

**TOWNSHIP OF UPPER  
2100 TUCKAHOE ROAD  
PETERSBURG, NJ 08270  
CAPE MAY COUNTY  
MINUTES FOR NOVEMBER 14, 2022**

**REGULAR MEETING OF THE TOWNSHIP COMMITTEE –4:30 P.M.**

**CALL TO ORDER**

**SUNSHINE ANNOUNCEMENT**

Mayor Corson read the following Open Public meeting notice into the record:

“In compliance with the Open Public Meetings Law, I wish to state that on November 10, 2022, the notice of this meeting of the Upper Township Committee was posted on the official Township Bulletin Board, the Upper Township Website, and mailed to the Cape May County Gazette, the Atlantic City Press, the Ocean City Sentinel-Ledger, the Herald Times and filed with the Township Clerk. Tonight’s meeting is being audio recorded up until the closed session portion of this meeting and will be available on the Upper Township website. I hereby direct that this announcement be made a part of the minutes of this meeting.”

**SALUTE TO THE FLAG**

**ROLL CALL**

John Coggins	Present
Kimberly R. Hayes	Present
Jay Newman	Present
Mark E. Pancoast	Present
Curtis T. Corson, Jr.	Present

Also present were Municipal Clerk Barbara Young, Chief Financial Officer Barbara Ludy, Municipal Engineer Paul Dietrich, Municipal Attorney Daniel Reeves, and Township Administrator Gary DeMarzo.

**APPROVAL OF MINUTES** - October 24, 2022 Regular and Closed Session Minutes

Motion by Jay Newman, second by Kimberly Hayes, to approve the October 24, 2022, Regular and Closed Session Minutes as submitted. During roll call vote all five Committee members voted in the affirmative.

**REPORT OF GOVERNING BODY MEMBERS**

**Kimberly Hayes, Committeewoman**, reported that the Upper Township Business Association will be holding their Community Night on Thursday November 17<sup>th</sup> from 6:00 to 8:00 pm at the Upper Township Elementary School. She next thanked Janet McBride for organizing the Upper Township Health Fair and stated it was a great event for the community. Next, she reported that the annual tree lighting ceremony will be held on November 28<sup>th</sup> at 6:00 pm. The event will be sponsored by the Ocean City/Upper Township Rotary Club. Last, she reported that the Township will again be partnering with Cape Assist to host a Christmas themed drive-in movie at Amanda’s Field on December 10<sup>th</sup> at 6:00 pm. Participants can vote for which movie will be shown by going to [capeassist.org/moviepoll](http://capeassist.org/moviepoll).

**Mark Pancoast, Committeeman**, reported that the Department of Public Works has commenced leaf collection and an interactive tracking map has been added to the Township’s website to show where the leaf pickup has been completed.

**Jay Newman, Committeeman**, reported that the Division of EMS has been particularly busy this past month and praised them for the job well done.

## **ADMINISTRATOR OVERVIEW AND FILING OF REPORTS**

**Gary DeMarzo, Township Administrator**, reported on a recent meeting he and Mayor Corson attended with county and local officials regarding gatherings of disruptive and disorderly groups. He next reported that the “No ATV” signs are being noticed because they have been knocked over. He stated that the next phase will be installing barricades and heightening awareness. Next, he reported that he, Committeewoman Hayes, and Paul Dietrich continue to work on obtaining various grants for the benefit of the Township. He next highlighted a Resolution on the agenda requesting the State to utilize federal covid relief funds to offset the costs of the increased health benefit premiums.

**Barbara Young, Municipal Clerk**, announced that after 28 years she will soon be retiring. She stated that it has been an honor and a privilege to have served as Municipal Clerk and thanked her colleagues and members of the Clerk’s Office Joanne Herron and Janet McBride. Lastly, she thanked her husband Robert Young and her family for their support. Mayor Corson thanked Barbara for her years of dedicated service and stated that she does a fabulous job and makes the Committee look good. Committeewoman Hayes echoed Mayor’s Corson’s comments and asked the audience to give Barbara a round of applause.

**Daniel Reeves, Municipal Attorney**, thanked Barbara Young for her help with his transition into the role of the Township’s attorney and stated that she will be missed.

**Paul Dietrich, Township Engineer**, congratulated Barbara Young and wished her the best on her future adventures.

**Barbara Ludy, Chief Financial Officer**, offered Barbara Young well wishes in her retirement.

Motion by Jay Newman, second by Kimberly Hayes, to accept the following reports as submitted. During roll call vote all five Committee members voted in the affirmative.

