

**REGULAR MEETING MINUTES
CITY COMMISSION-MARGATE CITY**

APRIL 20, 2023

MARGATE CITY, NEW JERSEY

Call Meeting to Order – 4:00 p.m.

Statement of Compliance with the Open Public Meetings Act:

The notice requirements of the Open Public Meetings Act for this meeting have been satisfied; a copy of the Annual Meetings Notice was sent to the Atlantic City Press, and the Star Ledger, posted on the Bulletin Board in the Municipal Building, the Municipal Website, and filed in the office of the Municipal Clerk.

Johanna Casey, City Clerk: Reads the statement of compliance, followed with the flag salute and roll call is taken.

Roll Call – Board of Commissioners:

Mayor Becker, Commissioner Amodeo and Commissioner Blumberg were present. Chief Dan Adams, Captain Ron Kashon, Frank Ricciotti, Lisa McLaughlin, Roger McLarnon, Ed Dennis, Johanna Casey, Kenneth Mosca and Scott Abbott, Esquire were also present.

Approval of Minutes:

The minutes from the April 4, 2023 Workshop/Capital & Regular Meeting were approved as read on motion by Commissioner Amodeo, seconded by Commissioner Blumberg, with a vote of three ayes.

Public Comment:

Terrance Flynn, 108 N. Essex Ave.: Speaks on the State management of the New Jersey State Health Benefits Program.

Dennis Gornioski, 7702 Amherst Ave: Speaks on the issues with the Amherst Avenue Phase One not being resolved, police officers speeding and being in Wawa, and children hanging out at Wawa.

Commissioner Amodeo: Police are patrolling 24 hours, seven days a week

Seeing that there were no more comments, a motion to close public comment was put forth by Commissioner Amodeo and seconded by Commissioner Blumberg, with a vote of three ayes.

Public Comment (Resolutions and Ordinance Adoption Only):

Seeing that there were no comments, a motion to close public comment on Resolutions only was put forth by Commissioner Blumberg, and seconded by Commissioner Amodeo, with a vote of three ayes.

Ordinances: Adoption

Johanna Casey: Reads Ordinance #06-2023 by title.

A motion for adoption of **Ordinance #06-2023**, authorizing the cost-of-living increase of 3.5% incorporated into the 2023 municipal budget, was put forth by Commissioner Amodeo, Seconded by Commissioner Blumberg, with a vote of three ayes.

**ORDINANCE #06-2023
CALENDAR YEAR 2023
ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION
LIMITS AND TO ESTABLISH A CAP BANK
(N.J.S.A. 40A: 4-45.14)**

WHEREAS, the Local Government Cap Law, N.J.S. 40A: 4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget up to 2.5% unless authorized by ordinance to increase it to 3.5% over the previous year's final appropriations, subject to certain exceptions; and

WHEREAS, N.J.S.A. 40A: 4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and

WHEREAS, the City Commissioners of the City of Margate City in the County of Atlantic finds it advisable and necessary to increase its CY 2023 budget by up to 3.5% over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and

WHEREAS, City Commissioners of the City of Margate City hereby determines that a 1.0% increase in the budget for said year, amounting to \$247,210.26 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and

WHEREAS, the City Commissioners of the City of Margate City hereby determines that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years.

NOW, THEREFORE, BE IT ORDAINED by the City Commissioners of the City of Margate City, in the County of Atlantic, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2023 budget year, the final appropriations of the City of Margate City shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by 3.5%, amounting to \$865,235.91, and that the CY 2023 municipal budget for the City of Margate City be approved and adopted in accordance with this ordinance.

BE IT FURTHER ORDAINED, that any that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years.

BE IT FURTHER ORDAINED, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction.

BE IT FURTHER ORDAINED, that a certified copy of this ordinance upon adoption, with the recorded vote included thereon, be filed with said Director within 5 days after such adoption.

Michael Becker, Mayor

John Amodeo, Commissioner

Maury Blumberg, Commissioner

Board of Commissioners of the City of Margate City, NJ

Ordinances: Introduction

Johanna Casey: Reads Ordinance #07-2023 by title.

A motion for introduction of **Ordinance #07-2023**, authorizing amendments to Ordinance 145, Floodplain Management and Regulations, was put forth by Commissioner Amodeo, Seconded by Commissioner Blumberg with a vote of three ayes.

**ORDINANCE NO. 07-2023
ORDINANCE FOR ADOPTION OF THE FLOODPLAIN MANAGEMENT AND REGULATIONS
OF MARGATE CITY**

AN ORDINANCE BY THE BOARD OF COMMISSIONERS AMENDING THE MARGATE CITY CODE OF ORDINANCES TO REPEAL FLOOD DAMAGE PREVENTION ORDINANCE 145; TO ADOPT A NEW 145; 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 Margate City 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 Margate City was accepted for participation in the National Flood Insurance Program on June 19, 1971 and the Board of Commissioners 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 Margate City is required, pursuant to N.J.A.C. 5:23 et seq., to administer and enforce the State building codes, and such building codes contain certain provisions that apply to the design and construction of buildings and structures in flood hazard areas; and

WHEREAS, the Margate City 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 Margate City 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 Board of Commissioners of Margate City 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): existing Flood damage prevention ordinance of April 2, 2020.

SECTION 101 SCOPE AND ADMINISTRATION

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

101.2 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 Section 102 of these regulations.

101.3 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:

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

101.4 Coordination with Building Codes. Pursuant to the requirement established in N.J.A.C. 5:23, the Uniform Construction Code, that the Margate City administer and enforce the State building codes, the Board of Commissioners of Margate City 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.

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

101.6 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.

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

101.8 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.

101.8.1 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.

101.9 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 Final Draft Model Code Coordinated Ordinance. 11.05.2021

any existing ordinances including land development regulations, subdivision regulations, zoning ordinances, stormwater management regulations, or building codes. In the event of a conflict between these regulations and any other ordinance, code, or regulation, the more restrictive shall govern.

SECTION 102 APPLICABILITY

102.1 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.

102.2 Establishment of Flood Hazard Areas. The Margate City was accepted for participation in the National Flood Insurance Program on June 19, 1971.

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 Margate City Hall 9001 Winchester Ave. Margate City New Jersey.

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

- 1) **Effective Flood Insurance Study.** Special Flood Hazard Areas (SFHAs) identified by the Federal Emergency Management Agency in a scientific and engineering report entitled Flood Insurance Study, Atlantic County, New Jersey (All Jurisdictions), dated August 28, 2018 and the accompanying Flood Insurance Rate Maps (FIRM) identified in Table 102.2(1) whose effective date is August 28, 2018 are hereby adopted by reference.

Table 102.2(1)

Map Panel #	Effective Date	Revision Letter	Map Panel #	Effective Date	Revision Letter
34001C0432	08/28/2018	F	34001C0434	08/28/2018	F
34001C0453	08/28/2018	F			

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

Table 102.2(2)

Map Panel #	Preliminary Date	Map Panel #	Preliminary Date
34001C0432G	01/30/2015	34001C0453G	01/30/2015
34001C0434G	01/30/2015		

- 3) **Other Best Available Data.** Margate City shall utilize high water elevations from flood events, groundwater flooding areas, studies by federal or state agencies, or other information deemed appropriate by the Margate City. Other “best available information” may not be used which results in less restrictive flood elevations, design standards, or smaller flood hazard areas than the sources described in Section 102.2 (1) and (2), above. This information shall be used for floodplain regulation purposes only.
- 4) **State Regulated Flood Hazard Areas.** For State regulated waters, the NJ Department of Environmental Protection (NJDEP) identifies the flood hazard area as the land, and the space above that land, which lies below the “Flood Hazard Area Control Act Design Flood Elevation”, as defined in Section 201, and as described in the New Jersey Flood Hazard Area Control Act at N.J.A.C. 7:13. A FHACA flood hazard area exists along every regulated water that has a drainage area of 50 acres or greater. Such area may extend beyond the boundaries of the Special Flood Hazard Areas (SFHAs) as identified by FEMA. No New Jersey State studied waters in this community under the FHACA were identified.

102.3 Establishing the Local Design Flood Elevation (LDFE).

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

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

- 1) For a delineated watercourse, the elevation associated with the Best Available Flood Hazard Data Area determined in Section 102.2, above plus three feet of freeboard, finishing either at the underside of the floor joist in a coastal high hazard area, or the top of the finished floor in non-coastal high hazard area zones, or as described by N.J.A.C. 7:13, whichever is most restrictive.
- 2) AO Zones – For Zone AO areas on the municipality's FIRM (or on preliminary flood elevation guidance from FEMA), the Local Design Flood Elevation is determined from the FIRM panel as the highest adjacent grade plus the depth number specified plus three feet of freeboard measured to the underside of the floor joist if the most restrictive adjacent flood zone is in the coastal high hazard area, or to the top of finished floor if the most restrictive adjacent flood zone is not in the coastal high hazard area. If no depth number is specified, the Local Design Flood Elevation is three (3) feet to underside of floor joist or to the finished first floor as described above, whichever is more restrictive.
- 3) Class IV Critical Facilities - For any proposed development of new and substantially improved Flood Design Class IV Critical Facilities, the Local Design Flood Elevation must be the higher of the 0.2% annual chance (500 year) flood elevation or the Flood Hazard Area Design Flood Elevation with an additional 2 feet of freeboard in accordance with ASCE 24, or 3 feet of freeboard to the underside of the floor joist in coastal high hazard areas or finished first floor in non-coastal high hazard areas, whichever is most restrictive.
- 4) Class III Critical Facilities - For proposed development of new and substantially improved Flood Design Class III Critical Facilities in coastal high hazard areas, the Local Design Flood Elevation must be the higher of the 0.2% annual chance (500 year) flood elevation or the Flood Hazard Area Design Flood Elevation with an additional 1 foot of freeboard in accordance with ASCE 24, or 3 feet to the underside of the floor joist in coastal high hazard areas or to the finished first floor in non-coastal high hazard areas, whichever is most restrictive.

SECTION 103 DUTIES AND POWERS OF THE FLOODPLAIN ADMINISTRATOR

103.1 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.

103.2 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 Section 107 of these regulations.

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

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

- (1) Review all permit applications to determine whether proposed development is located in flood hazard areas established in Section 102 of these regulations.
- (2) 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.
- (3) Interpret flood hazard area boundaries and provide available flood elevation and flood hazard information.
- (4) Determine whether additional flood hazard data shall be obtained or developed.
- (5) Review required certifications and documentation specified by these regulations and the building code to determine that such certifications and documentations are complete.
- (6) Establish, in coordination with the Construction Official, written procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to Section 103.14 of these regulations.
- (7) 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.
- (8) Review requests submitted to the Construction Official seeking approval to modify the strict application of the flood load and flood resistant construction requirements of the Uniform Construction code to determine whether such requests require consideration as a variance pursuant to Section 107 of these regulations.
- (9) 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.
- (10) 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).
- (11) Inspect development in accordance with Section 106 of these regulations and inspect flood hazard areas to determine if development is undertaken without issuance of permits.
- (12) Prepare comments and recommendations for consideration when applicants seek variances in accordance with Section 107 of these regulations.
- (13) Cite violations in accordance with Section 108 of these regulations.
- (14) Notify the Federal Emergency Management Agency when the corporate boundaries of Margate City have been modified.

- (15) Permit Ordinary Maintenance and Minor Work in the regulated areas discussed in Section 102.2.

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

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

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

- (1) Obtain, review, and reasonably utilize data available from a Federal, State, or other source, or
- (2) Determine the design flood elevation in accordance with accepted hydrologic and hydraulic engineering techniques. Such analyses shall be performed and sealed by a licensed professional engineer. Studies, analyses, and computations shall be submitted in sufficient detail to allow review and approval by the Floodplain Administrator. The accuracy of data submitted for such determination shall be the responsibility of the applicant.

