

**REGULAR MEETING  
MAYOR AND CITY COUNCIL  
March 24, 2022**

**Meeting called to order at 7:00 p.m. by President Johnston with a salute to the flag. Roll call was recorded as follows:**

**Present:** Bruno, Dill, DePamphilis McCarrie, McGuigan, Owen, Johnston

**Also Present:** Mayor Glasser, City Administrator Frost, Deputy Clerk Heath, Assistant to City Clerk Cannuscio, City Solicitor Thomas Smith, and City Engineer Greg Schneider

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**Open Public Meetings Act:**

Pursuant to the Open Public Meetings Act, adequate notice of this meeting has been provided to two local newspapers. The agenda has been posted at City Hall and on the City's website, somerspointgov.org.

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**Introduction to Municipal Budget 2022**

**Resolution No. 81 of 2022**

**M/S:** Dill/McCarrie

This resolution was adopted by unanimous roll call vote of those present.

Auditor Leon Costello gave a brief overview of the proposed budget. He noted a 1.7 cent increase, and the public hearing and final adoption will be held on April 28, 2022.

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Council President Johnston duly opened the meeting to the public for comment on Resolution No. 76 of 2022. Hearing nothing from the public, the public portion was duly closed.

**Resolution No. 76 of 2022**

**M/S-** Dill/Bruno

This resolution was adopted by unanimous vote of those present.

Council Member McGuigan thanked Mr. Cooper for his dedication to the Gateway Theatre and congratulated him on his well-deserved retirement.

Council Member McCarrie also offered his thanks to Mr. Cooper.

Mayor Glasser stated Mr. Cooper will be greatly missed and thanked him for his work to help make the Gateway Theatre what it is today.

Council President Johnston wished Mr. Cooper well in his future endeavors.

Mayor Glasser presented Mr. Cooper with a certified copy of this resolution.

Mr. Cooper thanked City Council for their support of the live performing arts over the years.

**No. 76 of 2022**

**Saluting Keith Cooper - Executive Director of Somers Point's Gateway Playhouse**

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**WHEREAS**, Keith Cooper, longtime entertainment industry professional and Executive Director of Somers Point’s Gateway Playhouse, has announced his retirement as of April 1, 2022; and

**WHEREAS**, Cooper, and partner, Broadway veteran, Kelly Briggs have been among the driving forces for the historic playhouse on Bay Avenue since the start of the Gateway’s fundraising and rebuilding campaign in 2009; and

**WHEREAS**, upon the theater’s opening in 2017, Cooper assumed the duties of Executive Director, seeing to all of the venue’s day to day operations, booking and contracting talent, and coordinating productions; and

**WHEREAS**, in 2019, Keith was presented with the Louis P. DeScioli Award of Excellence by the Somers Point Business Association in recognition of his efforts at the Gateway Playhouse and contributions to the community of Somers Point; and

**NOW THEREFORE, BE IT RESOLVED**, that the dedication, compassion, and professionalism demonstrated by Keith Cooper has been paramount to the theater’s success.

**BE IT FURTHER RESOLVED**, the governing body of the City of Somers Point recognizes and honors the contributions and achievements of Keith Cooper.

**ALSO BE IT RESOLVED**, that The City Council conveys their congratulations to Keith Cooper and their best wishes to him upon his retirement.

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**Communications:**

None

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**Mayor’s Report:**

Mayor Glasser thanked Administrator Frost and Engineer Schneider for their efforts and coordination on getting the lights on the bridge back in working order. He also reported an Eddie and the Cruisers concert will be held on 4/22/2022 and a showing of Eddie and the Cruisers will be held at the Gateway Theatre at 7 P.M. Mayor Glasser mentioned Bayfest will be held on 4/30/22, and that he will be swearing in the Fire Officers of Company No. 1 at their installation dinner on 3/26/22.

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**Administrator’s Report:**

Administrator Frost reported he has received requests for the cannabis survey to be interactive on the website to prevent residents from having to print it out and send it back. He is working on this request.

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**Solicitors Report:**

Solicitor Smith reported Ordinance 11 was prepared to update the current ordinance. It does not create new positions.

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**Engineers Report:**

Engineer Schneider reported Resolution No. 80 is opposing the Department of Environmental Protection Coastal Regulations. He mentioned the DEP is creating new flood zones which most coastal towns are opposing due to the impact on values in their cities. He mentioned this resolution is opposing the process. He mentioned this ties into the Floodplain Ordinance since if the regulations are approved, the ordinance will automatically be enforced by the floodplain ordinance. Engineer Schneider also reported the West Atlantic Avenue Phase I project has started construction. He mentioned the stormwater work will take approximately a month to complete and the paving will begin when school lets out. He reported the West Atlantic Avenue Phase II application has been approved by the NJ Department of Transportation, and bids for this project will be received on 4/8/2022. He informed that Phase I of the project is from Johnson to Dawes Avenue and Phase II is from Dawes to Ocean Avenue. Engineer Schneider also reported the Mays Landing Bike Lane Construction is anticipated to start next week and will involve lane closures. This project is anticipated to be completed by Memorial Day.

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**Committee Reports:**

- Public Safety Committee- Council President Johnston reported Chief of Police, several of his Officers and Administrator Frost have met with the owners of the Somers Point Village to discuss and address issues at their property. These meetings will continue.

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**Approval of Minutes:**

On the motion of Council Member McCarrie, seconded of Council Member Owen and carried to approve the Regular Meeting Minutes and Executive Meeting Minutes of 3/10/2022 (as to content only).

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**Ordinances:**

**Ordinance No. 8 of 2022**

Council Member McGuigan motioned to table Ordinance 8 and Council Member Bruno seconded. Roll call vote to table as follows:

- Council Member Owen: Yes  
Council Member Bruno: Yes  
Council Member DePamphilis III: No

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Council Member Dill: No  
Council Member McGuigan: Yes  
Council Member McCarrie: No  
Council President Johnston: No

**M/S-** Dill/McCarrie

The ordinance was adopted by a roll call vote of those present. Vote to adopt as follows:

Council Member Owen: Yes  
Council Member Bruno: No  
Council Member DePamphilis III: Yes  
Council Member Dill: Yes  
Council Member McGuigan: Yes  
Council Member McCarrie: Yes  
Council President Johnston: Yes

*(Second Reading/Public Hearing/Adoption)*

Council President Johnston duly opened the meeting to the public.

Patty Cianci of Higbee Avenue stated her concerns regarding parking and noise levels.

Lisa Bender of 1304 Atkinson Avenue asked for clarification of this Ordinance and requested easier access to agenda items.

Dave Crean of 17 George Street read a letter from Teresita Doble of 2 Somers Avenue voicing several concerns and opposition regarding outdoor dining. Mr. Crean mentioned he is concerned with enforcement regarding noise.

Valerie Furlong of 20 Somers Avenue voiced her opposition to this ordinance.

Natalie Bailey of 825 Bay Avenue mentioned the Police Department has many important tasks and enforcing outdoor seating requirements is not at the top of the list.

Hearing nothing further from the public, the public portion was duly closed.

Council Member McGuigan acknowledged the concerns from residents and stated his belief that outdoor dining can be beneficial to the local businesses and the City. Solicitor Smith discussed the recommendations from the Planning Board regarding this ordinance which were that City Council address the existing parking ordinance requirements for restaurants and bars so that outdoor seating requirements will work in tandem for the benefit of the community and that Sections (2) [4] be deleted as being too subjective to leave to the discretion of the Zoning Official. City Council and Solicitor Smith discussed these recommendations.

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ORDINANCE NO. 8 of 2022**

**An Ordinance Repealing and Replacing §114-120(C) of Chapter 114,  
Article XX of the City Code Entitled “Permitted Uses” So as to Modify the  
Standards for Outdoor Dining**

**WHEREAS**, Section 114-120(C) of the Municipal Code sets forth standards for outdoor dining as a permitted use in all zoning districts in the City; and

**WHEREAS**, said same notes that it is the intention of the City to monitor and review the use of outdoor dining to determine the impact upon the City and the enjoyment of its citizens; an

**WHEREAS**, as a result of the restrictions imposed by the State as a result of the Covid-19 virus pandemic, the City loosened many of the outdoor dining restrictions, which many restaurants and liquor license establishments took advantage of; and

**WHEREAS**, City Council took note of the fact that the expanded use of outdoor dining appears to have operated safely, without significant problems and/or complaints; and

**WHEREAS**, City Council believes that modifying the current ordinance on outdoor dining to loosen certain restrictions would be a benefit to the City, its businesses, its visitors and its residents.

**NOW THEREFORE, BE IT ORDAINED**, by the Common Council of the City of Somers Point, in the County of Atlantic, State of New Jersey, as follows:

1. Chapter 114, Article XX, §114-120(C) of the City of Somers Point Code relative to “Permitted Uses” is hereby amended by repealing this subsection (C) in its entirety and replacing same as follows:

Standards for outdoor dining as a permitted accessory use.

