

**REGULAR MEETING  
MAYOR AND CITY COUNCIL  
June 8, 2023**

**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, Owen, DePamphilis McCarrie, McGuigan, Dill, Johnston

**Also Present:** Mayor Glasser, Administrator Frost, City Clerk Samuelson, City Solicitor Smith, and City Engineer 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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On the motion of Council Member Dill, seconded of Council Member McCarrie and carried to approve the 48-hour waiver for approval of a coin drop permit for the Somers Point Volunteer Fire Co. No. 1.

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**Public Portion (Resolution No. 145 Only)**

Council President Johnston duly opened the meeting to the public. Hearing nothing from the public, the public portion was duly closed.

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**Resolution No. 145 of 2023**

**M/S-** Dill/McCarrie

This resolution was adopted by unanimous vote of those present.

Mayor Glasser thanked everyone involved for all their incredible work.

Council Member DePamphilis congratulated Carmen, Nancy, and the team on their first-place win.

Council Member McCarrie applauded Nancy, Carmen, and the team.

Council Member Owen emphasized how much the concert series has grown and commended everyone involved.

Council Member Dill declared that the concert series has put Somers Point on the map, and he complimented Carmen, Nancy, and the committee for their efforts.

Council Member Bruno shared her appreciation.

Council Member McGuigan asserted that we are seeing the benefits of a lot of hard work. He thanked and congratulated everyone for the National acclaim.

Council President Johnston gave her appreciation for everything the team does to put on such great shows.

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## No. 145 of 2023

### Saluting the Somers Point Beach Concert Committee on the 30th Anniversary of the Concert Series and for being Named the Number One Outdoor Concert Series in the Nation

**WHEREAS**, the Somers Point Beach Concert Series is beginning its thirtieth year of providing wonderful and free entertainment for the residents and visitors of Somers Point; and

**WHEREAS**, the concert series was voted the number one outdoor concert series in the United States by a recent USA Today reader poll; and

**WHEREAS**, there is a great deal of effort required to produce the best concert series in the country, including lining up the various artists, securing sponsorships, engaging vendors, ensuring the sound system is ready to go each week, and obtaining alternative venues in case of bad weather, all done by a group of dedicated volunteers in a seamless manner which yields a near perfect production each week.

Now therefore, it is hereby **RESOLVED** that the Mayor and City Council recognize and commend the members of the Somers Point Beach Concert Committee, Linda Bader Archambault, Moe Archambault, Dawn Collins, John Loreaux, Andrew Malson, Nancy McGrew Marotta, and Carman Marotta for their hard work and dedication to the concert series.

It is further **RESOLVED** that we extend our appreciation to the members of the Somers Point Recreation Commission for their cooperation with the Beach Concert Committee for the use of William Morrow Beach for this annual premier series of musical events; and

It is further **RESOLVED** that the Mayor and City Council congratulates the Beach Concert Committee members for their extraordinary success in producing the Concert Series which has brought very positive publicity for Somers Point and provided world class entertainment for all to enjoy.

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#### **Communications:**

Council Member McCarrie shared with City Council that he had received a critical letter from a member of the public.

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#### **Mayor's Report:**

Mayor Glasser started by thanking everyone for attending the Memorial Day Parade and making it an honorable day. He also thanked the Veteran's Advisory Board, Council President Johnston for the use of her car, Doug Shallcross, the Police Department, Public Works, and City Council for their support. He attended the AMVETS meeting on June 3, 2023, and they will be meeting with the Veteran's Advisory

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Board in early September to discuss fall services, such as Veterans Day and Pearl Harbor Day. Lastly, he shared correspondence from County Executive Dennis Levinson, detailing that someone from their planning department will be in contact with City Administration to work out the details regarding the construction of a bus shelter on Shore Road and Pleasant Avenue.

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## Administrator's Report:

None

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## Solicitors Report:

None

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## Engineers Report:

Engineer Schneider reported that the Bay Avenue Light Project has been completed, new benches were installed for the Bike Path Enhancement Project, and the City is waiting for a street opening permit from the County to install the activated push buttons at the crosswalk on Ocean Heights Avenue. He informed City Council that there is concrete work that also needs to be done and that there have been no supply issues. The City is hoping to have this completed by next week, but it ultimately depends on the County.

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## Committee Reports:

- Recreation Commission- Council Member Owen announced that the Beach Concert Series schedule has been approved. He also mentioned that the Gold Old Days Festival, manned by Council Member McGuigan and volunteers, will be taking place on September 9, 2023, from 11 a.m. to 6 p.m.

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## Approval of Minutes:

On the motion of Council Member Dill, seconded of Council Member Bruno and carried to approve the Regular Meeting Minutes of 5/25/2023.

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**Ordinances:**

**Ordinance No. 12 of 2023**

*(Second Reading/Public Hearing/Adoption)*

**M/S-** Dill/Owen

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

Council President Johnston duly opened the meeting to the public.  
Hearing nothing from the public, the public portion was duly closed.

**No. 12 of 2023**

**An Ordinance Fixing the Salaries, Wages, and Compensation of the Officers and Employees of the City of Somers Point, County of Atlantic, State of New Jersey.**

**BE IT ORDAINED** by the City Council of the City of Somers Point, New Jersey that the annual wages, salaries and compensation of the Officers and Employees of the City of Somers Point shall be as follows, as of January 1, 2023:

**SECTION 1. FULL TIME EMPLOYEES  
(for full year)**

<b>Position</b>	<b>From:</b>	<b>To:</b>
Account Clerk Typist	25,000	56,694
Administrative Officer of Planning and Zoning & Construction & Code Enforcement Secretary with Technical Assistant to the Construction Official Certification	25,000	35,000
Asst. Supervisor of Public Works	40,000	86,000
Bookkeeper	25,000	57,217
Chief Financial Officer, during first calendar year	45,000	73,000
Chief Financial Officer, during second calendar year	73,000	76,000
Chief Financial Officer, during third calendar year	76,000	79,000
Chief Financial Officer, during fourth calendar year	79,000	82,000
City Administrator	60,000	110,000
City Clerk/Registrar of Vital Statistics, Municipal Search Officer	40,000	92,358
Clerk Typist	25,000	33,797
Clerk Typist/Matron	25,000	59,016
Confidential Asst. to the City Administrator	25,000	50,000
Confidential Asst. to the City Clerk	30,000	40,000
Confidential Secretary to the Police Chief	25,000	45,350
Construction Official	40,000	65,000

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Construction & Code Enforcement Secretary with Technical Assistant to the Construction Official Certification	25,000 25,000	35,000 43,002
Court Administrator	40,000	93,049
Dept. of Public Works Worker	40,000	76,153
Department of Public Works Work Leader	40,000	84,372
Deputy City Clerk/Deputy Registrar	35,000	59,913
Deputy Court Administrator	25,000	61,503
Deputy Joint Insurance Fund Commissioner	600	1,500
Deputy Tax Collector	25,000	60,772
Dispatcher	32,000	77,180
Joint Insurance Fund Commissioner	1,200	2,500
Police Patrol Officer	35,000	105,021
Police Sergeant	40,000	115,974
Police Lieutenant	50,000	137,546
Police Captain	50,000	148,600
Police Chief	75,000	167,000
Principal Manager of Public Works	40,000	99,000
Qualified Purchasing Agent	5,000	20,000
Recreation Director	15,000	41,923
Superintendent of Public Works	80,000	122,404
Tax Assessor	40,000	70,000
Tax Collector/Tax Search Officer/Sewer Utility Collector, during first calendar year	50,000	75,848
Tax Collector/Tax Search Officer/Sewer Utility Collector, during second calendar year	75,848	78,365
Tax Collector/Tax Search Officer/Sewer Utility Collector, during third calendar year	78,365	80,932
Waste Water Collection System Operator	5,000	14,193

Each full-time employee shall be paid for overtime, and any other additionally earned compensation, in accordance with his/her employment contract. This may include additional compensation based upon the length of his/her service, at the rate of \$100.00 per year, paid in addition to, and together with his/her salary.

## SECTION 2. PART TIME OFFICERS & EMPLOYEES (for full year)

<b>Position</b>	<b>From:</b>	<b>To:</b>
<b><u>Building Department</u></b>		
Electrical Sub-Code Official	7,000	15,000
Plumbing Sub-Code Official	7,000	15,000
Fire Sub-Code Official	7,000	15,000
Building Sub-Code Official	7,000	15,000
Building Inspector	14.13	30.00
Construction Official	1,000	15,000

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Construction Official	per inspection	14.13	30.00
Housing Inspector		1,000	15,000
Floodplain Manager		1,000	15,000
Temporary UCC Sub-code Official	per inspection	14.13	30.00
Code Enforcement Officer	per hour	14.13	30.00
Asst. Code Enforcement Officer		2,500	30,000
Asst. Code Enforcement Officer	per hour	14.13	30.00
Zoning Officer	per hour	14.13	80.00
Clerk-Typist	per hour	14.13	30.00
Administrative Officer of Planning and Zoning & Construction & Code Enforcement Secretary	per hour	14.13	30.00
<b><u>Police Department</u></b>			
Dispatcher	per hour	14.13	30.00
School Traffic Guard	per day	25.00	75.00
Special Officer	per hour	14.13	30.00
Data Processing Clerk	per hour	14.13	30.00
Clerk Typist	per hour	14.13	30.00
<b><u>Recreation</u></b>			
Special Events Coordinator		500	1,500
Summer Recreation Coordinator	per hour	14.13	30.00
Recreation Workers	per hour	14.13	40.00
Program Instructor	per hour	14.13	35.00
Lifeguard	per hour	14.13	30.00
Boat Ramp Attendant	per hour	14.13	30.00
<b><u>Public Works Department</u></b>			
Clean Communities Coordinator		500	1,200
Clean Communities Laborer	per hour	14.13	30.00
Recycling Coordinator		200	1,000
Public Works/Sanitation Workers	per hour	14.13	30.00
Public Works Secretary	per hour	14.13	30.00
Parking Lot Attendant	per hour	14.13	30.00
Waste Water collection System Operator		5,000	14,193
Custodian	per hour	14.13	30.00
Marina Worker	per hour	14.13	30.00
Marina Supervisor	per hour	14.13	30.00
Marina Supervisor	per day	75.00	100.00
<b><u>Administration, Finance, Tax Collector, Tax Assessor and Court</u></b>			
Mayor		4,500	9,000
Council President		4,000	8,500
Council Persons		4,000	8,500
Chief Financial Officer		5,000	25,000