It shall be the responsibility of the Floodplain Administrator to verify that the applicant's proposed Best Available Flood Hazard Data Area and the Local Design Flood Elevation in any development permit accurately applies the best available flood hazard data and methodologies for determining flood hazard areas and design elevations described in 102.2 and 102.3 respectively. This information shall be provided to the Construction Official and documented according to Section 103.15.

103.8 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.

103.9 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.

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

103.10.1 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.

103.11 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.

103.11.1 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.

103.12 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.

103.13 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.

103.14 Substantial improvement and substantial damage determinations. When buildings and structures are damaged due to any cause including but not limited to man-made, structural,

electrical, mechanical, or natural hazard events, or are determined to be unsafe as described in N.J.A.C. 5:23; and for applications for building permits to improve buildings and structures, including alterations, movement, repair, additions, rehabilitations, renovations, ordinary maintenance and minor work, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Construction Official, shall:

- (1) Estimate the market value, or require the applicant to obtain a professional appraisal prepared by a qualified independent appraiser, of the market value of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made.
- (2) Determine and include the costs of all ordinary maintenance and minor work, as discussed in Section 101.5, 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.
- (3) Compare the cost to perform the improvement, the cost to repair the damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, where applicable, to the market value of the building or structure.
- (4) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage. This determination requires the evaluation of previous permits issued for improvements and repairs over a period of seven (7) years prior to the permit application or substantial damage determination as specified in the definition of substantial improvement.
- (5) Notify the applicant in writing when it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the building code is required and notify the applicant in writing 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.

103.15 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 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.

103.16 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.

SECTION 104 PERMITS

104.1 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.

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

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

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

104.4 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.

104.5 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.

SECTION 105 SITE PLANS AND CONSTRUCTION DOCUMENTS

105.1 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:

- (1) Delineation of flood hazard areas, floodway boundaries and flood zone(s), base flood elevation(s), and ground elevations when necessary for review of the proposed development. For buildings that are located in more than one flood hazard area, the elevation and provisions associated with the most restrictive flood hazard area shall apply.
- (2) Where base flood elevations or floodway data are not included on the FIRM or in the Flood Insurance Study, they shall be established in accordance with Section 105.2.
- (3) Where the parcel on which the proposed development will take place will have more than 50 lots or is larger than 5 acres and base flood elevations are not included on the FIRM or in the Flood Insurance Study, such elevations shall be established in accordance with Section 105.2(3) of these regulations.
- (4) Location of the proposed activity and proposed structures, and locations of existing buildings and structures; in coastal high hazard areas and Coastal A zones, new buildings shall be located landward of the reach of mean high tide.
- (5) Location, extent, amount, and proposed final grades of any filling, grading, or excavation.
- (6) Where the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications; a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose. The applicant shall provide an engineering certification confirming that the proposal meets the flood storage displacement limitations of N.J.A.C. 7:13.
- (7) Extent of any proposed alteration of sand dunes.
- (8) Existing and proposed alignment of any proposed alteration of a watercourse.
- (9) Floodproofing certifications, V Zone and Breakaway Wall Certifications, Operations and Maintenance Plans, Warning and Evacuation Plans and other documentation required pursuant to FEMA publications.

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

105.2 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:

- (1) Use the Approximation Method (Method 5) described in N.J.A.C. 7:13 in conjunction with Appendix 1 of the FHACA to determine the required flood elevation.
- (2) Obtain, review, and reasonably utilize data available from a Federal, State or other

source when those data are deemed acceptable to the Floodplain Administrator to reasonably reflect flooding conditions.

- (3) Determine the base flood elevation in accordance with accepted hydrologic and hydraulic engineering techniques according to Method 6 as described in N.J.A.C. 7:13. Such analyses shall be performed and sealed by a licensed professional engineer.

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.

105.3 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:

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

105.4 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.

SECTION 106 INSPECTIONS

106.1 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.

106.2 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.

106.3 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.

- 1) **Lowest floor elevation.** Upon placement of the lowest floor, including the basement, and prior to further vertical construction, certification of the elevation required in Section 801.2 shall be submitted to the Construction Official on an Elevation Certificate.
- 2) **Lowest horizontal structural member.** In V zones and Coastal A zones, upon placement of the lowest floor, including the basement, and prior to further vertical construction, certification of the elevation required in Section 801.2 shall be submitted to the Construction Official on an Elevation Certificate.
- 3) **Installation of attendant utilities** (electrical, heating, ventilating, air-conditioning, and other service equipment) and sanitary facilities elevated as discussed in Section 801.2.
- 4) **Final inspection.** Prior to the final inspection, certification of the elevation required in Section 801.2 shall be submitted to the Construction Official on an Elevation Certificate.

106.4 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.

SECTION 107 VARIANCES

107.1 General. The zoning board of adjustment shall hear and decide requests for variances. The zoning board of adjustment shall base its determination on technical justifications submitted by applicants, the considerations for issuance in Section 107.5, the conditions of issuance set forth in Section 107.6, and the comments and recommendations of the Floodplain Administrator and, as applicable, the Construction Official. The 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.

107.2 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.

107.3 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.

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

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

- (1) The danger that materials and debris may be swept onto other lands resulting in further injury or damage.
- (2) The danger to life and property due to flooding or erosion damage.
- (3) The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners.
- (4) The importance of the services provided by the proposed development to the community.
- (5) The availability of alternate locations for the proposed development that are not subject to flooding or erosion and the necessity of a waterfront location, where applicable.
- (6) The compatibility of the proposed development with existing and anticipated development.
- (7) The relationship of the proposed development to the comprehensive plan and floodplain management program for that area.

- (8) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- (9) The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwater and the effects of wave action, where applicable, expected at the site.
- (10) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets, and bridges.

107.6 Conditions for issuance. Variances shall only be issued upon:

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

SECTION 108 VIOLATIONS

108.1 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.

108.2 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.

108.3 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.

108.4 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.

SECTION 201 DEFINITIONS

201.1 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.

201.2 Definitions

30 DAY PERIOD – The period of time prescribed by N.J.S.A. 40:49-5 in which a property owner is afforded the opportunity to correct zoning and solid waste disposal after a notice of violation pertaining to this ordinance has been issued.

100 YEAR FLOOD ELEVATION – Elevation of flooding having a 1% annual chance of being equaled or exceeded in a given year which is also referred to as the Base Flood Elevation.

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

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

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

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

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

AGRICULTURAL STRUCTURE - A structure used solely for agricultural purposes in which the use is exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities, including the raising of livestock. Communities must require that new construction or substantial improvements of agricultural structures be elevated or floodproofed to or above the Base Flood Elevation (BFE) as any other nonresidential building. Under some circumstances it may be appropriate to wet-floodproof certain types of agricultural structures

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

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

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

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

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

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

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

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

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

BEST AVAILABLE FLOOD HAZARD DATA ELEVATION - The most recent available preliminary flood elevation guidance FEMA has provided. The Best Available Flood Hazard Data may be

depicted on but not limited to Advisory Flood Hazard Area Maps, Work Maps, or Preliminary FIS and FIRM.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

FLOOD OR FLOODING

- a. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 1. The overflow of inland or tidal waters.

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

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

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

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

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

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

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

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

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

surface elevation more than 0.2 foot.

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

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

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

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

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

HISTORIC STRUCTURE – Any structure that is:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

qualified independent appraiser.

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

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

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

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

RESIDENTIAL – Pursuant to the ASCE 24:

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

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

SPECIAL FLOOD HAZARD AREA – The greater of the following: (1) Land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year, shown on

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

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

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

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

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

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

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

SUBSTANTIAL DAMAGE – Damage of any origin sustained by a structure whereby the cost of restoring the structure to it's 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 over a number of a seven year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. The period of accumulation for determining whether an improvement is a substantial improvement requires a review of all improvements over a 10 year period prior to the date of any proposed improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

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

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

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

V ZONES – Areas of Special Flood Hazard in which the elevation of the surface water resulting from a flood that has a 1% annual chance of equaling or exceeding the Base Flood Elevation in any given year shown on the Flood Insurance Rate Map (FIRM) zones V1-V30 and VE and is referred to as the Coastal High Hazard Area.

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

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

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.

SECTION 301 SUBDIVISIONS AND OTHER DEVELOPMENTS

301.1 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:

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

301.2 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:

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

SECTION 401 SITE IMPROVEMENT

401.1 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 105.3(1) of these regulations, that the proposed encroachment will not result in any increase in the base flood level during occurrence of the base flood discharge. If Section 105.3(1) is satisfied, proposed elevation, addition, or reconstruction of a lawfully existing structure within a floodway shall also be in accordance with Section 801.2 of this ordinance and the floodway requirements of N.J.A.C. 7:13.

401.1.1 Prohibited in floodways. The following are prohibited activities:

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

401.2 Coastal High Hazard Areas (V Zones) and Coastal A Zones. In Coastal High Hazard Areas and Coastal A Zones:

- (1) New buildings shall only be authorized landward of the reach of mean high tide.

- (2) The placement of manufactured homes shall be prohibited except in an existing manufactured home park or subdivision.
- (3) Basements or enclosures that are below grade on all sides are prohibited.
- (4) The use of fill for structural support of buildings is prohibited.

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

401.4 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.

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

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

401.7 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.

401.8 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 105.3(4) 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 801.9(3) of these regulations and as permitted under the NJ Coastal Zone Management Rules (N.J.A.C. 7:7).

401.9 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.

SECTION 501 MANUFACTURED HOMES

501.1 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).

501.2 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 801.2.

501.3 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 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.

501.4 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.

501.5 Enclosures. Fully enclosed areas below elevated manufactured homes shall comply with the requirements of Section 801.2.

501.6 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 801.2 of these regulations.

Exception. Where such equipment and appliances are designed and installed to prevent water from entering or accumulating within their components and the systems are constructed to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of flooding up to the elevation required by Section 801.2, the systems and equipment shall be permitted to be located below that elevation. Electrical wiring systems shall be permitted below the design flood elevation provided they conform to the provisions of NFPA 70 (National Electric Code).

SECTION 601 RECREATIONAL VEHICLES

601.1 Placement prohibited. The placement of recreational vehicles shall not be authorized in coastal high hazard areas and in floodways.

601.2 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.

601.3 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 801.2 for habitable buildings and Section 501.3.

SECTION 701 TANKS

701.1 Tanks. Underground and above-ground tanks shall be designed, constructed, installed,
Final Draft Model Code Coordinated Ordinance. 11.05.2021

and anchored in accordance with ASCE 24 and N.J.A.C. 7:13.

SECTION 801 OTHER DEVELOPMENT AND BUILDING WORK

801.1 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:

- (1) Be located and constructed to minimize flood damage;
- (2) Meet the limitations of Section 105.3(1) of this ordinance when located in a regulated floodway;
- (3) Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic and hydrodynamic loads, including the effects of buoyancy, during the conditions of flooding up to the Local Design Flood Elevation determined according to Section 102.3;
- (4) Be constructed of flood damage-resistant materials as described in ASCE 24 Chapter 5;
- (5) Have mechanical, plumbing, and electrical systems above the Local Design Flood Elevation determined according to Section 102.3 or meet the requirements of ASCE 24 Chapter 7 which requires that attendant utilities are located above the Local Design Flood Elevation or at the finished first floor unless the attendant utilities and equipment are:
 - i. Specifically allowed below the Local Design Flood Elevation; and
 - ii. Designed, constructed, and installed to prevent floodwaters, including any backflow through the system from entering or accumulating within the components.
- (6) Not exceed the flood storage displacement limitations in fluvial flood hazard areas in accordance with N.J.A.C. 7:13; and
- (7) Not exceed the impacts to frequency or depth of offsite flooding as required by N.J.A.C. 7:13 in floodways.