(1) Purpose.

- a. The purpose of this subsection is to establish standards for the permitted accessory use of outdoor restaurant dining for the enjoyment of restaurant patrons without disturbing the immediate neighborhood or pedestrian or vehicular traffic. It is intended to permit the tasteful, aesthetic use of tables and chairs on the restaurant property. It is the intention of the City of Somers Point to continue to monitor and review the use of these facilities after the adoption and amendments of this subsection, and to determine its full impact upon the City and the enjoyment of its citizens.
- b. From and after the effective date of this subsection, whenever an application to either implement outdoor dining as an accessory use, or to add, alter, change, expand, increase or otherwise modify an outdoor dining area or arrangement, is filed on behalf of the owner of a restaurant within any zoning

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district, the owner shall have the obligation to submit an application with the Zoning Official of the City, who shall have the authority to review and act upon the application, which shall be subject to the following conditions, limitations and restrictions.

(2) Application requirements; Zoning Official review.

a. Any restaurant applying for outdoor dining shall complete an application which shall also contain the following information:

[1] Details of the trade, corporate, business or fictitious name upon which the applicant does business as a restaurant, including the address and phone number of the person responsible for the application.

[2] The general layout of tables and chairs, and the low barrier dividing the outdoor seating area from any street, sidewalk, parking area, or public right-of-way, and showing dimensions of tables, chairs and overall area, as related to building facade, sidewalk, exit doors, parking area, streets and public rights-of-way; and which shall include a sketch containing a scale drawing clearly illustrating the location and number of proposed tables, chairs, planters, awnings, or other fixtures proposed to be located in the outdoor dining area. The outdoor dining area shall not exceed twenty percent (20%) of the square footage of the restaurant's indoor seating area. The scale drawing shall also indicate the location of any doors leading from the food establishment to the outdoor dining area. No such door may be obstructed in any manner. The dimension and location of the unobstructed space permitting passage of pedestrian traffic around or through the outdoor dining area and the location of all fire hydrants, bus stop signs, utility poles, mailboxes or other fixtures permanently located on the sidewalk or other area within 50 feet of the outdoor dining area shall also be shown.

[3] A detailed narrative and plan of relevant information, describing the method of service, proposed hours of service outdoors, method of litter control and trash handling for outdoor service, procedures to be implemented to protect the indoor and outdoor dining areas, keeping them free of rodents, birds, seagulls and other threats to human health and cleanliness, and proposed plan for storage of chairs and tables during the off season, during declaration of emergencies and when the restaurant is closed.

[4] Photographs or diagrams of tables, chairs, etc., to be utilized, showing style, design, materials, size and colors.

[5] The type and location of any proposed outdoor lighting and fixtures, which should include the following information: mounting height, lamp type and lumens. No lighting provided specifically for outdoor dining shall spill onto adjacent residential properties. Any open flame-type fixture or outdoor heating apparatus shall only be permitted with the approval of the Fire Official, Zoning Official and Code Enforcement Officer.

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[6] A statement of the seating capacity of the existing food establishment and the proposed seating capacity of the outdoor dining area. The seating layout and number of seats for the outdoor dining area shall comply with the requirements of the most recent International Building Code, New Jersey Edition, or any subsequent building code adopted by the State of New Jersey, based on the review and approval of the City's Construction Official.

[7] A statement indicating the number of parking spaces serving the existing restaurant. The total parking spaces for both the indoor restaurant and the outdoor dining areas shall comply with the current ordinance on parking requirements.

[8] Verification that outdoor dining will be limited to sit-down food and beverage service with orders to be taken only at tables and served at the tables by the restaurant's food and beverage servers.

- b. In processing applications, the Zoning Official shall, as deemed necessary, with the Code Enforcement Official, the Construction Official, the City Engineer, Police and Fire Departments, Emergency Rescue, and the Emergency Management Coordinator, and such other departments as deemed necessary or desirable, and shall use the following parameters as criteria for decision making:

[1] Pedestrian safety.

[2] Vehicular safety.

[3] Public safety.

[4] Design, material, color, layout aesthetics and architectural conformity.

[5] Acceptability of the management plan for cleanup, litter control and trash handling.

[6] Impact on existing landscaping.

[7] Any potential interference with police, emergency or fire safety access.

[8] Overall impact on the peace and quiet enjoyment of surrounding properties.

[9] Inspection by and approval of the Atlantic County Board of Health.

- c. Acceptance of the approval by the applicant shall constitute consent to allow the Fire, Police and Building Department Officials of the City and the Health Inspection Department of the County of Atlantic to inspect the outdoor dining area for continued compliance with the terms, conditions and regulations of this section.

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(3) Conditions of outdoor restaurant dining. Upon the issuance of an approval pursuant to this section, outdoor tables and chairs shall be permitted outside the interior of the restaurant, provided that the following rules, regulations and specifications are met:

(a) The applicant shall be solely responsible to utilize tables and chairs which shall be sturdy and of sufficient strength to be used for the purpose intended.

(b) The layout of tables and chairs shall not in any way interfere with pedestrian or vehicular safety or with necessary access for fire-fighting equipment and ambulances or personnel.

(c) No tables or chairs shall be placed on any public right-of-way or any pedestrian or vehicular path within the property or within any other right-of-way.

(d) The highest standards of cleanliness of the outdoor area shall be maintained at all times, including frequent litter removal, within and around and beyond the subject restaurant property.

[1] The owner shall be responsible for keeping the area of outdoor dining and the adjacent walks, streets, and rights-of-way free and clear of any debris or litter occasioned by the outdoor dining. Areas must be cleaned as needed and at the time that business is closed for the evening.

[2] All equipment used in connection with the operation of outdoor dining shall be of sufficient size and weight to avoid being blown about by the wind. No food items shall be served upon paper or styrofoam or with plastic utensils.

(e) The hours for outdoor service shall be between 11:00 a.m. and 10:00 p.m. All outdoor food and beverage service shall stop at 10:00 p.m., and the outdoor dining area shall be cleared of all customers and patrons no later than 11:00 p.m. The owner shall notify all patrons of this requirement and shall close the outdoor dining area at that time. The owner shall post a notice informing patrons, which shall be posted within the inside dining area where it can be clearly seen by patrons or it may be stated upon the menu.

(f) Noise shall be kept at such a level as to comply with all provisions of the City ordinances and applicable statutes and regulations relating to noise.

(g) The owner/operator/manager shall not permit any outdoor music, live entertainment, musical instruments, public-address system, loudspeakers, radio, sound amplifier, bell, chime, whistle, or any other similar device type of exterior sound systems past 10:00 p.m. All noise from both the indoor restaurant and the outdoor dining area shall comply with all noise, sound and vibration ordinances and/or statutes.



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- (h) No vending machines of any kind are permitted within the outdoor dining area.
- (i) Lighting servicing the outdoor dining shall comply with the Land Use Ordinance and shall be as necessary to ensure the safety of the public and patrons of the establishment. No lighting provided specifically for outdoor dining shall spill onto adjacent residential properties.
- (j) Barriers not to exceed four feet in height shall be placed at the outside perimeter of the seating area adjacent to any public right-of-way or areas designated for parking, to ensure there is no interference with public safety or pedestrian movement patterns. The proposed barriers will be reviewed by and subject to approval for compliance with size, location, material and adequacy of buffer between the dining area and any such street, sidewalk, parking area or public right-of-way.
- (k) No food or drinks served or consumed at locations approved for outdoor dining shall be prepared or stored other than in the interior of the eating establishment.
- (l) Outdoor dining will be limited to sit-down food and beverage service with orders to be taken only at tables and served at the tables by the restaurant's food and beverage servers.
- (m) The outdoor dining operation shall be operated and maintained by the same person who operates and maintains the related restaurant establishment of which the outdoor dining is a part and extension thereof.
- (n) Alcoholic beverage service and consumption shall be permitted only with food service to the customers. That is, no service of alcohol only. Free snacks routinely found on bars, such as pretzels, chips and nuts shall not constitute food service.
- (o) All necessary amendments to liquor license applications with regard to the description of the area of the licensed premises shall be made and approval for such obtained prior to the service of alcohol in the outdoor dining area which is a part of the premises for which a liquor license has been previously issued. Approval of outdoor restaurant dining does not constitute an agreement by or an obligation upon the City of Somers Point to approve any extension of premises license.
- (p) There shall be no additional signage on the premises or on the furnishings and equipment utilized as part of the outdoor dining operation.
  - (q) The owner shall provide sufficient on-site parking for the legally approved indoor and outdoor seating. In the event the restaurant property does not have sufficient parking spaces and obtained approval subject to a bulk variance or as a pre-existing, non-conforming use, the outdoor seating shall not be approved without an application for a separate variance.
- (r) All restaurants utilizing the provisions of this section to provide outdoor seating for their patrons shall be responsible for the behavior of their patrons participating in

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the outdoor seating to ensure that all City noise and other land use and zoning ordinances and regulations are enforced and that good order is maintained.

