

**Regular Meeting
Borough of Eatontown Governing Body
Thursday, June 9, 2022**

This meeting has been advertised in accordance with the Open Public Meetings Act: A notice of the meeting has been published in the Asbury Park Press, Star Ledger and the Link News, posted on the bulletin board in the lobby of Borough Hall, and posted to the Borough website. Public Comment is welcome at any time.

Mayor Talerico opened the Regular Meeting at 8:11 pm, noting the Borough's compliance with the Open Public Meetings Act

1. ROLL CALL

PRESENT: Mayor Anthony Talerico, Jr., Council President Kevin L. Gonzalez,
Councilmembers Mark Regan, Jr., Maria Escalante, Danielle M. Jones, David Gindi, Everett D. Lucas
ALSO PRESENT: Attorney Bayer, Interim Administrator Lucia, Borough Clerk Martin
The Flag Salute was held during workshop.

2. APPROVAL OF MINUTES

A. Workshop/Regular Meeting - 05/25/2022

Motion to approve the minutes by C/Jones; seconded by C/Gonzalez

Voice Vote: AYE - C/Gonzalez, C/Escalante, C/Jones, C/Gindi, C/Lucas
ABSTAIN - C/Regan

3. COMMUNICATIONS

- A. Monmouth County Commissioners - Resolution Supporting \$21.0 Million for County 911 Centers
- B. Borough of Tinton Falls - Ordinance Intro., 2022-1489 An Ordinance Amending the Borough Code To Repeal Chpt. 19 Flood Damage Prevention In Its Entirety; To Adopt A New Chapter 19 Flood Damage Prevention

Motion to accept communications A-B by C/Jones; seconded by C/Escalante

Voice Vote: AYE - C/Gonzalez, C/Regan, C/Escalante, C/Jones, C/Gindi, C/Lucas

4. MAYOR'S REPORT - Mayor Talerico

Mayor Talerico reported on the Memorial Day Observance at Wampum Park and the Dedication of the James M. Gurbisz Memorial Park. Mayor Talerico spoke at the Eatontown Industrial Park Association Annual Mayors' Lunch. He attended the Scout Camp Out in the Arboretum. Four bids were received for the Fort Monmouth Mega parcel, those in compliance will be reviewed by the screening committee. He also attended the FMERA Real Estate Meeting, he provided details regarding Howard Commons. Mayor Talerico reported representatives from Monmouth Mall want to host a town hall meeting. The Mayor proposed hosting the meeting on Wednesday, June 22 at 7:00 pm using the workshop to discuss only the Monmouth Mall Redevelopment; suggesting the regular meeting be moved to 8:00 pm on that date. Mayor Talerico further suggested the meeting be held via Zoom to allow for greater public access. C/Gindi clarified that the June 22 meeting would be via Zoom only for the Monmouth Mall at 7:00 pm, followed by the Regular Meeting at 8:00 pm. Mayor Talerico discussed the public notice. C/Gonzalez suggested noting a stop time for the workshop. C/Gindi questioned if it had to coincide with a Council Meeting; Mayor Talerico explained about quorum and Open Public Meeting requirements; further noting Zoom provides the greatest access. C/Jones asked about disabling the chat on Zoom; discussion followed. Interim Administrator Lucia questioned if Zoom was the best course for the first meeting. Council consensus was to hold the meeting in person at Borough Hall. Discussion followed on time limits, future meetings with public input and the letter of intent which requires at least one Zoom meeting. Mayor Talerico reiterated the Monmouth Mall Town Hall meeting will be on Wednesday, June 22 at 7:00 pm in person at Borough Hall. Mayor Talerico thanked Deputy Clerk DiCorcia Williams, wishing her luck.

5. REPORTS OF COMMITTEES

A. POLICE, PUBLIC LIGHTS & PARKING - Council President Gonzalez

Council President Gonzalez provided the police activity report for May 2022. He shared details regarding Police Community Service activities. C/Gonzalez noted Resolution 143 has been held until a future meeting.

B. EMERGENCY SERVICES - Councilmember Regan, Jr.

Councilmember Regan reserved his EMS report. C/Regan shared the Fire Department report regarding calls for service for May. The Fire Department thanked the Mayor, Borough Administrator and Governing Body for providing tablet workstations and up to date internet access. C/Regan shared there are several members of the Fire Department who have

dedicated fifty plus years of service to the Borough including Dale Bennett, Rudy Trask, Ted Lewis, Lucky West, John Dobrowolski, and William Vitale. These long-standing volunteers will be recognized at a future meeting. Discussion followed on electrical vehicle training.

C. PARKS & RECREATION - Councilmember Escalante

Councilmember Escalante thanked the Deputy Clerk. C/Escalante thanked the winners of "What Eatontown Means to Me" The top three essay writers will be recognized at the July 13th meeting. The Lorraine Stone program was enjoyed by all; the Thelma Johnson exhibit is still ongoing. The next event for the Historical Museum will be on August 7. The Youth Fishing Derby will be this Saturday, June 11, pre-registration is required. Summer Camp Registration must be completed by June 21st. The Recreation Department has new registration software.

D. FINANCE & ORDINANCE - Councilmember Jones

Councilmember Jones reported the next Cannabis Regulatory Commission meeting will be June 23 at 1:00 pm via Zoom. The Planning Board meeting will meet June 20. Traffic Advisory will meet July 14. The S.P.E.A.K. summer program will be held beginning in late June. C/Jones shared June is PRIDE Month, there will be a Bike Safety Rodeo on Tuesday, June 14, the Social Justice Remembrance Coalition will be hosting the historical marking unveiling on June 18 at 11:00 am, she further shared background information for Juneteenth. The Food Co-Op will be open on June 22. C/Jones shared by closing Mental Health resources.

E. PUBLIC WORKS & INSURANCE - Councilmember Gindi

Councilmember Gindi reported on the bulk schedule. C/Gindi congratulated Mayor Talerico and his running mates as well as C/Gonzalez and C/Escalante on their primary victories, noting they are strong candidates. Discussion followed on bulk pick up.

F. PUBLIC BUILDINGS & TENANTS RIGHTS - Councilmember Lucas

Councilmember Lucas reported the next Beautify Eatontown Cleanup will be on October 16. C/Lucas spoke with the Housing Officer who has reported rent increases of \$120-\$400; questioning if there is anything Council can do. Mayor Talerico explained about the repeal of rent control expect for grandfathered units; further proposing an ordinance regarding reporting of grandfathered units.

6. ADMINISTRATOR'S REPORT - Interim Administrator Lucia

Interim Administrator Lucia spoke about the difficulties in filling the deputy clerk position, and all positions. The website will be kept in house under Maria Fornicola; things are being posted it just takes time as the Borough makes strides forward. Interim Administrator Lucia noted there have been multiple complaints about the garbage collection company; the Borough is aware and is working to address the issues. Discussion followed on the possibility of moving garbage collection back in house and the issues with collection.

7. OLD BUSINESS

There was no old business before Council.

A. BUDGET

1) Resolution 137-2022 - Amendment of the 2022 Municipal Budget

Mayor Talerico explained the Budget Amendments, noting they were minor regarding reserve for uncollected taxes and Motion to approve Resolution 137-2022 by C/Escalante; seconded by C/Gonzalez

Roll Call: AYE - C/Gonzalez, C/Regan, C/Escalante, C/Jones, C/Gindi, C/Lucas

RESOLUTION 137-2022

RESOLUTION TO AMEND BUDGET

Whereas, the local municipal budget for the year 2022 was approved on April 13, 2022; and

Whereas, the public hearing on said budget has been held as advertised; and

Whereas, it is desired to amend said approved budget.

Now, Therefore Be It Resolved by the Borough of Eatontown, County of Monmouth that the following amendments to the approved budget of 2022 be made:

From

To

Current Fund - General Revenues

6. Amount to be Raised by Taxation for Support of Municipal Budget

A) Local Tax for Municipal Purposes including Reserve for

Uncollected Taxes	\$19,769,169.75	\$19,712,869.75
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7. Total General Revenues

\$29,152,767.10	\$29,096,467.10
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Current Fund - Appropriations

(M) Reserve for Uncollected Taxes

\$1,650,000.00	\$1,593,700.00
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9. Total General Appropriations

\$29,152,767.10	\$29,096,467.10
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BE IT FURTHER RESOLVED, that two certified copies of this resolution be filed forthwith to the Office of the Director of Local Government Services for certification of the local municipal budget so amended.

2) **Resolution 138-2022** - Auth. Self-Examination of the 2022 Municipal Budget

Motion to approve Resolution 138-2022 by C/Escalante; seconded by C/Gindi

Roll Call: AYE - C/Gonzalez, C/Regan, C/Escalante, C/Jones, C/Gindi, C/Lucas

RESOLUTION 138-2022**AUTHORIZING SELF-EXAMINATION OF BUDGET**

WHEREAS, N.J.S.A. 40A:4-78b has authorized the Local Finance Board to adopt rules that permit municipalities in sound fiscal condition to assume the responsibility, normally granted to the Director of the Division of Local Government Services, of conducting the annual budget examination; and

WHEREAS, N.J.A.C. 5:30-7 was adopted by the Local Finance Board on February 11, 1997; and

WHEREAS, pursuant to N.J.A.C. 5:30-7.2 through 7.5, the Borough of Eatontown has been declared eligible to participate in the program by the Division of Local Government Services, and the Chief Financial Officer has determined that the local government meets the necessary conditions to participate in the program for the 2022 budget year.

NOW THEREFORE BE IT RESOLVED by the governing body of the Borough of Eatontown that in accordance with N.J.A.C. 5:30-7.6a & 7.6b and based upon the Chief Financial Officer's certification, the governing body has found the budget has met the following requirements:

1. That with reference to the following items, the amounts have been calculated pursuant to law and appropriated as such in the budget:

- a. Payment of interest and debt redemption charges
- b. Deferred charges and statutory expenditures
- c. Cash deficit of preceding year
- d. Reserve for uncollected taxes
- e. Other reserves and non-disbursement items
- f. Any inclusions of amounts required for school purposes.

2. That the provisions relating to limitation on increases of appropriations pursuant to N.J.S.A. 40A:4-45.2 and appropriations for exceptions to limits on appropriations found at N.J.S.A. 40A:4-45.3 et seq., are fully met (complies with CAP law).

3. That the budget is in such form, arrangement, and content as required by the Local Budget Law and N.J.A.C. 5:30-4 and 5:30-5.

4. That pursuant to the Local Budget Law:

All estimates of revenue are reasonable, accurate and correctly stated,

- b. Items of appropriation are properly set forth
- c. In itemization, form, arrangement and content, the budget will permit the exercise of the comptroller function within the municipality.

5. The budget and associated amendments have been introduced and publicly advertised in accordance with the relevant provisions of the Local Budget Law, except that failure to meet the deadlines of N.J.S.A. 40A:4-5 shall not prevent such certification.

6. That all other applicable statutory requirements have been fulfilled.

BE IT FURTHER RESOLVED that a copy of this resolution will be forwarded to the Director of the Division of Local Government Services upon adoption

3) Resolution 139-2022 - Adoption of the 2022 Municipal Budget

Motion to approve Resolution 139-2022 by C/Gindi; seconded by C/Regan

Mayor Talerico shared his support for the budget.

Roll Call: AYE - C/Gonzalez, C/Regan, C/Escalante, C/Jones, C/Gindi, C/Lucas

RESOLUTION 139-2022**RESOLUTION FOR ADOPTION OF MUNICIPAL BUDGET 2022**

BE IT RESOLVED by the Mayor and Council of the Borough of Eatontown, County of Monmouth, that the budget hereinbefore set forth is hereby adopted and shall constitute an appropriation for the purposes of the sums therein as set forth as appropriations, and authorization of the amount of \$19,712,869.75 for municipal purposes.

SUMMARY OF REVENUES

1. General Revenues	
Surplus Anticipated	\$4,800,000.00
Miscellaneous Revenues Anticipated	4,258,597.35
Receipts from Delinquent Taxes	325,000.00
2. Amount to be Raised by Taxation for Municipal Purposes	19,712,869.75
TOTAL REVENUES	\$29,096,467.10

SUMMARY OF APPROPRIATIONS

5. General Appropriations:	
Within "CAPS"	
Operations Including Contingent	\$21,798,616.00
Deferred Charges and Statutory Expenditures - Municipal	2,754,636.00
Excluded from "CAPS"	
Operations - Total Operations Excluded from "CAPS"	694,035.10
Capital Improvements	160,830.00
Municipal Debt Service	2,094,650.00
Reserve for Uncollected Taxes	1,593,700.00
TOTAL APPROPRIATIONS	\$29,096,467.10

B. ORDINANCE ADOPTION

- 1) **Ordinance 10-2022** - An Ordinance of the Borough of Eatontown Amending and Supplementing Chpt. 89 "Land Use", Article XII "Application Fees for Subdivisions and Escrow Fees", Section 89-104 "Application Fees" Updating Administrative Fees to Related Land Use Matters - **Public Hearing / Adoption**

Attorney Bayer read the ordinance by title.

Motion to open the meeting to public comment on the ordinance by C/Gonzalez; seconded by C/Gindi

Voice Vote: AYE - C/Gonzalez, C/Regan, C/Escalante, C/Jones, C/Gindi, C/Lucas

There were no member of the public in attendance.

Motion to close the meeting to public comment on the ordinance by C/ ; seconded by C/

Voice Vote: AYE - C/Gonzalez, C/Regan, C/Escalante, C/Jones, C/Gindi, C/Lucas

Attorney Bayer read the ordinance by title.

Motion to adopt the ordinance by C/Escalante; seconded by C/Regan

Roll Call: AYE - C/Gonzalez, C/Regan, C/Escalante, C/Jones, C/Gindi, C/Lucas

ORDINANCE 10-2022: AN ORDINANCE OF THE BOROUGH OF EATONTOWN AMENDING AND SUPPLEMENTING CHAPTER 89 "LAND USE", ARTICLE XII "APPLICATION FEES, TAX MAP REVISION FEES FOR SUBDIVISIONS AND ESCROW FEES", SECTION 89-104 "APPLICATION FEES" UPDATING ADMINSTRATIVE FEES TO RELATED TO LAND USE MATTERS

WHEREAS, the Director of Land Use and Planning has proposed to the Borough Administrator and the Borough Council to modernize and update the administrative fees charged in connection with land use applications;

WHEREAS, the Borough Council believes it is in the best interest of its residents to uphold the recommendation of the Director of Land Use and Planning's recommendations to ensure that the fees charged are commensurate with the administrative burden and costs connected with processing land use applications.

NOW THEREFORE BE IT ORDAINED, by the Borough Council of the Borough of Eatontown, County of Monmouth and State of New Jersey that it hereby amends Chapter 89 "Land Use", Section 89-104 "Application Fees" as follows:

Section 89-104 shall be deleted in its entirety and replaced with the following:

89-104 Application Fees

A.