1. Animal Control
2. Clerk’s Office
3. Construction Code
4. Division of EMS
5. Finance Office
6. Municipal Court
7. MUA Report
8. Tax Collector

### **CONSENT AGENDA:**

**ALL RESOLUTIONS LISTED BELOW ARE CONSIDERED TO BE ROUTINE IN NATURE AND WILL BE ENACTED BY ONE MOTION. IF THE MAYOR OR ANY COMMITTEE MEMBER WISHES A PARTICULAR RESOLUTION TO BE CONSIDERED SEPARATELY, IT WILL BE REMOVED FROM THE CONSENT AGENDA AND ACTED ON SEPARATELY.**

Mayor Corson requested that the Resolution Authorizing Triad Associates to prepare and process a SFY 2023 NJDCA Small Cities Public Facilities Grant be moved to closed session. He next requested that the Resolution Authorizing a Shared Services Agreement with Ocean City for Municipal Emergency Management Coordinator Services be removed from the consent agenda and acted on separately.

## **RESOLUTIONS-CONSENT AGENDA**

9. A Resolution supporting the inclusion of casinos as workplaces covered under the New Jersey Smoke Free Air Act.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 327-2022**

**RE: A RESOLUTION SUPPORTING THE INCLUSION OF CASINOS AS  
WORKPLACES COVERED UNDER THE NEW JERSEY SMOKE FREE AIR ACT**

---

**WHEREAS**, in January of 2006, Acting Governor Codey signed the New Jersey Smoke Free Air Act (SFAA), protecting 99% of New Jersey workers from exposure to secondhand smoke while at work; and

**WHEREAS**, the SFAA does not protect the more than 20,000 men and women employed at New Jersey's casinos, or the tens of millions of non-smoking members of the public that visit the casinos each year; and

**WHEREAS**, there is an effort underway in the New Jersey Legislature to amend the "New Jersey Smoke-Free Air Act" to eliminate the exemption that the casinos enjoy, and bills to that effect in the New Jersey Assembly and Senate are sponsored by more than half of the members of each body; and

**WHEREAS**, these bills are based in part on studies conducted by the National Institute for Occupational Safety and Health that concluded that casino workers are at a greater risk for lung and heart disease because of secondhand smoke; and

**WHEREAS**, the 2006 U.S. Surgeon General's report on secondhand smoke declared that there is no safe level of exposure; and

**WHEREAS**, the City of Atlantic City enacted Ordinance 2006-86 limiting smoking to 25% of the casino gaming area, thus creating smoking areas that are 300+% smokier than before the ordinance; and

**WHEREAS**, New Jersey's casino employees and visitors deserve the same protection from smoking and secondhand smoke as others in the State of New Jersey have for more than 16 years; and

**NOW, THEREFORE, BE IT RESOLVED**, by the Township Committee of the Township of Upper, in the County of Cape May, that the Township of Upper hereby supports the effort

underway in the New Jersey Legislature and calls for the protection of all workers in the State of New Jersey from the hazards of secondhand smoke by requiring that casinos be smokefree workplaces.

Resolution No. 327-2022

Offered by: Newman

Seconded by: Pancoast

Adopted: November 14, 2022

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Coggins	X			
Hayes	X			
Newman	X			
Pancoast	X			
Corson	X			

10. Declaring certain Township property and equipment as surplus and authorizing its disposal by sale on an online auction website.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 328-2022**

**RE: DECLARING CERTAIN TOWNSHIP PROPERTY AND EQUIPMENT AS SURPLUS  
AND AUTHORIZING ITS DISPOSAL BY SALE ON AN ONLINE AUCTION WEBSITE**

---

**WHEREAS**, N.J.S.A.40A:11-36 authorizes a municipality to sell or dispose of certain personal property or equipment which is not needed for public use; and

**WHEREAS**, the Township of Upper has determined that the items listed on the attached sheet as Exhibit “A” are not needed for any public purpose and intend to sell these items on an online auction site; and

**WHEREAS**, the Director of the Division of Local Government Services, a Division of the Department of Community Affairs of the State of New Jersey permits the sale of surplus property no longer needed for public use through the use of online auction services, pursuant to the Local Unit Electronic Technology Pilot Program and Study Act, P.L. 2001, c.30, and has granted approval to Upper Township, copy of approval is attached as Exhibit “B”; and

**NOW, THEREFORE, BE IT RESOLVED** by the Township Committee of the Township of Upper, in the County of Cape May and State of New Jersey, as follows:

1. The allegations of the preamble are incorporated herein by this reference.
2. The property and equipment aforementioned on Exhibit “A” is hereby determined

to be useless for any public purpose and is determined to be surplus property and will forthwith be advertised for public sale pursuant to the provision of N.J.S.A. 40A:11-36; and

3. The said material will be sold at a public sale to the highest bidder through a contracted government on-line auction service, that being GovDeals, Inc., Internet web address at <http://www.govdeals.com/www.govdeals.com>.

