorgenti*)

B. Restrictions requiring some affirmative action by the Grantee within a specified time limit, such as the construction of a principal structure with a minimum number of square feet, will be released by Resolution of Borough Council upon verification, either by physical inspection or by review of Borough records, and upon the filing of a report by a Borough Officer certifying that the requirements have been satisfied.

Prior to the adoption of Ordinance 809-2020, Borough Council will conduct a General Public Hearing pursuant to N.J.S.A. 40:60-51.2. Upon adoption of this Ordinance future releases of the type restriction mentioned in (a) above will occur without conducting individual public hearings.

C. Any other type deed restriction will be released only in accordance with the procedure specified in N.J.S.A. 40:60-51.2 and upon Resolution of Borough Council.

3. Section 3 establishes the procedure to be following in approving a release of the deed restriction; the application process; and the fees and costs involved; and providing for an escrow account in appropriate circumstances.

4. Section 4 authorizes the release of those restrictions specified in 2 A and B and authorizes the Mayor and Borough Clerk to sign a quit-claim deed or similar document.

5. Section 5 provides for the conduct of a public hearing.

The section numbers of the Ordinance are subject to change for incorporation into the Avalon Borough Code.

This Ordinance will become effective upon final adoption and publication.

This Ordinance was introduced and passed on first reading on August 26, 2020 and will be further considered for second reading, public hearing and final adoption on September 23, 2020 at 4:15 p.m.

A copy of the Ordinance is available at no charge from the Borough Clerk's Office, or on the Borough website, www.avalonboro.net.

C. DANIELLE NOLLETT
Borough Clerk

Publication Date: August 31, 2020