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City Engineer		5,000	15,000
Clerk Typist	per hour	14.13	30.00
Municipal Alliance Coordinator		500	2,000
Safety Coordinator		1,000	2,500
Safety Coordinator	per hour	14.13	30.00
Deputy Safety Coordinator		500	2,000
Deputy Safety Coordinator	per hour	14.13	30.00
Blood Borne Pathogens Coordinator		500	1,000
Qualified Purchasing Agent		1,200	20,000
Joint Insurance Fund Commissioner		1,200	2,500
Deputy Joint Insurance Fund Commissioner		600	1,500
Municipal Magistrate		10,000	26,000
Temporary Court Clerk	per court session	60.00	100.00

**Bureau of Fire Prevention**

Fire Official		1,400	7,000
Senior Inspector		1,200	6,600
Inspector		1,000	6,000
Inspector	per hour	14.13	30.00

**Fire Department**

Fire Chief		Up to	7,000
Deputy Fire Chief		Up to	5,400
Assistant Chief		Up to	3,900
Captain		Up to	3,600
Lieutenant		Up to	3,300
Fire Marshall		Up to	2,500
Fire Marshall	per inspection hour	15.00	30.00
Deputy Fire Marshall		Up to	2,500
Deputy Fire Marshall	per inspection hour	15.00	30.00
Fire Safety Officer		Up to	1,600
Fire Relief		15.00	35.00

**Emergency Management**

Emergency Management Coordinator		Up to	6,000
Deputy Emergency Management Coordinator		Up to	3,000
Assistant Emergency Management Coordinator		Up to	1,500

Each part time hourly employee shall be paid for overtime at the rate of one and one-half times the employee's straight time hourly rate for all hours of work which are more than eight hours worked in one day or forty hours worked in one week for any such part time work.

**SECTION 3. REPEALER**

All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

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**Ordinance No. 13 of 2023**

*(Second Reading/Public Hearing/Adoption)*

**M/S-** Dill/Bruno

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

Council President Johnston duly opened the meeting to the public.  
Hearing nothing from the public, the public portion was duly closed.

**No. 13 of 2023**

**An Ordinance Approving a Five-Year Short Term Tax Exemption Agreement Between the  
City of Somers Point and Centre Street Storage Llc for New Commercial Improvements  
Constructed on Block 1715, Lot 5**

**WHEREAS** pursuant to the authority granted under Article VIII, Section I, Paragraph 6 of the New Jersey Constitution and as permitted by the New Jersey Five Year Tax Exemption and Abatement Law (N.J.S.A. 40A-21.1) the Somers Point City Council adopted Article IV, Chapter 228 of the Somers Point Municipal Code which authorizes the governing body of the City of Somers Point to enter into financial agreements granting tax abatements or exemptions if recommended by the Tax Assessor and evaluated by the City Administrator; and

**WHEREAS** Centre Street Storage LLC (the "Developer" or "Applicant") has constructed new commercial improvements (the "Improvements") on Block 1715, Lot 5 also known as 819 Centre Street (the "Subject Property"); and

**WHEREAS** the Developer has submitted to the City's Tax Assessor an application for a short-term five-year tax exemption for the newly constructed Improvements on the Subject Property (the "Application" ); and

**WHEREAS** the Tax Assessor, the City Administrator, and Special Counsel have reviewed the Application; and

**WHEREAS** the Tax Assessor has submitted a report to the City Council recommending the approval of a five-year tax exemption agreement (the "Financial Agreement"); and

**WHEREAS** a financial agreement for new commercial improvements is at the sole discretion of the City Council and may only be entered into if approved by the City Council through adoption of an ordinance approving the same; and

**WHEREAS** the Improvements on the Subject Property were substantially completed on August 9, 2022, as determined by the City Tax Assessor: and

**WHEREAS** the Applicant and the City Council have determined that the formula to be applied for payment to the City in lieu of full property tax on the improvements shall be computed using the phase-in basis formula set forth in City Code Section 228-18 C; and

**WHEREAS** the tax exemption shall commence on January 1, 2023, as provided in City Code Section 228-22B.(1).

Now, therefore, it is hereby **ORDAINED** by the City Council of the City of Somers Point, County of Atlantic, State of New Jersey, as follows.

**Section 1.** The preceding recitals are incorporated herein as if fully set forth herein at length.



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**Section 2.**

- A. The application for a short-term five-year tax exemption for the Improvements on the Subject Property is approved.
- B. The Tax Phase-In Basis Formula in Administrative Code Section 228-18. C. shall apply.
- C. Upon final adoption of this Ordinance the Mayor is authorized to execute and deliver a Financial Agreement between the City and Centre Street Storage LLC for the Improvements on the property designated as Block 1715, Lot 5 substantially in the form on file in the Office of the City Clerk which shall be available for public inspection during normal business hours, and which shall be subject to such modification as may be deemed necessary or desirable by the City Administrator, City Tax Collector, and City Attorneys.

**Section 3.** All City ordinances or parts of any City ordinances that are inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

**Section 4.** The provisions of this Ordinance are severable. To the extent any clause, phrase, sentence, paragraph, or provision of the Ordinance shall be declared invalid, illegal, or unconstitutional, the remaining provisions shall continue in full force and effect.

**Section 5.** This Ordinance shall take effect after final adoption and publication according to law.

**Section 6.** Upon Final passage of this Ordinance, the City Clerk shall send a certified copy of the Ordinance and a copy of the Financial Agreement to the Atlantic County Counsel and the Chief Financial Officer of the County for informational purposes only.

**Section 7.** Within 30 days after the execution of the Financial Agreement, the City Clerk shall forward a copy of the agreement to the Director of the Division of Local Government Services in the Department of Community Affairs in compliance with N.J.S.A.40A:21-11d.

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**Ordinance No. 14 of 2023**

*(Second Reading/Public Hearing/Adoption)*

**M/S-** McCarrie/Dill

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

Council President Johnston duly opened the meeting to the public.

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

**No. 14 of 2023**  
**Ordinance for Adoption of the Floodplain Management Regulations  
of the City of Somers Point**

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**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 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 I 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

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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 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

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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 (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

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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 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)

Letter	Map Panel #	Effective Date	Suffix	Map Panel #	Effective Date	Revision
	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

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

Table 146-2.2(B)

Map Panel #	Preliminary Date	Map Panel #	Preliminary Date
	34001C0429G01/30/2015		
34001C0409G01/30/2015		34001C0436G01/30/2015	
34001C0417G01/30/2015		34001C0437G01/30/2015	
34001C0428G01/30/2015			

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.

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 as of December 2023; 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

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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 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.

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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.

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 features.

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



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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.

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.

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,

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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 146-1.5, 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 or 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 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

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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.
- 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

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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 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.

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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.

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

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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 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

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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.

## **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



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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.
- 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 local laws or ordinances.
- D. A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

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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 DEFINITION**

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.

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**500 YEAR FLOOD ELEVATION** – Elevation of flooding having a 0.2% annual chance of being equaled or exceeded in a given year.

**A ZONES** – Areas of ‘Special Flood Hazard in which the elevation of the surface water resulting from a flood that has a 1% annual chance of equaling or exceeding the Base Flood Elevation (BFE) in any given year shown on the Flood Insurance Rate Map (FIRM) zones A, AE, AH, A1–A30, AR, AR/A, AR/AE, AR/A1– A30, AR/AH, and AR/AO. When used in reference to the development of a structure in this ordinance, A Zones are not inclusive of Coastal A Zones because of the higher building code requirements for Coastal A Zones.

**AH ZONES**– Areas subject to inundation by 1-percent-annual-chance shallow flooding (usually areas of ponding) where average depths are between one and three feet. Base Flood Elevations (BFEs) derived from detailed hydraulic analyses are shown in this zone.

**AO ZONES** – Areas subject to inundation by 1-percent-annual-chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet.

**ACCESSORY STRUCTURE** – Accessory structures are also referred to as appurtenant structures. An accessory structure is a structure which is on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure. For example, a residential structure may have a detached garage or storage shed for garden tools as accessory structures. Other examples of accessory structures include gazebos, picnic pavilions, boathouses, small pole barns, storage sheds, and similar buildings.

**AGRICULTURAL STRUCTURE** - A structure used solely for agricultural purposes in which the use is exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities, including the raising of livestock. Communities must require that new construction or substantial improvements of agricultural structures be elevated or floodproofed to or above the Base Flood Elevation (BFE) as any other nonresidential building. Under some circumstances it may be appropriate to wet-floodproof certain types of agricultural structures when located in wide, expansive floodplains through issuance of a variance. This should only be done for structures used for temporary storage of equipment or crops or temporary shelter for livestock and only in circumstances where it can be demonstrated that agricultural structures can be designed in such a manner that results in minimal damage to the structure and its contents and will create no additional threats to public safety. New construction or substantial improvement of livestock confinement buildings, poultry houses, dairy operations, similar livestock operations and any structure that represents more than a minimal investment must meet the elevation or dry-floodproofing requirements of 44 CFR 60.3(c)(3).

**AREA OF SHALLOW FLOODING** – A designated Zone AO, AH, AR/AO or AR/AH (or VO) on a community’s Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and

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where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow. **AREA OF SPECIAL FLOOD HAZARD** – see **SPECIAL FLOOD HAZARD AREA**

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

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

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

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

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

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

**BEST AVAILABLE FLOOD HAZARD DATA AREA**- The area 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

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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 are 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.