3. The required notice publication will include the following information:
- a. The dates and times that the auction will take place.
  - b. No minimum bid requirement for an item unless otherwise stated.
  - c. The Township of Upper reserves the right to reject any and all bids.

Resolution No. 328-2022

Offered by: Newman                      Seconded by: Pancoast

Adopted: November 14, 2022

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Coggins	X			
Hayes	X			
Newman	X			
Pancoast	X			
Corson	X			

**Exhibit “A”**

1.	1989 Van Duyne Surfboat with trailer	\$ 200.00
2.	2008 Yamaha VX110-G Wave Runner – US-YAMA1157L708	\$ 500.00
3.	2005 Sterling 750 Vacuum/Jetter Truck – Vin# 2FZAATDC45AN60982	\$ 10,000.00
4.	2008 GMC C7500 – Vin# 1GDM7C1B08F407853	\$ 500.00
5.	2008 GMC C7500 – Vin# 1GDM7C1B68F407968	\$ 500.00
6.	2009 GMC 8500 – Vin# 1GDP8C1B49F405390	\$ 500.00
7.	2003 Ford F350XL – Vin# 1FDWF36L83EA32077	\$ 500.00
8.	2004 Ford F350 – Vin# 1FDWF37S24EC37059	\$ 500.00
9.	2005 Ford F250XL – Vin# 1FTSX21545EB06861	\$ 500.00
10.	2008 Ford F550 XL – Vin# 1FDAF56R28EE56680	\$ 1,000.00
11.	1986 Forklift BMY – Military Surplus	No Min.
12.	2006 Model 1290H Drum Bandit – Vin# 4FMUS15156R007153	\$ 2,500.00
13.	2004 Case 521D Z-Bar Tier II Wheel Loader - ID# JEE0136649	\$ 3,500.00
14.	2010 Generator Set - Model# MEP804B - Military Surplus	\$ 1,000.00
15.	AirSep AS-16 Oxygen Fill Station – Serial# 84610-2	\$ 100.00
16.	2009 Xerox DocuMate 4830 Document Scanner	\$ 50.00

11. Canceling tax on exempt property Block 453, Lot 248.13.

**TOWNSHIP OF UPPER**

**CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 329-2022**

**CANCELING TAX ON EXEMPT PROPERTY  
BLOCK 453, LOT 248.13**

---

**WHEREAS**, certain corrections have been recommended by the Upper Township Tax Collector in order to correct tax records; and

**WHEREAS**, certain properties became tax exempt for the fourth quarter of year 2022; and

**WHEREAS**, Joseph E. DiCola is a 100% disabled American veteran residing at 3 Lauradell Dr., Block 453, Lot 248.13 on the municipal tax map of Upper Township, New Jersey; and

**WHEREAS**, the Department of Veterans Affairs has determined that Mr. DiCola's 100% permanent military service-connected disability was effective March 17, 2017; and

**WHEREAS**, Joseph E. DiCola purchased said property on August 8, 2022 and made application on August 17, 2022; and

**NOW, THEREFORE BE IT RESOLVED**, by the Township Committee of the Township of Upper, Cape May County, that corrections to the Tax records are hereby authorized and the Tax Collector is hereby directed to correct said records or take such action as indicated on the attached sheet.

Resolution No. 329-2022

Offered by: Newman

Seconded by: Pancoast

Adopted: November 14, 2022

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Coggins	X			
Hayes	X			
Newman	X			
Pancoast	X			
Corson	X			

**CANCEL TAX 2022**

**BLOCK/LOT**

453/248.13

**AMOUNT**

\$1,608.87

**NAME**

Joseph E. DiCola  
3 Lauradell Dr.  
Ocean View NJ 08230

100% Totally Disabled Veteran

12. Canceling tax on exempt property Block 453.08, Lot 287.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 330-2022**

**CANCELING TAX ON EXEMPT PROPERTY  
BLOCK 453.08, LOT 287**

---

**WHEREAS**, certain corrections have been recommended by the Upper Township Tax Collector in order to correct tax records; and

**WHEREAS**, Charles Volpe is a 100% disabled American veteran residing at 30A Corson Tavern Rd., Block 453.08, Lot 287 on the municipal tax map of Upper Township, New Jersey; and

**WHEREAS**, the Department of Veterans Affairs has determined that Mr. Volpe's 100% permanent military service-connected disability was effective October 4, 2022; and

**WHEREAS**, Block 453.08, Lot 287 consists of 3 Residences, 58% of this property being owned by Charles Volpe became tax exempt for the year 2022; and

**WHEREAS**, Charles Volpe made application on October 6, 2022 for the tax-exempt portion of 58%; and

**WHEREAS**, the exempt portion of the property tax to be canceled from 4<sup>th</sup> Quarter of 2022 is \$1,002.54.

**NOW, THEREFORE BE IT RESOLVED**, by the Township Committee of the Township of Upper, Cape May County, that corrections to the Tax records are hereby authorized and the Tax Collector is hereby directed to correct said records or take such action as indicated on the attached sheet.