- (s) The owner shall be responsible to protect the indoor and outdoor dining areas, keeping them free of rodents, birds, seagulls and other threats to human health and cleanliness. A plan shall be included with the application.
- (t) The outdoor dining area shall be closed and all furniture, fixtures and utensils shall be removed from the outdoor dining area and stored indoors upon a directive from the Emergency Management Coordinator, the Chief of Police, or the Fire Chief in the event of an emergency declaration.
- (u) The applicant shall be solely responsible to obtain all requisite approvals from the Atlantic County Board of Health, which shall be a condition for use of the outdoor dining area.
- (v) The owner shall be responsible to enforce the smoking laws and regulations of the state and all local ordinances and regulations.
- (w) Revocation or suspension.

[1] Without limiting the absolute right of the City to revoke or suspend outdoor dining on the restaurant premises, outdoor dining shall be suspended and all outdoor seats and tables shall be removed within 24 hours of receipt of a notice to cease and desist issued by either the City and served upon the owner personally or by certified mail, return receipt requested, or its equivalent, if:

[a] The City of Somers Point has received three written complaints, containing the name, address, date and signature of the complainant, which, upon investigation, prove to be well founded; or

[b] There is noncompliance by the owner with or violation of any ordinance contained in the Code of the City of Somers Point committed by the owner, his agents, servants or employees.

[2] In addition to the powers of revocation or suspension as set forth above, the City reserves the right to modify, suspend or revoke any approval of outdoor restaurant dining on 10 days' written notice if the City determines that pedestrian traffic is impeded or made unsafe because of the outdoor dining or because of any other safety issue or noise complaints which the City determines adversely affect the residents of the City as a result of such operation.

(4) Violations and penalties. Any person/entity convicted of a violation of any of the provisions of this section shall be subject to a fine not to exceed \$1,000.00 and/or shall

forfeit its right to operate an outdoor dining area. Each violation of a provision of this section, and each day that a violation continues, shall constitute a separate offense.

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(5) Enforcement. The terms of these regulations shall be enforced by the Zoning Official, the Construction Official, the Code Enforcement Official, the Police Department, the Atlantic County Board of Health as to the Sanitary Code, the Superintendent of Public Works as to trash, litter and recycling regulations, the City or State Fire Safety Official, the Emergency Management Coordinator, or any other City official who may be designated by the City Council.

2. Any article, section, paragraph, subsection, clause, or other provision of the City of Somers Point Code inconsistent with the provisions of this ordinance is hereby repealed to the extent of such inconsistency.

3. If any section, paragraph, subsection, clause, or provision of this ordinance shall be adjudged by a court of competent jurisdiction to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provision so adjudged, and the remainder of this ordinance shall be deemed valid and effective.

4. This ordinance shall take effect on November 24, 2022, at 12:01 a.m.

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**Ordinance No. 9 of 2022**

**M/S-** McCarrie/ Owen

The ordinance was adopted by a vote of those present with Council Member Dill voting no.

*(First Reading/Introduction)*

**ORDINANCE NO. 9 of 2022**

**ORDINANCE FOR ADOPTION OF THE FLOODPLAIN MANAGEMENT  
REGULATIONS OF THE CITY OF SOMERS POINT**

**AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF SOMERS  
POINT AMENDING THE CITY OF SOMERS POINT CODE OF ORDINANCES  
TO REPEAL CHAPTER 146; TO ADOPT A NEW CHAPTER 146; TO ADOPT  
FLOOD HAZARD MAPS; TO DESIGNATE A FLOODPLAIN  
ADMINISTRATOR; AND PROVIDING FOR SEVERABILITY AND AN  
EFFECTIVE DATE.**

**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 City of Somers Point** 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 **City of Somers Point** was accepted for participation in the National Flood Insurance Program on **November 17, 1982** and the **City Council of the City of Somers**

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**Point** 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 **City of Somers Point** is required, pursuant to N.J.S.A. 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 **City of Somers Point** 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 **City of Somers Point** 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 City Council of **the City of Somers Point** that the following floodplain management regulations are hereby adopted.

**SECTION 1. RECITALS.**

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

**SECTION 2.** These regulations specifically repeal and replace the following ordinance(s) and regulation(s): **Chapter 146.**

**ARTICLE 1 SCOPE AND ADMINISTRATION**

**146-1.1 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 the City of Somers Point* (hereinafter “these regulations”).

**146-1.2 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 Article II of these regulations.

**146-1.3 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:

- A. Protect human life and health.
- B. Prevent unnecessary disruption of commerce, access, and public service during times of flooding.
- C. Manage the alteration of natural floodplains, stream channels and shorelines;
- D. Manage filling, grading, dredging and other development which may increase flood

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- damage or erosion potential.
- E. Prevent or regulate the construction of flood barriers which will divert floodwater or increase flood hazards.
  - F. Contribute to improved construction techniques in the floodplain.
  - G. Minimize damage to public and private facilities and utilities.
  - H. Help maintain a stable tax base by providing for the sound use and development of flood hazard areas.
  - I. Minimize the need for rescue and relief efforts associated with flooding.
  - J. Ensure that property owners, occupants, and potential owners are aware of property located in flood hazard areas.
  - K. Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events.
  - L. Meet the requirements of the National Flood Insurance Program for community participation set forth in Title 44 Code of Federal Regulations, Section 59.22.

**146-1.4 Coordination with Building Codes.** Pursuant to the requirement established in N.J.A.C. 5:23, the Uniform Construction Code, that the **City of Somers Point** administer and enforce the State building codes, the **City Council of the City of Somers Point** 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.

**146-1.5 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 146-3.14 of this ordinance.

**146-1.6 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.

**146-1.7 Other laws.** The provisions of these regulations shall not be deemed to nullify any provisions of local, State, or Federal law.

**146-1.8 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

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(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.

**146-1.8.1 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.

**146-1.9 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 II APPLICABILITY**

**146-2.1 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

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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.

**146-2.2 Establishment of Flood Hazard Areas.** The **City of Somers Point** was accepted for participation in the National Flood Insurance Program on **November 17, 1982**.

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 **Construction Official’s office located at 741 Shore Road, Somers Point, NJ 08244**.

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

- A. **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, City of Somers Point, New Jersey, Atlantic County” dated May 17, 1982 and the accompanying Flood Insurance Rate Maps (FIRM) identified in Table 146-2.2(A) whose effective date is November 17, 1982 are hereby adopted by reference.

Table 146-2.2(A)

Map Panel #	Effective Date	Revision Letter	Map Panel #	Effective Date	Revision Letter
340017IND0	11/17/1982				
3400170001	11/17/1982	B			
3400170002	11/17/1982	B			

- B. **Federal Best Available Information.** The **City of Somers Point** 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.

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Table 146-2.2(B)

Map Panel #	Preliminary Date	Map Panel #	Preliminary Date
34001CIND0B	01/30/2015	34001C0429G	01/30/2015
34001C0409G	01/30/2015	34001C0436G	01/30/2015
34001C0417G	01/30/2015	34001C0437G	01/30/2015
34001C0428G	01/30/2015		

C. **Other Best Available Data. The City of Somers Point** shall utilize high water elevations from flood events, groundwater flooding areas, studies by federal or state agencies, or other information deemed appropriate by the City of Somers Point. 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 146-2.2(A) and 146-2.2(B), above. This information shall be used for floodplain regulation purposes only.

D. **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 Article IX, 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.



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**146-2.3 Establishing the Local Design Flood Elevation (LDFE).**

The Local Design Flood Elevation (LDFE) is established in the flood hazard areas determined in Section 146-2.2, 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:

- A. For a delineated watercourse, the elevation associated with the Best Available Flood Hazard Data Area determined in Section 146-2.2, above plus two (2) feet of freeboard or as described by N.J.A.C. 7:13; or
- B. For any undelineated watercourse (where mapping or studies described in 146-2.2(A) and 146-2.2(B) 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:
  - (1) A copy of an unexpired NJDEP Flood Hazard Area Verification plus two (2) feet of freeboard and any additional freeboard as required by ASCE 24-14; or
  - (2) 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 two (2) feet of freeboard and any additional freeboard as required by ASCE 24-14. Any determination using these methods must be sealed and submitted according to Section 146-5.2 and 146-5.3.
- C. 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 two (2) feet of freeboard. If no depth number is specified, the Local Design Flood Elevation is three (3) feet above the highest adjacent grade.
- D. 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 three (3) feet of freeboard in accordance with ASCE 24.
- E. 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

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elevation or the Flood Hazard Area Design Flood Elevation with an additional two (2) feet of freeboard in accordance with ASCE 24.

**ARTICLE III DUTIES AND POWERS OF THE FLOODPLAIN  
ADMINISTRATOR**

**146-3.1 Floodplain Administrator Designation.** The **Construction Official** is designated the Floodplain Administrator. The Floodplain Administrator shall have the authority to delegate performance of certain duties to other employees.