801.2 Requirements for Habitable Buildings and Structures.

- 1) Construction and Elevation in A Zones not including Coastal A Zones.
 - a. No portion of a building is located within a V Zone.
 - b. No portion of a building is located within a Coastal A Zone, unless a licensed design professional certifies that the building's foundation is designed in accordance with ASCE 24, Chapter 4.
 - c. All new construction and substantial improvement of any habitable building (as defined in Section 201) located in flood hazard areas shall have the lowest floor, including basement, together with the attendant utilities (including all electrical, heating, ventilating, air-conditioning and other service equipment) and sanitary facilities, elevated to or above the Local Design Flood Elevation as determined in Section 102.3, be in conformance with ASCE Chapter 7, and be confirmed by an Elevation Certificate.
 - d. All new construction and substantial improvements of non-residential structures shall:
 - i. Have the lowest floor, including basement, together with the attendant utilities

- (including all electrical, heating, ventilating, air-conditioning and other service equipment) and sanitary facilities, elevated to or above the Local Design Flood Elevation or the finished first floor as determined in Section 102.3, be in conformance with ASCE Chapter 7, and be confirmed by an Elevation Certificate; or
- ii. Together with the attendant utility and sanitary facilities, be designed so that below the Local Design Flood Elevation, the structure:
 1. Meets the requirements of ASCE 24 Chapters 2 and 7; and
 2. Is constructed according to the design plans and specifications provided at permit application and signed by a licensed design professional, is certified by that individual in a Floodproofing Certificate, and is confirmed by an Elevation Certificate.
- e. All new construction and substantial improvements with fully enclosed areas below the lowest floor shall be used solely for parking of vehicles, building access, or storage in an area other than a basement and which are subject to flooding. Enclosures shall:
- iii. 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;
 - iv. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters unless the structure is non-residential and the requirements of 801.2.1(d)ii are met;
 - v. Be constructed to meet the requirements of ASCE 24 Chapter 2;
 - vi. Have openings documented on an Elevation Certificate; and
 - vii. 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;
- 2) Construction and Elevation in V Zones and Coastal A Zones.
- a. 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.

- b. All new construction and substantial improvement of any habitable building (as defined in Section 201) 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 102.3, be in conformance with ASCE Chapter 7, and be confirmed by an Elevation Certificate.
- c. All new construction and substantial improvements of non-residential structures shall:
 - i. 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 102.3, be in conformance with ASCE 24 Chapter 7, and be confirmed by an Elevation Certificate; or
 - ii. Together with the attendant utility and sanitary facilities, be designed so that below the Local Design Flood Elevation, the structure:
 - 1. Meets the requirements of ASCE 24 Chapters 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.
- d. 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.
- e. All new construction and substantial improvements with fully enclosed areas below the lowest floor shall be used solely for parking of vehicles, building access, or storage in an area other than a basement and which are subject to flooding. Enclosures shall:
 - i. Be situated at or above the adjoining exterior grade along at least one entire exterior wall, in order to provide positive drainage of the enclosed area in accordance with N.J.A.C. 7:13; enclosures (including crawlspaces and basements) which are below grade on all sides are prohibited.
 - ii. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters unless the structure is non-residential and the requirements of 801.2.2(c)ii are met;
 - iii. Be constructed to meet the requirements of ASCE 24 Chapter 4;
 - iv. Have openings documented on an Elevation Certificate and have breakaway wall construction documented on a Breakaway Wall Certificate unless the requirements of 801.2.2(c)ii are met for a non-residential structure; and
 - v. Have documentation that a deed restriction has been obtained for the lot if the enclosure is greater than six feet in height. This deed restriction shall be recorded in the Office of the County Clerk or the Registrar of Deeds and Mortgages in which the building is located, shall conform to the requirements in N.J.A.C.7:13, and shall be recorded within 90 days of receiving a Flood Hazard Area Control Act permit or prior to the start of any site disturbance (including

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

1. The enclosure is likely to be inundated by floodwaters which may result in damage and/or inconvenience.
 2. The depth of flooding that the enclosure would experience to the Flood Hazard Area Design Flood Elevation;
 3. The deed restriction prohibits habitation of the enclosure and explains that converting the enclosure into a habitable area may subject the property owner to enforcement;
- f. For new construction or substantial improvements, enclosures shall be less than 295 square feet in size.

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

801.4 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 105.3(1) of these regulations. Pursuant to N.J.A.C. 7:13, any fence located in a floodway shall have sufficiently large openings so as not to catch debris during a flood and thereby obstruct floodwaters, such as barbed-wire, split-rail, or strand fence. A fence with little or no open area, such as a chain link, lattice, or picket fence, does not meet this requirement. Foundations for fences greater than 6 feet in height must conform with the Uniform Construction Code. Fences for pool enclosures having openings not in conformance with this section but in conformance with the Uniform Construction Code to limit climbing require a variance as described in Section 107 of this ordinance.

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

801.6 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 105.3(1) of these regulations. Above-ground swimming pools are prohibited in floodways by N.J.A.C. 7:13.

801.7 Roads and watercourse crossings.

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

801.8 Other development in coastal high hazard areas (Zone V) and Coastal A Zones. In Coastal High Hazard Areas (V Zones) and Coastal A Zones, development activities other than

buildings and structures shall be permitted only when also authorized by the appropriate Federal, State or local authority; when located outside the footprint of, and not structurally attached to, buildings and structures; and when analyses prepared by a licensed professional engineer demonstrates no harmful diversion of floodwater or wave runup and wave reflection that would increase damage to adjacent buildings and structures. Such other development activities include but are not limited to:

- (1) Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;
- (2) 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
- (3) On-site filled or mound sewage systems.

801.9 Nonstructural fill in coastal high hazard areas (Zone V) and Coastal A Zones. In coastal high hazard areas and Coastal A Zones:

- (1) Minor grading and the placement of minor quantities of nonstructural fill shall be permitted for landscaping and for drainage purposes under and around buildings.
- (2) 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.
- (3) 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.

SECTION 901 TEMPORARY STRUCTURES AND TEMPORARY STORAGE

901.1 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.

901.2 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.

901.3 Floodway encroachment. Temporary structures and temporary storage in floodways shall meet the requirements of Section 105.3(1) of these regulations.

SECTION 1001 UTILITY AND MISCELLANEOUS GROUP U

1001.1 Utility and Miscellaneous Group U. In accordance with Section 312 of the International Building Code, Utility and Miscellaneous Group U includes buildings and structures that are accessory in character and miscellaneous structures not classified in any specific occupancy in the Building Code, including, but not limited to, agricultural buildings, aircraft hangars (accessory to a one- or two-family residence), barns, carports, communication equipment structures (gross floor area less than 1,500 sq. ft.), fences more than 6 feet (1829 mm) high, grain silos (accessory to a residential occupancy), livestock shelters, private garages,

retaining walls, sheds, stables, tanks and towers.

1001.2 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 102.3.

1001.3 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 102.3 and in accordance with ASCE 24. Utility lines shall be designed and elevated in accordance with N.J.A.C. 7:13.

1001.4 Enclosures below base flood elevation. Fully enclosed areas below the design flood elevation shall be constructed in accordance with Section 801.2 and with ASCE 24 for new construction and substantial improvements. Existing enclosures such as a basement or crawlspace having a floor that is below grade along all adjoining exterior walls shall be abandoned, filled-in, and/or otherwise modified to conform with the requirements of N.J.A.C. 7:13 when the project has been determined to be a substantial improvement by the Floodplain Administrator.

1001.5 Flood-damage resistant materials. Flood-damage-resistant materials shall be used below the Local Design Flood Elevation determined in Section 102.3.

1001.6 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 or the finished first floor as determined in Section 102.3.

Exception: Electrical systems, equipment and components, and heating, ventilating, air conditioning, and plumbing appliances, plumbing fixtures, duct systems, and other service equipment shall be permitted to be located below the Local Design Flood Elevation provided that they are designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of flooding to the Local Design Flood Elevation in compliance with the flood-resistant construction requirements of ASCE 24. Electrical wiring systems shall be permitted to be located below the Local Design Flood Elevation provided they conform to the provisions of NFPA 70 (National Electric Code).

SECTION 3. SEVERABILITY.

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

SECTION 4; THIS ordinance shall take effect upon final passage and publication as provided by law.

Mayor Michael Becker

Commissioner John Amodeo

Commissioner Maury Blumberg

Board of Commissioners of the City of
Margate City, New Jersey

Introduction: April 20, 2023
Advertisement:

Enactment:
Advertisement:

Resolutions:

A motion to adopt **Resolution #88-2023**, authorizing bill payments and claims, was put forth by Commissioner Amodeo, Seconded by Commissioner Blumberg, with a vote of three ayes.

**RESOLUTION #88-2023
PAYMENTS OF CLAIMS
MARGATE CITY BILL LIST / PAYROLL
APRIL 20, 2023**

WHEREAS, the Board of Commissioners of the City of Margate City, in the County of Atlantic, State of New Jersey are in receipt of the semimonthly claims submitted by the Chief Financial Officer for payment:

<u>BILLS LIST AMOUNT:</u>	\$6,336,541.87
<u>PREVIOUSLY PAID:</u>	\$24,429.87

PAYROLL ACCOUNT – April 6, 2023

<u>CURRENT ACCOUNT</u>	\$ 487,776.26
<u>WATER & SEWER</u>	\$ 55,191.57

PAYROLL ACCOUNT – April 20, 2023

<u>CURRENT ACCOUNT</u>	\$ 493,408.44
<u>WATER & SEWER</u>	\$ 54,505.88

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners does hereby approve the Margate City Bill List / Payroll, and that all claims and bills attached here to be paid in full.

April 17, 2023
12:50 PM

City of Margate City
Purchase Order Listing By P.O. Number

Page No: 1

P.O. Type: All
Range: First to Last
Format: Condensed
Vendors: All
Rcvd Batch Id Range: First to Last

First Enc Date Range: First to 04/20/23
Include Non-Budgeted: Y

Open: N
Rcvd: Y
Bid: Y

Paid: N
Held: N
State: Y

Void: N
Aprv: N
Other: Y
Exempt: Y

PO #	PO Date	Vendor	PO Description	Status	Amount	Void Amount	PO Type
20-01540	12/03/20	ALLIED P ALLIED PAINTING, INC. Contract No: U1550000	Benson tank interior painting	Open	4,500.00	0.00	c
20-01567	12/03/20	REMGINTO REMINGTON & VERNICK Contract No: U1550002	2020 Benson Tank painting A&O	Open	76.50	0.00	c
21-01330	10/29/21	REMGINTO REMINGTON & VERNICK Contract No: U1650002	FY21 Amherst Ave Phase II-AO	Open	153.00	0.00	c
22-00024	01/10/22	BARKER Barker, Gelfand, Contract No: C2100051	Civil Litigation Services	Open	8,031.80	0.00	c
22-00430	03/17/22	REMGINTO REMINGTON & VERNICK Contract No: U1700002	2021 Road program admin/observ	Open	9,043.00	0.00	c
22-00479	03/31/22	CM 3 CM3 BUILDING SOLUTIONS, INC. Contract No: C2200007	Air conditioning system	Open	66,090.00	0.00	c
22-00694	05/31/22	REMGINTO REMINGTON & VERNICK Contract No: U1730001	Wall of Fame- design	Open	514.50	0.00	c
22-00697	05/31/22	REMGINTO REMINGTON & VERNICK Contract No: U1750001	22 State Aid design-winchester	Open	124.00	0.00	c
22-00794	06/27/22	REMGINTO REMINGTON & VERNICK Contract No: U1760001	Sig Rimm batting cage fencing	Open	76.50	0.00	c
22-00902	07/14/22	REMGINTO REMINGTON & VERNICK Contract No: U1770001	Shelter Island- permitting	Open	939.50	0.00	c
22-00903	07/14/22	REMGINTO REMINGTON & VERNICK Contract No: U1780001	2022 Road Program design	Open	1,517.00	0.00	c
22-01024	09/02/22	REMGINTO REMINGTON & VERNICK Contract No: U1710002	22 Curb & Gutter admin	Open	1,387.00	0.00	c
22-01025	09/02/22	REMGINTO REMINGTON & VERNICK Contract No: U1720002	20/21 CD&G admin/observation	Open	529.00	0.00	c
22-01060	09/08/22	REMGINTO REMINGTON & VERNICK Contract No: U1800001	Tennis court design	Open	1,852.00	0.00	c
22-01236	11/04/22	AC CYCLE Atlantic City Cycle Center LLC	Mechanic Parts	Open	394.45	0.00	
22-01439	12/30/22	REMGINTO REMINGTON & VERNICK Contract No: T4660001	Flood warning & Response Plan	Open	2,130.00	0.00	c
22-01440	12/30/22	REMGINTO REMINGTON & VERNICK Contract No: T4680001	GIS Hosting Services-Muni Web	Open	1,869.00	0.00	c
22-01441	12/30/22	REMGINTO REMINGTON & VERNICK Contract No: T4670001	Clerk's Record Storage Eval	Open	580.00	0.00	c
22-01442	12/30/22	REMGINTO REMINGTON & VERNICK Contract No: U1480002	Firehouse #1 Re-bid	Open	889.00	0.00	c
23-00003	01/09/23	SAMS Sam's Club	Supplies	Open	316.70	0.00	
23-00005	01/09/23	CTYATL ATLANTIC COUNTY TREASURER	QUARTERLY COUNTY TAXES	Open	5,906,919.03	0.00	
23-00013	01/09/23	RICH FIR RICH FIRE PROTECTION Contract No: C2100036	Annual inspection fire systems	Open	2,160.00	0.00	c
23-00014	01/09/23	ANIMAL SAMUEL W. HOLLAND DBA Contract No: C2100046	Animal Control Services	Open	725.00	0.00	c
23-00019	01/09/23	RUTALA James Rutala Associates, LLC. Contract No: C2300004	2023 Planning & Grant Assist	Open	1,800.00	0.00	c
23-00023	01/09/23	BARKER Barker, Gelfand, Contract No: C2300008	2023 Employment Law Services	Open	805.00	0.00	c