**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.

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

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

**ELEVATED BUILDING** – A building that has no basement and that has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns. Solid perimeter 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**

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A. A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters.
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

(3) Mudslides (I.e. mudflows) which are proximately caused by flooding as defined in (A) (2) of this definition and are akin to a river or liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

B. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (A)(1) of this definition.

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

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

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

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

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

**FLOODPROOFING** – Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real

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estate or improved real property, water and sanitary facilities, structures, and their contents.

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

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

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

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

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

**HARDSHIP** – As related to 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.



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

**HISTORIC STRUCTURE** – Any structure that is:

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

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

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

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

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

**LETTER OF MAP CHANGE** – The Letter of Map Change (LOMC) process is a service provided by FEMA for a fee that allows the public to request a change in flood zone designation in an Area of Special Flood Hazard on a Flood Insurance Rate Map (FIRM). Conditional Letters of Map Revision, Conditional Letters of Map Revision – Fill, Letters of Map Revision, Letters of Map Revision-Fill, and Letters of Map Amendment are requested through the Letter of Map Change (LOMC) process.

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

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

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

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

**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.

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

**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,

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siding, interior finishes, kitchen cabinets, plumbing fixtures and piping, HVAC and air conditioning equipment, exhaust fans, built in appliances, electrical wiring, etc. Improvements necessary to correct existing violations of State or local health, sanitation, or code enforcement officials which are the minimum necessary to assure safe living conditions and improvements of historic structures as discussed in 44 CFR 59.1 shall not be included in the determination of ordinary maintenance and minor work.

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

**RESIDENTIAL** – Pursuant to the ASCE 24:

A. Buildings and structures and portions thereof where people live or that are used for sleeping purposes on a transient or non-transient basis;

B. Structures including but not limited to one- and two-family dwellings, townhouses, condominiums, multi-family dwellings, apartments, congregate residences, boarding houses, lodging houses, rooming houses, hotels, motels, apartment buildings, convents, monasteries, dormitories, fraternity houses, sorority houses, vacation time-share properties; and

C. Institutional facilities where people are cared for or live on a 24-hour basis in a supervised environment, including but not limited to board and care facilities, assisted living facilities, halfway houses, group homes, congregate care facilities, social rehabilitation facilities, alcohol and drug centers, convalescent facilities, hospitals, nursing homes, mental hospitals, detoxification facilities, prisons, jails, reformatories, detention centers, correctional centers, and prerelease centers.

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

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

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

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A. For other than new construction or substantial improvements, under the Coastal Barrier Resources Act (CBRA), this is the date the building permit was issued, provided that the actual start of construction, repair, rehabilitation, addition, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a building on site, such as the pouring of a slab or footing, the installation of piles, the construction of columns or any work beyond the stage of excavation; or the placement of a manufactured (mobile) home on a foundation. For a substantial improvement, actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

B. For the purposes of determining whether proposed construction must meet new requirements when National Flood Insurance Program (NFIP) maps are issued or revised and Base Flood Elevation's (BFEs) increase or zones change, the Start of Construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation.

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

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

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

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

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

**SUBSTANTIAL IMPROVEMENT** – Any reconstruction, rehabilitation, addition, or other improvement of a structure taking place, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage,”

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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.

**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**

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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.

## **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 as of December 2023.

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

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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.

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 foundations as specified by the manufacturer only if the manufacturer's installation instructions specify that the home has been designed for flood-resistant considerations and provides the conditions of applicability for velocities, depths, or wave action as required by 24 CFR Part 3285-302. The Floodplain Administrator is authorized to



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determine whether the design meets or exceeds the performance necessary based upon the proposed site location conditions as a precondition of issuing a flood damage prevention permit. If the Floodplain Administrator determines that the home's performance standards will not withstand the flood loads in the proposed location, the applicant must propose a design certified by a New Jersey licensed design professional and in accordance with 24 CFR 3285.301 (c) and (d) which conforms with ASCE 24, the accepted standard of engineering practice for flood resistant design and construction.

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.

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 and Section 146-12.3.

## **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:

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- 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;
  - 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 (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

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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.

(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 is 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:

[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.

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(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

[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

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vegetation and structures, or construction of the project), whichever is sooner. Deed restrictions must explain and disclose that:

[1] The enclosure is likely to be inundated by floodwaters which may result in damage and/or inconvenience.

[2] The depth of flooding that the enclosure would experience to the Flood Hazard Area Design Flood Elevation;

[3] The deed restriction prohibits habitation of the enclosure and explains that converting the enclosure into a habitable area may subject the property owner to enforcement;

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 in accordance with N.J.A.C. 7:13 as of December 2023.

B. Roads and watercourse crossings that encroach into regulated floodways or riverine waterways with base flood elevations where floodways have not been designated, including roads, bridges, culverts, low- water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, shall meet the requirements of Section 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,

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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 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

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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 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.**

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This ordinance shall take effect on June 8th, 2023.

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**Ordinance No. 15 of 2023**

*(Introduction/First Reading)*

M/S- Dill/Owen

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

**No. 15 of 2023**

**BOND ORDINANCE PROVIDING FOR  
VARIOUS IMPROVEMENTS AND  
ACQUISITIONS IN AND BY THE CITY OF  
SOMERS POINT, IN THE COUNTY OF  
ATLANTIC, NEW JERSEY,  
APPROPRIATING \$2,700,000 THEREFORE  
AND AUTHORIZING THE ISSUANCE  
\$2,565,000 OF BONDS OR NOTES OF THE  
CITY TO FINANCE PART OF THE COST  
THEREOF.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOMERS POINT,  
IN THE COUNTY OF ATLANTIC, NEW JERSEY (not less than two-thirds of all members  
thereof affirmatively concurring) AS FOLLOWS:**

**SECTION 1. Appropriation for Projects-Down Payment**

The improvements described in Section 3 of this bond ordinance are hereby authorized to be undertaken by the City of Somers Point, Atlantic County, New Jersey (the "City"), as general improvements. For the improvements or purposes described in Section 3, there is hereby appropriated the sum of \$2,700,000 including the sum of \$135,000 as the down payment required by the Local Bond Law. It is hereby determined and stated that the amount of the down payment is not less than five percent (5%) of the obligations authorized by this bond ordinance and that the amount appropriated as a down payment has been made available prior to final adoption of this bond ordinance by provisions in prior or current budgets of the City for capital improvements and down payments, including also monies received from the United States of America, the State of New Jersey or the County of Atlantic, or agencies thereof, as grants in aid of financing said improvements or purposes.

**SECTION 2. Authorization of Bonds and Notes**

In order to finance the cost of the improvements or purposes not covered by application of the down payment, negotiable bonds are hereby authorized to be issued in the principal amount of \$2,700,000 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.



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## **SECTION 3. Description of Projects**

The improvements hereby authorized and the purposes for which the bonds are to be issued, the estimated cost of each improvement and the appropriation therefor, the estimated maximum amount of bonds or notes to be issued for each improvement and the period of usefulness of each improvement are as follows:

Purpose	Appropriation and Estimated Cost	Estimated Maximum Amount of Bonds or Notes	Period of Usefulness
a.) Acquisition by purchase of Fire Department public safety equipment including but not limited to Chief Vehicle, Turn-out Gear, Air Cylinders, Fire Hose, Water Rescue Gear, breaching equipment, hydrant valves and all attachments and appurtenances applicable thereto.	\$160,000	\$152,000	15 years
b.) Acquisition by purchase of a Ballfield Groomer, Pick-Up Truck, Stand-Up Mower for the Public Works Department including all attachments and appurtenances applicable thereto.	\$118,000	\$112,100	5 years
c.) Acquisition by purchase of Police Department public safety equipment including Speed Trailer, Radio Battery Replacement, Ballistic Shields, breaching tools, Portable Scanner, Plate Readers Camera, Traffic Cones and Signage, Computers and Monitors, vehicle Accessories, Computer Server, Building Upgrades and all attachments and appurtenances applicable thereto.	\$279,000	\$265,000	15 years
d.) Improvements to municipal facilities including but not limited			

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to replacement of roofs, air monitoring, temporary boiler solution, Computer Server, building renovations; together with all materials and work necessary therefore, and incidental thereto, including without limitation and all attachments and appurtenances applicable thereto.	\$255,000	\$242,250	15 years
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e.) Acquisition by purchase of recreation equipment, handicapped beach access mats, hockey court renovations, boat ramps hardware, and appurtenances applicable thereto.	\$160,000	\$152,000	15 years
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f.) Various Municipal Roadway Improvements in the City including milling and overlay, paving and curbs, such new roadway pavement to be at least equal in useful life or durability to a road of Class B construction, as referred to in Section 40A:2-22 of the Local Bond Law, together with the construction or reconstruction of drainage facilities, pavement preparation, pavement construction or reconstruction, asphalt concrete resurfacing, driveway, curb, sidewalk and shoulder restoration, handicapped accessible curb ramps, and all other necessary or desirable structures, appurtenances and work or materials, all as shown on and in accordance with the plans and specifications therefore on file in the office of the City Clerk and hereby approved, including the costs of surveying, construction

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planning, engineering, preparation of plans and specifications, permits, bid documents and construction inspection and administration.	<u>\$1,728,000</u>	<u>\$1,641,600</u>	10 years
<b>TOTAL</b>	<u>\$2,700,000</u>	<u>\$2,565,000</u>	10.70 years

The excess of the appropriation made for each of the improvements or purposes aforesaid over the estimated maximum amount of bonds or notes to be issued therefor, as above stated is the amount of the said down payment for said purpose.