**146-3.2 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 Article VII of these regulations.

**146-3.3 Coordination.** The Floodplain Administrator shall coordinate with the Construction Official to administer and enforce the flood provisions of the Uniform Construction Code.

**146-3.4 Duties.** The duties of the Floodplain Administrator shall include but are not limited to:

- A. Review all permit applications to determine whether proposed development is located in flood hazard areas established in Article II of these regulations.
- B. 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.
- C. Interpret flood hazard area boundaries and provide available flood elevation and flood hazard information.
- D. Determine whether additional flood hazard data shall be obtained or developed.
- E. Review required certifications and documentation specified by these regulations and the building code to determine that such certifications and documentations are complete.
- F. Establish, in coordination with the Construction Official, written procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to Section 146-3.14 of these regulations.
- G. 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.

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- H. 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 Article VII of these regulations.
- I. 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.
- J. 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).
- K. Inspect development in accordance with Article VI of these regulations and inspect flood hazard areas to determine if development is undertaken without issuance of permits.
- L. Prepare comments and recommendations for consideration when applicants seek variances in accordance with Article VII of these regulations.
- M. Cite violations in accordance with Article VIII of these regulations.
- N. Notify the Federal Emergency Management Agency when the corporate boundaries of **the City of Somers Point** have been modified.
- O. Permit Ordinary Maintenance and Minor Work in the regulated areas discussed in Section 146-2.2.

**146-3.5 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.

**146-3.6 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.

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**146-3.7 Determination of Local Design Flood Elevations.** If design flood elevations are not specified, the Floodplain Administrator is authorized to require the applicant to:

- A. Obtain, review, and reasonably utilize data available from a Federal, State, or other source, or
- B. 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 146-2.2 and 146-2.3 respectively. This information shall be provided to the Construction Official and documented according to Section 146-3.15.

**146-3.8 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.

**146-3.9 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.

**146-3.10 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

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supporting technical data, that demonstrates that such development will not cause any increase in the base flood level.

**146-3.10.1 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.

**146-3.11 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.

**146-3.11.1 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.

**146-3.12 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.

**146-3.13 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.

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**146-3.14 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:

- A. 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.
- B. Determine and include the costs of all ordinary maintenance and minor work, as discussed in Section 146-2.2, 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.
- C. 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.
- D. Determine and document whether the proposed work constitutes substantial improvement of repair of substantial damage. This determination requires the evaluation of previous permits issued for improvements and repairs over a period of one (1) year prior to the permit application or substantial damage determination as specified in the definition of substantial improvement.
- E. 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.

**146-3.15 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

**Commented [MC1]:** This is a minimum NFIP requirement. Failure to have a process to do this could result in probation or suspension from the NFIP.

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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.

**146-3.16 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 IV PERMITS**

**146-4.1 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.

**146-4.2 Application for permit.** The applicant shall file an application in writing on a form furnished by the Floodplain Administrator. Such application shall:

- A. Identify and describe the development to be covered by the permit.
- B. 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.
- C. Indicate the use and occupancy for which the proposed development is intended.
- D. Be accompanied by a site plan and construction documents as specified in Article V of these regulations, grading and filling plans and other information deemed appropriate by the Floodplain Administrator.

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- E. State the valuation of the proposed work, including the valuation of ordinary maintenance and minor work.
- F. Be signed by the applicant or the applicant's authorized agent.

**146-4.3 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.

**146-4.4 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.

**146-4.5 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 V SITE PLANS AND CONSTRUCTION DOCUMENTS**

**146-5.1 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:

- A. 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.
- B. 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 146-5.2.
- C. 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 146-5.2(C) of these regulations.
- D. Location of the proposed activity and proposed structures, and locations of existing



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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.

- E. Location, extent, amount, and proposed final grades of any filling, grading, or excavation.
- F. 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.
- G. Extent of any proposed alteration of sand dunes.
- H. Existing and proposed alignment of any proposed alteration of a watercourse.
- I. 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.

**146-5.2 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:

- A. 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.
- B. 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.
- C. 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.

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.

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**146-5.3 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:

- A. 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 146-5.4 of these regulations and shall submit the Conditional Letter of Map Revision, if issued by FEMA, with the site plan and construction documents.
- B. 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.
- C. 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 146-5.4 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.
- D. 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.
- E. 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).

**146-5.4 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

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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 VI INSPECTIONS**

**146-6.1 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.

**146-6.2 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.

**146-6.3 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.

- A. **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 146-15.2 shall be submitted to the Construction Official on an Elevation Certificate.
- B. **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 146-15.2 shall be submitted to the Construction Official on an Elevation Certificate.
- C. **Installation of attendant utilities** (electrical, heating, ventilating, air-conditioning, and other service equipment) and sanitary facilities elevated as discussed in Section 146-15.2.
- D. **Final inspection.** Prior to the final inspection, certification of the elevation required in Section 146-15.2 shall be submitted to the Construction Official on an Elevation Certificate.

**146-6.4 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.

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**ARTICLE VII VARIANCES**

**146-7.1 General.** The **City of Somers Point Zoning Board of Adjustment** shall hear and decide requests for variances. The **City of Somers Point Zoning Board of Adjustment** shall base its determination on technical justifications submitted by applicants, the considerations for issuance in Section 146-7.5, the conditions of issuance set forth in Section 146-7.6, and the comments and recommendations of the Floodplain Administrator and, as applicable, the Construction Official. The **City of Somers Point 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.

**146-7.2 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.

**146-7.3 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.

**146-7.4 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 146-5.3(A) of these regulations.

**146-7.5 Considerations.** In reviewing requests for variances, all technical evaluations, all relevant factors, all other portions of these regulations, and the following shall be considered:

- A. The danger that materials and debris may be swept onto other lands resulting in further injury or damage.
- B. The danger to life and property due to flooding or erosion damage.
- C. The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners.

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- D. The importance of the services provided by the proposed development to the community.
- E. 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.
- F. The compatibility of the proposed development with existing and anticipated development.
- G. The relationship of the proposed development to the comprehensive plan and floodplain management program for that area.
- H. The safety of access to the property in times of flood for ordinary and emergency vehicles.
- I. 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.
- J. 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.

**146-7.6 Conditions for issuance.** Variances shall only be issued upon:

- A. 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.
- B. 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.
- C. 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

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local laws or ordinances.

D. A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

E. 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 VIII VIOLATIONS**

**146-8.1 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.

**146-8.2 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.

**146-8.3 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.

**146-8.4 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 IX DEFINITIONS**

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**146-9.1 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.

### **146-9.2 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

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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.



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**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 areal 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.

**COASTAL A ZONE** – An Area of Special Flood Hazard starting from a Velocity (V) Zone and extending up to the landward Limit of the Moderate Wave Action delineation. Where no V Zone is mapped the Coastal A Zone is the portion between the open coast and the landward Limit of the Moderate Wave Action delineation. Coastal A Zones may be subject to wave effects, velocity flows, erosion, scour, or a combination of these forces. Construction and development in Coastal A Zones is to be regulated similarly to V Zones/Coastal High Hazard Areas except as allowed by ASCE 24.

**COASTAL HIGH HAZARD AREA** – An Area of Special Flood Hazard inclusive of the V Zone extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

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**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.

**DEEP FOUNDATIONS** – Per ASCE 24, deep foundations refer to those foundations constructed on erodible soils in Coastal High Hazard and Coastal A Zones which are founded on piles, drilled shafts, caissons, or other types of deep foundations and are designed to resist erosion and scour and support lateral and vertical loads as described in ASCE 7. Foundations shall extend to 10 feet below Mean Water Level (MWL) unless the design demonstrates that pile penetration will provide sufficient depth and stability as determined by ASCE 24, ASCE 7, and additional geotechnical investigations if any unexpected conditions are encountered during construction.

**DEVELOPMENT** – Any manmade change to improved or unimproved real estate, including but not limited to, buildings or other structures, tanks, temporary structures, temporary or

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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 foundations 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.

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**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

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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 Article VII of this ordinance, meaning the exceptional hardship that would result from a failure to grant the requested variance. The City Council of the City of Somers Point 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;

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- 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 an 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

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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.

**LIMIT OF MODERATE WAVE ACTION (LiMWA) –** Inland limit of the area affected by waves greater than 1.5 feet during the Base Flood. Base Flood conditions between the VE Zone and the LiMWA will be similar to, but less severe than those in the VE Zone.

**LOCAL DESIGN FLOOD ELEVATION (LDFE) –** 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 LDFE 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

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enclosure is not built so as to render the structure in violation of other applicable non-elevation design requirements of these regulations.

**LOWEST HORIZONTAL STRUCTURAL MEMBER** - In an elevated building in a Coastal A or Coastal High Hazard Zone, the lowest beam, joist, or other horizontal member that supports the building is the lowest horizontal structural member. Grade beams installed to support vertical foundation members where they enter the ground are not considered lowest horizontal members.