Application Type	Administrative Fee
Informal Hearing/Concept Plan Review	
Minor Subdivision	\$250
All Others	\$250
Appeals & Interpretations	\$300 plus any other costs incurred by Board during review process
Certificate of Non-Conforming Use	
From the Administrative Officer	\$50
From the Zoning Board of Adjustment	\$250
Capital Review	\$150
Architectural Review	
Residential	\$150
Nonresidential	\$300
Subdivision	
Minor and Major	\$500
Preliminary	\$500 + \$50 per lot
Final	\$250 + \$50 per lot
Site Plan	
Minor and Major	\$500
Residential Preliminary	\$500 + \$50 per dwelling unit
Residential Final	50% of Preliminary Fee
Nonresidential Preliminary	\$1,000 + \$50 per acre of disturbance + \$0.05 per SF of proposed building area
Nonresidential Final	50% of Preliminary Fee
Conditional Use	\$300 plus fees as designated under site plan
Application for Certificate of approval or certificate of appropriateness in Historical Zone	\$175.00
Waiver (Submittal Requirement or Design Waiver)	N.F.
Bulk "C" Variance	\$200 for 1 + \$50 for each additional variance
Use "D" Variance	
Single Family	\$300
All other Residential & Nonresidential	\$600 plus fees as designated under Site Plan
General Development Plan	
Initial Submission	\$500
Administrative Change	\$150
Determined to be Minor by Borough Engineer	
Plan Amendment	\$250
Timing Schedule Amendment	\$250
Amendment of Approvals	
Administrative change determined by Borough Engineer to minor	\$150
Amendment of preliminary or final plat or site plan previously approved, determined to be minor by Borough Engineer or Agency	\$250
Amendment of preliminary or final plat or site plan previously approved, determined to be minor by Borough Engineer or Agency	Full fees required by This section
Application for extension of time of site plan or subdivision approval pursuant to MLUL	\$500 plus any other costs incurred by the Board during review process
Application for signs requiring Board approval	\$150 plus any other costs incurred by the Board during review process
Permitted temporary free- standing signs	
Permit for temporary handheld sign	\$50.00
	\$100 for the initial permit plus \$25 for each additional handheld sign/person that will be utilized pursuant to the same permit.
Permit for signs in excess of eight feet	\$100
Billboard permit:	\$100
Publication Fee	
Single Family	\$20 per decision rendered
All other Residential &	\$30 per decision rendered

Nonresidential	
Certified List of Property Owners	\$10 or \$0.25 per name, whichever is greater
Special Meetings	\$1,750 per special meeting
Fire Prevention (Site Plan or Major Subdivision)	\$100
Zoning Permit	
Residential New Home w/grading	\$250
Revised Grading New Home	\$100
Residential Property Addition	\$50
Nonresidential New Building Use	\$350
Aboveground pool	\$100
In-ground pool	\$175
Commercial use	\$100
Sign (commercial)	\$50 per sign
Issuance of certificate of approval of subdivision	
Original Certificate	\$100
Continuation certificate	\$25 per year

- B. Fees, when necessary in connection with any approval requiring improvements and to cover inspections in accordance with § 89-105, 5% of total cost of improvements (including off-tract improvements) required as a condition of approval, said cost to be determined by the Borough Engineer in accordance with N.J.S.A. 40:55D-53.4 or other applicable law.
- C. Administrative Secretary search of tax duplicate for owners within 200 feet of premises: \$10 or \$.25 per name whichever is greater.
- D. Issuance of a certificate of occupancy: same fee as provided in Chapter 129, Construction Codes, Uniform and Chapter 116 Certificates of Occupancy, of the Borough Code.
- E. Issuance of temporary certificate of occupancy: same fees as provided in schedule of fees in Chapter 129, Uniform Construction Code of the Borough Code.
- F. Rezoning requests before Planning Board: \$300.
1. Upon approval for ordinance preparation and publication: \$400
- G. Exceptional rezoning review escrows. If the Borough determines that a proposed request for rezoning involves unusual or complicated aspects which could result in expenses to the Borough in excess of any application fees set forth above, the municipal agency hearing a request for rezoning may require the developer or applicant to provide, in addition to any application fee, an escrow deposit for professional fees. Said fees shall be administered in accordance with the procedures established in § 89-105. In determining the amount of any escrow required, the Borough, municipal agency, or Borough Engineer may consider the following:
- (1) The size of the projected zoning amendment request;
 - (2) Unusual design or planning aspects;
 - (3) The degree and extent of municipal review and professional services required;
 - (4) The extent of conformity to normal planning and design standards.
- H. Issuance of special event permits: \$100
- I. Legal fees in connection with development applications. For legal services provided by the Borough Attorney in connection with a development application, the developer shall pay the following fees to the Borough Clerk:
1. Preparation of developer's agreement: \$650 or professional's fee, whichever is greater;
 2. Preparation of stormwater basin agreement: \$650 or professional's fee, whichever is greater;
 3. Review of initial performance guarantees and the preparation of any initial resolutions in connection therewith: \$175 for each review;
 4. Review of subsequent, substituted, reduced or modified performance guarantees, review of maintenance guarantees and the review of any amendments or extensions to letters of credit, together with any required resolutions: \$175 for each such review;
 5. Preparation of municipal service agreement: \$650 or professional's fee, whichever is greater.
- J. Capital contribution for sidewalk construction. When contributions for sidewalk construction are required, the fee shall be paid into a capital reserve account for sidewalk construction prior to issuance of a building permit and shall be based upon the following fee schedule:
1. Minor subdivision: \$85 per square yard.
 2. Minor site plan: \$85 per square yard.
 3. Use variance; or undersized lot variance resulting in a new single-family dwelling: \$85 per square yard.
 4. Major site plan or major subdivision: an amount equal to 100% of the reasonable cost of installing sidewalks along the entire frontage of the property where sidewalks do not exist. The amount shall be calculated by the Borough Engineer based upon typical costs at the time, with a minimum of \$85 per square yard.
 5. In the case of an application requiring multiple approvals: \$85 per square yard.

BE IT FURTHER ORDAINED, that

- A. All other Ordinances or provisions of the Code of the Borough of Eatontown or parts thereof, which are inconsistent with any provisions in this Ordinance, are hereby repealed to the extent of such conflict or inconsistency.

- B. If any provision or portion of this Chapter is held to be unconstitutional, preempted by Federal or State Law or otherwise invalid by any court of competent jurisdiction, the remaining provisions of this chapter shall not be invalidated.
- C. This Ordinance shall take effect upon its passage and publication as required by law.

3. PUBLIC COMMENT ON AGENDA ITEMS ONLY

The meeting was open to the public on agenda items.

There were no members of the public in attendance.

The meeting was closed to public comment on agenda items.

9. BILLS & CLAIMS AND BI-WEEKLY PAYROLL

Motion to approve the bills, claims and bi-weekly payroll by C/Jones; seconded by C/Regan

Voice Vote: AYE - C/Gonzalez, C/Regan, C/Escalante*, C/Jones, C/Gindi, C/Lucas

*C/Escalante abstained from item IMP001

10. NEW BUSINESS

A. ORDINANCE INTRODUCTION

1) Ordinance 11-2022 - Ordinance for Adoption of the Floodplain Management Regulations - *First Reading/Introduction* (Public Hearing 6/22/22)

Attorney Bayer read the ordinance by title. The public hearing will be held on 06/22/22.

Motion to introduce the ordinance by C/Jones; seconded by C/Gindi

Roll Call: AYE - C/Gonzalez, C/Regan, C/Escalante, C/Jones, C/Gindi, C/Lucas

ORDINANCE 11-2022: ORDINANCE IMPLEMENTING THE FLOODPLAIN MANAGEMENT REGULATIONS

AN ORDINANCE BY THE BOROUGH COUNCIL REPEALING CHAPTER 169 OF THE BOROUGH CODE ENTITLED "FLOOD DAMAGE PREVENTION" AND REPLACING IT WITH A NEW CHAPTER 169 ALSO ENTITLED "FLOOD DAMAGE PREVENTION" ADOPTING FLOOD HAZARD MAPS AND DESIGNATING A FLOODPLAIN ADMINISTRATOR IN ACCORDANCE WITH THE REQUIREMENTS OF FEDERAL AND STATE LAW

WHEREAS, the Legislature of the State of New Jersey has, in N.J.S.A. 40:48 et seq and N.J.S.A. 40:55D et seq., conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of the Borough of Eatontown and such areas may be subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare, and

WHEREAS, the Borough of Eatontown was accepted for participation in the National Flood Insurance Program on September 16, 1981 and the Borough Council desires to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59, 60, 65 and 70 necessary for such participation; and

WHEREAS, the Borough of Eatontown is required, pursuant to N.J.A.C. 5:23 et seq., to administer and enforce the State building codes, and such building codes contain certain provisions that apply to the design and construction of buildings and structures in flood hazard areas; and

WHEREAS, the Borough of Eatontown is required, pursuant to N.J.S.A. 40:49-5, to enforce zoning codes that secure safety from floods and contain certain provisions that apply to the development of lands; and

WHEREAS, the Borough of Eatontown is required, pursuant to N.J.S.A. 58:16A-57, within 12 months after the delineation of any flood hazard area, to adopt rules and regulations concerning the development and use of land in the flood fringe area which at least conform to the standards promulgated by the New Jersey Department of Environmental Protection (NJDEP).

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Eatontown that it hereby repeals Chapter 169 of the Borough Code and replaces it with a new Chapter 169 entitled "Flood Damage Prevention" adopting the following floodplain management regulations as required by federal and state law:

SECTION 1. RECITALS.

The foregoing whereas clauses are incorporated herein by reference and made a part hereof.

Article I-SCOPE AND ADMINISTRATION

169-1 Title. These regulations, in combination with the flood provisions of the Uniform Construction Code (UCC) N.J.A.C. 5:23 (hereinafter "Uniform Construction Code," consisting of the Building Code, Residential Code, Rehabilitation Subcode, and related codes, and the New Jersey Flood Hazard Area Control Act (hereinafter "FHACA"), N.J.A.C. 7:13, shall be known as the *Floodplain Management Regulations* of Borough of Eatontown (hereinafter "these regulations").

169-1.1 Scope. These regulations, in combination with the flood provisions of the Uniform Construction Code and FHACA shall apply to all proposed development in flood hazard areas established in Section 102 of these regulations.

169-1.2 Purposes and objectives. The purposes and objectives of these regulations are to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific flood hazard areas through the establishment of comprehensive regulations for management of flood hazard areas, designed to:

- (1) Protect human life and health.
- (2) Prevent unnecessary disruption of commerce, access, and public service during times of flooding.
- (3) Manage the alteration of natural floodplains, stream channels and shorelines;
- (4) Manage filling, grading, dredging and other development which may increase flood damage or erosion potential.
- (5) Prevent or regulate the construction of flood barriers which will divert floodwater or increase flood hazards.
- (6) Contribute to improved construction techniques in the floodplain.
- (7) Minimize damage to public and private facilities and utilities.
- (8) Help maintain a stable tax base by providing for the sound use and development of flood hazard areas.
- (9) Minimize the need for rescue and relief efforts associated with flooding.
- (10) Ensure that property owners, occupants, and potential owners are aware of property located in flood hazard areas.
- (11) Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events.
- (12) Meet the requirements of the National Flood Insurance Program for community participation set forth in Title 44 Code of Federal Regulations, Section 59.22.

169-2 Coordination with Building Codes. Pursuant to the requirement established in N.J.A.C. 5:23, the Uniform Construction Code, that the Borough of Eatontown administer and enforce the State building codes, the Borough Council of the Borough of Eatontown does hereby acknowledge that the Uniform Construction Code contains certain provisions that apply to the design and construction of buildings and structures in flood hazard areas. Therefore, these regulations are intended to be administered and enforced in conjunction with the Uniform Construction Code.

169-3 Ordinary Building Maintenance and Minor Work. Improvements defined as ordinary building maintenance and minor work projects by the Uniform Construction Code including non-structural replacement-in-kind of windows, doors, cabinets, plumbing fixtures, decks, walls, partitions, new flooring materials, roofing, etc. shall be evaluated by the Floodplain Administrator through the floodplain development permit to ensure compliance with the Substantial Damage and Substantial Improvement Section 103.14 of this ordinance.

169-4 Warning. The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. Enforcement of these regulations does not imply that land outside the special flood hazard areas, or that uses permitted within such flood hazard areas, will be free from flooding or flood damage.

169-5 Other laws. The provisions of these regulations shall not be deemed to nullify any provisions of local, State, or Federal law.

168-6 Violations and Penalties for Noncompliance. No structure or land shall hereafter be constructed, re-located to, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a violation under N.J.S.A. 40:49-5. Any person who violates this ordinance or fails to comply with any of its requirements shall be subject to one (1) or more of the following: a fine of not more than \$1250, imprisonment for a term not exceeding ninety (90) days or a period of community service not exceeding 90 days.

Each day in which a violation of an ordinance exists shall be considered to be a separate and distinct violation subject to the imposition of a separate penalty for each day of the violation as the Court may determine except that the owner will be afforded the opportunity to cure or abate the condition during a 30 day period and shall be afforded the opportunity for a hearing before the court for an independent determination concerning the violation. Subsequent to the expiration of the 30 day period, a fine greater than \$1250 may be imposed if the court has not determined otherwise, or if upon reinspection of the property, it is determined that the abatement has not been substantially completed.

Any person who is convicted of violating an ordinance within one year of the date of a previous violation of the same ordinance and who was fined for the previous violation, shall be sentenced by a court to an additional fine as a repeat offender. The additional fine imposed by the court upon a person for a repeated offense shall not be less than the minimum or exceed the maximum fine fixed for a violation of the ordinance, but shall be calculated separately from the fine imposed for the violation of the ordinance.

169.6.1 Solid Waste Disposal in a Flood Hazard Area. Any person who has unlawfully disposed of solid waste in a floodway or floodplain who fails to comply with this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$2500 or up to a maximum penalty by a fine not exceeding \$10,000 under N.J.S.A. 40:49-5.

169-7 Abrogation and greater restrictions. These regulations supersede any ordinance in effect in flood hazard areas. However, these regulations are not intended to repeal or abrogate any existing ordinances including land development regulations, subdivision regulations, zoning ordinances, stormwater management regulations, or building codes. In the event of a conflict between these regulations and any other ordinance, code, or regulation, the more restrictive shall govern.

Article 2-APPLICABILITY

169-8 General. These regulations, in conjunction with the Uniform Construction Code, provide minimum requirements for development located in flood hazard areas, including the subdivision of land and other developments; site improvements and installation of utilities; placement and replacement of manufactured homes; placement of recreational vehicles; new construction and alterations, repair, reconstruction, rehabilitation or additions of existing buildings and structures; substantial improvement of existing buildings and structures, including repair of substantial damage; installation of tanks; temporary

structures and temporary or permanent storage; utility and miscellaneous Group U buildings and structures; and certain building work exempt from permit under the Uniform Construction Code; and other buildings and development activities.

169-9 Establishment of Flood Hazard Areas. The Borough of Eatontown was accepted for participation in the National Flood Insurance Program on September 16, 1981.

The National Flood Insurance Program (NFIP) floodplain management regulations encourage that all Federal, State, and Local regulations that are more stringent than the minimum NFIP standards take precedence in permitting decisions. The FHACA requires that the effective Flood Insurance Rate Map, most recent preliminary FEMA mapping and flood studies, and Department delineations be compared to determine the most restrictive mapping. The FHACA also regulates unstudied flood hazard areas in watersheds measuring 50 acres or greater in size and most riparian zones in New Jersey. Because of these higher standards, the regulated flood hazard area in New Jersey may be more expansive and more restrictive than the FEMA Special Flood Hazard Area. Maps and studies that establish flood hazard areas are on file at the **office of the Construction Code Official, 47 Broad Street, Eatontown NJ 07724.**

The following sources identify flood hazard areas in this jurisdiction and must be considered when determining the Best Available Flood Hazard Data Area:

- 1) Effective Flood Insurance Study.** Special Flood Hazard Areas (SFHAs) identified by the Federal Emergency Management Agency in a scientific and engineering report entitled Flood Insurance Study, Monmouth County, New Jersey (All Jurisdictions) dated September 25, 2009 and revised June 20, 2018 and June 15, 2022 and the accompanying Flood Insurance Rate Maps (FIRM) identified in Table 102.2(1) whose effective dates are September 25, 2009 and June 20, 2018 are hereby adopted by reference.

Table 102.2(1)

Map Panel #	Effective Date	Suffix	Map Panel #	Effective Date	Suffix
34025C0183	June 20, 2018	G	34025C0192	Sept. 25, 2009	F
34025C0187	Sept. 25, 2009	F	34025C0193	Sept. 25, 2009	F
34025C0189	Sept. 25, 2009	F	34025C0194	Sept. 25, 2009	F
34025C0191	Sept. 25, 2009	F			

- 2) Federal Best Available Information.** The Borough of Eatontown shall utilize Federal flood information as listed in the table below that provides more detailed hazard information, higher flood elevations, larger flood hazard areas, and results in more restrictive regulations. This information may include but is not limited to preliminary flood elevation guidance from FEMA (such as Advisory Flood Hazard Area Maps, Work Maps or Preliminary FIS and FIRM). Additional Federal Best Available studies issued after the date of this ordinance must also be considered. These studies are listed on FEMA's Map Service Center. This information shall be used for floodplain regulation purposes only.

Table 102.2(2)

Map Panel #	Preliminary Date	Map Panel #	Preliminary Date
34025C0183H	January 30, 2015		
34025C0191G	January 30, 2015		
34025C0192G	January 31, 2014		

- 3) Other Best Available Data.** The Borough of Eatontown shall utilize high water elevations from flood events, groundwater flooding areas, studies by federal or state agencies, or other information deemed appropriate by the Borough of Eatontown. Other "best available information" may not be used which results in less restrictive flood elevations, design standards, or smaller flood hazard areas than the sources described in Section 102.2 (1) and (2), above. This information shall be used for floodplain regulation purposes only.
- 4) State Regulated Flood Hazard Areas.** For State regulated waters, the NJ Department of Environmental Protection (NJDEP) identifies the flood hazard area as the land, and the space above that land, which lies below the "Flood Hazard Area Control Act Design Flood Elevation", as defined in Section 201, and as described in the New Jersey Flood Hazard Area Control Act at N.J.A.C. 7:13. A FHACA flood hazard area exists along every regulated water that has a drainage area of 50 acres or greater. Such area may extend beyond the boundaries of the Special Flood Hazard Areas (SFHAs) as identified by FEMA. The following is a list of New Jersey State studied waters in this community under the FHACA, and their respective map identification numbers.

Table 102.2(3) List of State Studied Waters

Name of Studied Water	File Name	Map Number
Whale Pond Brook	O0000050	W-2A
Whale Pond Brook	O0000051	W-2B
Whale Pond Brook	O0000052	W-3A
Whale Pond Brook	O0000053	W-3B
Cranbury Brook & Whale Pond Brook	O0000054	4 of 8
Whale Pond Brook	O0000057	Sheet 87
N Branch Parkers Creek	O0000062	Sheet 53
Parkers Creek	O0000063	Sheet 54
Wampum Brook & Parker's Creek	O0000064	Sheet 59

Wampum Brook	O0000065	Sheet 60
Wampum Brook	O0000066	Sheet 67
Turtle Mill Brook	SUPPIX35	32
Whale Pond Brook	O0000068p	01p
Parkers Creek	O0000070p	03p
Wampum Brook	O0000071p	04p
Whale Pond Brook	O0000072p	03p
Parkers Creek	O0000074p	02p
Parkers Creek	O0000075p	03p
Parkers Creek	O0000104p	08p

169-10 Establishing the Local Design Flood Elevation (LDFE).