April 17, 2023
12:50 PM

City of Margate City
Purchase Order Listing By P.O. Number

Page No: 2

PO #	PO Date	Vendor	PO Description	Status	Amount	Void Amount	PO Type
23-00024	01/09/23	ROVILLAR HANK ROVILLARD, ESQ., LLC Contract No: C2300009	2023 Special Tax Counsel	Open	823.50	0.00	C
23-00025	01/09/23	ABELSLLC Abel's Cleaning Agency, LLC Contract No: C2300010	2023 Janitorial Services	Open	3,922.00	0.00	C
23-00031	01/09/23	BRIGHTVI Brightview Landscapes, LLC Contract No: C2300016	2023 Landscaping Maintenance	Open	4,963.16	0.00	C
23-00034	01/09/23	SCHINDLE SCHINDLER ELEVATOR CORPORATION Contract No: C2000022	2023 elevator service & repair	Open	2,422.86	0.00	C
23-00048	01/10/23	WB MASON W.B. MASON CO., INC.	HR supplies	Open	42.66	0.00	
23-00051	01/10/23	TCTANJ Tax Collectors & Treasurers	2023 membership/confer-T Mazza	Open	350.00	0.00	
23-00063	01/10/23	MOSSMANS MOSSMANS BUSINESS MACHINE INC	Copier Contract	Open	373.63	0.00	B
23-00064	01/10/23	OLD CAPE OLD CAPE, INC.	Concrete / Asphalt Mix	Open	94.05	0.00	
23-00068	01/10/23	VERIZ010 Verizon Connect NWF, Inc.	GPS monitoring	Open	114.00	0.00	B
23-00085	01/11/23	MICHAELB Michael Baylinson	2023 LG PENSION	Open	532.64	0.00	
23-00086	02/01/23	J CINCOT Joseph Cincotta	2023 Lifeguard Pension	Open	535.76	0.00	
23-00087	01/11/23	MICHAEL MICHAEL CINCOTTA	2023 Lifeguard Pension	Open	765.86	0.00	
23-00088	01/11/23	JOE D Joseph J DeStefano	2023 Lifeguard Pension	Open	417.69	0.00	
23-00089	01/11/23	JGALLAGH JAMES GALLAGHER	2023 Lifeguard Pension	Open	247.15	0.00	
23-00090	01/11/23	KING GEORGE KING	2023 Lifeguard Pension	Open	384.13	0.00	
23-00091	01/11/23	RICHKUG RICHARD H. KUGEL	2023 Lifeguard Pension	Open	1,959.75	0.00	
23-00092	01/11/23	JOHN SLA John Slattey, III	2023 Lifeguard Pension	Open	157.72	0.00	
23-00093	01/11/23	SMALLWO CARL SMALLWOOD	2023 Lifeguard Pension	Open	536.62	0.00	
23-00094	01/11/23	JOHNTOLA John J Toland III	2023 Lifeguard Pension	Open	678.88	0.00	
23-00096	01/11/23	CHAD STO Chad Stocking	Monthly Stipend per MCEA	Open	1,000.00	0.00	
23-00115	01/11/23	AMAZ0005 Amazon Capital Services, Inc.	Fire Department Supplies 2023	Open	29.69	0.00	
23-00125	01/12/23	GT Mid Atlantic LLC	CASE Supplies	Open	192.00	0.00	
23-00126	01/12/23	HOOPER Hooper Inc.	CASE Supplies	Open	1,445.38	0.00	
23-00128	01/12/23	NAPA AU Val-U Auto LLC	ST Vehicle Maintenance - Jan	Open	368.48	0.00	
23-00130	01/12/23	ORCHARDS ORCHARDS HYDRAULIC SERVICE, INC	Hydraulic Parts	Open	126.62	0.00	
23-00137	01/03/23	WITMER Witmer Public Safety Group Inc	Fire Department Supplies	Open	652.75	0.00	
23-00144	01/13/23	GENTILIN GENTILINI FORD, INC.	VEHICLE PARTS	Open	51.01	0.00	
23-00148	01/13/23	SAMS Sam's Club	Fire Department Supplies 2023	Open	126.40	0.00	
23-00168	01/17/23	COLONIAL Colonial Electrical Supply Inc	Electrical Hookup - Meter Pgm	Open	1,569.96	0.00	
23-00177	01/18/23	AE STONE A.E. STONE, INC.	Hot Patch	Open	605.36	0.00	
23-00187	01/20/23	WB MASON W.B. MASON CO., INC.	PW Building Supplies	Open	704.92	0.00	
23-00188	01/20/23	WB MASON W.B. MASON CO., INC.	Clerk's Office Supplies 2023	Open	462.98	0.00	
23-00197	01/24/23	ROCCO010 Rocco Santoro	Refund of Ambulance payment	Open	200.00	0.00	
23-00237	01/31/23	WB MASON W.B. MASON CO., INC.	OEM Renovation	Open	11,995.00	0.00	B
23-00242	01/31/23	WITMER Witmer Public Safety Group Inc	Fire Department Equipment	Open	80.00	0.00	
23-00249	01/31/23	MUNIC005 Municipal Code Enforcement	elevator inspections & permits	Open	7,274.00	0.00	
23-00266	02/03/23	ONECONCE One Call Concepts, Inc.	Mark Out Requests	Open	195.91	0.00	
23-00271	02/06/23	NJDHSS NJ DEPT HEALTH & SENIOR SVCS	Dog License Report	Open	13.80	0.00	
23-00278	02/06/23	ACTION U ACTION UNIFORM CO. LLC	Fire Dept. Winter Knit Hats	Open	89.94	0.00	
23-00309	02/09/23	VERIZ LD VERIZON BUSINESS	Verizon long distance	Open	38.88	0.00	
23-00318	02/10/23	FERIOZZI L FERIOZZI CONCRETE COMPANY Contract No: U1780000	2022 State Aid-Winchester Ave	Open	149,413.15	0.00	C
23-00326	02/14/23	UNLINE Uline Shipping Supplies	Repair/Out of Service Tags	Open	194.06	0.00	
23-00335	02/15/23	ACUA ATLANTIC COUNTY UTILITIES AUTH	2023 water Testing	Open	205.94	0.00	
23-00336	02/15/23	ACUA ATLANTIC COUNTY UTILITIES AUTH	2023 Trash / Recycle	Open	75,298.09	0.00	
23-00337	02/15/23	REMINGTON REMINGTON & VERNICK	FY2023 CDBG Application	Open	114.75	0.00	
23-00358	02/24/23	THETREE The Tree Man Tree Service	Sig Rimm Complex tree trimming	Open	12,960.00	0.00	
23-00370	02/27/23	MANOS Manos Law Firm, LLC. Contract No: C2300021	2023 Planning Bd Solicitor	Open	1,500.00	0.00	C
23-00388	03/02/23	MCAA MCAA Of New Jersey	MCAA OF NJ	Open	100.00	0.00	

April 17, 2023
12:50 PM

City of Margate City
Purchase Order Listing By P.O. Number

Page No: 3

PO #	PO Date	Vendor	PO Description	Status	Amount	Void Amount	PO Type
23-00407	03/07/23	BCMCAA	BCMCAA Seminar	Open	250.00	0.00	
23-00419	03/10/23	MCCARTHY	MCCarthy Tire Company of Phila	Open	775.02	0.00	
23-00425	03/10/23	SJCAA	2023 Dues	Open	60.00	0.00	
23-00431	03/15/23	SHOPRITE	Village SuperMarkets, Inc.	Open	17.97	0.00	
23-00446	03/20/23	UNLINE	Uline Shipping Supplies	Open	2,703.01	0.00	
23-00449	03/21/23	MCCARTHY	MCCarthy Tire Company of Phila	Open	311.40	0.00	
23-00477	03/27/23	SJOVERHE	SOUTH JERSEY OVERHEAD DOOR	Open	1,174.50	0.00	
23-00480	03/27/23	TACTICAL	TACTICAL PUBLIC SAFETY LLC	Open	979.88	0.00	
23-00488	03/29/23	RUTGERS2	RUTGERS STATE UNIVERSITY OF NJ	Open	646.00	0.00	
23-00490	03/29/23	ACTION U	ACTION UNIFORM CO. LLC	Open	75.00	0.00	
23-00491	03/29/23	WB MASON	W.B. MASON CO., INC.	Open	206.95	0.00	
23-00492	03/29/23	YOUNGS	Young's Skating Center	Open	200.00	0.00	
23-00497	03/30/23	NJLM	NJ STATE LEAGUE MUNICIPALITIES	Open	35.00	0.00	
23-00500	03/31/23	COM1824	COMCAST1824	Open	114.85	0.00	
23-00501	03/31/23	COM1832	COMCAST1832	Open	216.30	0.00	
23-00502	03/31/23	COM1915	COMCAST1915	Open	116.85	0.00	
23-00503	03/31/23	COM1808	COMCAST1808	Open	116.85	0.00	
23-00504	03/31/23	COM1840	COMCAST1840	Open	116.85	0.00	
23-00505	03/31/23	COM1899	COMCAST1899	Open	145.65	0.00	
23-00506	03/31/23	COM1790	COMCAST1790	Open	145.65	0.00	
23-00507	03/31/23	COM1816	COMCAST1816	Open	145.65	0.00	
23-00508	03/31/23	COM1659	COMCAST1659	Open	284.89	0.00	
23-00509	03/31/23	COM1704	COMCAST1704	Open	310.74	0.00	
23-00510	03/31/23	COM1892	COMCAST1892	Open	149.38	0.00	
23-00511	03/31/23	COM6592	COMCAST6592	Open	116.85	0.00	
23-00512	03/31/23	COM1696	COMCAST1696	Open	309.09	0.00	
23-00513	03/31/23	COM1682	COMCAST1682	Open	232.38	0.00	
23-00514	03/31/23	COM8003	COMCAST8003	Open	119.94	0.00	
23-00516	04/03/23	ERCO	ERCO CEILINGS OF SOMERS POINT	Open	118.89	0.00	
23-00519	04/03/23	HOT BAGE	HOT BAGELS AND MORE MMM LLC	Open	877.50	0.00	B
23-00520	04/03/23	CONTRACT	Contractor Service	Open	1,687.60	0.00	
23-00521	04/03/23	THEOD015	Theodore M. Gogol	Open	125.00	0.00	
23-00523	04/03/23	SWANA	SWANA NEW JERSEY CHAPTER	Open	200.00	0.00	
23-00524	04/03/23	EUROFINS	Eurofins QC, Inc.	Open	2,901.25	0.00	
23-00525	04/03/23	HOMED308	Home Depot Credit Services	Open	277.15	0.00	
23-00527	04/04/23	PROGOVER	PROFESSIONAL GOV'T EDUCATORS	Open	90.00	0.00	
23-00533	04/05/23	ACPOLICE	ATLANTIC COUNTY ASSOC POLICE	Open	550.00	0.00	
23-00535	04/05/23	TALEWISE	Talewise LLC	Open	375.00	0.00	
23-00537	04/05/23	PROFORMA	PROFORMA DYNAMIC RESOURCES	Open	1,668.84	0.00	
23-00540	04/05/23	NJLEAGUE	NEW JERSEY STATE	Open	75.00	0.00	
23-00542	04/06/23	KELLI J	Kelli A. Johnson	Open	300.00	0.00	
23-00544	04/06/23	JAMES B	James Barkalow III	Open	150.00	0.00	
23-00545	04/06/23	FELDMAN	Ananda Lynn Feldman	Open	150.00	0.00	
23-00546	04/06/23	EUROFINS	Eurofins QC, Inc.	Open	50.00	0.00	
23-00547	04/06/23	SWANA 1	SWANA	Open	490.00	0.00	
23-00548	04/06/23	REMINGTO	REMYNTO & VERNICK	Open	612.00	0.00	
23-00549	04/06/23	REMINGTO	REMYNTO & VERNICK	Open	459.00	0.00	
23-00550	04/06/23	REMINGTO	REMYNTO & VERNICK	Open	306.00	0.00	
23-00551	04/06/23	REMINGTO	REMYNTO & VERNICK	Open	306.00	0.00	
23-00552	04/06/23	REMINGTO	REMYNTO & VERNICK	Open	306.00	0.00	
23-00553	04/06/23	REMINGTO	REMYNTO & VERNICK	Open	306.00	0.00	
23-00554	04/06/23	REMINGTO	REMYNTO & VERNICK	Open	306.00	0.00	
23-00555	03/02/23	WITMER	Witmer Public Safety Group Inc	Open	1,158.00	0.00	
23-00556	03/02/23	VCI	VCI Emergency Vehicle Special	Open	2,116.49	0.00	