**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



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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**.

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**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.

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**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 official 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 a "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.

**V ZONE CERTIFICATE** - A certificate that contains a certification signed by a licensed design professional certifying that the designs, plans, and specifications and the methods of construction in V Zones and Coastal A Zones are in accordance with accepted standards of practice. This certificate also includes an optional Breakaway Wall Design Certification for enclosures in these zones below the Best Available Flood Hazard Data Elevation. A completed certification is required at permit application.

**V 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 in any given year shown on the Flood Insurance Rate Map (FIRM) zones V1-V30 and VE and is referred to as the Coastal High Hazard Area.

**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.

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**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 X SUBDIVISIONS AND OTHER DEVELOPMENTS**

**146-10.1 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:

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

**146-10.2 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:

- A. 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.
- B. Residential building lots shall be provided with adequate buildable area outside the floodway.
- C. The design criteria for utilities and facilities set forth in these regulations and appropriate codes shall be met.

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**ARTICLE XI SITE IMPROVEMENT**

**146-11.1 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 146-5.3(A) 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 146-5.3(A) is satisfied, proposed elevation, addition, or reconstruction of a lawfully existing structure within a floodway shall also be in accordance with Section 146-15.2 of this ordinance and the floodway requirements of N.J.A.C. 7:13.

**146-11.1.1 Prohibited in floodways.** The following are prohibited activities:

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

**146-11.2 Coastal High Hazard Areas (V Zones) and Coastal A Zones.** In Coastal High Hazard Areas and Coastal A Zones:

- A. New buildings shall only be authorized landward of the reach of mean high tide.
- B. The placement of manufactured homes shall be prohibited except in an existing manufactured home park or subdivision.
- C. Basements or enclosures that are below grade on all sides are prohibited.
- D. The use of fill for structural support of buildings is prohibited.

**146-11.3 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.

**146-11.4 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.

**146-11.5 Storm drainage.** Storm drainage shall be designed to convey the flow of surface waters to minimize or eliminate damage to persons or property.

**146-11.6 Streets and sidewalks.** Streets and sidewalks shall be designed to minimize potential for increasing or aggravating flood levels.

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**146-11.7 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.

**146-11.8 Limitations on sites in coastal high hazard areas (V Zones) and Coastal A Zones.**

In coastal high hazard areas and Coastal A Zones, alteration of sand dunes shall be permitted only when the engineering analysis required by Section 146-5.3(D) of these regulations demonstrates that the proposed alteration will not increase the potential for flood damage. Construction or restoration of dunes under or around elevated buildings and structures shall comply with Section 146-15.9(C) of these regulations and as permitted under the NJ Coastal Zone Management Rules (N.J.A.C. 7:7).

**146-11.9 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 XII MANUFACTURED HOMES**

**146-12.1 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).

**146-12.2 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 146-15.2.

**146-12.3 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.

**146-12.4 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.

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**146-12.5 Enclosures.** Fully enclosed areas below elevated manufactured homes shall comply with the requirements of Section 146-15.2.

**146-12.6 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 146-15.2 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 146-15.2, 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 XIII RECREATIONAL VEHICLES**

**146-13.1 Placement prohibited.** The placement of recreational vehicles shall not be authorized in coastal high hazard areas and in floodways.

**146-13.2 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.

**146-13.3 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 146-15.2 for habitable buildings.

**ARTICLE XIV TANKS**

**146-14.1 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 XV OTHER DEVELOPMENT AND BUILDING WORK**

**146-15.1 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:

- A. Be located and constructed to minimize flood damage;
- B. Meet the limitations of Section 146-5.3(A) of this ordinance when located in a regulated floodway;

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- C. 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 146-2.3;
- D. Be constructed of flood damage-resistant materials as described in ASCE 24 Chapter 5;
- E. Have mechanical, plumbing, and electrical systems above the Local Design Flood Elevation determined according to Section 146-2.3 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:
  - (1) Specifically allowed below the Local Design Flood Elevation; and
  - (2) Designed, constructed, and installed to prevent floodwaters, including any backflow through the system from entering or accumulating within the components.
- F. Not exceed the flood storage displacement limitations in fluvial flood hazard areas in accordance with N.J.A.C. 7:13; and
- G. Not exceed the impacts to frequency or depth of offsite flooding as required by N.J.A.C. 7:13 in floodways.

**146-15.2 Requirements for Habitable Buildings and Structures.**

- A. Construction and Elevation in A Zones not including Coastal A Zones.
  - (1) No portion of a building is located within a V Zone.
  - (2) 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.
  - (3) All new construction and substantial improvement of any habitable building (as defined in Article IX) 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 146-2.3, be in conformance with ASCE Chapter 7, and be confirmed by an Elevation Certificate.
  - (4) All new construction and substantial improvements of non-residential structures shall:
    - (a) Have the lowest floor, including basement, together with the attendant utilities



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(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 146-2.3, be in conformance with ASCE Chapter 7, and be confirmed by an Elevation Certificate; or

- (b) 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.

- (5) 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:

- (a) 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;
- (b) 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 146-15.2(A)(4)(b) are met;
- (c) Be constructed to meet the requirements of ASCE 24 Chapter 2;
- (d) Have openings documented on an Elevation Certificate; and
- (e) 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:

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[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;

**B. Construction and Elevation in V Zones and Coastal A Zones.**

- (1) All new construction and substantial improvements shall be constructed according to structural designs, plans and specifications conforming with ASCE 24 Chapter 4 which are signed by a licensed design professional and certified by that individual in a V Zone Certificate.
- (2) All new construction and substantial improvement of any habitable building (as defined in Article IX) located in coastal high hazard areas shall have the lowest horizontal structural member, together with the attendant utilities (including all electrical, heating, ventilating, air-conditioning and other service equipment) and sanitary facilities, elevated to the Local Design Flood Elevation as determined in Section 146-2.3, be in conformance with ASCE Chapter 7, and be confirmed by an Elevation Certificate.
- (3) All new construction and substantial improvements of non-residential structures shall:
  - (a) Have the lowest horizontal structural member, 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 146-2.3, be in conformance with ASCE 24 Chapter 7, and be confirmed by an Elevation Certificate; or
  - (b) 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 4 and 7; and

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[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.

- (4) All new construction and substantial improvements shall have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. All breakaway walls shall be constructed according to structural designs, plans and specifications conforming with ASCE 24 Chapter 4, signed by a licensed design professional, and certified by that individual in a Breakaway Wall Certificate.
- (5) 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:
- (a) 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.
  - (b) 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 146-15.2(B)(3)(B) are met;
  - (c) Be constructed to meet the requirements of ASCE 24 Chapter 4;
  - (d) Have openings documented on an Elevation Certificate and have breakaway wall construction documented on a Breakaway Wall Certificate unless the requirements of 146-15.2(B)(3)(B) are met for a non-residential structure; and
  - (e) 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

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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;

**146-15.3 Garages and accessory storage structures.** Garages and accessory storage structures shall be designed and constructed in accordance with the Uniform Construction Code.

**146-15.4 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 146-5.3(A) 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 Article VII of this ordinance.

**146-15.5 Retaining walls, sidewalks, and driveways.** Retaining walls, sidewalks and driveways that involve placement of fill in floodways shall meet the requirements of Section 146-5.3(A) of these regulations and N.J.A.C. 7:13.

**146-15.6 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 146-5.3(A) of these regulations. Above-ground swimming pools are prohibited in floodways by N.J.A.C. 7:13.

**146-15.7 Roads and watercourse crossings.**

A. 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.

B. Roads and watercourse crossings that encroach into regulated floodways or riverine

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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 146-5.3(A) of these regulations.

**146-15.8 Other development in coastal high hazard areas (Zone V) and Coastal A Zones.** In Coastal High Hazard Areas (V Zones) and Coastal A Zones, development activities other than buildings and structures shall be permitted only when also authorized by the appropriate Federal, State or local authority; when located outside the footprint of, and not structurally attached to, buildings and structures; and when analyses prepared by a licensed professional engineer demonstrates no harmful diversion of floodwater or wave runup and wave reflection that would increase damage to adjacent buildings and structures. Such other development activities include but are not limited to:

- A. Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;
- B. Solid fences and privacy walls, and fences prone to trapping debris, unless designed and constructed to fail under flood conditions less than the base flood or otherwise function to avoid obstruction of floodwater; and
- C. On-site filled or mound sewage systems.

**146-15.9 Nonstructural fill in coastal high hazard areas (Zone V) and Coastal A Zones.** In coastal high hazard areas and Coastal A Zones:

- A. Minor grading and the placement of minor quantities of nonstructural fill shall be permitted for landscaping and for drainage purposes under and around buildings.
- B. Nonstructural fill with finished slopes that are steeper than one unit vertical to five units horizontal shall be permitted only when an analysis prepared by a licensed professional engineer demonstrates no harmful diversion of floodwater or wave runup and wave reflection that would increase damage to adjacent buildings and structures.
- C. Sand dune construction and restoration of sand dunes under or around elevated buildings are permitted without additional engineering analysis or certification of the diversion of floodwater or wave runup and wave reflection where the scale and location of the dune work is consistent with local beach-dune morphology and the vertical clearance is maintained between the top of the sand dune and the lowest horizontal structural member of the building.