**SECTION 4. Issuance of Notes**

All bond anticipation notes issued hereunder shall mature at such times as may be determined by the Chief Financial Officer, provided that no note shall mature later than one year from its date. The notes shall bear interest at such rate or rates and be in such form as may be determined by the Chief Financial Officer. The Chief Financial Officer shall determine all matters in connection with notes issued pursuant to this ordinance, and the Chief Financial Officer's signature upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time subject to the provisions of N.J.S.A. 40A:2-8(a). The Chief Financial Officer is hereby authorized to sell part or all of the notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The Chief Financial Officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this ordinance is made. Such report must include the amount, the description, the interest rate, and the maturity schedule of the notes sold, the price obtained, and the name of the purchaser. If so designated by the Chief Financial Officer, the City Administrator may act on behalf of the Chief Financial Officer in any or all capacities described in this section.

**SECTION 5. Capital Budget**

The applicable capital budget of the City is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency therewith, and the resolution promulgated by the Local Finance Board showing full detail of the amended applicable capital budget and capital program as approved by the Director of the Division of Local Government Services, is on file with the Clerk and available for inspection.

**SECTION 6. Additional Matters**

The following additional matters are hereby determined, declared, recited and stated:

- (a) The improvements or purposes described in Section 3 of this bond ordinance are not current expenses. They are all improvements or purposes that the City may lawfully undertake as general improvements, and no part of the cost thereof has been or shall be specially assessed on property specially benefited thereby.

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- (b) The average period of usefulness of the improvements or purposes within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the bonds authorized by this ordinance, is 10.70 years.
- (c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and an executed copy thereof has been electronically executed and filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the City as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided for in this bond ordinance by \$2,565,000 and the obligations authorized herein will be within all debt limitations prescribed by that Law.
- (d) An aggregate amount not exceeding \$200,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated costs indicated herein for the purposes or improvements.

**SECTION 7. Application of Grants**

Any grant moneys received for the purposes described in Section 3 hereof shall be applied either to direct payment of the cost of the improvements or to payment of the obligations issued pursuant to this ordinance. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are so used.

**SECTION 8. Full Faith and Credit**

The full faith and credit of the City are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the City, and the City shall be obligated to levy ad valorem taxes upon all the taxable real property within the City for the payment of the obligations and the interest thereon without limitation of rate or amount.

**SECTION 9. Official Intent to Reimburse Expenditures**

The City reasonably expects to reimburse any expenditures towards the costs of the improvements or purposes described in Section 3 of this bond ordinance and paid prior to the issuance of any bonds or notes authorized by this bond ordinance with the proceeds of such bonds or notes. No funds from sources other than the bonds or notes authorized herein has been or is reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside by the City, or any member of the same “control group” as the City, within the meaning of Treasury Regulations Section 1.150-1(f), pursuant to their budget or financial policies with respect to any expenditures to be reimbursed. This Section 9 is intended to be and hereby is a declaration of the City’s official intent to reimburse any expenditures towards the costs of the improvements or purposes described in Section 3 hereof to be incurred and paid prior to the issuance of bonds or notes authorized herein in accordance with Treasury Regulations Section 1.103-18, and no action (or inaction) will be an artifice or device in accordance with Treasury Regulation Section 1.148-10 to avoid the arbitrage yield restrictions or arbitrage rebate requirements under Section 148 of the Internal Revenue Code of 1986, as amended.

**SECTION 10. Tax Covenants**

The City hereby covenants as follows:

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(a) it shall take all actions necessary to ensure that the interest paid on the bonds or bond anticipation notes authorized by the Bond Ordinance is exempt from the gross income of the owners thereof for federal income taxation purposes, and will not become a specific item of tax preference pursuant to Section 57(a)(5) of the Code;

(b) it will not make any use of the proceeds of the bonds or bond anticipation notes or do or suffer any other action that would cause the bonds or bond anticipation notes to be "arbitrage bonds" as such term is defined in Section 148(a) of the Code and the Regulations promulgated thereunder;

(c) it shall calculate or cause to be calculated and pay, when due, the rebatable arbitrage with respect to the "gross proceeds" (as such term is used in Section 148(f) of the Code) of the bonds or bond anticipation notes;

(d) it shall timely file with the Internal Revenue Service, such information report or reports as may be required by Sections 148(f) and 149(e) of the Code; and

(e) it shall take no action that would cause the bonds or bond anticipation notes to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

**SECTION 11. Ratification of Prior Acts**

Any action taken by any officials of the City in connection with the improvements described in Section 3 hereof are hereby ratified and confirmed notwithstanding that such actions may have been taken prior to the effective date of this bond ordinance and shall be deemed to have been taken pursuant to this bond ordinance.

**SECTION 12. Inconsistencies**

All ordinances, or parts of ordinances, inconsistent herewith are hereby repealed to the extent of any such inconsistency.

**SECTION 13. Effective Date**

This bond ordinance shall take effect twenty (20) days after the first publication thereof after final adoption as provided by the Local Bond Law.

\*\*\*\*\*

**Ordinance No. 16 of 2023**

*(Introduction/First Reading)*

**M/S- Dill/Bruno**

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

**ORDINANCE NO. 16 OF 2023**

**BOND ORDINANCE PROVIDING FOR  
VARIOUS SEWER UTILITY CAPITAL  
IMPROVEMENTS IN AND BY THE CITY OF  
SOMERS POINT, IN THE COUNTY OF  
ATLANTIC, NEW JERSEY,  
APPROPRIATING \$1,617,000 THEREFORE  
AND AUTHORIZING THE ISSUANCE OF**

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**\$1,617,000 BONDS OR NOTES OF THE CITY  
FOR FINANCING THE COST THEREOF.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOMERS POINT, IN THE COUNTY OF ATLANTIC, NEW JERSEY (not less than two-thirds of all the members thereof affirmatively concurring) AS FOLLOWS:**

**SECTION 1. Appropriation for Projects-Down Payment**

The acquisitions or improvements described in Section 3 of this bond ordinance are hereby authorized to be undertaken by the City of Somers Point, Atlantic County, New Jersey (the “City”). For the improvements or purposes described in Section 3, there is hereby appropriated the sum of \$1,617,000. No down payment is required as the purposes authorized herein are deemed self-liquidating and the obligations authorized herein are deductible from the gross debt of the City, as more fully explained in Section 6(e) of this ordinance.

**SECTION 2. Authorization of Bonds and Notes**

In order to finance the cost of the improvements or purposes, negotiable bonds are hereby authorized to be issued in the principal amount of \$1,617,000 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

**SECTION 3. Description of Project**

The several acquisitions or improvements hereby authorized and the several purposes for which the bonds are to be issued, the estimated cost of each acquisition or improvement, and the appropriation therefor, the estimated maximum amount of bonds or notes to be issued for each acquisition or improvement and the period of usefulness of each are as follows:

Purpose	Appropriation and Estimated Cost	Estimated Maximum Amount of Bonds or Notes	Period of Usefulness
Replacements, improvements and renovations to various pump stations, mains, and other system components and all other necessary or desirable structures appurtenances and work or materials, all as shown on and in accordance with the plans and specifications therefore on file in the office of the City Clerk and hereby approved, including the costs of surveying, construction planning, engineering, preparation of plans and specifications, permits, bid documents and construction inspection and administration.	\$1,617,000	\$1,617,000	40 years
<b>TOTAL</b>	<b><u>\$1,617,000</u></b>	<b><u>\$1,617,000</u></b>	<b><u>40 years</u></b>

# **REGULAR MEETING MAYOR AND CITY COUNCIL June 8, 2023**

## **SECTION 4. Issuance of Notes**

All bond anticipation notes issued hereunder shall mature at such times as may be determined by the Chief Financial Officer, provided that no note shall mature later than one year from its date. The notes shall bear interest at such rate or rates and be in such form as may be determined by the Chief Financial Officer. The Chief Financial Officer shall determine all matters in connection with notes issued pursuant to this ordinance, and the Chief Financial Officer's signature upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time subject to the provisions of N.J.S.A. 40A:2-8(a). The Chief Financial Officer is hereby authorized to sell part or all of the notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The Chief Financial Officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this ordinance is made. Such report must include the amount, the description, the interest rate, and the maturity schedule of the notes sold, the price obtained, and the name of the purchaser. If so designated by the Chief Financial Officer, the City Administrator may act on behalf of the Chief Financial Officer in any capacities described in this section.

## **SECTION 5. Capital Budget**

The applicable capital budget of the City is hereby amended to conform with the provisions of this ordinance. The resolution in the form promulgated by the Local Finance Board showing full detail of the capital budget and capital program is on file with the Clerk and is available there for public inspection.

## **SECTION 6. Additional Matters**

The following additional matters are hereby determined, declared, recited and stated:

(a) The improvements or purposes described in Section 3 of this bond ordinance are not current expenses. They are improvements or purposes that the City may lawfully undertake as a self-liquidating purpose of a municipal public utility. No part of the cost thereof has been or shall be specially assessed on property specially benefited thereby.

(b) The period of usefulness of the improvement or purpose within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the bonds authorized by this bond ordinance, is 40 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and an executed copy thereof has been electronically filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the City as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided for in this bond ordinance by \$1,617,000, and that the net debt of the City determined as provided in the Local Bond Law is not increased by this bond ordinance. The obligations authorized herein will be within all debt limitations prescribed by that Law.

(d) An aggregate amount not exceeding \$323,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated costs indicated herein for the purposes or improvements.

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(e) This bond ordinance authorizes obligations of the City solely for purposes described in N.J.S.A. 40A:2-7(h). The obligations authorized herein are to be issued for purposes that are deemed to be self-liquidating pursuant to N.J.S.A. 40A:2-47(a) and are deductible from gross debt pursuant to N.J.S.A. 40A:2-44(c).

**SECTION 7. Ratification of Prior Actions**

Any action taken by any officials of the City in connection with the improvements described in Section 3 hereof are hereby ratified and confirmed notwithstanding that such actions may have been taken prior to the effective date of this ordinance and shall be deemed to have been taken pursuant to this ordinance.