Resolution No. 330-2022

Offered by: Newman

Seconded by: Pancoast

Adopted: November 14, 2022

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Coggins	X			
Hayes	X			
Newman	X			
Pancoast	X			
Corson	X			

**CANCEL TAX 2022**

**BLOCK/LOT**

**AMOUNT**

**NAME**

453.08/287

\$ 1,002.54 – 58%

Charles Volpe

100% Totally Disabled Veteran

13. Canceling and refunding tax on exempt property Block 544.02, Lot 3.16.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 331-2022**

**CANCELING AND REFUNDING TAX ON EXEMPT PROPERTY  
BLOCK 544.02, LOT 3.16**

---

**WHEREAS**, certain corrections have been recommended by the Upper Township Tax Collector in order to refund monies; and

**WHEREAS**, certain properties became tax exempt in the year 2022; and

**WHEREAS**, Harry G. Doughtie is a 100% disabled American veteran residing at 3 Berwyn Drive, Palermo, Block 544.02, Lot 3.16 on the municipal tax map of Upper Township, New Jersey; and

**WHEREAS**, the Department of Veterans Affairs has determined that Mr. Doughtie’s 100% permanent military service-connected disability was effective January 18, 2022; and

**WHEREAS**, Harry G. Doughtie made application and requested a refund September 27, 2022; and

**WHEREAS**, Township of Upper Ordinance No. 009-2012 allows for the refund of property taxes paid for the calendar year in which claim is made.

**NOW, THEREFORE BE IT RESOLVED**, by the Township Committee of the Township of Upper, Cape May County, that corrections to the Tax records are hereby authorized and the Tax Collector is hereby directed to correct said records or take such action as indicated on the attached sheet.

Resolution No. 331-2022

Offered by: Newman

Seconded by: Pancoast

Adopted: November 14, 2022

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Coggins	X			
Hayes	X			
Newman	X			
Pancoast	X			
Corson	X			



**CANCEL TAX 2022**

<b><u>BLOCK/LOT</u></b>	<b><u>AMOUNT</u></b>	<b><u>NAME</u></b>
544.02/3.16	\$ 7,438.93	Harry G. Doughtie 3 Berwyn Dr. Palermo, NJ 08230

**REFUND TAX 2022**

<b><u>BLOCK/LOT</u></b>	<b><u>AMOUNT</u></b>	<b><u>NAME</u></b>
544.02/3.16	\$ 4,866.49	Harry G. Doughtie 3 Berwyn Dr. Palermo NJ 08230

100% Totally Disabled Veteran as of January 18, 2022, Applied 9/27/2022

14. Authorizing the award of a contract with United Rentals, Inc.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
R E S O L U T I O N**

**RESOLUTION NO. 332-2022**

**RE: AUTHORIZING THE AWARD OF A CONTRACT WITH  
UNITED RENTALS, INC.**

---

**WHEREAS**, from time to time the Township of Upper has a need to purchase or rent equipment from United Rentals, Inc. as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

**WHEREAS**, the Qualified Purchasing Agent has determined and certified in writing that the value of acquisitions with United Rentals, Inc. for the year 2022 will exceed \$17,500 and a contract pursuant to N.J.S.A. 19:44A-20.5 is required; and

**WHEREAS**, United Rentals, Inc. has completed and submitted a Business Entity Disclosure Certification which certifies that United Rentals, Inc. has not made any reportable contributions to a political or candidate committee in the Township in the previous one year, and that the contract will prohibit United Rentals, Inc. from making any reportable contributions through the term of the contract; and

**WHEREAS**, the total amount to be paid for the goods and/or services will not exceed the bid threshold of the New Jersey Local Public Contracts Law (N.J.S.A. 40A:11-3) and the contract has been approved by the Township's Qualified Purchasing Agent; and

**WHEREAS**, the Chief Financial Officer of the Township has certified the availability of

funds to allow the award of contract for the purchase herein authorized and has certified that adequate funds have been appropriated for this purpose in the 2022 Municipal Budget.

**NOW, THEREFORE, BE IT RESOLVED** by the Township Committee of the Township of Upper, in the County of Cape May and State of New Jersey, as follows:

1. The allegations of the preamble are incorporated herein by this reference.
2. The Township Committee of the Township of Upper, County of Cape May, New Jersey hereby authorizes the Qualified Purchasing Agent to enter into a contract with United Rentals, Inc. as described herein.
3. The Business Entity Disclosure Certification and the Determination of Value be placed on file with this resolution.
4. The Chief Financial Officer is hereby authorized, directed and empowered to execute any and all necessary documents in order to implement the intent of this Resolution.