The Local Design Flood Elevation (LDFE) is established in the flood hazard areas determined in Section 102.2, above, using the best available flood hazard data sources, and the Flood Hazard Area Control Act minimum Statewide elevation requirements for lowest floors in A, Coastal A, and V zones, ASCE 24 requirements for critical facilities as specified by the building code, plus additional freeboard as specified by this ordinance.

At a minimum, the Local Design Flood Elevation shall be as follows:

- 1) For a delineated watercourse, the elevation associated with the Best Available Flood Hazard Data Area determined in Section 102.2, above plus one foot or as described by N.J.A.C. 7:13 of freeboard; or
- 2) For any undelineated watercourse (where mapping or studies described in 102.2 (1) and (2) above are not available) that has a contributory drainage area of 50 acres or more, the applicants must provide one of the following to determine the Local Design Flood Elevation:
 - a. A copy of an unexpired NJDEP Flood Hazard Area Verification plus one foot of freeboard and any additional freeboard as required by ASCE 24; or
 - b. A determination of the Flood Hazard Area Design Flood Elevation using Method 5 or Method 6 (as described in N.J.A.C. 7:13) plus one foot of freeboard and any additional freeboard as required by ASCE 24. Any determination using these methods must be sealed and submitted according to Section 105.2-3.
- 3) AO Zones – For Zone AO areas on the municipality's FIRM (or on preliminary flood elevation guidance from FEMA), the Local Design Flood Elevation is determined from the FIRM panel as the highest adjacent grade plus the depth number specified plus one foot of freeboard. If no depth number is specified, the Local Design Flood Elevation is three (3) feet above the highest adjacent grade.
- 4) Class IV Critical Facilities - For any proposed development of new and substantially improved Flood Design Class IV Critical Facilities, the Local Design Flood Elevation must be the higher of the 0.2% annual chance (500 year) flood elevation or the Flood Hazard Area Design Flood Elevation with an additional 2 feet of freeboard in accordance with ASCE 24.
- 5) Class III Critical Facilities - For proposed development of new and substantially improved Flood Design Class III Critical Facilities in coastal high hazard areas, the Local Design Flood Elevation must be the higher of the 0.2% annual chance (500 year) flood elevation or the Flood Hazard Area Design Flood Elevation with an additional 1 foot of freeboard in accordance with ASCE 24.

ARTICLE 3-DUTIES AND POWERS OF THE FLOODPLAIN ADMINISTRATOR

169-11 Floodplain Administrator Designation. The Construction Code Official is designated the Floodplain Administrator. The Floodplain Administrator shall have the authority to delegate performance of certain duties to other employees.

169-12 General. The Floodplain Administrator is authorized and directed to administer the provisions of these regulations. The Floodplain Administrator shall have the authority to render interpretations of these regulations consistent with the intent and purpose of these regulations and to establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be consistent with the intent and purpose of these regulations and the flood provisions of the building code and shall not have the effect of waiving specific requirements without the granting of a variance pursuant to Section 107 of these regulations.

169-13 Coordination. The Floodplain Administrator shall coordinate with the Construction Official to administer and enforce the flood provisions of the Uniform Construction Code.

169-14 Duties. The duties of the Floodplain Administrator shall include but are not limited to:

Review all permit applications to determine whether proposed development is located in flood hazard areas established in Section 102 of these regulations.

- (1) Require development in flood hazard areas to be reasonably safe from flooding and to be designed and constructed with methods, practices and materials that minimize flood damage.
- (2) Interpret flood hazard area boundaries and provide available flood elevation and flood hazard information.
- (3) Determine whether additional flood hazard data shall be obtained or developed.
- (4) Review required certifications and documentation specified by these regulations and the building code to determine that such certifications and documentations are complete.
- (5) Establish, in coordination with the Construction Official, written procedures for administering and documenting

determinations of substantial improvement and substantial damage made pursuant to Section 103.14 of these regulations.

- (6) Coordinate with the Construction Official and others to identify and investigate damaged buildings located in flood hazard areas and inform owners of the requirement to obtain permits for repairs.
- (7) Review requests submitted to the Construction Official seeking approval to modify the strict application of the flood load and flood resistant construction requirements of the Uniform Construction code to determine whether such requests require consideration as a variance pursuant to Section 107 of these regulations.
- (8) Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the Flood Insurance Rate Maps when the analyses propose to change base flood elevations, flood hazard area boundaries, or floodway designations; such submissions shall be made within 6 months of such data becoming available.
- (9) Require applicants who propose alteration of a watercourse to notify adjacent jurisdictions and the NJDEP Bureau of Flood Engineering, and to submit copies of such notifications to the Federal Emergency Management Agency (FEMA).
- (10) Inspect development in accordance with Section 106 of these regulations and inspect flood hazard areas to determine if development is undertaken without issuance of permits.
- (11) Prepare comments and recommendations for consideration when applicants seek variances in accordance with Section 107 of these regulations.
- (12) Cite violations in accordance with Section 108 of these regulations.
- (13) Notify the Federal Emergency Management Agency when the corporate boundaries of the Borough of Eatontown have been modified.
- (14) Permit Ordinary Maintenance and Minor Work in the regulated areas discussed in Section 102.2.

169-15 Use of changed technical data. The Floodplain Administrator and the applicant shall not use changed flood hazard area boundaries or base flood elevations for proposed buildings or developments unless the Floodplain Administrator or applicant has applied for a Conditional Letter of Map Revision (CLOMR) to the Flood Insurance Rate Map (FIRM) revision and has received the approval of the Federal Emergency Management Agency. A revision of the effective FIRM does not remove the related feature(s) on a flood hazard area delineation that has been promulgated by the NJDEP. A separate application must be made to the State pursuant to N.J.A.C. 7:13 for revision of a flood hazard design flood elevation, flood hazard area limit, floodway limit, and/or other related feature.

169-16 Other permits. It shall be the responsibility of the Floodplain Administrator to assure that approval of a proposed development shall not be given until proof that necessary permits have been granted by Federal or State agencies having jurisdiction over such development, including section 404 of the Clean Water Act. In the event of conflicting permit requirements, the Floodplain Administrator must ensure that the most restrictive floodplain management standards are reflected in permit approvals.

169-17 Determination of Local Design Flood Elevations. If design flood elevations are not specified, the Floodplain Administrator is authorized to require the applicant to:

1. Obtain, review, and reasonably utilize data available from a Federal, State, or other source, or
2. Determine the design flood elevation in accordance with accepted hydrologic and hydraulic engineering techniques. Such analyses shall be performed and sealed by a licensed professional engineer. Studies, analyses, and computations shall be submitted in sufficient detail to allow review and approval by the Floodplain Administrator. The accuracy of data submitted for such determination shall be the responsibility of the applicant. It shall be the responsibility of the Floodplain Administrator to verify that the applicant's proposed Best Available Flood Hazard Data Area and the Local Design Flood Elevation in any development permit accurately applies the best available flood hazard data and methodologies for determining flood hazard areas and design elevations described in 102.2 and 102.3 respectively. This information shall be provided to the Construction Official and documented according to Section 103.15.

169-18 Requirement to submit new technical data. Base Flood Elevations may increase or decrease resulting from natural changes (e.g. erosion, accretion, channel migration, subsidence, uplift) or man-made physical changes (e.g. dredging, filling, excavation) affecting flooding conditions. As soon as practicable, but not later than six months after the date of a man-made change or when information about a natural change becomes available, the Floodplain Administrator shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Title 44 Code of Federal Regulations Section 65.3. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.

169-19 Activities in riverine flood hazard areas. In riverine flood hazard areas where design flood elevations are specified but floodways have not been designated, the Floodplain Administrator shall not permit any new construction, substantial improvement or other development, including the placement of fill, unless the applicant submits an engineering analysis prepared by a licensed professional engineer that demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachment, will not increase the design flood elevation more than 0.2 feet at any point within the community.

- 169-20 Floodway encroachment.** Prior to issuing a permit for any floodway encroachment, including fill, new construction, substantial improvements and other development or land-disturbing activity, the Floodplain Administrator shall require submission of a certification prepared by a licensed professional engineer, along with supporting technical data, that demonstrates that such development will not cause any increase in the base flood level.
- 169-21 Floodway revisions.** A floodway encroachment that increases the level of the base flood is authorized if the applicant has applied for a Conditional Letter of Map Revision (CLOMR) to the Flood Insurance Rate Map (FIRM) and has received the approval of FEMA.
- 169-22 Watercourse alteration.** Prior to issuing a permit for any alteration or relocation of any watercourse, the Floodplain Administrator shall require the applicant to provide notification of the proposal to the appropriate authorities of all adjacent government jurisdictions, as well as the NJDEP Bureau of Flood Engineering and the Division of Land Resource Protection. A copy of the notification shall be maintained in the permit records and submitted to FEMA.
- 1. Engineering analysis.** The Floodplain Administrator shall require submission of an engineering analysis prepared by a licensed professional engineer, demonstrating that the flood-carrying capacity of the altered or relocated portion of the watercourse will be maintained, neither increased nor decreased. Such watercourses shall be maintained in a manner that preserves the channel's flood-carrying capacity.
- 169-23 Alterations in coastal areas.** The excavation or alteration of sand dunes is governed by the New Jersey Coastal Zone Management (CZM) rules, N.J.A.C. 7:7. Prior to issuing a flood damage prevention permit for any alteration of sand dunes in coastal high hazard areas and Coastal A Zones, the Floodplain Administrator shall require that a New Jersey CZM permit be obtained and included in the flood damage prevention permit application. The applicant shall also provide documentation of any engineering analysis, prepared by a licensed professional engineer, that demonstrates that the proposed alteration will not increase the potential for flood damage.
- 169-24 Development in riparian zones** All development in Riparian Zones as described in N.J.A.C. 7:13 is prohibited by this ordinance unless the applicant has received an individual or general permit or has complied with the requirements of a permit by rule or permit by certification from NJDEP Division of Land Resource Protection prior to application for a floodplain development permit and the project is compliant with all other Floodplain Development provisions of this ordinance. The width of the riparian zone can range between 50 and 300 feet and is determined by the attributes of the waterbody and designated in the New Jersey Surface Water Quality Standards N.J.A.C. 7:9B. The portion of the riparian zone located outside of a regulated water is measured landward from the top of bank. Applicants can request a verification of the riparian zone limits or a permit applicability determination to determine State permit requirements under N.J.A.C. 7:13 from the NJDEP Division of Land Resource Protection.
- 169-25 Substantial improvement and substantial damage determinations.** When buildings and structures are damaged due to any cause including but not limited to man-made, structural, electrical, mechanical, or natural hazard events, or are determined to be unsafe as described in N.J.A.C. 5:23; and for applications for building permits to improve buildings and structures, including alterations, movement, repair, additions, rehabilitations, renovations, ordinary maintenance and minor work, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Construction Official, shall:
1. Estimate the market value, or require the applicant to obtain a professional appraisal prepared by a qualified independent appraiser, of the market value of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made.
 2. Determine and include the costs of all ordinary maintenance and minor work, as discussed in Section 102.2, performed in the floodplain regulated by this ordinance in addition to the costs of those improvements regulated by the Construction Official in substantial damage and substantial improvement calculations.
 3. Compare the cost to perform the improvement, the cost to repair the damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, where applicable, to the market value of the building or structure.
 4. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage.
 5. Notify the applicant in writing when it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the building code is required and notify the applicant when it is determined that work does not constitute substantial improvement or repair of substantial damage. The Floodplain Administrator shall also provide all letters documenting substantial damage and compliance with flood resistant construction requirements of the building code to the NJDEP Bureau of Flood Engineering.
- 169-26 Department records.** In addition to the requirements of the building code and these regulations, and regardless of any limitation on the period required for retention of public records, the Floodplain Administrator shall maintain and permanently keep and make available for public inspection all records that are necessary for the administration of these regulations and the flood provisions of the Uniform Construction Code, including Flood Insurance Studies, Flood Insurance Rate Maps; documents from FEMA that amend or revise FIRMs; NJDEP delineations, records of issuance of permits and denial of permits;

records of ordinary maintenance and minor work, determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required certifications and documentation specified by the Uniform Construction Code and these regulations including as-built Elevation Certificates; notifications to adjacent communities, FEMA, and the State related to alterations of watercourses; assurance that the flood carrying capacity of altered waterways will be maintained; documentation related to variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to these regulations and the flood resistant provisions of the Uniform Construction Code. The Floodplain Administrator shall also record the required elevation, determination method, and base flood elevation source used to determine the Local Design Flood Elevation in the floodplain development permit.

169-27 Liability. The Floodplain Administrator and any employee charged with the enforcement of these regulations, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by these regulations or other pertinent law or ordinance, shall not thereby be rendered liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties. Any suit instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of these regulations shall be defended by legal representative of the jurisdiction until the final termination of the proceedings. The Floodplain Administrator and any subordinate shall not be liable for cost in any action, suit or proceeding that is instituted in pursuance of the provisions of these regulations.

ARTICLE 4-PERMITS

169-27.1 Permits Required. Any person, owner or authorized agent who intends to conduct any development in a flood hazard area shall first make application to the Floodplain Administrator and shall obtain the required permit. Depending on the nature and extent of proposed development that includes a building or structure, the Floodplain Administrator may determine that a floodplain development permit or approval is required in addition to a building permit.

169-28 Application for permit. The applicant shall file an application in writing on a form furnished by the Floodplain Administrator. Such application shall:

1. Identify and describe the development to be covered by the permit.
2. Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and definitively locate the site.
3. Indicate the use and occupancy for which the proposed development is intended.
4. Be accompanied by a site plan and construction documents as specified in Section 105 of these regulations, grading and filling plans and other information deemed appropriate by the Floodplain Administrator.
5. State the valuation of the proposed work, including the valuation of ordinary maintenance and minor work.
6. Be signed by the applicant or the applicant's authorized agent.

169-29 Validity of permit. The issuance of a permit under these regulations or the Uniform Construction Code shall not be construed to be a permit for, or approval of, any violation of this appendix or any other ordinance of the jurisdiction. The issuance of a permit based on submitted documents and information shall not prevent the Floodplain Administrator from requiring the correction of errors. The Floodplain Administrator is authorized to prevent occupancy or use of a structure or site which is in violation of these regulations or other ordinances of this jurisdiction.

169-30 Expiration. A permit shall become invalid when the proposed development is not commenced within 180 days after its issuance, or when the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions shall be requested in writing and justifiable cause demonstrated. The Floodplain Administrator is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each.

169-31 Suspension or revocation. The Floodplain Administrator is authorized to suspend or revoke a permit issued under these regulations wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or code of this jurisdiction.

Article 5-SITE PLANS AND CONSTRUCTION DOCUMENTS

169-44 Information for development in flood hazard areas. The site plan or construction documents for any development subject to the requirements of these regulations shall be drawn to scale and shall include, as applicable to the proposed development:

- (1) Delineation of flood hazard areas, floodway boundaries and flood zone(s), base flood elevation(s), and ground elevations when necessary for review of the proposed development. For buildings that are located in more than one flood hazard area, the elevation and provisions associated with the most restrictive flood hazard area shall apply.
- (2) Where base flood elevations or floodway data are not included on the FIRM or in the Flood Insurance Study, they shall be established in accordance with Section 105.2.
- (3) Where the parcel on which the proposed development will take place will have more than 50 lots or is larger than 5 acres and base flood elevations are not included on the FIRM or in the Flood Insurance Study, such elevations shall be established in accordance with Section 105.2(3) of these regulations.
- (4) Location of the proposed activity and proposed structures, and locations of existing buildings and structures; in coastal high hazard areas and Coastal A zones, new buildings shall be located landward of the reach of mean high tide.
- (5) Location, extent, amount, and proposed final grades of any filling, grading, or excavation.
- (6) Where the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications;

a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose. The applicant shall provide an engineering certification confirming that the proposal meets the flood storage displacement limitations of N.J.A.C. 7:13.

- (7) Extent of any proposed alteration of sand dunes.
- (8) Existing and proposed alignment of any proposed alteration of a watercourse.
- (9) Floodproofing certifications, V Zone and Breakaway Wall Certifications, Operations and Maintenance Plans, Warning and Evacuation Plans and other documentation required pursuant to FEMA publications.

The Floodplain Administrator is authorized to waive the submission of site plans, construction documents, and other data that are required by these regulations but that are not required to be prepared by a registered design professional when it is found that the nature of the proposed development is such that the review of such submissions is not necessary to ascertain compliance.

169-45 Information in flood hazard areas without base flood elevations (approximate Zone A). Where flood hazard areas are delineated on the effective or preliminary FIRM and base flood elevation data have not been provided, the applicant shall consult with the Floodplain Administrator to determine whether to:

1. Use the Approximation Method (Method 5) described in N.J.A.C. 7:13 in conjunction with Appendix 1 of the FHACA to determine the required flood elevation.
2. Obtain, review, and reasonably utilize data available from a Federal, State or other source when those data are deemed acceptable to the Floodplain Administrator to reasonably reflect flooding conditions.
3. Determine the base flood elevation in accordance with accepted hydrologic and hydraulic engineering techniques according to Method 6 as described in N.J.A.C. 7:13. Such analyses shall be performed and sealed by a licensed professional engineer.
4. Studies, analyses, and computations shall be submitted in sufficient detail to allow review and approval by the Floodplain Administrator prior to floodplain development permit issuance. The accuracy of data submitted for such determination shall be the responsibility of the applicant. Where the data are to be used to support a Letter of Map Change (LOMC) from FEMA, the applicant shall be responsible for satisfying the submittal requirements and pay the processing fees.