**ARTICLE XVI TEMPORARY STRUCTURES AND TEMPORARY STORAGE**

**146-16.1 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

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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.

**146-16.2 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.

**146-16.3 Floodway encroachment.** Temporary structures and temporary storage in floodways shall meet the requirements of Section 146-5.3(A) of these regulations.

**ARTICLE XVII UTILITY AND MISCELLANEOUS GROUP U**

**146-17.1 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.

**146-17.2 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 146-2.3.

**146-17.3 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 146-2.3 and in accordance with ASCE 24. Utility lines shall be designed and elevated in accordance with N.J.A.C. 7:13.

**146-17.4 Enclosures below base flood elevation.** Fully enclosed areas below the design flood elevation shall be constructed in accordance with Section 146-15.2 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.

**146-17.5 Flood-damage resistant materials.** Flood-damage-resistant materials shall be used below the Local Design Flood Elevation determined in Section 146-2.3.

**146-17.6 Protection of mechanical, plumbing, and electrical systems.** Mechanical, plumbing, and electrical systems, equipment and components, heating, ventilation, air

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conditioning, plumbing fixtures, duct systems, and other service equipment, shall be elevated to or above the Local Design Flood Elevation determined in Section 146-2.3.

**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 on May 1, 2022, at 12:01AM.

\*\*\*\*\*

**Ordinance No. 10 of 2022**

M/S- McCarrie/Owen

The ordinance was adopted by a unanimous vote of those present.

*(First Reading/Introduction)*

Solicitor Smith mentioned this Ordinance is to repeal the current plastic bag ordinance since the State legislation will supersede the City's. City Council and Solicitor Smith discussed the responsibility of enforcement.

**ORDINANCE NO. 10 of 2022**

**AN ORDINANCE REPEALING ARTICLE 1, PLASTIC BAGS, OF  
CHAPTER 130, ENVIRONMENTAL HAZARDS.**

**WHEREAS**, Article I, Plastic Bags (Section 130-1 through 130-9), of Chapter 130 of the Municipal Code was enacted by the City Council of Somers Point in recognition of the

environmental harms associated with the use single-use plastic and the desire to minimize the effects of litter and waste arising from the use of plastic products; and

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**WHEREAS**, in November of 2020, Governor Phil Murphy signed into legislation P.L.2020, c.117, which prohibits the use of single-use plastic carryout bags, single-use paper carryout bags, polystyrene foam food service products, and single-use plastic straws; and

**WHEREAS**, P.L.2020, c.117 is effective May 4, 2022; and

**WHEREAS**, said legislation supersedes and preempts any municipal ordinance concerning the regulation or prohibition of single-use plastic carryout bags or single use paper carryout bags that was enacted prior to the effective date of P.L.2020, c.117.

**NOW THEREFORE, BE IT ORDAINED**, by the Common Council of the City of Somers Point, in the County of Atlantic, State of New Jersey, as follows:

1. Article I (Sections 130-1 through 130-9) of Chapter 130 is hereby repealed.
2. This repealer ordinance shall take effect at 12:01 a.m. on May 4, 2022, or on such later date that P.L.2020, c.117 takes effect.

\*\*\*\*\*

**Ordinance No. 11 of 2022**

**M/S-** Dill/McCarrie

The ordinance was adopted by a unanimous vote of those present.

*(First Reading/Introduction)*

**ORDINANCE NO. 11 of 2022**

**AN ORDINANCE REPEALING AND REPLACING ARTICLE I, CONSTRUCTION OFFICIAL AND CODE ENFORCEMENT OFFICER, OF CHAPTER 34 OF THE CITY CODE SO AS TO IDENTIFY DUTIES OF THE CONSTRUCTION AND ZONING OFFICIALS, AS WELL AS SET FORTH THE AUTHORITY FOR CODE ENFORCEMENT.**

**WHEREAS**, Article I, Sections 34-1 through 34-3, of Chapter 34 of the City Code sets forth the duties of the City's Construction Official and Code Enforcement Officer, and identifies who additionally may enforce certain provisions of the City Code; and

**WHEREAS**, the Municipal Code currently prohibits more than one person to hold both positions; and

**WHEREAS**, said Article fails to separate out and identify the duties for the position of the City Zoning Official; and

**WHEREAS**, City Council now wishes to separate out and clarify the duties and positions for the City Construction Official, Zoning Official and Code Enforcement Officer, as well as identify who else in the City may enforce certain provisions of the City Code.

**NOW THEREFORE, BE IT ORDAINED**, by the Common Council of the City of Somers Point, in the County of Atlantic, State of New Jersey, as follows:



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2. Chapter 34, Article I of the City of Somers Point Code relative to “Construction Official and Code Enforcement” is hereby amended by repealing Article 1 in its entirety, renaming said article and replacing same as follows:

ARTICLE I

**Construction and Zoning Officials and Code Enforcement**

**§ 34-1. Construction Official, Zoning Official, Code Enforcement Officer**

There is hereby created three separate offices, that of the Construction Official, Zoning Official and Code Enforcement Officer, which positions may be held by, and administered by different individuals. The appointment of each position shall be made by a majority vote of the Council.

A. The powers, duties and functions of the Construction Official shall be as follows:

1. He or she shall be charged with the administration of all building codes adopted by the City of Somers Point and of any and all state or federal building codes or regulations where the enforcing officer is designated as the Construction Official.
2. He or she shall perform all the duties and functions of a Construction Official as set forth in all ordinances.
3. The Construction Official or a representative in his or her absence, shall inspect buildings, plans or premises for compliance with building codes and order, in writing, the correction of any condition found to exist which is in violation of these provisions.
4. He or she shall issue building, construction and all subcode permits, and collect the fees for same.
5. He or she shall issue certificates of occupancy as set forth in Chapter 100, Construction Codes, Uniform, and collect the fees for same.
6. He or she shall make monthly reports to the Tax Assessor and City Clerk of all certificates issued and of building permits issued.
7. He or she shall issue all builders' licenses upon receipt of a building contractor's license application, and collect the fees for same.
8. He or she shall investigate the condition of buildings and dwelling houses within the City of Somers Point as to their condition of health and safety and whether they are

unfit for human habitation, and have the authority to issue violations for any violations of the City’s building codes or the requirements of Chapter 100, Construction Codes.

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9. He or she shall issue and act as the custodian of the building, electrical, plumbing and fire code (all subcode) permits and collect all fees associated with same.

10. He or she, or the Construction Official's designee, shall inspect all new business premises.

11. He or she, or the Plumbing Subcode Official, shall review the results of all inspections made by the Sewer Utility through the Superintendent of the Public Works of all grease, oil and sand interceptors, and enforce all violations relative to the use, operation and maintenance of same.

12. All fees collected by the office of the Construction Official shall be made payable to the City of Somers Point.

B. The powers, duties and functions of the Zoning Official shall be as follows:

1. He or she shall administer and enforce the zoning laws and ordinances, including those contained in Chapter 114, Development Regulations, and issue any necessary zoning permits.

3. He or she shall perform all the duties and functions of a Zoning Official as set forth in all ordinances.

3. He or she shall review all building and construction plans to ensure same are in compliance with the provisions of Chapter 114, Development Regulations. No building permits shall be issued unless an approved zoning permit accompanies the plans. No zoning permit shall be issued unless the proposed structure, use, temporary activity or construction activities are in compliance with Chapter 114, Development Regulations. In cases involving the new use of an existing structure, a certificate of occupancy for the new tenant shall not be issued until a zoning permit has been issued.

4. He or she, or a representative in his/her absence, shall inspect buildings, plans or premises for compliance with the zoning regulations of Chapter 114, Development Regulations and order, in writing, the correction of any condition found to exist which is in violation of these provisions.

5. He or she may assist in the promulgation of zoning regulations. The Zoning Official shall prepare and supervise the preparation of reports for the Planning Board and Zoning Board.

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6. He or she shall prepare clear, sound, accurate and informative reports containing findings, conclusions and recommendations as shall be necessary or convenient to the processing of any application filed with the Planning or Zoning Board.

7. He or she shall perform such other duties as may be assigned to him/her by this chapter, by the rules of the Planning and/or Zoning Board, and by the City.

C. The powers, duties and functions of the Code Enforcement Officer shall be as follows:

1. He or she shall investigate the condition of vacant parcels of land, land and buildings, and dwelling houses within the City of Somers Point, as to their condition of health and safety and whether they are fit for human habitation.

2. He or she shall enforce all zoning, land use, construction, business operation or residential use ordinances of the City of Somers Point.