**SECTION 8. Application of Grants**

Any grant moneys received for the purposes described in Section 3 hereof shall be applied either to direct payment of the cost of the improvements or to payment of the obligations issued pursuant to this ordinance. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are so used.

**SECTION 9. Full Faith and Credit**

The full faith and credit of the City are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the City, and the City shall be obligated to levy *ad valorem* taxes upon all the taxable real property within the City for the payment of the obligations and the interest thereon without limitation of rate or amount.

**SECTION 10. Official Intent to Reimburse Expenditures**

The City reasonably expects to reimburse any expenditures towards the costs of the improvements or purposes described in Section 3 of this bond ordinance and paid prior to the issuance of any bonds or notes authorized by this bond ordinance with the proceeds of such bonds or notes. No funds from sources other than the bonds or notes authorized herein has been or is reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside by the City, or any member of the same “control group” as the City, within the meaning of Treasury Regulations Section 1.150-1(f), pursuant to their budget or financial policies with respect to any expenditures to be reimbursed. This Section 10 is intended to be and hereby is a declaration of the City’s official intent to reimburse any expenditures towards the costs of the improvements or purposes described in Section 3 hereof to be incurred and paid prior to the issuance of bonds or notes authorized herein in accordance with Treasury Regulations Section 1.103-18, and no action (or inaction) will be an artifice or device in accordance with Treasury Regulation Section 1.148-10 to avoid the arbitrage yield restrictions or arbitrage rebate requirements under Section 148 of the Internal Revenue Code of 1986, as amended.

**SECTION 11. Inconsistencies**

All ordinances, or parts of ordinances, inconsistent herewith are hereby repealed to the extent of any such inconsistency.

**SECTION 12. Effective Date**

This bond ordinance shall take effect twenty days after the first publication thereof after final adoption, as provided by the Local Bond Law.

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**Resolutions:**

**Public Portion Resolutions:**

Council President Johnston duly opened the meeting to the public.  
Hearing nothing from the public, the public portion was duly closed.

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**Resolution No. 135 of 2023**

**M/S- Owen/Bruno**

This resolution was adopted by unanimous vote of those present.

Council Member McGuigan congratulated Amanda on her advancement.

**No. 135 of 2023**

**Subject: Employee Advancement of Amanda Forshaw**

**Introduced By: Council Members Dill, McGuigan, and McCarrie**

**WHEREAS**, it is the policy of the City of Somers Point to advance employees according to their individual merits and in accordance with the New Jersey Civil Service Commission Policies and Procedures; and

**WHEREAS**, Amanda Forshaw has been employed by the City of Somers Point since June 1<sup>st</sup>, 2016, has performed the duties of Account Clerk / Typist 4 in the Police Department; and

**WHEREAS**, the Police Chief, City Administrator, and City Council Personnel Committee have recommended that Amanda Forshaw be promoted; and

**WHEREAS**, adequate funds are available within the Police Department operations in the 2023 Budget for this promotion.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Somers Point as follows:

- 1.) Effective January 1<sup>st</sup> 2023 the salary of Amanda Forshaw will be in accordance with the designation of Account Clerk/ Typist 3, White Collar Section of the agreement between the City of Somers Point and Teamsters Union Local No. 115, which for 2023 is \$42,648.

\*\*\*\*\*

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**Resolution No. 136 of 2023**

**M/S-** Dill/Owen

This resolution was adopted by unanimous vote of those present.

Council Member McGuigan praised Brianna for her dedication.

**No. 136 of 2023**

**Subject: Employee Advancement of Brianna McNair**

**Introduced By: Council Members Dill, McGuigan, and McCarrie**

**WHEREAS**, it is the policy of the City of Somers Point to advance employees according to their individual merits and in accordance with the New Jersey Civil Service Commission Policies and Procedures; and

**WHEREAS**, Brianna McNair has been employed by the City of Somers Point since March 1<sup>st</sup>, 2015, has performed the duties of Bookkeeper 3 in the Department of Finance in addition to completing coursework towards her Certified Municipal Finance Officer Certification; and

**WHEREAS**, the Municipal CMFO, City Administrator, and City Council Personnel Committee have recommended that Brianna McNair be advanced; and

**WHEREAS**, adequate funds are available within the Finance Office operations in the 2023 Budget for this promotion.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Somers Point as follows:

- 2.) Effective January 1<sup>st</sup> 2023 the salary of Brianna McNair will be in accordance with the designation of Bookkeeper 3, White Collar Section of the agreement between the City of Somers Point and Teamsters Union Local No. 115, which for 2023 is \$41,340 plus an additional amount \$4,180.00, which for 2023 is \$45,520.

\*\*\*\*\*

**Resolution No. 137 of 2023**

**M/S-** Owen/Bruno

This resolution was adopted by unanimous vote of those present.

Council Member McGuigan commended Emerald for her advancement.

**No. 137 of 2023**

**Subject: Employee Advancement of Emerald Hornig**

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**Introduced By: Council Members Dill, McGuigan, and McCarrie**

**WHEREAS**, it is the policy of the City of Somers Point to advance employees according to their individual merits and in accordance with the New Jersey Civil Service Commission Policies and Procedures; and

**WHEREAS**, Emerald Hornig has been employed by the City of Somers Point since September 12<sup>th</sup>, 2016, has performed the duties of Clerk 2 in the Tax Collector's Office in addition to recently passing an exam to receiving the Certification of Municipal Tax Collector; and

**WHEREAS**, the Municipal Tax Collector, City Administrator, and City Council Personnel Committee have recommended that Emerald Hornig be promoted; and

**WHEREAS**, adequate funds are available within the Municipal Tax Collection operations in the 2023 Budget for this promotion.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Somers Point as follows:

- 3.) Effective January 1<sup>st</sup> 2023 the salary of Emerald Hornig will be in accordance with the designation of Deputy Tax Collector 4, White Collar Section of the agreement between the City of Somers Point and Teamsters Union Local No. 115, which for 2023 is \$42,647 plus an additional amount \$3,805, for a total of \$46,452.

\*\*\*\*\*

**Resolution No. 138 of 2023**

**M/S- Owen/McCarrie**

This resolution was adopted by unanimous vote of those present.

Council Member McGuigan congratulated Maureen on her advancement.

**No. 138 of 2023**

**Subject: Employee Advancement of Maureen Dewees**

**Introduced By: Council Members Dill, McGuigan, and McCarrie**

**WHEREAS**, it is the policy of the City of Somers Point to advance employees according to their individual merits and in accordance with the New Jersey Civil Service Commission Policies and Procedures; and

**WHEREAS**, Maureen Dewees has been employed by the City of Somers Point since October 1<sup>st</sup>, 2013, has performed the duties of Account Clerk/ Typist 4, in the Department of Public Works; and

**WHEREAS**, the Public Works Supervisor, City Administrator, and City Council Personnel Committee have recommended that Maureen Dewees be promoted; and

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**WHEREAS**, adequate funds are available within the Department of Public Works operations in the 2023 Budget for this promotion.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Somers Point as follows:

- 4.) Effective January 1<sup>st</sup> 2023 the salary of Maureen Dewees will be in accordance with the designation of Account Clerk/ Typist 3, White Collar Section of the agreement between the City of Somers Point and Teamsters Union Local No. 115, which for 2023 is \$42,648.

\*\*\*\*\*

**Resolution No. 139 of 2023**

**M/S-** Owen/Dill

This resolution was adopted by unanimous vote of those present.

**No. 139 of 2023**

**AUTHORIZING EXECUTIVE SESSION**

**Subject: ONE MATTER REQUIRING ADVICE OF COUNSEL**

**Introduced By: Council President Johnston**

**WHEREAS**, while the Sen. Byron M. Baer Open Public Meetings Act (N.J.S.A. 10:4-6 et seq.) requires all meetings of the Somers Point City Council to be held in public, and N.J.S.A. 10:4-12(b) sets forth nine (9) types of matters that may lawfully be discussed in “Executive Session,” i.e. without the public being permitted to attend, and

**WHEREAS**, the Somers Point City Council has determined that there is one (1) topic which requires the advice and counsel of Special COAH Counsel and the City Solicitor, and is a matter permitted by N.J.S.A. 10:4-12(b) as an exception to open public meeting requirements; and is necessary to be discussed without the public in attendance during an Executive Session to be held on June 8, 2023, during a public meeting to be held commencing at 7:00 P.M, and

**WHEREAS** there are nine (9) exceptions to public meetings set forth in N.J.S.A. 10:4-12(b). Listed below, is the exception relied upon; and after the exception is a space within which the number of issues to be privately discussed that fall within that exception shall be written and within which additional information that will disclose as much information about the discussion as possible without undermining the purpose of the exception shall be written.

**1** “(7) Any pending or anticipated litigation or contract negotiation in which the public body is or may become a party. Any matters falling within the attorney-client privilege, to the extent that confidentiality is required for the attorney to exercise his ethical duties as a lawyer.”

The nature of the matters to be discussed, described as fully as possible without undermining the need for confidentiality:

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**Advice of Counsel and attorney client communication regarding the status of legal and procedural issues pertaining to a plan for development of properties located along 901 Mays Landing Road (Block 1941.01, Lots 2 & 5.01, Block 1943, Lots 2 & 3, Block 1944, Lot 3, Block 1945, Lot 2.02 and Block 1946, Lot 1) including the provision of affordable housing obligations in compliance with Somers Point Municipal Code Chapters 69 and 114-86.1.G, a 2008 Court approved Settlement Agreement, the April 26, 2018, Court approved Settlement Agreement between the City and Fair Share Housing Center, and the City’s Housing Element and Fair Share Plan..**

**WHEREAS** the length of the Executive Session is estimated to be approximately 20 – 30 minutes after which the public meeting of the City Council shall reconvene;

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of Somers Point will go into Executive Session for **only** the above stated reason;

**BE IT FURTHER RESOLVED** that the City Council directs the City Clerk to make ten (10) photocopies of this resolution.

**BE IT FURTHER RESOLVED** that the blank spaces within this form of resolution are to be filled out in conformity with a Consent Judgment and Memorandum of Understanding dated June 8, 2009, that arose that the City Council hereby declares that its discussion of the aforementioned subject(s) will be made public at a time when the public’s interest in disclosure is greater than any privacy or governmental interest being protected from disclosure. For each of the above items, the estimated date by which such disclosure can be made and/or the occurrence that needs to take place before disclosure can be made are listed below (attach separate sheet if necessary)

<b>Subject of Discussion</b>	<b>Estimated Date</b>	<b>Necessary Occurrence</b>
<b>See Exception 7</b>	<b>Unknown at this time</b>	<b>Action by City Council.</b>

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**Resolution No. 140 of 2023**

**M/S- Owen/McCarrie**

This resolution was adopted by unanimous vote of those present.