April 17, 2023
12:50 PM

City of Margate City
Purchase Order Listing By P.O. Number

Page No: 4

PO #	PO Date	Vendor	PO Description	Status	Amount	Void Amount	PO Type
23-00557	04/10/23	NJDP TRE NJ Department of Treasury	2023 Stormwater Permit	Open	2,000.00	0.00	
23-00559	04/10/23	WITMER Witmer Public Safety Group Inc	MSA Detector Parts	Open	82.00	0.00	
23-00560	04/10/23	HOWARD Howard E. Freed, JMC		Open	300.00	0.00	
23-00561	04/10/23	LANGUAGE LANGUAGE SERVICES ASSOC., INC.	Interpreting	Open	109.20	0.00	
23-00562	04/11/23	RALPHCLA RALPH CLAYTON & SONS	1 North Benson Ave	Open	994.50	0.00	
23-00565	04/12/23	HOUSEGAM House of Ganez	Summer Camp Special Event	Open	745.00	0.00	
23-00566	04/12/23	DINOSAUR Dinosaurs Rock	Summer Camp Event	Open	1,395.00	0.00	
23-00569	04/12/23	BWSTEST0 B.W.Stetson & Sons LLC	Coffee Supplies	Open	257.00	0.00	
23-00570	04/12/23	DEANNA Deanna Krupp	Window Shades	Open	19.99	0.00	
23-00571	02/28/23	JOHN DAN FLEISHMAN DANIELS LAW OFFICES	Prep of Bond Ordinances	Open	1,430.67	0.00	
23-00577	04/13/23	JESSE005 JESSE WEINER	beach badge change fund	Open	200.00	0.00	
23-00588	04/17/23	VERIZ 21 VERIZON COMMUNICATIONS INC	telephone service - APRIL 2023	Open	3,217.03	0.00	
Total Purchase Orders:		139	Total P.O. Line Items:	0	Total List Amount:	6,336,541.87	Total Void Amount: 0.00

April 17, 2023
12:50 PM

City of Margate City
Purchase Order Listing By P.O. Number

Page No: 5

Totals by Year-Fund	Fund	Budget Total	Revenue Total	G/L Total	Total
Fund Description					
APPROPRIATIONS	2-01	13,125.30	0.00	0.00	13,125.30
APPROPRIATIONS	3-01	6,055,137.53	0.00	0.00	6,055,137.53
	3-05	7,537.25	0.00	0.00	7,537.25
Year Total:		6,062,674.78	0.00	0.00	6,062,674.78
	C-04	93,974.15	0.00	0.00	93,974.15
	C-06	156,041.17	0.00	0.00	156,041.17
Year Total:		250,015.32	0.00	0.00	250,015.32
	T-12	13.80	0.00	0.00	13.80
	T-14	10,712.67	0.00	0.00	10,712.67
Year Total:		10,726.47	0.00	0.00	10,726.47
Total of All Funds:		6,336,541.87	0.00	0.00	6,336,541.87

City of Margate
Additional Bill List - Previously Paid

For meeting on 4/20/2023

Current Fund	PO #	Vendor	Description	Amount	Date Paid	Check #
	23-00015	Delta Dental	Admin Invoice	\$ 899.14	4/10/2023	e-89149
	23-00015	Delta Dental	Claims Statement	\$ 4,087.24	4/10/2023	e-89149
	23-00106	Atlantic City Elec	Street Lights	\$ 18,843.49	4/6/2023	89150

Total Current Account \$ 24,429.87

Water Sewer	PO #	Vendor	Description	Amount	Date Paid	Check #
-------------	------	--------	-------------	--------	-----------	---------

Total Water Sewer \$ -

Total Paid All Funds \$ 24,429.87

4/3/2023

PAY # 7 CITY OF MARGATE
ENTER THE DETAIL IN THE CELLS WHENEVER THE AMOUNT IS THE SUM OF MORE THAN ONE NUMBER
PAY PERIOD 4/9/2023

(GET FROM CHECK REGISTER SUMMARY)		PAY FROM:		PAYABLE TO:
CURRENT FUND	463,376.99	Current ck #		PAYROLL ACCT
UTILITY FUNC (USE MULTI-ALLOCATION LABOR DISTRIBUTION)				
8000 SEWER	21,944.01			
9000 WATER	33,247.56			
	55,191.57	Water & Sewer ck #		PAYROLL ACCT

TOTAL PAYROLL EXPENSE= TOTAL EARNINGS-SICK BENEFITS-GROUP TERM LIFE 518,567.66

EMPLOYER PAYROLL TAXES (USE CHECK REGISTER SUMMARY)			
SOCIAL SECURITY (FICA + MEDICARE)	20,927.30		
DISABILITY (SDI + SUI + WFD)	3,168.77		
DCRP	304.10		
TOTAL EMPLOYER EXPENSE	24,400.17	Current ck #	PAYROLL ACCT
ADJUSTED GROSS + ER EXPENSE	542,967.83		

(USE CHECK REGISTER SUMMARY)			
GARNISHMENTS (TOTAL DEDUCTIONS + TOTAL CONTRIBUTIONS)	238,509.30	Payroll ck #	PAYROLL DEDUCTION ACCT

INDIVIDUAL CHECKS & DIRECT DEPOSIT (FUNDS COLLECTION REPORT) 304,458.53
TOTAL PAYROLL EXPENSE 542,967.83

PROOF

PAY #8

CITY OF MARGATE

ENTER THE DETAIL IN THE CELLS WHENEVER THE AMOUNT IS THE SUM OF MORE THAN ONE NUMBER

PAY PERIOD 4/20/2023

(GET FROM CHECK REGISTER SUMMARY)

CURRENT FUND

469,208.59

PAY FROM:

Current ck #

PAYABLE TO:

PAYROLL ACCT

UTILITY FUND (USE MULTI-ALLOCATION LABOR DISTRIBUTION)

8000 SEWER

21,176.77

9000 WATER

33,329.11

54,505.88

Water & Sewer ck #

PAYROLL ACCT

TOTAL PAYROLL EXPENSE= TOTAL EARNINGS-SICK BENEFITS-GROUP TERM LIFE

523,714.47

EMPLOYER PAYROLL TAXES (USE CHECK REGISTER SUMMARY)

SOCIAL SECURITY (FICA + MEDICARE

21,183.86

DISABILITY (SDI + SUI + WFD)

2,719.75

DCRP

296.24

TOTAL EMPLOYER EXPENSE

24,199.85

Current ck #

PAYROLL ACCT

ADJUSTED GROSS + ER EXPENSE

547,914.32

(USE CHECK REGISTER SUMMARY)

GARNISHMENTS (TOTAL DEDUCTIONS + TOTAL CONTRIBUTIONS)

237,237.12

Payroll ck #

PAYROLL DEDUCTION ACCT

INDIVIDUAL CHECKS & DIRECT DEPOSIT (FUNDS COLLECTION REPORT)

310,677.20

TOTAL PAYROLL EXPENSE

547,914.32

PROOF

-

Consent Agenda:

A motion to adopt the Consent Agenda for **Resolution #89-2023 thru Resolution #99-2023** was put forth by Commissioner Amodeo, Second by Commissioner Blumberg, with a vote of three ayes.

RESOLUTION #89-2023
A RESOLUTION AMENDING PERSONNEL POLICIES AND PROCEDURE
MANUAL TO BE KNOWN AS
“SEASONAL EMPLOYEE HANDBOOK”

WHEREAS, it is the policy of the City of Margate, County of Atlantic, State of New Jersey to treat employees and prospective employees in a manner consistent with all applicable employment laws and regulations including, but not limited to: Title VII of the Civil Rights Act of 1964, as amended by the Equal Opportunity Act of 1972, the Age Discrimination in Employment Act, the Equal Pay Act, the Diane B. Allen Equal Pay Law, the Fair Labor Standards Act, the NJ Minimum Wage Law, the New Jersey Law Against Discrimination, the Americans with Disabilities Act, the NJ Pregnant Worker’s Fairness Act, the Family and Medical Leave Act, the NJ Family Leave Act, the Conscientious Employee Protection Act, the Public Employee Occupational Safety and Health Act, the New Jersey Civil Service Act, the New Jersey Attorney General’s Guidelines with respect to Police Department Personnel Matters, the New Jersey Workers Compensation Act, and the Open Public Meeting Act; and

WHEREAS, the Board of Commissioners have determined that there is a need for clear personnel policies and procedures to ensure that employees and prospective employees are treated in a manner consistent with these laws and regulations.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners that the “Seasonal Employee Handbook” attached thereto is hereby adopted.

BE IT FURTHER RESOLVED that these personnel policies and procedures contained in the “Seasonal Employee Handbook” shall apply to all 2023 seasonal employees. In the event there is a conflict between these rules and any collective bargaining agreement, personnel services contract, or Federal or State law, the terms and conditions of that contract or law shall prevail. In all other cases, these policies and procedures shall prevail.

BE IT FURTHER RESOLVED that this “Seasonal Employee Handbook” is intended to provide guidelines covering public service by City employees and is not a contract. The provisions of this handbook may be amended and supplemented from time to time without notice and at the sole discretion of the Board of Commissioners.

BE IT FURTHER RESOLVED that to the maximum extent permitted by law, employment practices for the City shall operate under the legal doctrine known as “employment at will,” and the “Seasonal Employee Handbook” nor any provisions set forth therein are intended to create an employment contract or otherwise abrogate the operation of the “employment at will” doctrine.