Resolution No. 332-2022

Offered by: Newman                      Seconded by: Pancoast

Adopted: November 14, 2022

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Coggins	X			
Hayes	X			
Newman	X			
Pancoast	X			
Corson	X			

15. Authorizing the award of a contract with Spica Steel, Inc., Dba JDL Garage Doors.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 333-2022**

**RE: AUTHORIZING THE AWARD OF A CONTRACT WITH  
SPICA STEEL, INC., DBA JDL GARAGE DOORS**

---

**WHEREAS**, from time to time the Township of Upper has a need to repair or replace garage doors and to do so desires to enter into a non-fair and open contract, pursuant to the provisions of N.J.S.A. 19:44A-20.5, with Spica Steel, Inc., dba JDL Garage Doors; and

**WHEREAS**, the Qualified Purchasing Agent has determined and certified in writing that the value of acquisitions with Spica Steel, Inc., dba JDL Garage Doors for the year 2022 will

exceed \$17,500 and a contract pursuant to N.J.S.A. 19:44A-20.5 is required; and

**WHEREAS**, Spica Steel, Inc., dba JDL Garage Doors has completed and submitted a Business Entity Disclosure Certification which certifies that Spica Steel, Inc., dba JDL Garage Doors has not made any reportable contributions to a political or candidate committee in the Township in the previous one year, and that the contract will prohibit Spica Steel, Inc., dba JDL Garage Doors from making any reportable contributions through the term of the contract; and

**WHEREAS**, the total amount to be paid for the goods and/or services will not exceed the bid threshold of the New Jersey Local Public Contracts Law (N.J.S.A. 40A:11-3) and the contract has been approved by the Township’s Qualified Purchasing Agent; and

**WHEREAS**, the Chief Financial Officer of the Township has certified the availability of funds to allow the award of contract for the purchase herein authorized and has certified that adequate funds have been appropriated for this purpose in the 2022 Municipal Budget.

**NOW, THEREFORE, BE IT RESOLVED** by the Township Committee of the Township of Upper, in the County of Cape May and State of New Jersey, as follows:

1. The allegations of the preamble are incorporated herein by this reference.
2. The Township Committee of the Township of Upper, County of Cape May, New Jersey hereby authorizes the Qualified Purchasing Agent to enter into a contract with Spica Steel, Inc., dba JDL Garage Doors as described herein.
3. The Business Entity Disclosure Certification and the Determination of Value be placed on file with this resolution.
4. The Chief Financial Officer is hereby authorized, directed and empowered to execute any and all necessary documents in order to implement the intent of this Resolution.

Resolution No. 333-2022

Offered by: Newman

Seconded by: Pancoast

Adopted: November 14, 2022

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Coggins	X			
Hayes	X			
Newman	X			
Pancoast	X			
Corson	X			

16. Refund EMS ambulance billing overpayment to Clover.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 334-2022**

**RE: REFUND EMS AMBULANCE BILLING OVERPAYMENT TO CLOVER**

---

**WHEREAS**, an overpayment has occurred in the account of an EMS ambulance billing patient, where the monies sent to the Township of Upper from Clover Insurance were in excess as evidenced by the attached copy of a letter attached hereto as Exhibit A.

**NOW, THEREFORE BE IT RESOLVED**, by the Township Committee of the Township of Upper, Cape May County, that the refund is hereby authorized and the Chief Financial Officer is hereby directed to refund monies as indicated below:

<u>AMOUNT</u>	<u>NAME</u>
\$201.67	Attn: MCS 410836 P.O. Box 415000 Nashville, TN 37241-0836

Resolution No. 334-2022

Offered by: Newman

Seconded by: Pancoast

Adopted: November 14, 2022

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Coggins	X			
Hayes	X			
Newman	X			
Pancoast	X			
Corson	X			

17. Appointing officials to bid at the tax sale scheduled for December 6, 2022.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 335-2022**

**RE: APPOINTING OFFICIALS TO BID AT THE  
TAX SALE SCHEDULED FOR DECEMBER 6, 2022**

---

**WHEREAS**, a Tax Sale is scheduled to be conducted by the Tax Collector of the Township of Upper on December 6, 2022 at 10:00 A.M.; and

**WHEREAS**, the Township Committee has duly considered the matter and has determined to take the action hereinafter designated.

**NOW, THEREFORE, BE IT RESOLVED** by the Township Committee of the Township of Upper, in the County of Cape May and State of New Jersey, as follows:

1. The allegations of the preamble are incorporated herein by this reference.
2. Municipal Finance Officer Barbara Ludy and Municipal Engineer Paul Dietrich are hereby designated and appointed as the officials who may bid at said Tax Sale on behalf of the Township of Upper on the scheduled date, as well as on any other date to which the Tax Sale may be adjourned.
3. The Municipal Finance Officer Barbara Ludy and Municipal Engineer Paul Dietrich are hereby authorized to expend on behalf of the Township up to \$1,000.00 in order to purchase Tax Liens.