**No. 140 of 2023**

**Subject: Authorizing Lease with Atlantic County Library**

**Introduced By: Council President Johnston. Council Member McCarrie and DePamphilis**

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**WHEREAS**, the Somers Point Branch of the Atlantic County Library has been situated at 801 Shore Road in Somers Point; and

**WHEREAS**, in accordance with Resolution 195 of 2019 the City of Somers Point authorized a lease of the property to the County of Atlantic for the period commencing January 1, 2019 through December 31, 2019 with an option to renew for an additional term of one (1) year through December 31, 2020: and

**WHEREAS**, in accordance with Resolution 168 of 2020 the City of Somers Point authorized a renewal of the lease of the property to the County of Atlantic for the period commencing January 1, 2020 through December 31, 2020: and

**WHEREAS**, in accordance with Resolution 191 of 2021 the City of Somers Point authorized a renewal of the lease of the property to the County of Atlantic for the period commencing January 1, 2021 through December 31, 2021: and

**WHEREAS**, Atlantic County has proposed a form of new lease between the City of Somers Point and the County of Atlantic for the property situated at 801 Shore Road for use as the Somers Point Branch of the Atlantic County Library system for the period of January 1, 2022, through December 31, 2022.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Somers Point as follows:

1. The Mayor is hereby authorized and directed to execute the updated Lease between the County of Atlantic and the City of Somers Point in the form attached hereto for the period commencing January 1, 2023, through December 31, 2023.
2. Upon its execution, the executed copy of the lease will be attached hereto and made a part hereof.

\*\*\*\*\*

**Resolution No. 141 of 2023**

**M/S-** Bruno/Owen

This resolution was adopted by unanimous vote of those present.

Council Member Dill questioned if this resolution is the result of the resignation of the current public defender.

**No. 141 of 2023**

**Subject: A Resolution Appointing Linda M. Goff, Esquire, as the Public Defender for the City of Somers Point Pursuant to N.J.S.A. 2B:24-3**

**Introduced by: Council President Johnston**

**WHEREAS**, N.J.S.A. 2B:24-3 provides that the governing body of municipality is required to appoint a municipal public defender for the purposes of representing certain indigent defendants in the Municipal Court regarding matters within the jurisdiction of said Court; and

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**WHEREAS**, City Council has previously appointed Meghan Hoerner, Esq. of the Hoerner Law, 801 Asbury Avenue, Ocean City, NJ 08226, as Municipal Public Defender for the City of Somers Point; and

**WHEREAS**, Ms. Hoerner has tendered her resignation from the position as Municipal Public Defender; and

**WHEREAS**, City Council is desirous of appointing Linda M. Goff, Esquire, as Public Defender for the remainder of Ms. Hoerner's term and

**WHEREAS**, Linda M. Goff, Esquire, fulfills all of the requirements of N.J.S.A. 2B:24-4 to serve as Public Defender.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of Somers Point that Linda M. Goff, Esquire, shall be and is hereby appointed to serve as the Municipal Public Defender for the City of Somers Point, pursuant to N.J.S.A. 2B:24-3, effective June 1, 2023, and continuing through December 31, 2023, or until such time as a successor is appointed.

\*\*\*\*\*

**Resolution No. 142 of 2023**

**M/S-** Dill/Bruno

This resolution was adopted by unanimous vote of those present.

**No. 142 of 2023  
AUTHORIZING EXECUTIVE SESSION**

**Subject: ADVICE OF COUNSEL REGARDING THE STATUS OF LITIGATION**

**Introduced By: Council President Johnston**

**WHEREAS**, while the Sen. Byron M. Baer Open Public Meetings Act (N.J.S.A. 10:4-6 et seq.) requires all meetings of the Somers Point City Council to be held in public, and N.J.S.A. 10:4-12(b) sets forth nine (9) types of matters that may lawfully be discussed in "Executive Session," i.e. without the public being permitted to attend, and

**WHEREAS**, the Somers Point City Council has determined that there is one (1) topic which requires the advice and counsel of the City Solicitor and is a matter permitted by N.J.S.A. 10:4-12(b) as an exception to open public meeting requirements; and is necessary to be discussed without the public in attendance during an Executive Session to be held on June 8, 2023, during a public meeting to be held commencing at 7:00 P.M, and

**WHEREAS** there are nine (9) exceptions to public meetings set forth in N.J.S.A. 10:4-12(b). Listed below, is the exception relied upon; and after the exception is a space within which the number of issues to be privately discussed that fall within that exception shall be written and within which additional information that will disclose as much information about the discussion as possible without undermining the purpose of the exception shall be written.

**1** "(7) Any pending or anticipated litigation or contract negotiation in which the public body is or may become a party. Any matters falling within the attorney-client privilege, to the

**REGULAR MEETING  
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**extent that confidentiality is required for the attorney to exercise his ethical duties as a lawyer.”**

The nature of the matters to be discussed, described as fully as possible without undermining the need for confidentiality:

**Advice of Counsel and attorney-client communication regarding the status of litigation involving the City and its Zoning Board entitled, “Garden State Outdoor, LLC v. City of Somers Point, City of Somers Point Zoning Board,” having a docket number of ATL-L-143-23.**

**WHEREAS** the length of the Executive Session is estimated to be approximately 15 minutes after which the public meeting of the City Council shall reconvene;

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of Somers Point will go into Executive Session for **only** the above stated reason;

**BE IT FURTHER RESOLVED** that the City Council directs the City Clerk to make ten (10) photocopies of this resolution.

**BE IT FURTHER RESOLVED** that the blank spaces within this form of resolution are to be filled out in conformity with a Consent Judgment and Memorandum of Understanding dated June 8, 2009, that arose that the City Council hereby declares that its discussion of the aforementioned subject(s) will be made public at a time when the public’s interest in disclosure is greater than any privacy or governmental interest being protected from disclosure. For each of the above items, the estimated date by which such disclosure can be made and/or the occurrence that needs to take place before disclosure can be made are listed below (attach separate sheet if necessary)

<b>Subject of Discussion</b>	<b>Estimated Date</b>	<b>Necessary Occurrence</b>
See Exception 7	Unknown at this time	Discussion by City Council relative to handling of litigation.

\*\*\*\*\*

**Resolution No. 143 of 2023**

M/S- Dill/Bruno

This resolution was adopted by unanimous vote of those present.

**No. 143 of 2023**

**AUTHORIZING EXECUTIVE SESSION**

**Subject: ADVICE OF COUNSEL REGARDING THE STATUS OF LITIGATION**

**Introduced By: Council President Johnston**



# REGULAR MEETING MAYOR AND CITY COUNCIL June 8, 2023

**WHEREAS**, while the Sen. Byron M. Baer Open Public Meetings Act (N.J.S.A. 10:4-6 et seq.) requires all meetings of the Somers Point City Council to be held in public, and N.J.S.A. 10:4-12(b) sets forth nine (9) types of matters that may lawfully be discussed in “Executive Session,” i.e. without the public being permitted to attend; and

**WHEREAS**, the Somers Point City Council has determined that there is one (1) topic which requires the advice and counsel of the City Solicitor and is a matter permitted by N.J.S.A. 10:4-12(b) as an exception to open public meeting requirements; and is necessary to be discussed without the public in attendance during an Executive Session to be held on June 8, 2023, during a public meeting to be held commencing at 7:00 P.M; and

**WHEREAS** there are nine (9) exceptions to public meetings set forth in N.J.S.A. 10:4-12(b). Listed below, is the exception relied upon; and after the exception is a space within which the number of issues to be privately discussed that fall within that exception shall be written and within which additional information that will disclose as much information about the discussion as possible without undermining the purpose of the exception shall be written.

**1** “(7) Any pending or anticipated litigation or contract negotiation in which the public body is or may become a party. Any matters falling within the attorney-client privilege, to the extent that confidentiality is required for the attorney to exercise his ethical duties as a lawyer.”

The nature of the matters to be discussed, described as fully as possible without undermining the need for confidentiality:

**Advice of Counsel and attorney-client privileged communication regarding the status of litigation involving the City’s Planning Board entitled, “GMH Restaurant v. Planning Board of the City of Somers Point, Waterfront Holdings, LLC,” having a docket number of ATL-L-811-23.**

**WHEREAS** the length of the Executive Session is estimated to be approximately 15 minutes after which the public meeting of the City Council shall reconvene;

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of Somers Point will go into Executive Session for **only** the above stated reason;

**BE IT FURTHER RESOLVED** that the City Council directs the City Clerk to make ten (10) photocopies of this resolution.

**BE IT FURTHER RESOLVED** that the blank spaces within this form of resolution are to be filled out in conformity with a Consent Judgment and Memorandum of Understanding dated June 8, 2009, that arose that the City Council hereby declares that its discussion of the aforementioned subject(s) will be made public at a time when the public’s interest in disclosure is greater than any privacy or governmental interest being protected from disclosure. For each of the above items, the estimated date by which such disclosure can be made and/or the occurrence that needs to take place before disclosure can be made are listed below (attach separate sheet if necessary)

<b>Subject of Discussion</b>	<b>Estimated Date</b>	<b>Necessary Occurrence</b>
See Exception 7	Unknown at this time	Discussion by City Council relative to handling of litigation.