BE IT FURTHER RESOLVED that the Business Administrator and all managerial/supervisory personnel are responsible for these employment practices. The Employment Attorney and the HR Assistant shall assist the Business Administrator in the implementation of the policies and procedures in this handbook.

RESOLUTION #90-2023
APPOINTMENT OF EMERGENCY MANAGEMENT COORDINATOR
AND DEPUTY EMERGENCY MANAGEMENT COORDINATORS
FOR THE CITY OF MARGATE CITY

WHEREAS, the City of Margate City, in the County of Atlantic, State of New Jersey requires the Appointment of a Municipal Emergency Management Coordinator; and

WHEREAS, pursuant to N.J.S.A.9-4.1 the Commissioner of Public Safety shall appoint a Municipal Emergency Management Coordinator; and

WHEREAS, this Coordinator shall serve for a term of three years and must have successfully completed the approved courses as required.

NOW, THEREFORE, BE IT RESOLVED that Charles LaBarr is hereby designated as the City of Margate City Emergency Management Coordinator for a three (3) year term commencing April 1, 2023 until March 31, 2026.

BE IT FURTHER RESOLVED that Police Chief Matthew Hankinson and Fire Chief Daniel Adams will serve as the Deputy Emergency Management Coordinators for a term to run concurrent with that of Emergency Management Coordinator.

BE IT FURTHER RESOLVED that the Board of Commissioners of the City of Margate City does hereby approve the Appointment of Emergency Management Coordinator for the City of Margate City, Charles LaBarre and Deputy Emergency Management Coordinators; Police Chief Matt Hankinson, and Fire Chief Daniel Adams.

**RESOLUTION #91-2023
REGARDING CITY OF MARGATE CITY ZONING AND CODE RELIEF FOR
BUSINESSES DURING PANDEMIC**

WHEREAS, the City of Margate City Board of Commissioners desires to provide zoning and code relief to assist existing local businesses with valid mercantile licenses which support primary residences, second homeowners and guests to the City of Margate City; and

WHEREAS, Senate Bill No. 2364 offers relief is to help businesses restore revenue after being required to be shuttered or reduced business during the pandemic; and

WHEREAS, the Governing Body initiated further supplementing Ordinance 11-2013 - Outdoor Dining by adopting Resolution #138-2022 and Resolution #64-2023 by the extension of allowable outdoor service so that service will stop by 10:00 p.m. and all outdoor music shall cease by 9:00 p.m. as did Resolution #138-2022; and

NOW, THEREFORE BE IT RESOLVED that the City of Margate City Board of Commissioners hereby authorizes the extension of outdoor service as authorized by Resolution #64-2023, so that said service may continue to 10:00 p.m. each night conditioned upon outdoor music ceasing at 9:00 p.m. each night.

BE IT FURTHER RESOLVED, that this change in the hours of service shall be in effect immediately and applicable to all eateries and businesses utilizing public rights of way and parking areas and that said relief is temporary until October 31, 2022.

This Resolution shall take effect immediately upon adoption

**RESOLUTION #92-2023
AUTHORIZING
PERSON TO PERSON TRANSFER OF LIQUOR LICENSE**

WHEREAS, an application has been filed for a person-to-person transfer of Plenary Retail Consumption License #0116-33-004-006, heretofore issued to South End Suds & Suds, Corp., for the premises located at 9700-9702 Ventnor Avenue, Margate, N.J. 08402; and

WHEREAS, the submitted application form is complete in all respects, the transfer fees have been paid; and

WHEREAS, the applicant, Namaste Wine & Tequila, LLC., 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, Namaste Wine & Tequila, LLC., has disclosed and the issuing authority 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.

NOW, THEREFORE BE IT RESOLVED that the Board of Commissioners of the City of Margate City, in the County of Atlantic, State of New Jersey does hereby approve, effective immediately, the Plenary Retail Consumption License to Namaste Wine & Tequila, LLC., and does hereby direct the Municipal Clerk to endorse the license certificate to the new ownership follows: "This license, subject to all its terms and conditions, is hereby transferred to Namaste Wine & Tequila, LLC. effective immediately.

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to the following:

1. Matt Hankinson, Margate City Chief of Police
2. Anna Perna, Division Of Alcohol Beverage Control

RESOLUTION #93-2023
A RESOLUTION DESIGNATING THE LOCATIONS AND TIMES PERMITTING THE
SPORT OF SURFING, KAYAKING, AND SAILING WITHIN THE CITY OF
MARGATE

WHEREAS, it is the interest of the City of Margate City, County of Atlantic, State of New Jersey, to designate areas and times for surfing and surf riding within the City of Margate City.

NOW THEREFORE BE IT RESOLVED by the Board of Commissioners as follows:

Designated locations for surfing, kayaking and sailing:

AREA	BOUNDARIES	ACTIVITIES
NORTH 1	BARCLAY → CLARENDON	SURFING + KAYAKING + SAILING
NORTH 2	DELAVAN → ESSEX	SURFING + KAYAKING
SOUTH 1	IROQUOIS →PLYMOUTH	SURFING + KAYAKING + SAILING
SOUTH 2	KENYON→NASSAU	SURFING+KAYAKING
SOUTH 3	PEMBROKE → SUMNER	SURFING + KAYAKING + SAILING

No person shall engage in the sport of surfing, kayaking, and sailing within the City of Margate City at any other location except as specified above between the hours of 10 AM and 6 PM.

The designation of surfing, kayaking, and sailing beaches is required under Chapter 75 of the Code of the City of Margate City.

This Resolution is promulgated pursuant to the authority of the ordinances of the City of Margate City. This Resolution will take effect immediately and all other Resolutions inconsistent herewith are hereby repealed.

RESOLUTION #94-2023
A RESOLUTION DESIGNATING THE BATHING SEASON AND GUARDED BEACHES IN THE CITY OF MARGATE CITY

WHEREAS, it is the interest of the City of Margate City, County of Atlantic State of New Jersey, to designate guarded beaches from which persons may bathe and swim; and

WHEREAS, there is an appropriate season to provide guarding services. In 2023, the guarded bathing season is designated as commencing on June 10, 2023 and terminating on September 10, 2023. Weather permitting limited guarding will be provided on designated pre and post season weekends.

Beaches will be opened and closed as indicated below:

Beach	Open Date	Close Date
Argyle Ave	6/10	9/4
Clermont Ave	6/10	9/10*
Gladstone Ave	6/17	9/4
Huntington Ave	6/10	9/10*
Jerome Ave	6/10	9/4
Osborne Ave	6/10	9/4
Thurlow Ave	6/10	9/10*
Vendome Ave	6/24	9/4
Cedar Grove Ave	6/24	9/4
Washington Ave	6/10	9/10*
Jefferson Ave	6/10	9/4
Madison Ave	6/24	9/4

* On the Weekends of 5/27, 6/3 and 9/19 the Beaches on Clermont, Huntington, Thurlow and Washington Avenues will be opened for anticipated pre/post season good weather, but may be closed at the discretion of the Chief.

All guarded beaches are open from 10:00 AM to 6:00 PM. The designation of beaches is required under Chapter 75 of the Code of the City of Margate.

This Resolution is promulgated pursuant to the authority of the ordinances of the City of Margate. This Resolution will take effect immediately and all other Resolutions inconsistent herewith are hereby repealed.

RESOLUTION #95-2023
AUTHORIZING BATHING SEASON AND GUARDED BEACHES IN THE CITY OF MARGATE CITY

WHEREAS, the Board of Commissioners of the City of Margate City did on January 24, 1974 adopt an Ordinance entitled “AN ORDINANCE TO ESTABLISH AND MAINTAIN PAID BEACHES, BEACHES AND RECREATIONAL FACILITIES IN THE CITY OF MARGATE CITY, ATLANTIC COUNTY, NEW JERSEY; TO MAKE RULES AND REGULATIONS CONCERNING THE SAME; TO PROVIDE FOR THE CHARGING, COLLECTING OF SEASONAL AND/OR WEEKLY FEES AND SUCH USE AND FIXING PENALTIES FOR VIOLATIONS THEREFORE” and Section 5A of said Ordinance provided that rules and regulations pertaining to the said Ordinance may be adopted by resolution of the governing body; and

WHEREAS, Chapter 75, Section 5A authorized the Board of Commissioners to determine by resolution the period during each year the paid bathing beaches shall be opened and closed.

NOW, THEREFORE, BE IT RESOLVED that the beaches shall be operating from May 20, 2023 to September 11, 2022. With bathing beaches opening on May 27, 2023.

NOW, THEREFORE, BE IT RESOLVED Chapter 75 Section 5C is hereby suspended for the days of July 6, 13, 20, 27, and August 3, 10, 17, 24, 31 known as “Thrilling Thursday(s)” in the City of Margate City.

AND IT IS FURTHER RESOLVED that Chapter 75 Section 5C is hereby suspended for the days of July 4th along with September 2nd, 3rd, and 4th and there shall be permitted on the beach until 6:00 p.m. the maintenance of small attended fires for the purpose of cooking only.

**RESOLUTION #96-2023
AUTHORIZING SPECIAL TRAFFIC REGULATIONS FOR
MARGATE COMMUNITY FARMERS MARKET**

WHEREAS, the City of Margate City scheduled a Community Farmers Market along Amherst Avenue from Monroe Avenue to Coolidge Avenue and the 200 Block of North Monroe Avenue on consecutive Thursdays beginning June 15, 2023 and ending August 31, 2023; beginning at 8:30am and ending at 12:00pm and;

WHEREAS, the Commissioners of the City of Margate City authorize the Margate City Police Department put into effect “Special Traffic Regulations” for the safety and welfare of its citizens as follows:

**Special Traffic Regulations - 2023
June 15 (Thursday) - August 31 (Thursday)
(Consecutive Thursdays only)**

- a. Amherst Avenue will be closed to vehicular thru traffic from Madison Avenue to Coolidge Avenue;
- b. Madison Avenue to Monroe Avenue will be designated, “Local Traffic Only;”
- c. 200 Block of North Monroe Avenue will be closed to vehicular traffic from Monmouth Avenue to Amherst Avenue;
- d. “Local Traffic Only” will be designated from a point 132 feet North from the intersection of Monmouth and Monroe Avenue;
- e. “Local Traffic Only” will be designated from a point 137 feet East of the intersection of Amherst and Coolidge Avenue;

There will be a Traffic Detour Plan:

- 1. From Amherst Avenue westbound to Madison Avenue, to Winchester Avenue, to Coolidge Avenue and back to Amherst Avenue.
- 2. From Amherst Avenue eastbound to Coolidge Avenue, to Monmouth Avenue, to Jefferson Avenue and back to Amherst Avenue.

NOW, THEREFORE, BE IT RESOLVED by the Commissioners of the City of Margate City, in the State of New Jersey that the “Special Traffic Regulations” be in effect during the hours beginning 12:01 a.m., Thursday June 15th until Thursday, August 31, 2023 at 12:00pm (noon). This resolution is made under authority and pursuant to *N.J.S.A. 39:4-197.3* to expire at 12:00pm (noon) on August 31, 2023.

**RESOLUTION #97-2023
AUTHORIZING THE CONSERVATION EASEMENT BETWEEN THE
CITY OF MARGATE AND THE NEW JERSEY HISTORIC
TRUST REGARDING LUCY PARK AND LUCY THE ELEPHANT**

WHEREAS, in order to receive a \$500,000.00 Grant in-aid financial assistance from National Park Service of the United States Department of Interior, the City of Margate is required to grant a Conservation Easement to the New Jersey Historic Trust, a copy which is attached hereto and made a part hereof; and

WHEREAS, said Conservation Easement provides that the Grantor (City of Margate) agrees to, among other things, assume the cost of continued maintenance and repair of the subject property so as to preserve the architectural, historical and/or archaeological integrity of the subject property and that no activity shall be undertaken to affect historically significant exterior or interior features and for which said Conservation Easement shall commence for a period of 15 years from date of filing with the Atlantic County Clerk; and

WHEREAS, the City of Margate has determined that it is in the best interest of the general public as well as the City to maintain the Lucy the Elephant property locate at 9200 Atlantic Avenue, Margate New Jersey, and as such the grant of the requested Conservation Easement serves a good and valid public purpose.