169-46 Analyses and certifications by a Licensed Professional Engineer. As applicable to the location and nature of the proposed development activity, and in addition to the requirements of this section, the applicant shall have the following analyses signed and sealed by a licensed professional engineer for submission with the site plan and construction documents:

1. For development activities proposed to be located in a regulatory floodway, a floodway encroachment analysis that demonstrates that the encroachment of the proposed development will not cause any increase in base flood elevations; where the applicant proposes to undertake development activities that do increase base flood elevations, the applicant shall submit such analysis to FEMA as specified in Section 105.4 of these regulations and shall submit the Conditional Letter of Map Revision, if issued by FEMA, with the site plan and construction documents.
2. For development activities proposed to be located in a riverine flood hazard area where base flood elevations are included in the FIS or FIRM but floodways have not been designated, hydrologic and hydraulic analyses that demonstrate that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachments will not increase the base flood elevation more than 0.2 feet at any point within the jurisdiction. This requirement does not apply in isolated flood hazard areas not connected to a riverine flood hazard area or in flood hazard areas identified as Zone AO or Zone AH.
3. For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which demonstrates that the flood-carrying capacity of the altered or relocated portion of the watercourse will not be decreased, and certification that the altered watercourse shall be maintained, neither increasing nor decreasing the channel's flood-carrying capacity. The applicant shall submit the analysis to FEMA as specified in Section 105.4 of these regulations. The applicant shall notify the chief executive officer of all affected adjacent jurisdictions, the NJDEP's Bureau of Flood Engineering and the Division of Land Resource Protection; and shall provide documentation of such notifications.
4. For activities that propose to alter sand dunes in coastal high hazard areas (Zone V) and Coastal A Zones, an engineering analysis that demonstrates that the proposed alteration will not increase the potential for flood damage and documentation of the issuance of a New Jersey Coastal Zone Management permit under N.J.A.C. 7:7.
5. For analyses performed using Methods 5 and 6 (as described in N.J.A.C. 7:13) in flood hazard zones without base flood elevations (approximate A zones).
 - a. **Submission of additional data.** When additional hydrologic, hydraulic or other engineering data, studies, and additional analyses are submitted to support an application, the applicant has the right to seek a Letter of Map Change (LOMC) from FEMA to change the base flood elevations, change floodway boundaries, or change boundaries of flood hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA. Submittal requirements and processing fees shall be the responsibility of the applicant.

ARTICLE 6- INSPECTIONS

169-47 General. Development for which a permit is required shall be subject to inspection. Approval as a result of an inspection shall

not be construed to be an approval of a violation of the provisions of these regulations or the building code. Inspections presuming to give authority to violate or cancel the provisions of these regulations or the building code or other ordinances shall not be valid.

169-48 Inspections of development. The Floodplain Administrator shall inspect all development in flood hazard areas authorized by issuance of permits under these regulations. The Floodplain Administrator shall inspect flood hazard areas from time to time to determine if development is undertaken without issuance of a permit.

169-49 Buildings and structures. The Construction Official shall make or cause to be made, inspections for buildings and structures in flood hazard areas authorized by permit in accordance with the Uniform Construction Code, N.J.A.C. 5:23.

- 1) **Lowest floor elevation.** Upon placement of the lowest floor, including the basement, and prior to further vertical construction, certification of the elevation required in Section 801.2 shall be submitted to the Construction Official on an Elevation Certificate.
 - 2) **Lowest horizontal structural member.** In V zones and Coastal A zones, upon placement of the lowest floor, including the basement, and prior to further vertical construction, certification of the elevation required in Section 801.2 shall be submitted to the Construction Official on an Elevation Certificate.
 - 3) **Installation of attendant utilities** (electrical, heating, ventilating, air-conditioning, and other service equipment) and sanitary facilities elevated as discussed in Section 801.2.
 - 4) **Final inspection.** Prior to the final inspection, certification of the elevation required in Section 801.2 shall be submitted to the Construction Official on an Elevation Certificate.
- 169-50 Manufactured homes.** The Floodplain Administrator shall inspect manufactured homes that are installed or replaced in flood hazard areas to determine compliance with the requirements of these regulations and the conditions of the issued permit. Upon placement of a manufactured home, certification of the elevation of the lowest floor shall be submitted on an Elevation Certificate to the Floodplain Administrator prior to the final inspection.

ARTICLE 7-VARIANCES

169-51 General. The **Borough Zoning Board of Adjustment** shall hear and decide requests for variances. The **Borough Zoning Board of Adjustment** shall base its determination on technical justifications submitted by applicants, the considerations for issuance in Section 107.5, the conditions of issuance set forth in Section 107.6, and the comments and recommendations of the Floodplain Administrator and, as applicable, the Construction Official. The **Borough Zoning Board of Adjustment** has the right to attach such conditions to variances as it deems necessary to further the purposes and objectives of these regulations.

169-52 Historic structures. A variance to the substantial improvement requirements of this ordinance is authorized provided that the repair or rehabilitation of a historic structure is completed according to N.J.A.C. 5:23-6.33, Section 1612 of the International Building Code and R322 of the International Residential Code, the repair or rehabilitation will not preclude the structure's continued designation as a historic structure, the structure meets the definition of the historic structure as described by this ordinance, and the variance is the minimum necessary to preserve the historic character and design of the structure.

169-53 Functionally dependent uses. A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use provided the variance is the minimum necessary to allow the construction or substantial improvement, and that all due consideration has been given to use of methods and materials that minimize flood damage during the base flood and create no additional threats to public safety.

169-54 Restrictions in floodways. A variance shall not be issued for any proposed development in a floodway when any increase in flood levels would result during the base flood discharge, as evidenced by the applicable analysis and certification required in Section 105.3(1) of these regulations.

169-55 Considerations. In reviewing requests for variances, all technical evaluations, all relevant factors, all other portions of these regulations, and the following shall be considered:

1. The danger that materials and debris may be swept onto other lands resulting in further injury or damage.
2. The danger to life and property due to flooding or erosion damage.
3. The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners.
4. The importance of the services provided by the proposed development to the community.
5. The availability of alternate locations for the proposed development that are not subject to flooding or erosion and the necessity of a waterfront location, where applicable.
6. The compatibility of the proposed development with existing and anticipated development.
7. The relationship of the proposed development to the comprehensive plan and floodplain management program for that area.
8. The safety of access to the property in times of flood for ordinary and emergency vehicles.
9. The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwater and the effects of wave action, where applicable, expected at the site.
10. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets, and bridges.

169-56 Conditions for issuance. Variances shall only be issued upon:

1. Submission by the applicant of a showing of good and sufficient cause that the unique characteristics of the size, configuration or topography of the site limit compliance with any provision of these regulations or renders the

- elevation standards of the building code inappropriate.
2. A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable.
 3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
 4. A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
5. Notification to the applicant in writing over the signature of the Floodplain Administrator that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and that such construction below the base flood level increases risks to life and property.

ARTICLE 8- VIOLATIONS

- 169-57 Violations.** Any development in any flood hazard area that is being performed without an issued permit or that is in conflict with an issued permit shall be deemed a violation. A building or structure without the documentation of elevation of the lowest floor, the lowest horizontal structural member if in a V or Coastal A Zone, other required design certifications, or other evidence of compliance required by the building code is presumed to be a violation until such time as that documentation is provided.
- 169-58 Authority.** The Floodplain Administrator is authorized to serve notices of violation or stop work orders to owners of property involved, to the owner's agent, or to the person or persons doing the work for development that is not within the scope of the Uniform Construction Code, but is regulated by these regulations and that is determined to be a violation.
- 169-59 Unlawful continuance.** Any person who shall continue any work after having been served with a notice of violation or a stop work order, except such work as that person is directed to perform to remove or remedy a violation or unsafe condition, shall be subject to penalties as prescribed by N.J.S.A. 40:49-5 as appropriate.
- 169-60 Review Period to Correct Violations.** A 30-day period shall be given to the property owner as an opportunity to cure or abate the condition. The property owner shall also be afforded an opportunity for a hearing before the court for an independent determination concerning the violation. Subsequent to the expiration of the 30-day period, a fine greater than \$1,250.00 may be imposed if a court has not determined otherwise or, upon reinspection of the property, it is determined that the abatement has not been substantially completed.

ARTICLE 9-DEFINITIONS

- 169-61 General.** The following words and terms shall, for the purposes of these regulations, have the meanings shown herein. Other terms are defined in the Uniform Construction Code N.J.A.C. 5:23 and terms are defined where used in the International Residential Code and International Building Code (rather than in the definitions section). Where terms are not defined, such terms shall have ordinarily accepted meanings such as the context implies.

169-62 Definitions

- 30 DAY PERIOD** – The period of time prescribed by N.J.S.A. 40:49-5 in which a property owner is afforded the opportunity to correct zoning and solid waste disposal after a notice of violation pertaining to this ordinance has been issued.
- 100 YEAR FLOOD ELEVATION** – Elevation of flooding having a 1% annual chance of being equaled or exceeded in a given year which is also referred to as the Base Flood Elevation.
- 500 YEAR FLOOD ELEVATION** – Elevation of flooding having a 0.2% annual chance of being equaled or exceeded in a given year.
- A ZONES** – Areas of 'Special Flood Hazard in which the elevation of the surface water resulting from a flood that has a 1% annual chance of equaling or exceeding the Base Flood Elevation (BFE) in any given year shown on the Flood Insurance Rate Map (FIRM) zones A, AE, AH, A1–A30, AR, AR/A, AR/AE, AR/A1– A30, AR/AH, and AR/AO. When used in reference to the development of a structure in this ordinance, A Zones are not inclusive of Coastal A Zones because of the higher building code requirements for Coastal A Zones.
- AH ZONES** – Areas subject to inundation by 1-percent-annual-chance shallow flooding (usually areas of ponding) where average depths are between one and three feet. Base Flood Elevations (BFEs) derived from detailed hydraulic analyses are shown in this zone.
- AO ZONES** – Areas subject to inundation by 1-percent-annual-chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet.
- ACCESSORY STRUCTURE** – Accessory structures are also referred to as appurtenant structures. An accessory structure is a structure which is on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure. For example, a residential structure may have a detached garage or storage shed for garden tools as accessory structures. Other examples of accessory structures include gazebos, picnic pavilions, boathouses, small pole barns, storage sheds, and similar buildings.
- AGRICULTURAL STRUCTURE** - A structure used solely for agricultural purposes in which the use is exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities, including the raising of livestock. Communities must require that new construction or substantial improvements of agricultural structures be elevated or floodproofed to or above the Base Flood Elevation (BFE) as any other nonresidential building. Under some circumstances it may be appropriate to wet-floodproof certain types of agricultural structures when located in wide, expansive floodplains through issuance of a

variance. This should only be done for structures used for temporary storage of equipment or crops or temporary shelter for livestock and only in circumstances where it can be demonstrated that agricultural structures can be designed in such a manner that results in minimal damage to the structure and its contents and will create no additional threats to public safety. New construction or substantial improvement of livestock confinement buildings, poultry houses, dairy operations, similar livestock operations and any structure that represents more than a minimal investment must meet the elevation or dry-floodproofing requirements of 44 CFR 60.3(c)(3).

AREA OF SHALLOW FLOODING – A designated Zone AO, AH, AR/AO or AR/AH (or VO) on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow. **AREA OF SPECIAL FLOOD HAZARD** – see SPECIAL FLOOD HAZARD AREA

ALTERATION OF A WATERCOURSE – A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

ASCE 7 – The standard for the Minimum Design Loads for Buildings and Other Structures, referenced by the building code and developed and published by the American Society of Civil Engineers, Reston, VA. which includes but is not limited to methodology and equations necessary for determining structural and flood-related design requirements and determining the design requirements for structures that may experience a combination of loads including those from natural hazards. Flood related equations include those for determining erosion, scour, lateral, vertical, hydrostatic, hydrodynamic, buoyancy, breaking wave, and debris impact.

ASCE 24 – The standard for Flood Resistant Design and Construction, referenced by the building code and developed and published by the American Society of Civil Engineers, Reston, VA. References to ASCE 24 shall mean ASCE 24-14 or the most recent version of ASCE 24 adopted in the UCC Code [N.J.A.C. 5:23].

BASE FLOOD ELEVATION (BFE) – The water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year, as shown on a published Flood Insurance Study (FIS), or preliminary flood elevation guidance from FEMA. May also be referred to as the "100-year flood elevation".

BASEMENT – Any area of the building having its floor subgrade (below ground level) on all sides.

BEST AVAILABLE FLOOD HAZARD DATA - The most recent available preliminary flood risk guidance FEMA has provided. The Best Available Flood Hazard Data may be depicted on but not limited to Advisory Flood Hazard Area Maps, Work Maps, or Preliminary FIS and FIRM.

BEST AVAILABLE FLOOD HAZARD DATA AREA - The aerial mapped extent associated with the most recent available preliminary flood risk guidance FEMA has provided. The Best Available Flood Hazard Data may be depicted on but not limited to Advisory Flood Hazard Area Maps, Work Maps, or Preliminary FIS and FIRM.

BEST AVAILABLE FLOOD HAZARD DATA ELEVATION - The most recent available preliminary flood elevation guidance FEMA has provided. The Best Available Flood Hazard Data may be depicted on but not limited to Advisory Flood Hazard Area Maps, Work Maps, or Preliminary FIS and FIRM.

BREAKAWAY WALLS – Any type of wall subject to flooding that is not required to provide structural support to a building or other structure and that is designed and constructed such that, below the Local Design Flood Elevation, it will collapse under specific lateral loads such that (1) it allows the free passage of floodwaters, and (2) it does not damage the structure or supporting foundation system. Certification in the V Zone Certificate of the design, plans, and specifications by a licensed design professional that these walls are in accordance with accepted standards of practice is required as part of the permit application for new and substantially improved V Zone and Coastal A Zone structures. A completed certification must be submitted at permit application.

BUILDING – Per the FHACA, "Building" means a structure enclosed with exterior walls or fire walls, erected and framed of component structural parts, designed for the housing, shelter, enclosure, and support of individuals, animals, or property of any kind. A building may have a temporary or permanent foundation. A building that is intended for regular human occupation and/or residence is considered a habitable building.

CONDITIONAL LETTER OF MAP REVISION - A Conditional Letter of Map Revision (CLOMR) is FEMA's comment on a proposed project that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA). The letter does not revise an effective NFIP map, it indicates whether the project, if built as proposed, would be recognized by FEMA. FEMA charges a fee for processing a CLOMR to recover the costs associated with the review that is described in the Letter of Map Change (LOMC) process. Building permits cannot be issued based on a CLOMR, because a CLOMR does not change the NFIP map.

CONDITIONAL LETTER OF MAP REVISION - FILL -- A Conditional Letter of Map Revision - Fill (CLOMR-F) is FEMA's comment on a proposed project involving the placement of fill outside of the regulatory floodway that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA). The letter does not revise an effective NFIP map, it indicates whether the project, if built as proposed, would be recognized by FEMA. FEMA charges a fee

for processing a CLOMR to recover the costs associated with the review that is described in the Letter of Map Change (LOMC) process. Building permits cannot be issued based on a CLOMR, because a CLOMR does not change the NFIP map.

CRITICAL BUILDING – Per the FHACA, “Critical Building” means that:

- a. It is essential to maintaining continuity of vital government operations and/or supporting emergency response, sheltering, and medical care functions before, during, and after a flood, such as a hospital, medical clinic, police station, fire station, emergency response center, or public shelter; or
- b. It serves large numbers of people who may be unable to leave the facility through their own efforts, thereby hindering or preventing safe evacuation of the building during a flood event, such as a school, college, dormitory, jail or detention facility, day care center, assisted living facility, or nursing home.

DEVELOPMENT – Any manmade change to improved or unimproved real estate, including but not limited to, buildings or other structures, tanks, temporary structures, temporary or permanent storage of materials, mining, dredging, filling, grading, paving, excavations, drilling operations and other land-disturbing activities.

DRY FLOODPROOFING – A combination of measures that results in a non-residential structure, including the attendant utilities and equipment as described in the latest version of ASCE 24, being watertight with all elements substantially impermeable and with structural components having the capacity to resist flood loads.

ELEVATED BUILDING – A building that has no basement and that has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns. Solid perimeter foundation walls are not an acceptable means of elevating buildings in V and VE Zones.

ELEVATION CERTIFICATE – An administrative tool of the National Flood Insurance Program (NFIP) that can be used to provide elevation information, to determine the proper insurance premium rate, and to support an application for a Letter of Map Amendment (LOMA) or Letter of Map Revision based on fill (LOMR-F).

ENCROACHMENT – The placement of fill, excavation, buildings, permanent structures or other development into a flood hazard area which may impede or alter the flow capacity of riverine flood hazard areas.