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\*\*\*\*\*

**Resolution No. 147 of 2023**

**M/S- Dill/Owen**

This resolution was adopted by unanimous vote of those present.

Council Member McCarrie asserted that he believes the Somers Point based company, Suasion Communications Group, would have been the better choice.

Council President Johnston disagreed and trusts that Performance Marketing will do a great job.

Council Member Dill shared his approval of Performance Marketing.

Council Member McGuigan stated that based on his own research, he is confident in his selection of Performance Marketing.

**No. 147 of 2023**

**Subject: Appointment of Performance Marketing and Signage**

**Introduced By: Council President Johnston, Council Members Owen and DePamphilis**

**WHEREAS**, the City of Somers Point has identified a need for Public Relations Services for the balance of Calendar Year 2023: and

**WHEREAS**, pursuant to Resolution 59 of 2023, a request for proposals for Marketing Services was published on and five proposals were received by the City on March 17<sup>th</sup>, 2023; and

**WHEREAS**, the Economic Development Advisory Commission reviewed the proposals received and recommends Performance Marketing and Signage; and

**WHEREAS**, this contract is awarded through a fair and open process pursuant to N.J.S.19:44A-20.4 et. seq.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Somers Point as follows:

1. Performance Marketing and Signage be and hereby is appointed to provide Marketing Services for the City of Somers Point, from June 1<sup>st</sup> 2023 through December 31<sup>st</sup> 2023
2. The Mayor is hereby authorized to execute an agreement with Performance Marketing and Signage, in a form approved by the City Solicitor, and, upon execution, the agreement will be attached to this resolution and become a part hereof. This agreement may contain a provision for an extension of one one-year term, conditioned upon the passage of a resolution by City Council.
3. As indicated in the Division of Local Government Services Local Finance Notice 2006-7, because this is awarded through a Fair and Open process, further public notice per N.J.S.A. 40A:11.5(6) is not required.

\*\*\*\*\*

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**Resolution No. 148 of 2023**

**M/S- Dill/Owen**

This resolution was adopted by unanimous vote of those present.

Council Member McGuigan and Council President Johnston congratulated Allison on her full-time position.

**No. 148 of 2023**

**Subject: Full Time Hiring of Allison Giampapa**

**Introduced By: Council Members Dill, McGuigan, and McCarrie**

**WHEREAS**, it is the policy of the City of Somers Point to advance employees according to their individual merits and in accordance with the New Jersey Civil Service Policies and Procedures; and

**WHEREAS**, the Allison Giampapa has worked in a part-time capacity in the Clerk's Office for over four months and has received positive feedback from City Employees as well as those utilizing the services of the City Clerk's Office; and

**WHEREAS**, Municipal Clerk, City Administrator, and City Council Personnel Committee have recommended that Allison Giampapa be hired in a Full Time Capacity as a Confidential Assistant; and

**WHEREAS**, adequate funds are available within the City Clerk's Office operations in the 2023 budget for this full time hiring.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Somers Point as follows:

1. The hiring of Allison Giampapa to the full time position of Confidential Assistant in the City Clerk's Office, an Unclassified position within New Jersey Civil Service (Local Government Job Specification 06977), is hereby approved effective June 8<sup>th</sup>, 2023 and her actual start date will be as soon as practical thereafter, but not later than June 9<sup>th</sup> 2023, unless postponed at the discretion of the City Administrator. Her annual salary is established at \$33,000.00.

2. This is an "at will" employment and is subject to the personnel policies and procedures of the City of Somers Point.

\*\*\*\*\*

**Resolution No. 149 of 2023**

**M/S- Owen/Dill**

This resolution was adopted by unanimous vote of those present.

**No. 149 of 2023**

**REGULAR MEETING  
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**Subject: Person-to-Person & Place-to-Place  
Liquor License Transfer for License No. 0121-33-018**

**Introduced By: Council President Johnston**

**WHEREAS**, an Application has been filed for a place-to-place and person-to-person transfer of Plenary Retail Consumption License Number 0121-33-018-006 (the “license”); and

**WHEREAS**, said License is in the name of TAF Holdings, LLC; and

**WHEREAS**, the applicant 821 Shore, LLC has submitted an application which is complete in all respects, the Application and transfer fees have been paid, the license has been renewed for the current license term, an Application for Bulk Sale Permit has been filed, Consent to Transfer, Affidavit of Publication and a Tax Clearance Certificate has been received; and

**WHEREAS**, the applicant is qualified to be licensed according to all standards established by Title 33 of the New Jersey Statutes, regulations promulgated thereunder, as well as pertinent local ordinances and conditions consistent with Title 33; and

**WHEREAS**, the applicant has disclosed and the issuing authority has reviewed the source of all funds used in the purchase of the license and the licensed business and all additional financing obtained in connection with the licensed business; and

**WHEREAS**, the license is a Pocket License which is currently inactive but is intended to be transferred to the licensed premises situated within the building as now constructed at 821 Shore Road in the City of Somers Point, County of Atlantic, State of New Jersey, 08244, as described in the License Application as reviewed and approved by this licensing authority;

**NOW, THEREFORE, IT IS HEREBY RESOLVED** that the Somers Point Governing Body does hereby approve, effective June 8, 2023, the transfer of Plenary Retail Consumption License Number 0121-33-018-006 to its new location at 821 Shore Road, Somers Point, New Jersey; and

**IT IS FURTHER RESOLVED** that the Somers Point Governing Body does hereby approve, effective June 8, 2023, the transfer of Plenary Retail Consumption License Number 0121-33-018-006 to 821 Shore, LLC, and does hereby direct the Somers Point City Clerk to endorse the license certificate to the new ownership as follows: “This license, subject to all its terms and conditions, is hereby transferred to 821 Shore, LLC, and to the existing building premises located at 821 Shore Road, Somers Point, New Jersey, effective June 8, 2023.

\*\*\*\*\*

**Resolution No. 150 of 2023**

**M/S- Owen/Dill**

This resolution was adopted by unanimous vote of those present.

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**No. 150 of 2023**

**Subject: Resolution Authorizing Execution and Delivery of a Financial Agreement Between the City of Somers Point and Centre Street Storage LLC Pursuant to the Five-Year Tax Exemption and Abatement Law**

**Introduced By: Council President Johnston**

**WHEREAS** pursuant to the authority granted under Article VIII, Section I, Paragraph 6 of the New Jersey Constitution and as permitted by the New Jersey Five Year Tax Exemption and Abatement Law (N.J.S.A. 40A-21.1) the Somers Point City Council adopted Article IV, Chapter 228 of the Somers Point Municipal Code which authorizes the governing body of the City of Somers Point to enter into financial agreements granting tax abatements or exemptions if recommended by the Tax Assessor and evaluated by the City Administrator; and

**WHEREAS** Developer has constructed new commercial improvements (the "Project Improvements") on Block 1715, Lot 5 also known as 819 Centre Street (the "Subject Property"); and

**WHEREAS** the Developer has submitted to the City's Tax Assessor an application for a short-term five-year tax exemption for the newly constructed Improvements on the Subject Property (the "Application"), a copy of which is attached hereto as Exhibit A; and

**WHEREAS** the Developer has paid to the City the application fee required by Administrative Code Section 228-21 B (4); and

**WHEREAS** the Tax Assessor, the City Administrator, and Special Counsel have reviewed the Application; and

**WHEREAS** the Tax Assessor has submitted a report to the City Council recommending the approval of a five-year tax exemption agreement (the "Financial Agreement"); and

**WHEREAS** the City has determined that the Improvements will result in significant economic and other benefits and that such benefits are far greater to the City than the cost, if any, associated with this Financial Agreement; and

**WHEREAS** the Improvements on the Subject Property were substantially completed on August 9, 2022, as determined by the City Tax Assessor: and

**WHEREAS** the Applicant and the City Council have determined that the formula to be applied for payment to the City in lieu of full property tax on the improvements shall be computed using the tax phase-in basis formula set forth in City Code Section 228-18 C; and

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**WHEREAS** the tax exemption shall commence on January 1, 2023, as provided in City Code Section 228-22B.(1); and

**WHEREAS** to the extent Developer has paid 2023 first and second quarter taxes applicable to the Improvements, such payments shall be applied by the Tax Collector as credits against future tax payments due for the Land assessment, until the credits have been exhausted; and

**WHEREAS** a financial agreement for new commercial improvements is at the sole discretion of the City Council and may only be entered into if approved by the City Council through adoption of an ordinance approving the same; and

**WHEREAS** on May 25, 2023, the Somers Point City Council enacted Ordinance No. 13 of 2023 approving the execution and delivery of a Financial Agreement between the City of Somers Point and Centre Street Storage LLC; and

**WHEREAS** on June 8, 2023, following second reading and receipt of public comment, Ordinance No. 13 of 2023 was adopted.

**NOW, THEREFORE, IT IS HEREBY RESOLVED** by the Common Council of the City of Somers Point that.

The Mayor is hereby authorized to execute and deliver the Financial Agreement in the form attached hereto following final publication of Ordinance 13 of 2023; and

**IT IS FURTHER RESOLVED** that the Mayor, the City Clerk, the Chief Financial Officer, the Tax Collector, and the Tax Assessor are authorized to take any and all actions deemed necessary or desirable to effectuate the intent of this Resolution and the implementation of the Financial Agreement; and

**IT IS FURTHER RESOLVED** that the City Clerk is directed to submit a certified copy of this Resolution and a true copy of the Financial Agreement to the City Tax Collector and City Tax Assessor.

\*\*\*\*\*

Council Member Dill clarified, for the record, that the four employee advancements and the full-time hire have been reviewed by the Finance Committee and Administration and have been budgeted in this year's budget.

Council President Johnston added that the employees have worked hard by getting additional certifications and education for their advancements as well.