NOW THEREFORE, BE IT RESOLVED, that City of Margate, a NJ Municipality (the “Grantor”) shall execute a Conservation Easement with the New Jersey Historic Trust (the “Grantee”). This Conservation Easement will be entered under New Jersey State Law/Regulations for the purpose of preserving the Lucy the Elephant, a building that is important culturally, historically, and architecturally.

BE IT FURTHER RESOLVED, that the Mayor of Margate City is authorized, directed, and empowered to take such action and execute and deliver such document in such form as he deems to be in the best interests of Lucy the Elephant including without limitation the execution and delivery of a Conservation Easement.

BE IT FURTHER RESOLVED by the Board of Commissioners of the City of Margate City, Atlantic County, New Jersey, that it does authorize the Mayor to execute the Conservation Easement between the City of Margate and The New Jersey Historic Trust regarding Lucy Park and Lucy the Elephant for the preservation of Lucy the Elephant.

**RESOLUTION #98-2023
AUTHORIZING AWARD OF CONTRACT FOR
INTEGRATED VOICE AND DATA NETWORK SERVICE FOR
MARGATE CITY MUNICIPAL FACILITIES**

WHEREAS, the Board of Commissioners of the City of Margate City, County of Atlantic, State of New Jersey are desirous of integrated voice and data network service for Margate City Municipal Facilities; and

WHEREAS, Systems Analyst, Fred Verna, received four proposals for integrated voice and data network, which is to install, upgrade and service telephone systems for Margate City Municipal Facilities; and

WHEREAS, Fred Verna, Systems Analyst, submitted a letter of recommendation that the contract be awarded to Monmouth Internet Corp, dba Monmouth Telecom, for integrated voice and data network system for Margate City Municipal Facilities in the amount of \$20,000.00; and

WHEREAS, the Chief Financial Officer has certified to the Commission that there are funds in an amount not to exceed \$20,000.00 available under Ordinance 04-2023 account number c- 04-55-990-902 for the purpose of this contract.

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of the City of Margate City is duly authorized to accept the proposal from Monmouth Telecom for integrated voice and data network system for Margate City Municipal Facilities for \$20,000.00.

BE IT FURTHER RESOLVED that the City Clerk is hereby authorized to forward a copy of this resolution to the following:

1. Lisa McLaughlin, Chief Financial Officer
2. Monmouth Telecom, 10 DRS. James Parker Blvd. Suite 110, Red Bank, NJ 07701
3. Fred Verna, Systems Analyst
4. Roger McLarnon, Qualified Purchasing Agent

Certification Of Availability of Funds

This is to certify to the of the City of Margate City that funds for the following resolutions are available.

Contract Amount: 20,000.00
Resolution Date: 04/20/23
Resolution Number: 98-2023

Vendor: MONMOUTH Monmouth Telecom
10 Drs. James Parker Blvd
Suite 110
Red Bank, NJ 07701

Contract: C2300023 Telephony and Internet
Equipment and Installation

Account Number	Amount	Department Description
C-04-55-990-902	20,000.00	Ordinance 04-2023
Total	20,000.00	

Only amounts for the 2023 Budget Year have been certified. Amounts for future years are contingent upon sufficient funds being appropriated.

Lisa McLaughlin
Chief Financial Officer

**RESOLUTION #99-2023
AUTHORIZING EXECUTION OF AGREEMENT WITH
ATLANTIC CITY ELECTRIC COMPANY FOR
LIGHT EMITTING DIODES STREET LIGHTING**

WHEREAS, the Atlantic City Electric Company (hereinafter called ACE) is an electric utility company that provides street lighting services pursuant to its Tariff for Service, which is approved by and on file with the New Jersey Board of Public Utilities (Tariff); and

WHEREAS, the City of Margate City wishes to reduce fossil fuel emission in a manner that is environmentally sustainable, maximizes cost savings, reduces the total energy use and improves energy efficiency; and

WHEREAS, the City of Margate City is desirous to enter into an agreement with ACE to replace current lighting with CLE Tariff Light Emitting Diode Street Lighting; and

WHEREAS, the Governing Body of the City of Margate City has determined that it would be in the best interest of the public to permit installation of a Light Emitting Diode (LED) street lighting on ACE owned lighting fixtures.

WHEREAS, the Chief Financial Officer has certified to the Commission that there are funds in an amount not to exceed \$350,000.00 available under Ordinance 01-2021 account number c- 04-55-986-907 for the purpose of this contract.

NOW, THEREFORE, BE IT RESOLVED by the BOARD OF COMMISSIONERS OF THE CITY OF MARGATE CITY, ATLANTIC COUNTY, NEW JERSEY, that it does hereby authorize and direct the Mayor and City Clerk to execute Agreement with Atlantic City Electric Company (ACE) so as to authorize to replace Light Emitting Diode (LED) in accordance with the CLE Tariff Emitting Diode Street Lighting Replacement Agreement which is attached hereto and made a part hereof and as authorized by this Resolution.

BE IT FURTHER RESOLVED that a certified copy of this Resolution and CLE Tariff Emitting Diode Street Lighting Replacement Agreement shall be forwarded to the following:

- 1. Lisa McLaughlin, Chief Financial Officer
- 2. William Saraceno, Sr. Mgr. Atlantic City Electric

Certification Of Availability of Funds

This is to certify to the of the City of Margate City that funds for the following resolutions are available.

Contract Amount: 350,000.00
Resolution Date: 04/20/23
Resolution Number: 99-2023

Vendor: ACE-SPEC Atlantic City Electric
Remittance Processing 84CP29
5 Collins Dr Suite 2048
Carneys Point, NJ 080693600

Contract: C2300024 CLE Tariff Light Emitting
Diode Street Lighting
380 Lights

Account Number	Amount	Department Description
C-04-55-986-907	350,000.00	Ordinance 01-2021
Total	350,000.00	

Only amounts for the 2023 Budget Year have been certified. Amounts for future years are contingent upon sufficient funds being appropriated.

Lisa McLaughlin
Chief Financial Officer

CLE Tariff Light Emitting Diode Street Lighting Replacement Agreement

This CLE Tariff Light Emitting Diode Street Lighting Agreement (this "Agreement") is made and entered into as of the 18th day of April, 2022, by and between Margate City, a New Jersey municipality in Atlantic County (hereinafter called "Customer") and Atlantic City Electric Company (hereinafter called "ACE").

PREAMBLE

1. ACE is an electric utility company that provides street lighting services pursuant to its Tariff for Service, which is approved by and on file with the New Jersey Board of Public Utilities¹ ("Tariff").

2. Customer has a need for a program to reduce fossil fuel emissions in a manner that is environmentally sustainable and maximizes cost savings, reduces the total energy use and improves energy efficiency and, consequently, wishes to install and use Light Emitting Diode ("LED") street lighting on ACE-owned lighting fixtures, the location, quantities and types of which are more specifically set forth in Attachment 1 (the "Project").

3. In order to perform the work requested by Customer, Customer and ACE desire to set forth herein the charges, terms and conditions under which such requested work is to be performed.

In consideration of the mutual promises and covenants herein, the parties hereto agree as follows:

AGREEMENT**I. INCORPORATION OF PREAMBLE**

The recitals contained in the Preamble of this Agreement are hereby incorporated into, and form a part of, this Agreement between ACE and Customer.

II. ACE-SPECIFIC RIGHTS AND OBLIGATIONS

a. Procurement of LED Fixtures. After execution of this Agreement and receipt of Customer's Purchase Order (as defined in Article V), ACE will place the orders for the procurement of the LED street light fixtures (hereinafter "LED Fixture" or "LED Fixtures") in the quantities and types set forth in Attachment 1; such orders may be placed in phases over the course of the Project, as ACE in its discretion determines necessary to accomplish the Work (as defined in Section III.a) and as ACE's storage capacity can reasonably accommodate.

¹ Specifically, the Atlantic City Electric Company tariff BPUNJ No. 11 Electric Service, Section III – Rate Schedule CLE (Contributed Lighting Extension), sheets 7, 7a and 8, and Section IV – Rate Schedule CSL (Contributed Street Lighting), sheets 39, 40 and 40a, each of which may be found at the following web address: <http://www.atlanticcityelectric.com/my-business/choices-and-rates/tariffs/>, as such tariff sections may be modified or amended.

b. Ownership, Operation, Maintenance and Service of LED Fixtures. Subject to the terms hereof, ACE will own, operate, maintain and service the LED Fixtures and all associated lighting equipment, including bracket and photo-sensitive control devices, which will be installed by ACE in accordance with its standard specifications, at Customer's expense as specified below, on existing ACE wood distribution poles or Street Light Poles, as provided in the Tariff.

c. LED Fixture Service. As part of ACE's maintenance and service, ACE will provide, at Customer's expense, as specified below, LED Fixture maintenance or replacements as may be necessary, in accordance with the Tariff; provided, however, that for LED Fixtures within the manufacturer's warranty period, ACE will be responsible for the cost of the parts under warranty, but Customer will remain responsible for ACE's labor costs (as provided in the Tariff) for such maintenance or replacements. Any non-scheduled LED Fixture service will be made within a commercially reasonable time following notification by Customer.

d. LED Fixture Removal and/or Replacement. ACE will have the right to remove and/or replace any LED Fixture within the scope of this Agreement, at Customer's expense as specified in Article III below, (i) if Customer is in default of the Agreement, (ii) if Customer requests the removal or relocation, or (iii) if for any reason and in ACE's sole judgment, (A) the LED Fixture(s) do not provide satisfactory service and performance for street lighting purposes, (B) access to such LED Fixture(s) is compromised, (C) such LED Fixtures are subject to repeated acts of vandalism other damage and/or safety is a concern, or (D) to an inordinate extent, complaints are received from the public regarding the service and performance of such LED Fixture(s). ACE will have the right to remove, replace or relocate any LED Fixture within the scope of this agreement for ACE's convenience, at ACE's expense. Prior to such removal, replacement or relocation, however, where reasonably practical and where delay in removal, replacement or relocation is not a safety issue, ACE will provide Customer with reasonable notice identifying the LED Fixture(s) to be removed, replaced or relocated and the reason therefor.

e. Modification of Specifications. ACE reserves the right to modify from time to time its specifications and/or Tariff relating to any street lighting equipment, including the LED Fixtures and their installation, in order to meet changing conditions. In addition, installations at locations subject to vandalism may be removed, at the option of ACE, unless the additional maintenance costs associated with maintenance in such locations are paid for by Customer.

f. Commencement of Installation. ACE will complete the Work in phases (each, a "Phase") and will begin the Work on the first Phase within a commercially reasonable period after the later of receipt of the LED Fixtures for such Phase from the vendor(s) or the issuance of the Purchase Order. The Work with respect to each subsequent Phase will begin after Phase Completion (as defined in Article III) for the previous Phase and within a commercially reasonable period after receipt of the LED Fixtures for such Phase. Prior to commencing Work, ACE will provide Customer with a tentative schedule for the planned Work for the entire Project and will make commercially reasonable efforts to complete the planned Work in accordance with such schedule. Within thirty (30) business days of receipt of the Purchase Order, ACE will provide Customer with a tentative schedule for the planned Work, broken down in Phases.