Resolution No. 335-2022

Offered by: Newman

Seconded by: Pancoast

Adopted: November 14, 2022

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Coggins	X			
Hayes	X			
Newman	X			
Pancoast	X			
Corson	X			

18. Budget Transfers.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 336-2022**

**RE: BUDGET TRANSFERS**

---

**WHEREAS**, budgetary transfers between line items can be made after November 1<sup>st</sup>; and

**WHEREAS**, it is necessary to make transfers between certain line items of the Municipal Budget of the Township of Upper.

**NOW, THEREFORE BE IT RESOLVED** by the Township Committee of the Township of Upper, in the County of Cape May and State of New Jersey, as follows:

1. The following transfers between line items in the Municipal Budget of the

Township of Upper shall be made immediately:

<u>TO</u>	<u>FROM</u>
MAYOR & COMM. O/E \$1,000.00	CLERK S/W \$10,000.00
SPECIAL LITIGATION \$20,000.00	FINANCE ADMIN. S/W \$40,000.00
WORKERS' COMP INS. \$15,000.00	ASSESSMENT OF TAXES O/E \$10,000.00
CROSSING GUARD S/W \$800.00	CONSTRUCTION CODE S/W \$15,000.00
MISC. REGIONAL DISPATCH \$15,000.00	ZONING/CODE ENFORCE S/W \$20,000.00
DIVISION OF EMS S/W \$20,000.00	EMERGENCY MGT. S/W \$10,000.00
PUBLIC BLDGS & GRDS S/W \$10,000.00	PARKING ENFORCEMENT O/E \$10,600.00
PUBLIC BLDGS & GRDS O/E \$20,000.00	RECYCLING S/W \$9,700.00
DOG REGULATION O/E \$1,000.00	
SHORE PROTECTION O/E \$20,000.00	
DCRP \$2,500.00	

Resolution No. 336-2022

Offered by: Newman

Seconded by: Pancoast

Adopted: November 14, 2022

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Coggins	X			
Hayes	X			
Newman	X			
Pancoast	X			
Corson	X			

19. Authorizing the Engineer to prepare specifications and solicit bids for roof replacement for the Gandy House and Tuckahoe Train Station.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 337-2022**

**RE: AUTHORIZING THE ENGINEER TO PREPARE SPECIFICATIONS  
AND SOLICIT BIDS FOR ROOF REPLACEMENT FOR THE  
GANDY HOUSE AND TUCKAHOE TRAIN STATION**

---

**WHEREAS**, the Township Committee of the Township of Upper has determined a need to solicit bids for the roof replacement of the Gandy House and Tuckahoe Train Station; and

**WHEREAS**, pursuant to the provisions of the Local Public Contracts Law, the Township of Upper intends to solicit bids as herein indicated; and

**NOW, THEREFORE, BE IT RESOLVED** by the Township Committee of the Township of Upper, in the County of Cape May and State of New Jersey, as follows:

1. The allegations of the preamble are incorporated herein by this reference.
2. The Township Engineer is hereby authorized and directed to prepare specifications,

bid documents and solicit bids for the following:

**ROOF REPLACEMENT FOR GANDY HOUSE AND TUCKAHOE TRAIN STATION**

3. Sealed bids shall be received by the Township of Upper in accordance with the directives contained in the Notice to Bidders.

Resolution No. 337-2022

Offered by: Newman                      Seconded by: Pancoast

Adopted: November 14, 2022

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Coggins	X			
Hayes	X			
Newman	X			
Pancoast	X			
Corson	X			

20. Authorizing the purchase of certain items through the Omnia Partners National Cooperative contract with funds from the 2022 State & Local Fiscal Recovery Funds budgetary grant line in an additional amount of \$17,888.01.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 338-2022**

**RE: AUTHORIZING THE PURCHASE OF CERTAIN ITEMS THROUGH THE OMNIA PARTNERS NATIONAL COOPERATIVE CONTRACT WITH FUNDS FROM THE 2022 STATE & LOCAL FISCAL RECOVERY FUNDS BUDGETARY GRANT LINE IN AN ADDITIONAL AMOUNT OF \$17,888.01**

---

**WHEREAS**, it was necessary for the Township of Upper to recently purchase certain stormwater pumps; and

**WHEREAS**, the Township of Upper adopted Resolution No. 296-2022 on September 26, 2022, to authorize the purchase of three stormwater pumps in the amount of \$320,043.00 from Applied Industrial Technologies, Inc. of Cleveland, Ohio through Omnia Partners