FEMA PUBLICATIONS – Any publication authored or referenced by FEMA related to building science, building safety, or floodplain management related to the National Flood Insurance Program. Publications shall include but are not limited to technical bulletins, desk references, and American Society of Civil Engineers Standards documents including ASCE 24

FLOOD OR FLOODING

- a. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 1. The overflow of inland or tidal waters.
 2. The unusual and rapid accumulation or runoff of surface waters from any source.
 3. Mudslides (i.e. mudflows) which are proximately caused by flooding as defined in (a) (2) of this definition and are akin to a river or liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition.

FLOOD HAZARD AREA DESIGN FLOOD ELEVATION – Per the FHACA, the peak water surface elevation that will occur in a water during the flood hazard area design flood. This elevation is determined via available flood mapping adopted by the State, flood mapping published by FEMA (including effective flood mapping dated on or after January 31, 1980, or any more recent advisory, preliminary, or pending flood mapping; whichever results in higher flood elevations, wider floodway limits, greater flow rates, or indicates a change from an A zone to a V zone or coastal A zone), approximation, or calculation pursuant to the Flood Hazard Area Control Act Rules at N.J.A.C. 7:13-3.1 – 3.6 and is typically higher than FEMA’s base flood elevation. A water that has a drainage area measuring less than 50 acres does not possess, and is not assigned, a flood hazard area design flood elevation.

FLOOD INSURANCE RATE MAP (FIRM) – The official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY (FIS) – The official report in which the Federal Emergency Management Agency has provided flood profiles, as well as the Flood Insurance Rate Map(s) and the water surface elevation of the base flood.

FLOODPLAIN OR FLOOD PRONE AREA – Any land area susceptible to being inundated by water from any source. See “Flood or flooding.”

FLOODPLAIN MANAGEMENT REGULATIONS – Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such State or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

FLOODPROOFING – Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

FLOODPROOFING CERTIFICATE – Certification by a licensed design professional that the design and methods of construction for floodproofing a non-residential structure are in accordance with accepted standards of practice to a proposed height above the structure's lowest adjacent grade that meets or exceeds the Local Design Flood Elevation. A completed floodproofing certificate is required at permit application.

FLOODWAY – The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 0.2 foot.

FREEBOARD – A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

FUNCTIONALLY DEPENDENT USE – A use that cannot perform its intended purpose unless it is located or carried out in close proximity to water, including only docking facilities, port facilities necessary for the loading or unloading of cargo or passengers, and shipbuilding and ship repair facilities. The term does not include long-term storage or related manufacturing facilities.

HABITABLE BUILDING – Pursuant to the FHACA Rules (N.J.A.C. 7:13), means a building that is intended for regular human occupation and/or residence. Examples of a habitable building include a single-family home, duplex, multi-residence building, or critical building; a commercial building such as a retail store, restaurant, office building, or gymnasium; an accessory structure that is regularly occupied, such as a garage, barn, or workshop; mobile and manufactured homes, and trailers intended for human residence, which are set on a foundation and/or connected to utilities, such as in a mobile home park (not including campers and recreational vehicles); and any other building that is regularly occupied, such as a house of worship, community center, or meeting hall, or animal shelter that includes regular human access and occupation. Examples of a non-habitable building include a bus stop shelter, utility building, storage shed, self-storage unit, construction trailer, or an individual shelter for animals such as a doghouse or outdoor kennel.

HARDSHIP – As related to Section 107 of this ordinance, meaning the exceptional hardship that would result from a failure to grant the requested variance. The **Borough Zoning Board of Adjustment** requires that the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

HIGHEST ADJACENT GRADE – The highest natural elevation of the ground surface prior to construction next to the proposed or existing walls of a structure.

HISTORIC STRUCTURE – Any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c. Individually listed on a State inventory of historic places in States with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 1. By an approved State program as determined by the Secretary of the Interior; or
 2. Directly by the Secretary of the Interior in States without approved programs.

LAWFULLY EXISTING – Per the FHACA, means an existing fill, structure and/or use, which meets all Federal, State, and local laws, and which is not in violation of the FHACA because it was established:

- a. Prior to January 31, 1980; or
- b. On or after January 31, 1980, in accordance with the requirements of the FHACA as it existed at the time the fill, structure and/or use was established.

Note: Substantially damaged properties and substantially improved properties that have not been elevated are not considered "lawfully existing" for the purposes of the NFIP. This definition is included in this ordinance to clarify the applicability of any more stringent statewide floodplain management standards required under the FHACA.

LETTER OF MAP AMENDMENT - A Letter of Map Amendment (LOMA) is an official amendment, by letter, to an effective National Flood Insurance Program (NFIP) map that is requested through the Letter of Map Change (LOMC) process. A LOMA establishes a property's location in relation to the Special Flood Hazard Area (SFHA). LOMAs are usually issued because a property has been inadvertently mapped as being in the floodplain but is actually on natural high ground above the base flood elevation. Because a LOMA officially amends the effective NFIP map, it is a public record that the community must maintain. Any LOMA should be noted on the community's master flood map and filed by panel number in an accessible location.

LETTER OF MAP CHANGE – The Letter of Map Change (LOMC) process is a service provided by FEMA for a fee that allows the public to request a change in flood zone designation in an Area of Special Flood Hazard on a Flood Insurance Rate Map (FIRM).

Conditional Letters of Map Revision, Conditional Letters of Map Revision – Fill, Letters of Map Revision, Letters of Map Revision-Fill, and Letters of Map Amendment are requested through the Letter of Map Change (LOMC) process.

LETTER OF MAP REVISION - A Letter of Map Revision (LOMR) is FEMA's modification to an effective Flood Insurance Rate Map (FIRM). Letter of Map Revisions are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA). The LOMR officially revises the Flood Insurance Rate Map (FIRM) and sometimes the Flood Insurance Study (FIS) report, and when appropriate, includes a description of the modifications. The LOMR is generally accompanied by an annotated copy of the affected portions of the FIRM or FIS report. Because a LOMR officially revises the effective NFIP map, it is a public record that the community must maintain. Any LOMR should be noted on the community's master flood map and filed by panel number in an accessible location.

LETTER OF MAP REVISION – FILL -- A Letter of Map Revision Based on Fill (LOMR-F) is FEMA's modification of the Special Flood Hazard Area (SFHA) shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway may be initiated through the Letter of Map Change (LOMC) Process. Because a LOMR-F officially revises the effective Flood Insurance Rate Map (FIRM) map, it is a public record that the community must maintain. Any LOMR-F should be noted on the community's master flood map and filed by panel number in an accessible location.

LICENSED DESIGN PROFESSIONAL – Licensed design professional shall refer to either a New Jersey Licensed Professional Engineer, licensed by the New Jersey State Board of Professional Engineers and Land Surveyors or a New Jersey Licensed Architect, licensed by the New Jersey State Board of Architects.

LICENSED PROFESSIONAL ENGINEER - A licensed professional engineer shall refer to individuals licensed by the New Jersey State Board of Professional Engineers and Land Surveyors.

LOCAL DESIGN FLOOD ELEVATION (LD FE) – The elevation reflective of the most recent available preliminary flood elevation guidance FEMA has provided as depicted on but not limited to Advisory Flood Hazard Area Maps, Work Maps, or Preliminary FIS and FIRM which is also inclusive of freeboard specified by the New Jersey Flood Hazard Area Control Act and Uniform Construction Codes and any additional freeboard specified in a community's ordinance. In no circumstances shall a project's LD FE be lower than a permit-specified Flood Hazard Area Design Flood Elevation or a valid NJDEP Flood Hazard Area Verification Letter plus the freeboard as required in ASCE 24 and the effective FEMA Base Flood Elevation.

LOWEST ADJACENT GRADE – The lowest point of ground, patio, or sidewalk slab immediately next a structure, except in AO Zones where it is the natural grade elevation.

LOWEST FLOOR – In A Zones, the lowest floor is the top surface of the lowest floor of the lowest enclosed area (including basement). In V Zones and coastal A Zones, the bottom of the lowest horizontal structural member of a building is the lowest floor. An unfinished or flood resistant enclosure, usable solely for the parking of vehicles, building access or storage in an area other than a basement is not considered a building's lowest floor provided that such enclosure is not built so as to render the structure in violation of other applicable non-elevation design requirements of these regulations.

MANUFACTURED HOME – A structure that is transportable in one or more sections, eight (8) feet or more in width and greater than four hundred (400) square feet, built on a permanent chassis, designed for use with or without a permanent foundation when attached to the required utilities, and constructed to the Federal Manufactured Home Construction and Safety Standards and rules and regulations promulgated by the U.S. Department of Housing and Urban Development. The term also includes mobile homes, park trailers, travel trailers and similar transportable structures that are placed on a site for 180 consecutive days or longer.

MANUFACTURED HOME PARK OR SUBDIVISION – A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MARKET VALUE – The price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in these regulations, the term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. Market value shall be determined by one of the following methods (1) Actual Cash Value (replacement cost depreciated for age and quality of construction), (2) tax assessment value adjusted to approximate market value by a factor provided by the Property Appraiser, or (3) established by a qualified independent appraiser.

NEW CONSTRUCTION – Structures for which the start of construction commenced on or after the effective date of the first floodplain regulation adopted by a community; includes any subsequent improvements to such structures. New construction includes work determined to be a substantial improvement.

NON-RESIDENTIAL – Pursuant to ASCE 24, any building or structure or portion thereof that is not classified as residential.

ORDINARY MAINTENANCE AND MINOR WORK – This term refers to types of work excluded from construction permitting under N.J.A.C. 5:23 in the March 5, 2018 New Jersey Register. Some of these types of work must be considered in determinations of substantial improvement and substantial damage in regulated floodplains under 44 CFR 59.1. These types of work include but are not limited to replacements of roofing, siding, interior finishes, kitchen cabinets, plumbing fixtures and piping, HVAC and air conditioning equipment, exhaust fans, built in appliances, electrical wiring, etc. Improvements necessary to correct existing violations of State or local health, sanitation, or code enforcement officials which are the minimum necessary to

assure safe living conditions and improvements of historic structures as discussed in 44 CFR 59.1 shall not be included in the determination of ordinary maintenance and minor work.

RECREATIONAL VEHICLE – A vehicle that is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled or permanently towable by a light-duty truck, and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

RESIDENTIAL – Pursuant to the ASCE 24:

- a. Buildings and structures and portions thereof where people live or that are used for sleeping purposes on a transient or non-transient basis;
- b. Structures including but not limited to one- and two-family dwellings, townhouses, condominiums, multi-family dwellings, apartments, congregate residences, boarding houses, lodging houses, rooming houses, hotels, motels, apartment buildings, convents, monasteries, dormitories, fraternity houses, sorority houses, vacation time-share properties; and
- c. institutional facilities where people are cared for or live on a 24-hour basis in a supervised environment, including but not limited to board and care facilities, assisted living facilities, halfway houses, group homes, congregate care facilities, social rehabilitation facilities, alcohol and drug centers, convalescent facilities, hospitals, nursing homes, mental hospitals, detoxification facilities, prisons, jails, reformatories, detention centers, correctional centers, and prerelease centers.

SOLID WASTE DISPOSAL – "Solid Waste Disposal" shall mean the storage, treatment, utilization, processing or final disposition of solid waste as described in N.J.A.C. 7:26-1.6 or the storage of unsecured materials as described in N.J.A.C. 7:13-2.3 for a period of greater than 6 months as specified in N.J.A.C. 7:26 which have been discharged, deposited, injected, dumped, spilled, leaked, or placed into any land or water such that such solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

SPECIAL FLOOD HAZARD AREA – The greater of the following: (1) Land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year, shown on the FIRM as Zone V, VE, V1-3-, A, AO, A1-30, AE, A99, or AH; (2) Land and the space above that land, which lies below the peak water surface elevation of the flood hazard area design flood for a particular water, as determined using the methods set forth in the New Jersey Flood Hazard Area Control Act in N.J.A.C. 7:13; (3) Riparian Buffers as determined in the New Jersey Flood Hazard Area Control Act in N.J.A.C. 7:13. Also referred to as the AREA OF SPECIAL FLOOD HAZARD.

START OF CONSTRUCTION – The **Start of Construction** is as follows:

- a. **For other than new construction or substantial improvements, under the Coastal Barrier Resources Act (CBRA)**, this is the date the building permit was issued, provided that the actual start of construction, repair, rehabilitation, addition, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a building on site, such as the pouring of a slab or footing, the installation of piles, the construction of columns or any work beyond the stage of excavation; or the placement of a manufactured (mobile) home on a foundation. For a substantial improvement, actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- b. **For the purposes of determining whether proposed construction must meet new requirements when National Flood Insurance Program (NFIP) maps are issued or revised and Base Flood Elevation's (BFEs) increase or zones change**, the Start of Construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation.

Permanent construction does not include land preparation, such as clearing, grading, and filling, nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. Such development must also be permitted and must meet new requirements when National Flood Insurance Program (NFIP) maps are issued or revised and Base Flood Elevation's (BFEs) increase or zones change.

For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

For determining if new construction and substantial improvements within the Coastal Barrier Resources System (CBRS) can obtain flood insurance, a different definition applies.

STRUCTURE – A walled and roofed building, a manufactured home, or a gas or liquid storage tank that is principally above ground.

SUBSTANTIAL DAMAGE – Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT – Any reconstruction, rehabilitation, addition, or other improvement of a structure taking place, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the

improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of State or local health, sanitary or safety code specifications which have been identified by the local code enforcement officer and which are the minimum necessary to assure safe living conditions; or
- b. Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as "historic structure."

UTILITY AND MISCELLANEOUS GROUP U BUILDINGS AND STRUCTURES – Buildings and structures of an accessory character and miscellaneous structures not classified in any special occupancy, as described in ASCE 24.

VARIANCE – A grant of relief from the requirements of this section which permits construction in a manner otherwise prohibited by this section where specific enforcement would result in unnecessary hardship.

VIOLATION – A development that is not fully compliant with these regulations or the flood provisions of the building code. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION – the height, in relation to the North American Vertical Datum (NAVD) of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

WATERCOURSE - A river, creek, stream, channel, or other topographic feature in, on, through, or over which water flows at least periodically.

WET FLOODPROOFING – Floodproofing method that relies on the use of flood damage resistant materials and construction techniques in areas of a structure that are below the Local Design Flood Elevation by intentionally allowing them to flood. The application of wet floodproofing as a flood protection technique under the National Flood Insurance Program (NFIP) is limited to enclosures below elevated residential and non-residential structures and to accessory and agricultural structures that have been issued variances by the community.

ARTICLE 10-SUBDIVISIONS AND OTHER DEVELOPMENTS

169-63 General. Any subdivision proposal, including proposals for manufactured home parks and subdivisions, or other proposed new development in a flood hazard area shall be reviewed to assure that:

1. All such proposals are consistent with the need to minimize flood damage.
2. All public utilities and facilities, such as sewer, gas, electric and water systems are located and constructed to minimize or eliminate flood damage.
3. Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage path shall be provided to guide floodwater around and away from structures.

169-64 Subdivision requirements. Where any portion of proposed subdivisions, including manufactured home parks and subdivisions, lies within a flood hazard area, the following shall be required:

1. The flood hazard area, including floodways, coastal high hazard areas, and Coastal A Zones, and base flood elevations, as appropriate, shall be delineated on tentative subdivision plats.
2. Residential building lots shall be provided with adequate buildable area outside the floodway.
3. The design criteria for utilities and facilities set forth in these regulations and appropriate codes shall be met.

ARTICLE 11- SITE IMPROVEMENT

169-65 Encroachment in floodways. Development, land disturbing activity, and encroachments in floodways shall not be authorized unless it has been demonstrated through hydrologic and hydraulic analyses required in accordance with Section 105.3(1) of these regulations, that the proposed encroachment will not result in any increase in the base flood level during occurrence of the base flood discharge. If Section 105.3(1) is satisfied, proposed elevation, addition, or reconstruction of a lawfully existing structure within a floodway shall also be in accordance with Section 801.2 of this ordinance and the floodway requirements of N.J.A.C. 7:13.

169-66 Prohibited in floodways. The following are prohibited activities:

1. The storage of unsecured materials is prohibited within a floodway pursuant to N.J.A.C. 7:13.
2. Fill and new structures are prohibited in floodways per N.J.A.C. 7:13.

169-67 Sewer facilities. All new and replaced sanitary sewer facilities, private sewage treatment plants (including all pumping stations and collector systems) and on-site waste disposal systems shall be designed in accordance with the New Jersey septic system regulations contained in N.J.A.C. 14A and N.J.A.C. 7:9A, the UCC Plumbing Subcode (N.J.A.C. 5:23) and Chapter 7, ASCE 24, to minimize or eliminate infiltration of floodwater into the facilities and discharge from the facilities into flood waters, or impairment of the facilities and systems.

169-68 Water facilities. All new and replacement water facilities shall be designed in accordance with the New Jersey Safe Drinking Water Act (N.J.A.C. 7:10) and the provisions of Chapter 7 ASCE 24, to minimize or eliminate infiltration of floodwater into the systems.

169-69 Storm drainage. Storm drainage shall be designed to convey the flow of surface waters to minimize or eliminate damage to persons or property.

169-70 Streets and sidewalks. Streets and sidewalks shall be designed to minimize potential for increasing or aggravating flood levels.