III. CUSTOMER-SPECIFIC RIGHTS AND OBLIGATIONS

a. LED Fixture Installation Charges. Customer will be responsible for paying all costs associated with the initial installation of the LED Fixtures set forth in Attachment 1, as such Attachment may be modified to show changes discovered by ACE in the field as the installation progresses (the "Work"), including, but not limited to, labor, material, related overheads and taxes (including required tax gross-ups on the LED Fixtures) as charged by ACE in accordance with the Tariff. The price to be paid by Customer for the Work will be a fixed price calculated in accordance with the Tariff, as set forth in Attachment 1 (the Total Price set forth in Attachment 1 is defined as the "Project Price"); provided, however, that if the need for installation of additional LED Fixtures is discovered by ACE in the field as the installation progresses, the Project Price will be adjusted to ensure that Customer pays the costs associated with the installation of such additional LED Fixtures. The total price for the Work to be completed in each Phase is defined herein as the "Phase Price" (for clarity, the total of all the Phase Prices will be equal to the Project Price) and completion of the Work for each such Phase is defined herein as "Phase Completion."

b. Customer Representative On Site. Customer will have the right to have a representative present for spot-checking of all Work performed during the installation process and the ability to make a physical record of all Work being done, so long as, and Customer hereby agrees that: (A) the method of spot-checking and making a physical record must be discussed with ACE and will be agreed-upon in advance and confirmed in a writing; (B) Customer representative will (1) keep a safe distance from the ACE crew and work-site, and (2) not interfere, in any way, with the Work or the ACE crew performing the Work; and (C) any such interference that causes a delay of, or impediment to, the Work will result in additional costs (over and above those set forth in Attachment 1) being charged to Customer. Customer also agrees that it will not communicate with the ACE crew regarding questions or concerns with respect to the installation process. All such Customer communications will be reserved for, and directed to, the ACE construction manager or designee, as specified by ACE in a communication to Customer.

c. LED Fixture Replacement Charges. Customer will be responsible for paying, as a non-refundable contribution, all costs associated with the LED Fixture replacement as specified in the Tariff, including the actual cost of the replacement LED Fixture; provided, however, that for LED Fixtures within the manufacturer's warranty period, ACE will be responsible for the cost of the parts under warranty, but Customer will remain responsible for ACE's labor costs (as provided in the Tariff) for such replacements.

d. LED Service Restoration Charges. Customer will be responsible for paying, as a non-refundable contribution, all costs associated with ACE's provision of restoration service in the event that, prior to the termination of this Agreement, Customer requests ACE to "restore" Service to an LED Fixture after a period of no service at Customer's request.

e. LED Fixture Removal. Customer will be responsible for paying, as a non-refundable contribution, the entire cost of removal of LED Fixtures under this Agreement for any reason, whether at Customer's request or at ACE's discretion (provided, however, that removals for ACE's convenience will be at ACE's expense, as set forth in Section II.d). Termination of this Agreement does not relieve Customer from responsibility for such removal costs. There will

not be any credit provided to Customer for any LED Fixture removed under this Agreement, nor will the removed LED Fixture be transferred or conveyed to Customer.

f. Rate Per Billing Month: (January through December). Customer will be responsible for paying the monthly charges as specified in the Tariff (for Customer's convenience, an estimated average monthly cost for the LED Fixtures for the total Project are set forth in Attachment 1). New rates for LED Fixtures for each Phase will be effective as soon as practicable, but in any event no longer than 60 days after the applicable Phase Completion.

g. kWh Charges. Customer will be responsible for paying kWh charges as specified in the Tariff. By law, Customer has a right to purchase electricity from suppliers other than ACE, and nothing in this Agreement is intended to interfere with that right.

h. Other Responsibilities and Charges. To the extent applicable to any customer, Customer will be subject to all applicable non-street-lighting charges, terms and conditions provided in the Tariff.

i. Traffic Control. Customer will be responsible for all costs associated with traffic control required during the installation, replacement or removal of the LED Fixtures under this Agreement.

j. Fixtures on State Highways. When the existing fixtures to be converted to LED Fixtures are on state highways: (i) ACE will be responsible for obtaining any necessary occupancy permits (i.e., permits for Work to be performed on state highways) and Customer will be responsible for paying any costs related to such permits. In addition, Customer will be responsible for obtaining the written approval of the State of New Jersey for the Work to be performed on such highways; such approval from the State must specifically state that the approval is for the conversion of existing light fixtures to LED Fixtures.

k. Limitation of Liability. Customer agrees that the LED Fixtures are being installed, and the Work is being performed, under this Tariff Agreement at the sole and exclusive request of Customer. As a result, Customer and ACE agree that (i) ACE will have no liability for, and assumes no responsibility with respect to, the operational performance of the LED Fixtures; and (ii) in all other respects, Customer and ACE will be bound by any and all applicable limitations of liability provisions contained in the current Tariff consistent with, and to the fullest extent that such provisions would be applicable to the Work provided under this Agreement if the Work hereunder were a "Service" (as defined in the Tariff) provided under such Tariff.

IV. LOCATION OF LED FIXTURES

The LED Fixtures for the Project will be installed for the number of lights designated in Attachment 1 Agreement Cost, as such Attachment may be modified to show changes discovered by ACE as the installation progresses. The parties hereto understand that it is Customer's intention that the locations designated for replacement in Attachment 1 Attachment Cost qualify as replacement situations such as to avoid the incursion of any Street Light Pole Charges; provided, however, that the placement of new (non-replacement) LED Fixtures will incur Street Light Pole Charges under the Tariff. If ACE discovers that any such locations are not consistent with Customer's intention, ACE will not install an LED Fixture at such location

until, after notice to Customer, Customer instructs ACE to proceed with the Work at such location.

V. TERMS OF PAYMENT

Customer will issue a purchase order to ACE for the Project Price of \$350,000.00 (which includes applicable taxes and fees (including tax gross-ups) for the installation of the LED Fixtures (the "Purchase Order"). Customer has the right to pay the entire amount of the Project Price up front, before completion of the Work for the first Phase. However, if Customer does not make such payment up front, then upon each Phase Completion, ACE will submit an invoice to Customer for the Phase Price. Payment will be due from Customer for each invoice on the due date specified in such invoice. If payment is not received from Customer by such due date, in addition to its rights in Article VI.b hereof: (i) ACE will have the right to delay the commencement or continuation of Work in any further Phases until full payment for any such unpaid invoices is received (and such delay will constitute an excusable delay for all purposes of this Agreement); and (ii) if such payment is still not received after sixty (60) days following such due date, a late payment charge of .877% per month of the unpaid balance will be assessed, in accordance with the Tariff. In addition to the Project Price (or the Phase Price for each Phase, as applicable), at the time monthly billing for the LED Fixtures installed in the first Phase under this Agreement is initiated by ACE's Billing Department, a one-time \$15.00 processing charge will be billed.

VI. AGREEMENT TERM AND RENEWAL

a. In accord with the character of the Work to be provided hereunder as well as the underlying associated uncertainties with respect to the effectiveness and longevity of LED street lighting, this Agreement will, in accordance with the Tariff, have an initial term of five (5) years, commencing on the later of (i) the date first set forth above, or (ii) the date of execution of this Agreement by the last party to sign (the "Effective Date"), unless earlier terminated in accordance with Section VI.b. After the initial term, the parties will have the option to renew in successive one (1) year terms by one party providing written notice of renewal to the other party at least sixty (60) days in advance of the expiration date of the then-current term and, after receipt of such notice, the receiving party's approval of such renewal.

b. In addition to the right of either party to terminate this Agreement upon written notice prior to the expiration of the then-current term as set forth above, ACE may terminate this Agreement upon the occurrence of an uncured payment default by Customer and Customer may terminate this Agreement upon a failure by ACE to perform the Work as provided herein. Either party may terminate this Agreement in the event that such party determines that (i) 50% or more of the then-installed LED Fixture(s) do not provide satisfactory service for street lighting purposes, or (ii) the use of LED Fixtures under this Agreement has given rise to an inordinate extent of complaints from the public regarding said LED Fixture(s).

c. In the event that Customer terminates this Agreement before the end of the then-current term of the Agreement, Customer will be billed the total of: (i) any unpaid amount for Work completed prior to termination; and (ii) each LED Fixture's monthly LED Fixture Service Charge plus (iii) the per-kWh Distribution Charges under the Tariff applicable to each LED Fixture's Billing Month kWh, times (iv) the remaining months of the then-current term, in

addition to (v) any other removal or other charges applicable hereunder, including the costs of replacing the LED Fixtures, once removed, with standard street lighting fixtures.

VII. EXCUSABLE DELAY

ACE will not be liable nor in breach or default of its obligations under this Agreement to the extent performance of such obligations is delayed or prevented, directly or indirectly, due to causes beyond its reasonable control, including, but not limited to, action or non-action (where action is required under this Agreement) of Customer, acts of God, fire, terrorism, war (declared or undeclared), epidemics, material shortages, insurrection, acts (or omissions) of another party or another party's suppliers or agents, any act (or omission) by any governmental authority (including any police activity or delay in the issuance of permits), strikes, labor disputes, transportation shortages, vendor non-performance, inclement weather or electric system outages. The delivery or performance date will be extended for a period equal to the time lost by reason of delay, plus such additional time as may be reasonably necessary to overcome the effect of the delay.

VIII. MISCELLANEOUS

a. This Agreement will be governed by and construed in accordance with the laws of the State of New Jersey, and any dispute arising under this Agreement shall be decided by State or Federal courts located in Atlantic County, New Jersey.

b. This Agreement constitutes the entire agreement among the parties hereto and supersedes any and all prior written or oral communications, negotiations, representations, or promises with respect to the subjects addressed in this letter agreement.

c. This Agreement may not be modified or amended in any way except by a written modification signed by all parties. None of the terms or provisions of this Agreement shall be deemed waived except by a writing signed by the party which is entitled to the benefits thereof.

d. This Agreement may not be assigned by Customer without the prior written consent of ACE, which consent shall not be unreasonably delayed or withheld.

e. This Agreement may be executed in multiple identical counterparts, which taken together will constitute an original without the necessity of all parties signing the same page or the same documents. Signatures transmitted by facsimile shall be considered original signatures.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the Effective Date.

CUSTOMER:

Attest:

Mayor

[Title]

Date: _____

This Agreement is approved as to form and execution.

Date: _____

By: _____

[Name]

[City/Township Solicitor]

ATLANTIC CITY ELECTRIC COMPANY

By: _____

William Saraceno

Sr Mgr. Engineering & Design

Date: _____

ATTACHMENT 1

SUMMARY OF VENTNOR CITY CLE LED STREET LIGHTING PROJECT COST

Attachment 1 Agreement Cost

4/18/2023

Summary of Margate City LED Street Lighting Project

LED FIXTURES

AJDNSTRLT			
18645767			
Quantity	Fixture Type	Installation Cost (each)	Installation Cost
53	50 watt (HPS equivalent) LED cobra head	\$ 817.40	\$ 43,322.20
144	70 watt (HPS equivalent) LED cobra head	\$ 806.03	\$ 116,068.32
41	100 watt (HPS equivalent) LED cobra head	\$ 810.24	\$ 33,219.84
91	150 watt (HPS equivalent) LED cobra head	\$ 970.30	\$ 88,297.30
2	400 watt (HPS equivalent) LED cobra head	\$ 1,037.62	\$ 2,075.24
3	250 watt (HPS equivalent) LED flood light	\$ 1,336.70	\$ 4,010.10
9	400 watt (HPS equivalent) LED flood light	\$ 1,573.00	\$ 14,157.00
5	100 watt (HPS equivalent) LED traditionaire	\$ 1,354.00	\$ 6,770.00
32	70 watt (HPS equivalent) LED traditionaire	\$ 1,315.00	\$ 42,080.00
380			\$ 350,000.00

Executive Session: None

Update:

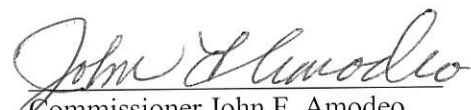
Adjournment:

There being no further business, Mayor Becker called for a motion to adjourn the meeting. Whereupon, the motion was made by Commissioner Amodeo, and seconded by Commissioner Blumberg, to adjourn the meeting. A unanimous voice vote was taken adjourning the meeting at 4:13p.m.

Board of Commissioners of the City of Margate City, New Jersey



Mayor, Michael Becker



Commissioner John F. Amodeo



Commissioner Maury Blumberg

Attest:  Johanna Casey, Municipal Clerk