National Cooperative Contract No. 16154; and

**WHEREAS**, it later came to the Township of Upper's attention that certain other components were necessary for the stormwater pumps in an additional amount of \$17,888.01; and

**WHEREAS**, Applied Industrial Technologies, Inc. has completed and submitted a Business Entity Disclosure Certification which certifies that Applied Industrial Technologies, Inc. has not made any reportable contributions to a political or candidate committee in the Township in the previous one year, and that the contract will prohibit Applied Industrial Technologies, Inc. from making any reportable contributions through the term of the contract; and

**WHEREAS**, the Chief Financial Officer of the Township has re-certified the availability of funds to allow the award of contract for the purchase herein authorized and has re-certified that adequate funds have been appropriated for this purpose from the 2022 State & Local Fiscal Recovery Funds budgetary grant line for an additional amount of \$17,888.01 and a revised total of \$337,931.01; and

**WHEREAS**, the Chief Financial Officer has confirmed that the Township has complied with N.J.S.A. 52:34-6.2 as well as all other legal requirements for this method of procurement.

**NOW, THEREFORE, BE IT RESOLVED** by the Township Committee of the Township of Upper, in the County of Cape May and State of New Jersey, as follows:

1. The allegations of the preamble are incorporated herein by this reference.
2. The Township Committee of the Township of Upper, County of Cape May, New Jersey hereby authorizes the Qualified Purchasing Agent to enter into a revised contract with Applied Industrial Technologies, Inc. for the purchase of three stormwater pumps in the revised amount of \$337,931.01 from the 2022 State & Local Fiscal Recovery Funds budgetary grant line through Omnia Partners National Cooperative Contract No. 16154.
3. The Chief Financial Officer is hereby authorized, directed and empowered to execute any and all necessary documents in order to implement the intent of this Resolution.

Resolution No. 338-2022

Offered by: Newman

Seconded by: Pancoast

Adopted: November 14, 2022

ROLL CALL VOTE:



NAME	YES	NO	ABSTAIN	ABSENT
Coggins	X			
Hayes	X			
Newman	X			
Pancoast	X			
Corson	X			

21. Urging Governor Murphy to use Covid Relief funds to offset the increased premium costs of the New Jersey State Health Benefit Program.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 339-2022**

**RE: URGING GOVERNOR MURPHY TO USE COVID RELIEF FUNDS TO OFFSET THE  
INCREASED PREMIUM COSTS OF THE NEW JERSEY STATE HEALTH BENEFITS  
PROGRAM**

---

**WHEREAS**, the New Jersey State Health Benefits Program (the “SHBP”), governed by N.J.S.A. 52:14-17.25 et seq., offers medical, prescription drug, and dental coverage to qualified state and participating local government public employees, retirees, and eligible dependents; and

**WHEREAS**, all SHBP plans are self-funded, with all benefits being paid directly from a SHBP fund supplied by the State, participating local employers, and member premiums; and

**WHEREAS**, in 2023, due to decisions by the New Jersey Division of Pensions and Benefits and the State Health Benefits Commission, the cost of the SHBP premiums will increase by 21.6% for active employees, 13% for early retirees, and 0.7% for Medicare retirees, which will result in a combined cost increase of 22.8%; and

**WHEREAS**, the current and retired employees of Upper Township currently receive health insurance benefits through the SHBP; and

**WHEREAS**, the increased costs of the SHBP will result in significant additional cost to both the Township and its employees; and

**WHEREAS**, the additional cost of premiums for the SHBP will result in a significant increase in the property taxes for the residents of Upper Township; and

**WHEREAS**, the Governor and the State of New Jersey have entered into an agreement with state employees to use New Jersey Covid relief funds to offset the increased premiums to limit the

increase to 3% for state employees; and

**WHEREAS**, it would be fair and equitable for the State of New Jersey to use its Covid relief funds to provide the same or similar benefit to municipal employees that the State will be providing to state employees; and

**WHEREAS**, limiting the SHBP premium increase to 3% for participating municipal employees in the same manner as for state employees would contribute to the State’s goal to build a stronger and fairer economy for New Jersey that supports the middle class and lifts families and communities.

**NOW, THEREFORE, BE IT RESOLVED** by the Township Committee of the Township of Upper, County of Cape May, State of New Jersey, that:

1. The allegations of the preamble are incorporated herein by this reference.
2. The Township of Upper hereby urges the Governor and State of New Jersey to expend state Covid relief funds to offset the increased premiums of the SHBP for municipal employees in the same manner that the State has agreed to do for state employees in order to limit the premium increase to 3%.
3. The Municipal Clerk shall forward copies of this Resolution to the Governor, State Treasurer, District I legislators, State Health Benefits Commission, New Jersey Division of Pensions and Benefits, Cape May County Commissioners, and each municipality in Cape May County.