3. He or she shall be the code enforcer as to violations of the Mercantile License Ordinances.

4. He or she shall be responsible for enforcing any and all other ordinances of the City where said ordinances do not specifically designate who the enforcing officer shall be.

D. It shall be unlawful for any person holding any of the aforesaid offices to act as an employee of a builder or as a builder contractor within the City of Somers Point.

**§ 34-3. Authority of the Police Department.**

The Police Chief, and or any police officer acting under his direction, shall also have the duty of enforcing the following laws and/or departments:

A. He or she shall have the authority to enforce all zoning ordinances of the City of Somers Point.

B. He or she shall have the authority to act as an enforcer as to violations of the City's Mercantile License Ordinances.

2. Any article, section, paragraph, subsection, clause, or other provision of the City of Somers Point Code inconsistent with the provisions of this ordinance is hereby repealed to the extent of such inconsistency.

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3. If any section, paragraph, subsection, clause, or provision of this ordinance shall be adjudged by a court of competent jurisdiction to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provision so adjudged, and the remainder of this ordinance shall be deemed valid and effective.

4. This ordinance shall take effect upon its final passage and publication as required by law.

\*\*\*\*\*

**Resolutions:**

Deputy Clerk Heath read by title only the list of resolutions.

\*\*\*\*\*

**Public Portion Resolutions:**

Council President Johnston duly opened the meeting to the public.

Lisa Bender of 1304 Atkinson Avenue requested clarification on Resolution Numbers 80, 77 and 74.

Hearing nothing further from the public, the public portion was duly closed.

\*\*\*\*\*

**Resolution No. 72 of 2022**

M/S- Owen/McCarrie

This resolution was adopted by unanimous roll call vote of those present.

**No. 72 of 2022**

**Subject: Taxes Cancelled and Refunded Block 525.01 Lot 8**

**Introduced by: Council President Johnston and Council Member McGuigan**

**WHEREAS**, the property owner at 38 Wilson Avenue is a 100% permanently and totally disabled veteran; and

**WHEREAS**, the owner has filed all of the forms and provided all the necessary documentation for tax exemption; and

**WHEREAS**, the owner is now entitled to total real estate tax exemption beginning on March 2, 2022; and

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**WHEREAS**, the taxes for 2022 should be canceled and refunded in the amount \$473.48;  
and

**WHEREAS**, the taxes for the 2<sup>nd</sup> quarter of 2022, should be canceled in the amount  
\$1,522.09; and

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Somers  
Point, that the above taxes be canceled and refunded.

**BE IT FURTHER RESOLVED** that certified copies of this resolution be forwarded to  
the Tax Collector and the Finance Officer by the City Clerk.

Block	Lot	Qual.	Owner	Amount	Year
525.1	8		Kenneth Burt	\$473.48	2022 (cancelled and refunded)
				\$1,522.09	2022 (cancelled)

\*\*\*\*\*

**Resolution No. 73 of 2022**

M/S- Dill/Owen

This resolution was adopted by unanimous vote of those present.

**No. 73 of 2022**

**Subject:**               **Change Order 1 – Contract No. 109 – 2021 Stormwater Cleaning &  
Video Inspection**

**Introduced by:**       **Council Member Dill**

**WHEREAS**, in accordance with Resolution 152 of 2021, Mobile Dredging & Video  
Pipe Services, Inc. of Newfield, New Jersey, was awarded the contract for the 2021  
Stormwater Cleaning & Video Inspection for the sum of \$72,100.00; and

**WHEREAS**, during the course of construction changes were made to reflect as-built  
quantities; and

**WHEREAS**, the City Engineer has recommended approval of these changes; and

**WHEREAS**, those changes have resulted in a change of the contract amount as  
follows:

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Contract Amount	\$72,100.00	
Change order 1	-\$18,852.50	
Revised Contract Amount	\$53,247.50	
Total Deduction: \$18,852.50	Total Additional: \$0	Net Change: -26.15%

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Somers Point that the above listed change to the contract for the 2021 Stormwater Cleaning & Video Inspection is hereby approved and that the Mayor is hereby authorized and directed to execute all documents in this regard on behalf of the City.

\*\*\*\*\*

**Resolution No. 74 of 2022**

M/S- Dill/Owen

This resolution was adopted by unanimous vote of those present.

**No. 74 of 2022**

**Subject: Change Order 1 – Contract No. 102 FY 2018 & 2020 Safe Streets to Transit - Route 9 Improvements**  
**Introduced by: Council Member Dill**

**WHEREAS**, in accordance with Resolution 182 of 2020, Charles Marandino, LLC of Milmay, NJ, was awarded the contract for the FY 2018 & 2020 Safe Streets to Transit - Route 9 Improvements for the sum of \$415,285.00; and

**WHEREAS**, during the course of construction changes were made to the fence material from vinyl to cedar, replacement an existing chain link fence was required, additional landscape improvements were required, and changes were made to reflect as-built quantities; and

**WHEREAS**, the City Engineer has recommended approval of these changes; and

**WHEREAS**, those changes have resulted in a change of the contract amount as follows:

Contract Amount	\$415,285.00
Change order 1	\$23,566.40
Revised Contract Amount	\$438,851.40

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Total Deduction: \$0    Total Additional: \$23,566.40    Net Change: 5.67%

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Somers Point that the above listed change to the contract for the FY 2018 & 2020 Safe Streets to Transit - Route 9 Improvements is hereby approved and that the Mayor is hereby authorized and directed to execute all documents in this regard on behalf of the City.

\*\*\*\*\*

**Resolution No. 75 of 2022**

M/S- Dill/Owen

This resolution was adopted by unanimous vote of those present.

**No. 75 of 2022**

**Subject:                    Providing for a Billing Adjustment Regarding Account No. 3865-28**

**Introduced by:            Council President Johnston and Council Members  
                                  McGuigan and DePamphilis**

**WHEREAS**, the City of Somers Point provides sewer utility services to the property known as, 47 Bethel Rd #110, Somers Point, NJ, which service is provided under Account No. 3865-28; and

**WHEREAS**, this account has been assessed with charges for four units worth; and

**WHEREAS**, Mav III, LLC, the property owners, have indicated and provided documentation that the property did in fact have a leak and should be credited for two units; and

**WHEREAS**, it has been confirmed by the Tax and Sewer Collection Department that the property should, in fact, be credited for two units;

**NOW, THEREFORE BE IT RESOLVED**, by the City Council of the City of Somers Point that Account No. 3865-28 shall be adjusted to charge the amount of \$1536.00 for 2022.

**BE IT FURTHER RESOLVED**, that this adjustment shall be applied by the Tax and Sewer Collection Department in the most appropriate manner as it sees fit to future obligations on this account.

\*\*\*\*\*

**Resolution No. 77 of 2022**

M/S- Owen/McCarrie

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This resolution was adopted by unanimous vote of those present.

**No. 77 of 2022**

**Subject: Participation in LEAP Implementation Grant**

**Introduced By: Council Member Dill**

**WHEREAS**, the State of New Jersey has appropriated \$10 million for Shared Services and School District Consolidation Study and Implementation Grants to assist local units with the study, development, and implementation of new shared and regional services; and

**WHEREAS**, the Department of Community Affairs, Division of Local Government Services (DLGS) is tasked with administering these grant funds through the Local Efficiency Achievement Program (LEAP); and

**WHEREAS**, LEAP Implementation Grants exist to support costs associated with shared service implementation to ensure that meaningful, efficiency generating initiatives are not hindered by short term transitional expenses; and

**WHEREAS**, the Borough of Longport would be the lead entity and Somers Point would be a participating entity propose to enter into a shared services agreement, but face certain expenses associated with implementation that present a burden to the local units; and

**WHEREAS**, the purpose of this shared services agreement is to purchase the Forerunner software program for a period of three (3) years which will benefit the residents of both participating local units; and

**WHEREAS**, the Borough of Longport has agreed to be the lead agency in this program and will submit the application to DLGS on behalf of all participating units; and

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Somers Point that that Somers Point does hereby join with the Borough of Longport in applying for a LEAP Implementation Grant to support implementation of this shared service.

\*\*\*\*\*

**Resolution No. 78 of 2022**

**M/S- McCarrie/Owen**

This resolution was adopted by unanimous vote of those present.