169-71 Limitations on placement of fill. Subject to the limitations of these regulations, fill shall be designed to be stable under

conditions of flooding including rapid rise and rapid drawdown of floodwater, prolonged inundation, and protection against flood-related erosion and scour. In addition to these requirements, when intended to support buildings and structures (Zone A only), fill shall comply with the requirements of the UCC (N.J.A.C. 5:23). Proposed fill and encroachments in flood hazard areas shall comply with the flood storage displacement limitations of N.J.A.C. 7:13.

- 169-72 Hazardous Materials.** The placement or storage of any containers holding hazardous substances in a flood hazard area is prohibited unless the provisions of N.J.A.C. 7:13 which cover the placement of hazardous substances and solid waste is met.

ARTICLE 12- MANUFACTURED HOMES

- 169-73 General.** All manufactured homes installed in flood hazard areas shall be installed pursuant to the Nationally Preemptive Manufactured Home Construction and Safety Standards Program (24 CFR 3280).
- 169-74 Elevation.** All new, relocated, and replacement manufactured homes to be placed or substantially improved in a flood hazard area shall be elevated such that the bottom of the frame is elevated to or above the elevation specified in Section 801.2.
- 169-75 Foundations.** All new, relocated, and replacement manufactured homes, including substantial improvement of existing manufactured homes, shall be placed on permanent, reinforced foundations that are designed in accordance with Section R322 of the Residential Code.
- 169-76 Anchoring.** All new, relocated, and replacement manufactured homes to be placed or substantially improved in a flood hazard area shall be installed using methods and practices which minimize flood damage and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
- 169-77 Enclosures.** Fully enclosed areas below elevated manufactured homes shall comply with the requirements of Section 801.2.
- 169-78 Protection of mechanical equipment and outside appliances.** Mechanical equipment and outside appliances shall be elevated to or above the elevation of the bottom of the frame required in Section 801.2 of these regulations.
- Exception.** Where such equipment and appliances are designed and installed to prevent water from entering or accumulating within their components and the systems are constructed to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of flooding up to the elevation required by Section 801.2, the systems and equipment shall be permitted to be located below that elevation. Electrical wiring systems shall be permitted below the design flood elevation provided they conform to the provisions of NFPA 70 (National Electric Code).

ARTICLE 13-- RECREATIONAL VEHICLES

- 169-79 Placement prohibited.** The placement of recreational vehicles shall not be authorized in coastal high hazard areas and in floodways.
- 169-80 Temporary placement.** Recreational vehicles in flood hazard areas shall be fully licensed and ready for highway use and shall be placed on a site for less than 180 consecutive days.
- 169-81 Permanent placement.** Recreational vehicles that are not fully licensed and ready for highway use, or that are to be placed on a site for more than 180 consecutive days, shall meet the requirements of Section 801.2 for habitable buildings.

ARTICLE 14- TANKS

- 169-82 Tanks.** Underground and above-ground tanks shall be designed, constructed, installed, and anchored in accordance with ASCE 24 and N.J.A.C. 7:13.

ARTICLE 15- OTHER DEVELOPMENT AND BUILDING WORK

- 169-83 General requirements for other development and building work. All development and building work, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in these regulations or the Uniform Construction Code (N.J.A.C. 5:23), shall:**
1. Be located and constructed to minimize flood damage;
 2. Meet the limitations of Section 105.3(1) of this ordinance when located in a regulated floodway;
 3. Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic and hydrodynamic loads, including the effects of buoyancy, during the conditions of flooding up to the Local Design Flood Elevation determined according to Section 102.3;
 4. Be constructed of flood damage-resistant materials as described in ASCE 24 Chapter 5;
 5. Have mechanical, plumbing, and electrical systems above the Local Design Flood Elevation determined according to Section 102.3 or meet the requirements of ASCE 24 Chapter 7 which requires that attendant utilities are located above the Local Design Flood Elevation unless the attendant utilities and equipment are:
 - i. Specifically allowed below the Local Design Flood Elevation; and
 - ii. Designed, constructed, and installed to prevent floodwaters, including any backflow through the system from entering or accumulating within the components.
 6. Not exceed the flood storage displacement limitations in fluvial flood hazard areas in accordance with N.J.A.C. 7:13; and
 7. Not exceed the impacts to frequency or depth of offsite flooding as required by N.J.A.C. 7:13 in floodways.
- 169-84 Requirements for Habitable Buildings and Structures.**
- 1) Construction and Elevation in A Zones not including Coastal A Zones.
 - a. No portion of a building is located within a V Zone.
 - b. No portion of a building is located within a Coastal A Zone, unless a licensed design professional certifies that the building's

foundation is designed in accordance with ASCE 24, Chapter 4.

- c. All new construction and substantial improvement of any habitable building (as defined in Section 201) located in flood hazard areas shall have the lowest floor, including basement, together with the attendant utilities (including all electrical, heating, ventilating, air-conditioning and other service equipment) and sanitary facilities, elevated to or above the Local Design Flood Elevation as determined in Section 102.3, be in conformance with ASCE 24 Chapter 7, and be confirmed by an Elevation Certificate.
- d. All new construction and substantial improvements of non-residential structures shall:
 - i. Have the lowest floor, including basement, together with the attendant utilities (including all electrical, heating, ventilating, air-conditioning and other service equipment) and sanitary facilities, elevated to or above the Local Design Flood Elevation as determined in Section 102.3, be in conformance with ASCE 24 Chapter 7, and be confirmed by an Elevation Certificate; or
 - ii. Together with the attendant utility and sanitary facilities, be designed so that below the Local Design Flood Elevation, the structure:
 - 1. Meets the requirements of ASCE 24 Chapters 2 and 7; and
 - 2. Is constructed according to the design plans and specifications provided at permit application and signed by a licensed design professional, is certified by that individual in a Floodproofing Certificate, and is confirmed by an Elevation Certificate.
- e. All new construction and substantial improvements with fully enclosed areas below the lowest floor shall be used solely for parking of vehicles, building access, or storage in an area other than a basement and which are subject to flooding. Enclosures shall:
 - i. For habitable structures, be situated at or above the adjoining exterior grade along at least one entire exterior wall, in order to provide positive drainage of the enclosed area in accordance with N.J.A.C. 7:13; enclosures (including crawlspaces and basements) which are below grade on all sides are prohibited;
 - ii. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters unless the structure is non-residential and the requirements of 801.2.1(d)ii are met;
 - iii. Be constructed to meet the requirements of ASCE 24 Chapter 2;
 - iv. Have openings documented on an Elevation Certificate; and
 - v. Have documentation that a deed restriction has been obtained for the lot if the enclosure is greater than six feet in height. This deed restriction shall be recorded in the Office of the County Clerk or the Registrar of Deeds and Mortgages in which the building is located, shall conform to the requirements in N.J.A.C. 7:13, and shall be recorded within 90 days of receiving a Flood Hazard Area Control Act permit or prior to the start of any site disturbance (including pre-construction earth movement, removal of vegetation and structures, or construction of the project), whichever is sooner. Deed restrictions must explain and disclose that:
 - 1. The enclosure is likely to be inundated by floodwaters which may result in damage and/or inconvenience.
 - 2. The depth of flooding that the enclosure would experience to the Flood Hazard Area Design Flood Elevation;
 - 3. The deed restriction prohibits habitation of the enclosure and explains that converting the enclosure into a habitable area may subject the property owner to enforcement;

169-85 Garages and accessory storage structures. Garages and accessory storage structures shall be designed and constructed in accordance with the Uniform Construction Code.

169-86 Fences. Fences in floodways that have the potential to block the passage of floodwater, such as stockade fences and wire mesh fences, shall meet the requirements of Section 105.3(1) of these regulations. Pursuant to N.J.A.C. 7:13, any fence located in a floodway shall have sufficiently large openings so as not to catch debris during a flood and thereby obstruct floodwaters, such as barbed-wire, split-rail, or strand fence. A fence with little or no open area, such as a chain link, lattice, or picket fence, does not meet this requirement. Foundations for fences greater than 6 feet in height must conform with the Uniform Construction Code. Fences for pool enclosures having openings not in conformance with this section but in conformance with the Uniform Construction Code to limit climbing require a variance as described in Section 107 of this ordinance.

169-87 Retaining walls, sidewalks, and driveways. Retaining walls, sidewalks and driveways that involve placement of fill in floodways shall meet the requirements of Section 105.3(1) of these regulations and N.J.A.C. 7:13.

169-88 Swimming pools. Swimming pools shall be designed and constructed in accordance with the Uniform Construction Code. Above-ground swimming pools and below-ground swimming pools that involve placement of fill in floodways shall also meet the requirements of Section 105.3(1) of these regulations. Above-ground swimming pools are prohibited in floodways by N.J.A.C. 7:13.

169-89 Roads and watercourse crossings.

- 1. For any railroad, roadway, or parking area proposed in a flood hazard area, the travel surface shall be constructed at least one foot above the Flood Hazard Area Design Elevation in accordance with N.J.A.C. 7:13.
- 2. Roads and watercourse crossings that encroach into regulated floodways or riverine waterways with base flood elevations where floodways have not been designated, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, shall meet the requirements of Section 105.3(1) of these regulations.

ARTICLE 16-TEMPORARY STRUCTURES AND TEMPORARY STORAGE

- 169-90 Temporary structures.** Temporary structures shall be erected for a period of less than 180 days. Temporary structures shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the base flood. Fully enclosed temporary structures shall have flood openings that are in accordance with ASCE 24 to allow for the automatic entry and exit of flood waters.
- 169-91 Temporary storage.** Temporary storage includes storage of goods and materials for a period of less than 180 days. Stored materials shall not include hazardous materials.
- 169-92 Floodway encroachment.** Temporary structures and temporary storage in floodways shall meet the requirements of Section 105.3(1) of these regulations.

ARTICLE 17- UTILITY AND MISCELLANEOUS GROUP U

- 169-93 Utility and Miscellaneous Group U.** In accordance with Section 312 of the International Building Code, Utility and Miscellaneous Group U includes buildings and structures that are accessory in character and miscellaneous structures not classified in any specific occupancy in the Building Code, including, but not limited to, agricultural buildings, aircraft hangars (accessory to a one- or two-family residence), barns, carports, communication equipment structures (gross floor area less than 1,500 sq. ft.), fences more than 6 feet (1829 mm) high, grain silos (accessory to a residential occupancy), livestock shelters, private garages, retaining walls, sheds, stables, tanks and towers.
- 169-94 Flood loads.** Utility and miscellaneous Group U buildings and structures, including substantial improvement of such buildings and structures, shall be anchored to prevent flotation, collapse or lateral movement resulting from flood loads, including the effects of buoyancy, during conditions up to the Local Design Flood Elevation as determined in Section 102.3.
- 169-95 Elevation.** Utility and miscellaneous Group U buildings and structures, including substantial improvement of such buildings and structures, shall be elevated such that the lowest floor, including basement, is elevated to or above the Local Design Flood Elevation as determined in Section 102.3 and in accordance with ASCE 24. Utility lines shall be designed and elevated in accordance with N.J.A.C. 7:13.
- 169-96 Enclosures below base flood elevation.** Fully enclosed areas below the design flood elevation shall be constructed in accordance with Section 801.2 and with ASCE 24 for new construction and substantial improvements. Existing enclosures such as a basement or crawlspace having a floor that is below grade along all adjoining exterior walls shall be abandoned, filled-in, and/or otherwise modified to conform with the requirements of N.J.A.C. 7:13 when the project has been determined to be a substantial improvement by the Floodplain Administrator.
- 169-97 Flood-damage resistant materials.** Flood-damage-resistant materials shall be used below the Local Design Flood Elevation determined in Section 102.3.
- 169-98 Protection of mechanical, plumbing, and electrical systems.** Mechanical, plumbing, and electrical systems, equipment and components, heating, ventilation, air conditioning, plumbing fixtures, duct systems, and other service equipment, shall be elevated to or above the Local Design Flood Elevation determined in Section 102.3.
- Exception:** Electrical systems, equipment and components, and heating, ventilating, air conditioning, and plumbing appliances, plumbing fixtures, duct systems, and other service equipment shall be permitted to be located below the Local Design Flood Elevation provided that they are designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of flooding to the Local Design Flood Elevation in compliance with the flood-resistant construction requirements of ASCE 24. Electrical wiring systems shall be permitted to be located below the Local Design Flood Elevation provided they conform to the provisions of NFPA 70 (National Electric Code).

SECTION 3. SEVERABILITY.

Where any section, subsection, sentence, clause, or phrase of these regulations is, for any reason, declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof, other than the part so declared.

SECTION 4. EFFECTIVE DATE.

This Ordinance shall take effect upon its passage and publication as required by law.

2) Ordinance 12-2022 - Short Term Rentals - First Reading/Introduction (Public Hearing 6/22/22)

Attorney Bayer read the ordinance by title. The public hearing will be held on 06/22/22.

Mayor Talerico explained the purpose and contents of the ordinance. Attorney Bayer referred to the penalty provision, discussing the fine schedule. Council consensus was to input a fee penalty scale. Discussion followed on the fee per offense.

Attorney Bayer clarified section 257-5c currently reads as "shall be liable for the maximum civil penalty of a fine not exceeding \$2,000 per violation, each day will be a separate violation". Attorney Bayer amended the ordinance to add the sentence of "first offense \$500.00, second offense \$1,000.00". Discussion continued regarding removing language about apartments. Consensus was to remove language regarding multi-dwelling/apartments.

Motion to introduce the ordinance by C/Gindi; seconded by C/Gonzalez

Roll Call: AYE - C/Gonzalez, C/Escalante, C/Jones, C/Gindi, C/Lucas
ABSTAIN - C/Regan

ORDINANCE 12-2022: AN ORDINANCE CREATING CHAPTER 257 OF THE BOROUGH CODE ENTITLED "RENTAL PROPERTIES" REGULATING SHORT TERM RENTALS WITHIN THE BOROUGH OF EATONTOWN AN ORDINANCE CREATING CHAPTER 257 OF THE BOROUGH CODE ENTITLED "RENTAL PROPERTIES" REGULATING SHORT TERM RENTALS WITHIN THE BOROUGH OF EATONTOWN

WHEREAS, the Borough has experienced a large increase in short term rentals of residential properties given the proximity of Eatontown to the beaches along the New Jersey shoreline; and

WHEREAS, the Borough Council believes it is in the Borough's best interest to regulate specific short-term rentals activities to minimize any potential deleterious effects on other properties in the surrounding neighborhoods in which they are located; and

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Eatontown, County of Monmouth, State of New Jersey that Borough Code is hereby amended to create Chapter 257 entitled "Rental Properties".

Chapter 257 entitled "Rental Properties" shall read as follows:

§257-1 Definitions.

- (a) **Advertise or Advertising**-Any form of solicitation, promotion, and/or communication for marketing, used to solicit, encourage, persuade, or manipulate viewers, readers, or listeners into contracting for goods and/ or services in violation of this subsection, as same may be viewed through various media including but not limited to, signs, newspapers, magazines, flyers, commercials, radio, direct mail, internet websites, or text or other electronic messages for the purpose of establishing occupancies or uses of property, for consideration, which are prohibited by this Section.
- (b) **Consideration-Soliciting**, charging, demanding, receiving, or accepting any legally recognized form of consideration including a promise or benefit, a quid -pro -quo, rent, fees, other form of payment, or thing of value.
- (c) **Dwelling Or Dwelling Unit**- A building or portion thereof, whether furnished or unfurnished, which is occupied in whole or in part, or intended, arranged, or designed to be occupied, for sleeping, dwelling, cooking, gathering, and/ or entertaining, as a residential occupancy, by or one or more persons. This definition includes a condominium, building, townhome, single-family home or portions thereof, that is offered to be used, made available for use, or is actually used for accommodations, lodging, cooking, sleeping, gathering and/or entertaining of occupants and/or guest(s), for consideration. **It specifically excludes commercial rental apartment buildings.**
- (d) **Hosting Platform**-A website or marketplace in whatever form, whether online or not, which facilitates Short -Term Rentals or the rental of the exterior (e. g. pool, pool area, backyard) of a residential unit through advertising, searching, match making, or any other means, using any medium of facilitation and from which the operator of the Hosting Platform derive revenues, including but not limited to booking fees or advertising revenue, from providing or maintaining the website or marketplace.
- (e) **Housekeeping Unit**- Constitutes a family-type situation, involving one or more persons living together that exhibit the kind of stability, permanency, and functional lifestyle equivalent to that of a traditional family unit, as further described in the applicable reported and unreported decisions of the New Jersey Superior Court.
- (f) **Occupant**-Any individual using, inhabiting, living, gathering, entertaining, being entertained as a guest, or sleeping in a dwelling unit, or portion thereof, or having other permission or possessory right(s) within a Dwelling Unit.
- (g) **Owner**-Any Person(s) who legally use, possess, own, lease, sub -lease, or license (including an operator, principal, shareholder, director, agent, or employee, individually or collectively) one or more Dwelling Units, or who have charge, care, control, or who participates in the expenses and/or profit of a Dwelling Unit pursuant to a written or unwritten agreement, rental, lease, license, use, occupancy agreement or any other agreement.
- (h) **Person**-An individual, firm, corporation, association, partnership, limited liability company, association, entity, and any person(s) and/or entity(ies) acting in concert or any combination therewith.
- (i) **Residential Occupancy**-The use of a dwelling unit by an Occupant(s).
- (j) **Short-Term Rental**-A Residential Occupancy for a period of ninety (90) days or less.