Council Member DePamphilis queried as to why the Consent Agenda is not utilized more for routine resolutions.

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**Consent Agenda Resolutions**

On the motion of Council Member Dill, seconded of Council Member McGuigan and carried to approve the removal of Resolution No. 144 of 2023 and Resolution No. 146 of 2023 from the Consent Agenda.

\*\*\*\*\*

**Resolution No. 144 of 2023**

**M/S- Dill/Bruno**

This resolution was adopted by unanimous vote of those present.

Council Member Dill asked for clarification on this resolution.

City Solicitor Smith explained that the City is already using GovPilot, this resolution was created to modify some language, make sure it's advertised, and to make sure everyone knows we have this electronic option of submitting OPRA requests.

**No. 144 of 2023**

**Subject: A Resolution Authorizing the City's Use of GovPilot as its Electronic Application Process for Open Public Records Requests by the Public**

**Introduced by: Council President Johnston**

**WHEREAS**, Chapter 1A of Title 47, Public Records, of the New Jersey Statutes, is entitled, "Examination and copies of Public Records;" and

**WHEREAS**, the provisions of the aforesaid Chapter, N.J.S.A. 47:1A-1, et seq, are commonly referred to as the "Open Public Records Act" ("OPRA"); and

**WHEREAS**, the policy statement for OPRA is that government records shall be readily accessible for inspection, copying, or examination by the citizens of this State and shall be construed in favor of the public's right of access; and

**WHEREAS**, OPRA imposes stringent time limits for the production of documents requested by the general public upon governmental agencies (7 business days); and

**WHEREAS**, OPRA allows amongst the remedies available to the general public the right to recoup reasonable attorney's fees when an OPRA request is not properly responded to in a timely fashion; and

**WHEREAS**, since the enactment of OPRA, there has been a substantial increase in public record requests upon the City Clerk of Somers Point, who is, by statute, the custodian of the City of Somers Point's records; and

**WHEREAS**, this increase of OPRA requests has placed a strain upon the City of Somers Point's employees in connection with producing the requested records in a timely fashion since the production requires staff to (a) review the request, (b) obtain the records from the appropriate City office, (c) review the records produced to ensure that they are complete and that all

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confidential and/or non-public records are redacted, and (d) then be produced in a timely fashion; and

**WHEREAS**, in matters before the Courts of New Jersey, as well as the General Records Council (“GRC”), it has been determined that governmental agencies are required to accept OPRA requests submitted in an electronic form; and

**WHEREAS**, due to the amount of email accounts for City personnel which are capable of receiving an OPRA request, there exists the potential that an OPRA request may be lost or not reviewed by personnel to whom it was sent; and

**WHEREAS**, the City Clerk of the City of Somers Point, in consultation with the City Administrator, has determined that in order to avoid lost or ignored email record requests, the electronic system of GovPilot should be used to streamline the acceptance of OPRA requests submitted by members of the general public; and

**WHEREAS**, City Council for the City of Somers Point, in recognition of the strain OPRA requests impose upon the City, and the necessity of streamlining responses to same, is in agreement with the use of GovPilot as the sole electronic system to be used by the City for acceptance of all OPRA requests submitted electronically.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of Somers Point hereby authorizes the City Clerk of the City of Somers Point to use GovPilot as its sole electronic system for receiving electronically submitted OPRA requests.

**BE IT FURTHER RESOLVED** by the City Council of Somers Point that the City Clerk is hereby authorized to place as an automatic response to all emails submitted to City personnel, the following language:

**PLEASE READ: As of 5/25/21, this email system no longer accepts OPRA requests. All OPRA requests must be electronically submitted through the City’s official online electronic portal system at [https://main.govpilot.com/web/public/6b4cc03b-cc1\\_Open-Records-Request-somerspoint?uid=7059&ust=NJ&pu=1&id=1](https://main.govpilot.com/web/public/6b4cc03b-cc1_Open-Records-Request-somerspoint?uid=7059&ust=NJ&pu=1&id=1) (GRC 2014-430 - Thomas Dello Russo v. City of East Orange) (Paff v. City of East Orange, 407 N.J. Super. 221, Certif Denied, 200 N.J. 476 (NJ 2009). The City’s Clerk’s Office still receives hard copy requests for records.**

\*\*\*\*\*

**Resolution No. 146 of 2023**

M/S- Dill/Bruno

This resolution was adopted by unanimous vote of those present.

Council Member McGuigan clarified that putting this resolution on the consent agenda, and not promoting conversations about it, defeats the purpose of it.

**No. 146 of 2023**

**Subject: A Resolution Supporting Somers Point’s Liquor License Holders in Opposition to Proposals to Increase the Number of Licenses and Revoking the Right of License Holders to Transfer Same.**



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**Introduced by: Council President Johnston**

**WHEREAS**, Governor Phil Murphy had proposed a plan to reform and modernize New Jersey’s consumption liquor license laws; and,

**WHEREAS**, Governor Murphy’s plan had proposed to phase out the current population cap, removing any specific state restriction related to the number of available licenses to any town; and

**WHEREAS**, it is recognized by City Council of Somers Point (“Council”) that the City of Somers Point currently has twenty-two (22) liquor licenses in town; and

**WHEREAS**, it is further recognized that most of these liquor licenses are currently being used in conjunction with restaurant operations, all of which have heavily invested financially in their operations in the City; and

**WHEREAS**, it is further recognized that many of these liquor licenses have themselves been a significant financial investment for these owners; and

**WHEREAS**, the City of Somers Point encourages and welcomes new entrepreneurs in all walks of business, however, the concern is that a flood of licenses coming entering into the market will have significant financial impact to the current business operations within the City; and

**WHEREAS**, Governor Murphy’s proposed plan was a 5-year plan, starting on January 1, 2024, which looked to decrease the existing population cap each year by 10%, and by January 1, 2029, a complete removal of any population cap, as well as making any current license non-transferable; and

**WHEREAS**, not only would removing the restrictions, and making current licenses non-transferable, cause license holders to see an immediate and significant decrease in the value of their businesses, but also could jeopardize these business operations economically since the previously proposed plan could cause a dilution of a limited market; and

**WHEREAS**, maintaining a strong, economically sound restaurant business is not only good for the liquor license operations in the City, but also is good for the overall economic market in the city since many other business operations directly benefit from the clientele which patronize the City’s restaurants; and

**WHEREAS**, the City of Somers Point has not been immune to the effects of growing nationwide inflation and, additionally, has now been required to shoulder a significant health care premium increase as presented within the State Health Plan. These rising costs, with the potential of a decrease in tax revenue in connection with its ratable base, leads to the potential for the City of Somers Point to be faced with a financial hardship; and

**WHEREAS**, while the City of Somers Point is not opposed to recognizes the need to update and modernize the liquor license laws, however, what it does not believe is that these updates need to be at the detriment of current, longstanding license holders; and

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Somers Point hereby opposes any statewide plan for liquor license expansion as was previously presented by Governor’s plan.

**BE IT RESOLVED** by the City Council of Somers Point that the City Clerk is hereby directed to send a copy of this resolution to Governor Murphy, as well as the State Senator and Assembly Persons of District 2.

# REGULAR MEETING MAYOR AND CITY COUNCIL June 8, 2023

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## Old Business:

### Cannabis Committee:

- City Solicitor Smith provided City Council with an early-stage rough draft of an ordinance. He mentioned that he met with the Planning Board, who requested, in writing, the recommendations relating to retail and distribution in conjunction with the City's current Master Plan. He will be meeting with the Cannabis Committee to finalize the ordinance, and they plan to amend the Master Plan by ordinance and introduce the cannabis ordinance at the same time.
- Council Member McGuigan stated that he would like to know the formal opinions/recommendations of the Economic Development Advisory Commission, the Business Association, and the Police Department on the potential effects of a retail or distribution store.
- Council Member Dill believes that the opinions of the Environmental Development Advisory Commission, the Business Association, and the Police Department are circumstantial until there is an ordinance that is ready to be adopted, not a rough draft.

\*\*\*\*\*

## New Business:

- Approval of request email letter dated June 2, 2023, from Seth Grossman, Esq., representing Liberty and Prosperity to use Richard Somers Park on September 4, 2023, from 3:00 p.m. to 5 p.m. Council Member Dill clarified that he does not object, as long as the event will be honoring Richard Somers only. City Council concurred.
- Approval for the Somers Point Volunteer Fire Department No. 1 to hold a Coin Drop on 6/23/23, 6/24/23, and 6/25/23. City Council concurred.

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## Discussion of Bills:

Administrator Frost reported a Bill List dated 6/6/2023 in the amount of \$1,270,465.74.

\*\*\*\*\*

## Public Portion:

The meeting was duly opened to the public.

Patricia Pierson of 587 Marks Road asked for clarification on Ordinances No. 15 and 16 of 2023, as well as Resolutions No. 139 and 143 of 2023. She also claimed that the Waterfront Marina does not provide Bay access as it should.

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John Helbig of 106 E. Dawes Avenue discussed the need for a Master Plan reexamination report and stressed the importance of passing a legally defensible cannabis ordinance. In response to Council Member McGuigan and as a representative of the Economic Development Advisory Commission, Mr. Helbig stated that EDAC will come back to City Council with their recommendations and perspective on the cannabis matter.

Steve Sargent of 613 Massachusetts Avenue shared his discontentment with opening a cannabis retail and/or distribution center, as well as his dismay for short term rentals.

Hearing nothing further 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.

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**Recess:**

The Governing Body recessed briefly before going into Executive Session at 8:34 p.m.

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**Reconvene:**

Council President Johnston reconvened the Governing Body to Open Session at 9:01 p.m.

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**Adjournment:**

There being no further business to come before City Council, Council Member Bruno moved, Council Member Dill seconded and carried to adjourn the meeting at 9:01 p.m.

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Respectfully submitted,

Lucy R. Samuelsen, RMC  
Municipal Clerk  
Approved: 6/22/2023