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No. 78 of 2022**

**Subject: Authorizing Grant Application for Ocean Wind Pro-NJ Grantor Trust**

**Introduced by: Council President Johnston**

**WHEREAS**, in August 2010, the Offshore Wind Economic Development Act (OWEDA) was enacted for the purpose of establishing a program for Offshore Wind Renewable Energy Certificates to incentivize the development of offshore wind facilities in New Jersey. In furtherance of this purpose, Governor Murphy issued the 2018 Executive Order No. 8, calling upon the New Jersey Board of Public Utilities (BPU) to fully implement the OWEDA. Ocean Wind LLC, a subsidiary of Ørsted, was selected by the BPU on June 21, 2019, to build an offshore wind farm and to perform certain related activities; and

**WHEREAS**, as part of the selection process, Ocean Wind committed to starting a Pro-NJ Grantor Trust (the Trust) and to fund the Trust with \$15,000,000 over the course of seven years to support economic development throughout the State of New Jersey. The Trust seeks to provide grants to fund infrastructure projects located in Ocean County, Atlantic County, and Cape May County with the goal of increasing coastal resiliency in these communities to better prepare them for natural disasters, such as Hurricane Sandy.; and

**WHEREAS, during this round of funding, the Trust will award up to \$3.5 million in support of projects that address environmental and infrastructure issues. The application seeks information related to coastal resiliency and critical infrastructure projects from county and municipal entities in Ocean, Atlantic and Cape May counties that are involved in, or seeking to initiate projects; and**

**WHEREAS**, this grant program does not require a local match; and

**WHEREAS**, the City of Somers Point carefully considers grant programs that assist the City in achieving projects and programs that are priorities for the community.

**NOW THEREFORE, BE IT RESOLVED**, that the City Council of the City of Somers Point, State of New Jersey, hereby supports and authorizes this Ocean Wind Pro-NJ Grantor Trust application.

**BE IT FURTHER RESOLVED** that the Mayor and Clerk are hereby authorized to submit a grant application on behalf of the City of Somers Point.

**BE IT FURTHER RESOLVED** that the Mayor and Clerk are hereby authorized to sign grant agreements on behalf of the City of Somers Point and that their signature constitutes acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

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\*\*\*\*\***

**Resolution No. 79 of 2022**

M/S- McCarrie/Owen

This resolution was adopted by unanimous vote of those present.

**No. 79 of 2022**

**Subject: Resolution Supporting the Submittal of an Application for a Neighborhood Planning Grant from New Jersey Department of Community Affairs**

**Introduced by: Council President Johnston**

**WHEREAS**, the New Jersey Department of Community Affairs (NJCA) is accepting applications for Neighborhood Planning Grants; and

**WHEREAS**, a Neighborhood Plan must be prepared and approved by NJCA to qualify for the Neighborhood Revitalization Tax Credit Program; and

**WHEREAS**, the Neighborhood Revitalization Tax Credit Program (NRTC) is designed to foster the revitalization of New Jersey's distressed neighborhoods. NRTC offers business entities a tax credit against various New Jersey state taxes. Credits are provided to business entities that invest in the revitalization of low- and moderate-income neighborhoods in eligible cities. Sixty percent of the tax credit funds must be used for activities related to the development of housing and economic development. The remaining balance may be used for complementary activities such as the provision of assistance to small businesses, removing barriers to self-sufficiency, and promoting the integration of mixed-income neighborhoods. A total of \$15 million per year is available in tax credits; and

**WHEREAS**, NJCA has allocated \$2,000,000 to this program available on a First Come, First Serve basis.

**WHEREAS**, the City will collaborate with community-based non-profit organizations that have a formal determination by the Internal Revenue Service of exemption from income tax who qualify for this grant program; and

**WHEREAS**, there is no match required; and

**WHEREAS**, the City of Somers Point carefully considers grant programs that assist the City in achieving projects and programs that are priorities for the community; and

**NOW, THEREFORE, BE IT RESOLVED** that governing body of the City of Somers Point formally supports an application for the above stated grant.

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**BE IT FURTHER RESOLVED** that the Mayor and Clerk are hereby authorized to prepare applications and support the Neighborhood Planning Grant Program as a means to improve the neighborhoods in the City of Somers Point.

\*\*\*\*\*

**Resolution No. 80 of 2022**

**M/S-** McCarrie/Owen

This resolution was adopted by unanimous vote of those present.

**No. 80 of 2022**

**Subject: Resolution Opposing NJDEP's Proposed Coastal Regulations**  
**Introduced by: Council President Johnston**

**WHEREAS**, the New Jersey Department of Environmental Protection (NJDEP) is planning to adopt new land use regulations that will significantly devalue land and stymie construction in the City of Somers Point known as the Protecting Against Climate Threats (PACT) Regulations; and

**WHEREAS**, the NJDEP is proposing to require five feet of freeboard above the base flood elevation for new construction in the flood zone. Elevating new and substantially improved homes an additional five feet is not only prohibitively expensive for our residents but may not be feasible on many sites; and

**WHEREAS**, historically when NJDEP issues new rules they have been in alignment with corresponding legislation. In this case there is no legislation that has authorized the NJDEP to require more stringent requirements than the federal regulation that are now in place; and

**WHEREAS**, the NJDEP freeboard requirement is based on sea level rise projections for the year 2100. Municipalities are required to prepare Master Plans with a 20- or 30-year planning horizon, the City of Somers Point would strongly suggest that the State use the same time horizon that they required municipalities to use; and

**WHEREAS**, the science behind these 80-year projections have been questions as reported in a guest editorial in the Press of Atlantic City on Sunday, February 28, 2021; and

**WHEREAS**, there has been no major discussion concerning the magnitude of the economic impact of the proposed regulations or how to assist residents who will be negatively impacted. NJDEP's proposed regulatory re-alignment is expected to result in extensive and immediate economic impacts. NJDEP must engage in a meaningful, holistic economic impact analysis, and not simply rely on a one-sided analysis of potential economic impacts from future, projected climate change related threats; and

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**WHEREAS**, in advance of the NJ PACT regulations being released the NJDEP is requiring municipalities to adopt a new Flood Damage Protection Ordinance that automatically imposes the NJ PACT regulations once they are adopted through the State rule making process.

**WHEREAS**, the new Flood Damage Protection Ordinance also requires that road and parking areas proposed in the flood hazard are be constructed at least one foot above the Flood Hazard Area Design elevation, that permits be issued for ordinary maintenance and minor work, that seasonally occupied homes be built on a foundation, among other new regulations.

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Somers Point opposes the Protecting Against Climate Threats (PACT) Regulations and the State’s proposed Flood Damage Protection Ordinance as presented.

**BE IT FURTHER RESOLVED**, that the sea level rise projections being used by NJDEP be subject to a scholarly peer review prior to commencing the rule making process.

**BE IT FURTHER RESOLVED**, that the NJDEP regulations be based on a 20- or 30-year timeframe and adjusted over time to cater to the impacts of sea level rise and resiliency measures rather than based on an 80-year projection.

**BE IT FURTHER RESOLVED**, that the NJDEP seek the counsel from an independent economist to considering potential economic impacts prior to release of the NJ PACT proposals.

**BE IT FURTHER RESOLVED**, that the NJDEP provide follow the same practice as FEMA and provide detailed maps so that communities and residents can clearly understand how these regulations effect specific properties.

**BE IT FURTHER RESOLVED**, that the NJDEP abandoned changes in the local Flood Damage Protection Ordinance until the NJ PACT regulations are approved by the State Legislature.

**BE IT FURTHER RESOLVED** that a copy of this resolution be sent to Governor Phil Murphy, Lt. Governor Sheila Oliver, New Jersey Department of Environmental Protection Commissioner Shawn LaTourette, Senate President Nicholas Scutari, Assembly Speaker Craig Coughlin, Senator Vince Polistina, Senator Michael Testa, Assemblyman Don Guardian, Assemblywomen Clair Swift, Assemblyman Eric Simonsen, and Assemblyman Antwan McClellan.

\*\*\*\*\*

**Old Business:**

- City Council discussed discontinuing ZOOM and returning to in person meetings only. Vote to discontinue ZOOM as follows:  
Council Member Dill: Yes  
Council Member Owen: Yes

Council Member Bruno: No

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Council Member DePamphilis III: Yes  
Council Member McGuigan: No  
Council Member McCarrie: No  
Council President Johnston: Yes

\*\*\*\*\*

**New Business:**

- Council Members McCarrie and McGuigan and Mayor Glasser discussed adding an agenda item for an upcoming meeting for Provider Appreciation Day.
- City Council unanimously approved a N.J. Firemen’s Association Application for Membership for Michael J. Dale.
- Solicitor Smith discussed a request from the Zoning Official requesting amending the Ordinance regarding displaying of building numbers on public streets. City Council agreed to move forward with this request.

\*\*\*\*\*

**Discussion of Bills:**

Administrator Frost reported a Bill List dated 3/22/2022 in the amount of \$1,533,017.39.

\*\*\*\*\*

**Public Portion:**

The meeting was duly opened to the public. Hearing nothing from the public, the public hearing was duly closed.

\*\*\*\*\*

**Payment of Bills:**

**M/S:** Dill/Bruno

The Bill List was approved by a unanimous vote of those present. A complete list of bills is on file in the Office of the Municipal Clerk.

\*\*\*\*\*

**Adjournment:**

There being no further business to come before City Council, Council Member Dill moved, Council Member Owen seconded and carried to adjourn the meeting at 8:42 p.m.

\*\*\*\*\*

Submitted by,

Lucy R. Samuelsen, RMC  
Municipal Clerk  
Approved: 4/14/2022