§257-2 Short-term Rentals Prohibited.

- (a) It shall be unlawful for a Person or Owner to receive or obtain actual or anticipated Consideration for using, authorizing, permitting, or failing to discontinue the use of any Dwelling Unit used as a Short-Term Rental, and shall not enter into a Short-Term Rental arrangement, as defined herein, more than two-times in any twelve-month period.
- (b) It shall be unlawful for a Person or Owner to receive or obtain actual or anticipated Consideration for using, authorizing, permitting, or failing to discontinue the rental of all or a portion of the exterior of any residential property. This shall include the rental of the pool, pool area, and backyard.
- (c) There shall only be one written or oral agreement as between a Person or Owner receiving or obtaining actual or anticipated Consideration for the use of Dwelling Unit as a Short-Term Rental regardless of the number of occupants associated with each rental.
- (d) Nothing in this section prevents formation of an otherwise lawful Residential Occupancy of a Dwelling Unit for a rental period of ninety (90) days or more.

(e) Nothing in this section shall be deemed to prohibit the lawful operation of any hotel as that term is defined in the New Jersey Hotel and Multiple Dwelling Law, N.J. S. A. 55: 13- 1, et seq.

§257-3. Permitted uses.

(a) The Residential Occupancy of an otherwise lawful and lawfully-occupied Dwelling Unit for any number of days by any Person who is a member of the Housekeeping Unit of the Owner or a house guest(s), without consideration, is permitted.

§257-4 Advertising prohibited, hosting platform regulations.

(a) It shall be unlawful for any Person to Advertise by any means that would be in violation of the provisions of this section.

(b) It shall be unlawful for any Hosting Platform to undertake, maintain, authorize, aid, facilitate or Advertise any Short -Term Rentals in violation of this section.

(c) It shall be unlawful for any Hosting Platform to undertake, maintain, authorize, aid, facilitate or Advertise all or a portion of the exterior of any residential property for rent in violation of this section.

§257-5 Violations, penalties and enforcement.

(a) The provisions of this section shall be enforced by the Zoning Officer, Housing Officer or Borough Police as their jurisdiction may arise, including legal counsel for the Borough or other person designated by the Borough Council, to issue municipal civil infractions directing alleged violators of this section and/ or to appear in court or file civil complaints.

(b) A violation of this section is hereby declared to be a public nuisance per se and is hereby further found and declared to be offensive to the public health, safety, and welfare.

(c) Any Person found to have violated any provision of this section, without regard to intent or knowledge, shall be liable for the first offense in the amount of \$500.00, second offense \$1000.00 and up to the maximum civil penalty, upon adjudicated violation or admission, of a fine not exceeding \$2,000 per day per violation for any further violations. Each day of such violation shall be considered a new and separate violation of this section.

(d) The penalty imposed pursuant to subsection (c) above shall be in addition to any and all other remedies that may accrue under any other law, including, but not limited to, eviction proceedings and/ other injunction, reasonable attorneys' fees or other fees and costs, in the Borough's Municipal Court or the Superior Court of New Jersey in the vicinage of Monmouth County, or in such other Court or tribunal of competent jurisdiction, by either summary disposition or by zoning or construction code municipal process. All costs attendant to enforcement of this section shall be assessed as a lien against the subject property, enforceable and collectible in the same manner as liens for delinquent real property taxes and municipal service charges.

BE IT FURTHER ORDAINED, that

D. All other Ordinances or provisions of the Code of the Borough of Eatontown or parts thereof, which are inconsistent with any provisions in this Ordinance, are hereby repealed to the extent of such conflict or inconsistency.

E. If any provision or portion of this Chapter is held to be unconstitutional, preempted by Federal or State Law or otherwise invalid by any court of competent jurisdiction, the remaining provisions of this chapter shall not be invalidated.

F. This Ordinance shall take effect upon its passage and publication as required by law.

3) Ordinance 13-2022 - An Ordinance Amending Chpt. 233, "Parks and Playgrounds", Article III "Use of Parks", Section 233-18 "Hours" of the Borough Code, and Amending Chpt. 312, "Vehicles and Traffic", Article II "Parking: Stopping or Standing", Section 312-5 "Parking Prohibited During Certain Hours" and Article XIV "Penalties", Section 312-29 "Specific Fines and Penalties" Clarifying the Applicable Penalty for Violation of the NO Overnight Parking in Public Park Prohibition" - *First Reading/Introduction (Public Hearing 6/22/22)*

Attorney Bayer explained an issue regarding the original ordinance was brought to the attention; thus, the same prohibition will apply but will be moved to a different section of the code to be under parking which will incur a set violation of \$48.00.

Moving the ordinance makes enforcement easier while accomplishing the same goal.

Attorney Bayer read the ordinance by title. The public hearing will be held on 06/22/22.

Motion to introduce the ordinance by C/Jones; seconded by C/Gindi

Roll Call: AYE - C/Gonzalez, C/Regan, C/Escalante, C/Jones, C/Gindi, C/Lucas

ORDINANCE 13-2022: AN ORDINANCE OF THE BOROUGH OF EATONTOWN AMENDING CHAPTER 233, "PARKS AND PLAYGROUNDS", ARTICLE III "USE OF PARKS", SECTION 233-18 "HOURS" OF THE BOROUGH CODE, AND AMENDING CHAPTER 312, "VEHICLES AND TRAFFIC", ARTICLE II "PARKING; STOPPING OR STANDING", SECTION 312-5 "PARKING PROHIBITED DURING CERTAIN HOURS" AND ARTICLE XIV "PENALTIES", SECTION 312-29 "SPECIFIC FINES AND PENALTIES" CLARIFYING THE APPLICABLE PENALTY FOR VIOLATION OF THE NO OVERNIGHT PARKING IN PUBLIC PARKS PROHIBITION

WHEREAS, the Borough currently has enacted rules and regulations for the protection, regulation and control of the public parks owned, operated and controlled by the Borough which include the parks close at dusk; and

WHEREAS, the Borough wants to ensure that its rule and regulations concerning park use are applied in a uniform manner including the restriction of the parking of motor vehicle to the times that the parks are open; and

WHEREAS, the Borough Council adopted Ordinance 2-2022 precluding overnight parking in Borough Parks;

WHEREAS, the Borough Council seeks clarify through the adoption of a new ordinance that a violation of the overnight parking regulation is a parking violation rather than a quasi-criminal ordinance and it seeks to establish a uniform penalty for such a violation.

NOW THEREFORE BE IT ORDAINED, by the Borough Council of the Borough of Eatontown, County of Monmouth and State of New Jersey that it hereby amends Chapter 233, Article III, Section 233-18 of the Borough Code entitled "Hours" as follows:

(additions are underlined deletions are ~~stricken~~):

Section 233-18 Hours

Public parks shall be open each day during the period between dawn and dusk, except that the closing time of a public park may be extended by prior permission and authorization of the governing body or the Recreation Advisory Committee for good cause. No person shall, without such permission and authorization, enter into or remain in a public park except during the hours the park is open to the general public. ~~No vehicle shall be parked in any parking lot connected to any public park before dawn or after dusk.~~

BE IT FURTHER ORDAINED THAT Chapter 312, "Vehicles and Traffic", Article II "Parking; Stopping or Standing", Section 312-5 "Parking Prohibited During Certain Hours" and Article XIV "Penalties", Section 312-29 "Specific Fines and Penalties" is hereby amended as follows:

Section 312-5 Parking Prohibited During Certain Hours

- A. No person shall park a vehicle between the hours specified in Schedule II (§ ~~312-33~~) of any day (except Sundays and public holidays) upon any of the streets or parts of streets described in said Schedule II attached to and made a part of this Part 1.

- B. No vehicle shall be parked in any parking lot connected to any public park before dawn or after dusk.

Section 312-29 Specific Fines and Penalties

§312-5 (a) Parking Prohibited During Certain Hours \$29

§312-5 (b) No Parking in Public Park Parking Lot \$48

BE IT FURTHER ORDAINED, that

- G. All other Ordinances or provisions of the Code of the Borough of Eatontown or parts thereof, which are inconsistent with any provisions in this Ordinance, are hereby repealed to the extent of such conflict or inconsistency.
- H. If any provision or portion of this Chapter is held to be unconstitutional, preempted by Federal or State Law or otherwise invalid by any court of competent jurisdiction, the remaining provisions of this chapter shall not be invalidated.
- I. This Ordinance shall take effect upon its passage and publication as required by law.

B. CONSENT AGENDA RESOLUTIONS

(All matters listed hereunder are considered to be routine in nature and will be enacted in one motion. Any person may request an item be removed for separate consideration.)

- 1) Resolution 140-2022 - Auth. Tax Collector to Substitute up to Two Mailings In Lieu of Advertisement for Tax Sale
- 2) Resolution 141-2022 - Auth. Approval of Electronic Tax Sale on Realauction.com
- 3) Resolution 142-2022 - Authorizing Renewal of Liquor Licenses (2022-2023)
- 4) Resolution 143-2022 - Award of Contract - Police Extra Duty Management System
- 5) Resolution 144-2022 - Auth. Refund of Overpaid Property Taxes Due to State Tax Appeal

Item 4, Resolution 143-2022 - Award of Contract - Police Extra Duty Management System was held.

Motion to approve Consent Items 1-3, 5 (Resolutions 140-142, 144) as a group by C/Regan; seconded by C/Gindi

Roll Call: AYE - C/Gonzalez, C/Regan, C/Escalante, C/Jones, C/Gindi, C/Lucas

RESOLUTION 140 -2022

AUTHORIZING MUNICIPAL TAX COLLECTOR TO SUBSTITUTE UP TO TWO (2) MAILINGS IN LIEU OF ADVERTISEMENT FOR TAX SALE AT A COST NOT TO EXCEED \$25.00 (TWENTY FIVE DOLLARS) FOR EACH MAILING WHICH MAY BE ADDED TO THE COST OF THE SALE

WHEREAS, NJSA 54:5-19.1 authorizes electronic tax sales pursuant to rules and regulations to be promulgated by the Director of the Division of Local Government Services, and

WHEREAS, the rules and regulations require a municipality to send two (2) notices of tax sale to all properties included in said sale; and

WHEREAS, the rules and regulations allow said municipality to charge a fee of \$25.00 per notice for the creation, printing and mailing of said notice; and

WHEREAS, in an effort to more fairly assign greater fiscal responsibility to delinquent taxpayers, the Borough of Eatontown wishes to charge \$25.00 per notice mailed which will be assessed specifically to the delinquent accounts that are causing the need for a tax sale and not to the general tax base.

BE IT RESOLVED by the Council of the Borough of Eatontown that a fee of \$25.00 per notice be established and is hereby authorized and directed to be charged for each notice of tax sale that is sent in conjunction with the 2022 electronic tax sale.

RESOLUTION 141-2022**AUTHORIZATION TO APPROVE ELECTRONIC TAX SALES THROUGH REALAUCTION.COM PURSUANT TO THE RULES AND REGULATIONS PROMULGATED BY THE DIRECTOR OF THE DIVISION OF LOCAL GOVERNMENT SERVICES**

WHEREAS, NJSA 54:5-19.1 authorizes electronic tax sales pursuant to rules and regulations to be promulgated by the Director of the Division of Government Services, and

WHEREAS, the Director of the Division of Local Government Services has approved NJ Tax Lien Investors/RealAuction.com to conduct electronic tax sales, and

WHEREAS, an electronic tax sale is innovative and provides a greater pool of potential lien buyers, thus creating the environment for a more complete tax sale process, and

WHEREAS, the municipality of Borough of Eatontown wishes to participate in an electronic tax sale.

NOW, THEREFORE, BE IT RESOLVED, by the governing body of the municipality of Borough of Eatontown, New Jersey, that the Tax Collector is hereby authorized to participate in an electronic tax sale and submit same to the Director of the Division of Local Government Services if necessary.

RESOLUTION 142-2022**AUTHORIZING RENEWAL OF ALCOHOLIC BEVERAGE CONTROL LICENSES**

WHEREAS, on June 30, 2022, all New Jersey Alcoholic Beverage Control licenses (Plenary Retail Consumption, Plenary-Retail Distribution, and Club) issued in the Borough of Eatontown will expire as per N.J.S.A.33-1 et al, and may be renewed upon application to the Borough Clerk and approval by the Eatontown Governing Body; and

WHEREAS, the following named applicants have properly filed their applications for renewal with the Borough Clerk in a timely manner, have fulfilled all the legal requirements, and paid all the required fees; and

WHEREAS, after searching the police reports of the Borough of Eatontown, Chief William Lucia has found no reason to deny the issuance of these licenses; and

WHEREAS, no objections have been filed with the Borough Clerk by anyone, including the New Jersey ABC Commission, regarding the renewal of these licenses.

NOW, THEREFORE BE IT RESOLVED, that the Mayor and Council of the Borough of Eatontown do hereby grant the applicants listed below a renewal of their ABC Licenses in the Borough of Eatontown for the period of July 1, 2022 through June 30, 2023, as follows:

DISTRIBUTION	PRICES WINES & LIQUORS (TSURAJ, Inc.)	1311-44-002-003
	TOTAL WINE SPIRITS BEER & MORE	1311-44-010-004
	(Eatontown Fine Wine & Spirits)	
CONSUMPTION	SUN EAGLES	1311-33-018-001
CONSUMPTION (POCKET)	INDUSTRIAL 35 LIQUORS, LLC	1311-33-004-005
	(Renewed pursuant to Special Ruling by Director for 12.39 Relief for 2022-2023 & 2023-2024 License Term)	

RESOLUTION 144-2022**AUTHORIZING REFUNDS OF OVERPAID PROPERTY TAXES DUE TO STATE TAX APPEAL**

WHEREAS, the Tax Collector has forwarded to the Borough of Eatontown, a list of taxes which are overpaid, and has recommended that the same be refunded; and

WHEREAS, State Statute makes provisions for the Borough of Eatontown to make adjustments with respect to overpaid taxes.

NOW THEREFORE BE IT RESOLVED by the Governing Body of the Borough of Eatontown that the following taxes are hereby authorized to be refunded based upon the recommendation of the tax collector:

BLOCK	LOT	NAME	AMOUNT
2304	60	DCH INVESTMENTS INC	\$7212.80

B. CONSENT AGENDA MOTIONS

1) Acceptance of Planning/Zoning Report, May 2022

2) Acceptance of Tax Collector Report, May 2022

Motion to accept Consent Agenda Motions 1-2 by C/Jones; seconded by C/Escalante

Roll Call: AYE - C/Gonzalez, C/Regan, C/Escalante, C/Jones, C/Gindi, C/Lucas

11. REMARKS OF COUNCIL AND CITIZENS

C/Regan shared kudos to the Council for working together, noting the good work the Council is doing, despite not having any members in attendance.

C/Jones shared appreciation for the Deputy Clerk. C/Jones seconded C/Regan on the Council's ability to work together.

The meeting was open to the public for comment.
There were no members of the public in attendance.

12. CLOSED SESSSION - Resolution 145-2022

A. Personnel - Committees

B. Contractual - Municipal Court

Mayor Talerico noted the Council would not act on the items.

Attorney Bayer read the resolution into the record.

RESOLUTION 145-2022**AUTHORIZING EXECUTIVE SESSION UNDER THE OPEN PUBLIC MEETINGS ACT FOR THE MAYOR AND COUNCIL OF THE BOROUGH OF EATONTOWN**

WHEREAS, pursuant to the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq., a municipality may exclude the public from a meeting of the Municipal Council where the Council intends to discuss certain matters for which privacy is needed in order to protect the public interest or certain enumerated private interests; and

WHEREAS, it is necessary for the Mayor and Council of the Borough of Eatontown to discuss in session not open to the public certain matters that are required by law to be confidential, more specifically: 1) Personnel – Committees; 2) Contractual - Municipal Court

WHEREAS, it is anticipated that the minutes from the deliberations conducted in closed session may be disclosed to the public upon the determination that the public interest will no longer be served by such confidentiality.

NOW THEREFORE BE IT RESOLVED that the Mayor and Council of the Borough of Eatontown do hereby authorize the above referenced executive session to be held closed to the public, on June 9, 2022.

Motion to enter into closed session by C/Gindi; seconded C/Gonzalez

Voice Vote: AYE - C/Gonzalez, C/Regan, C/Escalante, C/Jones, C/Gindi, C/Lucas

Council entered Closed Session at 9:15 pm

Council returned from Closed Session at 9:23 pm

13. ADJOURNMENT – 9:23 pm

Motion to adjourn by C/Jones; seconded by C/Gindi

Voice Vote: AYE - C/Gonzalez, C/Regan, C/Escalante, C/Jones, C/Gindi, C/Lucas



By: Julie Martin, RMC, Borough Clerk

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P.O. Type: All
Range: First to Last
Format: Condensed

Open: N Paid: N Void: N
Rcvd: Y Held: Y Aprv: N
Bid: Y State: Y Other: Y Exempt: Y

Vendor #	Name	PO #	PO Date	Description	Status	Amount	Void Amount	Contract	PO Type
AIM001	AUTOMATIC ICE MAKER, CO.	22-01074	05/05/22		Open	584.00	0.00		
AMAZ001	AMAZON.COM SERVICES, INC	22-01146	05/17/22	POP UP TENT - RECREATION	Open	283.98	0.00		
		22-01147	05/17/22	RECREATION WIRELESS SPEAKERS	Open	239.99	0.00		
						523.97			
AOC001	ALLIED OIL LLC.	22-00822	03/30/22	OPEN FOR 2022	Open	13,979.33	0.00		B
		22-01058	05/04/22	SUPER RFG 93 GAS	Open	9,074.00	0.00		
		22-01123	05/16/22	DYED ULTRA LOW SULFUR DIESEL+W	Open	18,641.57	0.00		
						41,694.90			
APS002	ATLANTIC PLUMBING & SUPPLY COR	22-00004	01/05/22		Open	249.68	0.00		B
		22-00110	01/12/22		Open	441.47	0.00		
						691.15			
APD002	AMERICAN ROLL-OFF	22-00895	04/11/22	7/8 CABLE RVNG 80'- 1 1/4 PEAR	Open	1,981.84	0.00		
ATEMB01	A.T. EMBLEM COMPANY,LLC	22-00790	03/28/22	Challenge Coins	Open	2,790.00	0.00		
ATS001	ATLANTIC TREE EXPERTS CO.	22-00551	03/02/22	84 SOUTH ST - REMOVE OVER PATI	Open	2,400.00	0.00		
		22-01100	05/11/22	388 GRANT AVE - TRIM	Open	775.00	0.00		
						3,175.00			
AUTO001	AUTO PARTS CENTER	22-00364	02/07/22	OPEN FOR 2022	Open	69.98	0.00		B
		22-00773	03/28/22	OPEN FOR 2022	Open	212.38	0.00		B
						282.36			
BAND001	BANDAG, INC	22-00025	01/06/22	OPEN FOR 2022	Open	192.88	0.00		B
BELL004	VERIZON WIRELESS	22-01238	05/26/22	BORO CELL PHONE SERVICES	Open	160.08	0.00		
BOW004	BOW WOW PET WASTE	22-00724	03/21/22	NEW DISPENSERS AND BAGS	Open	1,858.79	0.00		
BSA001	BOY SCOUTS OF AMERICA	22-00026	01/06/22	OPEN FOR 2022	Open	125.00	0.00		B
PIC001	RONALD CAPICHANA	22-01101	05/11/22	DJ FOR FISHING DERBY	Open	250.00	0.00		

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Vendor #	Name	PO #	PO Date	Description	Status	Amount	Void Amount	Contract	PO Type
CARLOS01	CARLOS & SON JANITORIAL	22-01037	05/02/22		open	550.00	0.00		
CAV002	CAVANAUGH'S TERMITE & PEST SER	22-01097	05/11/22		open	525.00	0.00		
CGPH001	CGP&H, LLC	22-01125	05/16/22	HOUSING REHABILITATION PROGRAM	open	157.20	0.00		
CHEM001	CHEM-TEK INDUSTRIES INC.	22-00949	04/20/22	NUTS AND BOLTS	open	831.96	0.00		
		22-00950	04/20/22	GLOVES	open	1,154.64	0.00		
						1,986.60			
COM006	COMCAST BUSINESS	22-01288	06/06/22	BORO BUSINESS INTERNET ACCT	open	747.21	0.00		
COMC004	COMCAST	22-01227	05/25/22	BORO BUSINESS ONLINE ACCOUNTS	open	431.29	0.00		
		22-01295	06/06/22	BORO SPC VIDEO ACCOUNT	open	116.12	0.00		
						547.41			
CSB001	CONNER STRONG AND BUCKELEW	22-01076	05/05/22	ACCIDENT POLICY FOR RECREATION	open	3,098.00	0.00		
CSN001	CONRAD SMITH NURSERY, INC	22-00532	02/25/22	OPEN FOR 2022	open	84.00	0.00		B
DELAG01	DE LAGE LANDEN FINANCIAL INC	22-01199	05/20/22	MAILROOM/COMM CTR COPIER SERV	open	293.70	0.00		
DEMI001	Direct Energy Marketing, Inc	22-01291	06/06/22	BORO NATURAL GAS USAGE	open	1,533.08	0.00		
DENA001	DENA AMODEA	22-00157	01/18/22	2022 CELL REIMBURSEMENT	open	90.00	0.00		B
DMV004	NJ MOTOR VEHICLE COMMISSION	22-01236	05/26/22	Title Fees	open	300.00	0.00		
DOREE010	DOREEN R. JACKSON	22-01168	05/19/22	2022 MEDIACARE REIMBURSEMENT	open	884.60	0.00		
DTS001	DYNAMIC TESTING SERVICE	22-01102	05/11/22	RANDOM DRUG SCREENING	open	280.00	0.00		
EAT004	EATONTOWN MEDICAL ASSOCIATES	22-01112	05/12/22	PRE-EMPLOYMENT PHYSICAL	open	330.00	0.00		
EDW001	EDWARDS TIRE CO. INC.	22-01053	05/04/22	PD STOCK EAGLE RSA 108V TAHOE	open	1,322.00	0.00		

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EM001	ELECTRONIC MEASUREMENT LAB INC	22-00946	04/19/22	REPAIR OF GMI PS200	Open	164.91	0.00		
FMERA001	FMERA	22-01289	06/06/22	FORT STREET LIGHTS RT 537 EXT	Open	382.20	0.00		
FOO001	SAKER SHOPRITES, INC.	22-01203	05/20/22	HISTORICAL PROGRAM REFRESHMENT	Open	44.71	0.00		
GHW001	GEORGE H. WITTENBERG	22-01137	05/16/22	MEDICARE REIMBURSEMENT 2022	Open	510.30	0.00		
GKNJ001	GABRIELLI KENWORTH OF NJ LLC	22-00774	03/28/22	OPEN FOR 2022	Open	817.10	0.00		B
GM001	G&M TROPHY CO, INC	22-01106	05/12/22	FISHING DERBY TROPHIES	Open	45.00	0.00		
		22-01107	05/12/22	SOCCER CLINIC MEDALS	Open	400.00	0.00		
						445.00			
GPC001	GENUINE PARTS COMPANY INC	22-00771	03/25/22	OPEN FOR 2022	Open	1,457.02	0.00		B
GW001	GEORGE WALL LINCOLN MERCURY, IN	22-00772	03/28/22	OPEN FOR 2022	Open	534.63	0.00		B
HOFF004	HOFFMAN SERVICE, INC.	22-00888	04/11/22	ANNUAL VEHICLE LIFT INSPECTION	Open	2,100.00	0.00		
HOMED01	HOME DEPOT/6035322538819545	22-00198	01/21/22	COMMUNITY GARDEN SUPPLIES	Open	107.68	0.00		B
IMP001	IMPRINT SHOP LLC	22-00971	04/22/22	CHALLENGE COIN - MEMORIAL PARK	Open	792.50	0.00		
INT001	INTERSTATE BATTERIES, INC.	22-00035	01/06/22	OPEN FOR 2022	Open	389.90	0.00		B
JERS001	JCP&L	22-01198	05/20/22	BORO STREET LIGHTING SERVICE	Open	71.74	0.00		
		22-01226	05/25/22	BORO ELECTRIC LIGHTING CHARGES	Open	9,021.51	0.00		
		22-01278	06/06/22	BORO STREET LIGHTING SERVICE	Open	564.73	0.00		
		22-01287	06/06/22	BORO ELECTRIC SERVICES	Open	900.19	0.00		
						10,558.17			
JOHN005	MICHAEL JOHNSON	22-01224	05/25/22	REIMBURSEMENT FIRE EXPO PA	Open	769.30	0.00		
JSPOT01	JOHNNY ON THE SPOT, LLC	22-00036	01/06/22	OPEN FOR 2022	Open	94.50	0.00		B
		22-01217	05/24/22	STANDARD TEMP RESTROOM SERVICE	Open	94.50	0.00		
						189.00			

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Vendor #	Name	PO #	PO Date	Description	Status	Amount	Void Amount	Contract	PO Type
KEPWE005	KEPWE SPRING WATER CO, INC	22-00020	01/06/22		Open	55.00	0.00		B
MAR001	REPUBLIC SERVICES	22-01214	05/24/22	JUNE RESI SERVICES	Open	72,286.07	0.00		
MAZ003	MAZZA RECYCLING SERVICES INC	22-00039	01/06/22	OPEN FOR 2022	Open	329.44	0.00		B
MCAA016	M.C.A.A.	22-01056	05/04/22	ATTEND THE 16TH ANNUAL	Open	95.00	0.00		
		22-01059	05/04/22	2022 MEMBERSHIP JOHN GILLOOLY	Open	200.00	0.00		
						295.00			
MCMAS005	MCMAS CARR SUPPLY COMPANY	22-01081	05/09/22		Open	118.11	0.00		
MCT001	MONMOUTH COUNTY TREASURER	22-01110	05/12/22	102 & 107 WASTE	Open	3,592.64	0.00		
MGL001	MGL PRINTING SOLUTIONS	22-01080	05/06/22	Mins Book, Marriage Binder	Open	355.00	0.00		
MON002	MONMOUTH BUILDING CENTER	22-00003	01/05/22		Open	78.56	0.00		B
		22-00460	02/16/22	OPEN FOR 2022	Open	52.13	0.00		B
		22-00825	03/30/22	OPEN FOR 2022	Open	41.28	0.00		B
						171.97			
NJAWC001	NEW JERSEY AMERICAN WATER	22-01298	06/06/22	BORO HYDRANTS WATER USAGE	Open	14,234.00	0.00		
NJB001	VERIZON	22-01293	06/06/22	POLICE CELL TOWER ACCOUNT	Open	1,256.75	0.00		
		22-01294	06/06/22	BORO DEPTS PHONE SERVICE	Open	219.40	0.00		
						1,476.15			
NJLE001	NJ LEAGUE OF MUNICIPALITIES	22-01126	05/16/22	JOB POSTING (DEPUTY CLERK)	Open	160.00	0.00		
		22-01212	05/23/22	NJLM Magazine	Open	425.00	0.00		
		22-01225	05/25/22	RFP ADVERTISEMENT	Open	115.00	0.00		
						700.00			
NJN001	NJ NATURAL GAS CO.	22-01239	05/26/22	FIREHOUSE GAS USAGE-REVISED	Open	3,176.04	0.00		
		22-01297	06/06/22	BORO NATURAL GAS USAGE	Open	3,151.93	0.00		
						6,327.97			
NJP001	NEW JERSEY PLANNING OFFICIALS	22-01070	05/05/22	P&Z Board Membership	Open	370.00	0.00		
NOR002	NORTHWIND MECHANICAL SYSTEMS	22-00842	04/05/22		Open	1,118.30	0.00		B

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Vendor #	Name	PO #	PO Date	Description	Status	Amount	Void Amount	Contract	PO Type
W0002	NORTHWIND MECHANICAL SYSTEMS				Continued				
		22-01195	05/20/22	V-BELT	Open	18.58	0.00		
						1,136.88			
OLI002	OLIWA & COMPANY								
		22-01161	05/18/22	2021 FINANCIAL/DEBT STATEMENT	Open	7,000.00	0.00		
PASHSTEI	PASHMAN STEIN WALDER HAYDEN								
		22-01248	05/27/22	APRIL 2022-TAX APPEALS	Open	2,363.00	0.00		
		22-01250	05/27/22	APRIL 2022-RETAINER	Open	1,458.33	0.00		
		22-01251	05/27/22	APRIL 2022-GENERAL	Open	14,032.02	0.00		
						17,853.35			
PAT005	PA TURNPIKE TOLL BY PLATE								
		22-01202	05/20/22	PA TURNPIKE TOLL ETNT VEHICLE	Open	20.10	0.00		
PAY003	LOUISE M. PAYNE								
		22-01138	05/16/22	MEDICARE REIMBURSEMENT 2022	Open	289.72	0.00		
PET002	PETRO KING SERVICE								
		22-01055	05/04/22	REBUILD OF PUMP #1	Open	565.00	0.00		
POORJ005	POOR JOHN'S PORTABLE TOILETS								
		22-01114	05/12/22	PORTABLE RESTROOM - NICODEMUS	Open	258.00	0.00		
OCAP8	US BANK CUST/PRO CAP 8/PRO								
		22-01127	05/16/22	REDEMPTION CERT #19-00012	Open	2,142.11	0.00		
REPT001	REPUBLIC SERVICES								
		22-01205	05/23/22	APRIL 2022 TONNAGE	Open	22,975.77	0.00		
RICOH005	RICOH USA, INC.								
		22-01228	05/25/22	FINANCE COPIER LEASE AGREEMENT	Open	166.75	0.00		
RIL001	RILEIGHS OUTDOOR DECOR								
		22-00471	02/17/22		Open	5,885.33	0.00		
RJ001	R&J CONTROL, INC								
		21-01508	06/30/21		Open	199.31	0.00		
SEA002	SEABOARD WELDING SUPPLY, INC.								
		22-00046	01/06/22	OPEN FOR 2022	Open	192.50	0.00		B
SHII001	SHI INTERNATIONAL CORP								
		22-00855	04/06/22	BORO EATONTOWN DELL COMPUTERS	Open	45,710.00	0.00		
SPECT005	SPECTROTEL								
		22-01290	06/06/22	BORO PHONE SERVICES	Open	363.58	0.00		
STAP003	STAPLES ADVANTAGE								
		22-01158	05/18/22	PUBLIC WORKS OFFICE SUPPLIES	Open	82.80	0.00		
		22-01159	05/18/22	FINANCE OFFICE SUPPLIES	Open	164.31	0.00		
		22-01229	05/25/22	PLAN/ZONING OFFICE SUPPLIES	Open	39.04	0.00		

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STAP003	STAPLES ADVANTAGE	Continued							
		22-01230	05/25/22	FIRE PREV OFFICE SUPPLIES	Open	206.10	0.00		
		22-01231	05/25/22	CLERKS OFFICE SUPPLIES	Open	154.04	0.00		
						646.29			
TARGE005	TARGETED TECHNOLOGIES, LLC								
		22-01232	05/25/22	CFO COMPUTER ISSUES	Open	12.00	0.00		
TAY001	TAYLOR FENCE								
		22-00635	03/11/22	2 HOLE LOCUST LINE POSTS SPLIT	Open	1,285.23	0.00		
TEAM003	TEAM LIFE								
		22-00900	04/12/22	AED SERVICE PLAN RENEWAL	Open	225.00	0.00		
		22-00901	04/12/22	AED Silver Level Service Plan	Open	225.00	0.00		
						450.00			
TEPS001	STATE OF NJ DEPT OF TREASURY								
		22-01247	05/27/22	SHBP CONTRIBUTION JUNE 2022	Open	262,716.68	0.00		
TIM001	W. E. TIMMERMAN CO., INC.								
		22-00689	03/17/22	OPEN FOR 2022	Open	95.34	0.00		B
VBF001	VERIZON BUSINESS FIOS								
		22-01237	05/26/22	POLICE DEPT FIOS ACCOUNT	Open	176.99	0.00		
		22-01292	06/06/22	FIRE HOUSE FIOS ACCOUNT	Open	819.58	0.00		
						996.57			
WAR001	WARSHAUER ELECTRIC SUPPLY CO. I								
		22-00002	01/05/22		Open	169.61	0.00		B
WCEM001	WIRELESS ELECTRONICS INC								
		22-01066	05/04/22	Removal of Radio Wiring	Open	225.00	0.00		
WOL003	MARK WOLOSHIN								
		22-01134	05/16/22	CELL REIMBURSEMENT 1ST QTR	Open	90.00	0.00		
WWG001	GRAINGER INC								
		22-00637	03/11/22	OPEN FOR 2022	Open	147.27	0.00		B
		22-00693	03/17/22	DRUM SPILL CNTNMNT PALLET, 2 D	Open	253.74	0.00		
		22-01016	04/27/22	DEWALT IMPACT WRENCH CORDLESS	Open	428.48	0.00		
		22-01075	05/05/22		Open	251.11	0.00		
						1,080.60			
WWG010	W.W. GRAINGER, INC.								
		22-00408	02/14/22		Open	185.84	0.00		B
		22-01021	04/28/22		Open	1,259.34	0.00		B
		22-01026	04/29/22		Open	838.78	0.00		
						2,283.96			

Total Purchase Orders: 118 Total P.O. Line Items: 0 Total List Amount: 561,422.22 Total Void Amount: 0.00

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Totals by Year-Fund							
Fund Description	Fund	Budget Rcvd	Budget Held	Budget Total	Revenue Total	G/L Total	Total
CURRENT FUND:	1-01	8,556.25	0.00	8,556.25	0.00	0.00	8,556.25
CURRENT FUND:	2-01	498,754.65	0.00	498,754.65	0.00	0.00	498,754.65
GENERAL CAPITAL F	C-04	51,595.33	0.00	51,595.33	0.00	0.00	51,595.33
GRANT FUND	G-02	1,858.79	0.00	1,858.79	0.00	0.00	1,858.79
	T-15	657.20	0.00	657.20	0.00	0.00	657.20
Total Of All Funds:		561,422.22	0.00	561,422.22	0.00	0.00	561,422.22