Resolution No. 339-2022

Offered by: Newman

Seconded by: Pancoast

Adopted: November 14, 2022

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Coggins	X			
Hayes	X			
Newman	X			
Pancoast	X			
Corson	X			

**RESOLUTIONS TO BE ACTED ON SEPARATELY**

22. Authorizing the execution of a Shared Services Agreement with the City of Ocean City for Municipal Emergency Management Coordinator services.

**TOWNSHIP OF UPPER**

**CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 340-2022**

**RE: AUTHORIZING THE EXECUTION OF A SHARED SERVICES AGREEMENT  
WITH THE CITY OF OCEAN CITY FOR MUNICIPAL EMERGENCY MANAGEMENT  
COORDINATOR SERVICES**

---

**WHEREAS**, the Uniform Shared Services and Consolidation Act, N.J.S.A. 40A:65-1 et. seq., (“Act”) provides that any local governmental unit may enter into a contract with any other local governmental unit to provide or receive any service that each local unit is empowered to provide or receive within its own jurisdiction; and

**WHEREAS**, the City of Ocean City and the Township of Upper desire to enter into an Agreement whereby the City of Ocean City will provide Municipal Emergency Management Coordinator services for the Township of Upper; and

**WHEREAS**, the Township of Upper and the City of Ocean City deem that a Shared Services Agreement for the purposes expressed herein is in the mutual interest of both parties and is also in the public interest such that the sharing of this service will promote public health, safety and welfare.

**NOW, THEREFORE, BE IT RESOLVED** by the Township Committee, the governing body of the Township of Upper, in the County of Cape May and State of New Jersey, as follows:

1. **SHARED SERVICES AGREEMENT.** Pursuant to the provisions of the Uniform Shared Services and Consolidation Act, N.J.S.A. 40A:65-1 et. seq., the Township of Upper is hereby authorized and empowered to enter into a Shared Services Agreement with the City of Ocean City for Municipal Emergency Management Coordinator services.

2. **SERVICES TO BE PROVIDED BY CONTRACT.** The Shared Services Agreement authorized in paragraph 1 shall delineate the services, promises and covenants of each party and a copy of such Agreement shall be maintained by the Township Clerk and shall be available for public inspection.

3. **AUTHORIZATION TO MUNICIPAL OFFICIALS.** The appropriate Township officers and officials are hereby authorized to take any action necessary or advisable to carry out the intent and purpose of this Resolution. Specifically, the Mayor and Township Clerk are hereby authorized and directed to execute such Shared Services Agreement on behalf of the Township of Upper pursuant to the authority conferred by this Resolution. The Township Clerk is further authorized and directed to seal the Agreement with the official seal of the Township of Upper.

4. **COMPLIANCE WITH STATUTORY REQUIREMENTS.** The Shared Services Agreement between the Township of Upper and the City of Ocean City meets and satisfies the requirements of N.J.S.A. 40A:65-7, as may be amended and supplemented.

5. **CONTRACT TERM.** This Resolution authorizes a Shared Services Agreement for a duration of three (3) years commencing on January 1, 2023 and continuing through December 31, 2025, unless sooner terminated or modified by either of the parties as provided in the Agreement.

6. **SEVERABILITY.** If any action, subsection, paragraph, sentence, or other part of this Resolution is adjudged to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this Resolution, but shall be confined in its effect to the section, subsection, paragraph, sentence or other part of this Resolution directly involved in the controversy in which said judgment shall have been rendered and all other provisions of this Resolution shall remain in full force and effect.

7. **REPEALER.** All Resolutions or parts of Resolutions inconsistent herewith are hereby repealed to the extent of such inconsistency only.

Resolution No. 340-2022

Offered by: Newman

Seconded by: Coggins

Adopted: November 14, 2022

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Coggins	X			
Hayes	X			
Newman	X			
Pancoast			X	
Corson	X			

**ORDINANCES**

23. Public hearing and final adoption of Ordinance No. 025-2022 RE: AN ORDINANCE AMENDING REVISED GENERAL ORDINANCE CHAPTER XVIII (FLOOD HAZARD CONTROL) OF THE CODE OF UPPER TOWNSHIP. **The Township Engineer gave a**

**brief summary of the Ordinance. During the public hearing portion there were no speakers. Motion by Jay Newman, second by Kimberly Hayes, to adopt Ordinance No. 025-2022. During roll call vote all five Committee members voted in the affirmative.**

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
ORDINANCE**

**ORDINANCE NO. 025-2022**

**RE: AN ORDINANCE AMENDING REVISED GENERAL ORDINANCE CHAPTER XVIII (FLOOD DAMAGE CONTROL) OF THE CODE OF UPPER TOWNSHIP**

---

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

**WHEREAS**, the Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of the Township of Upper 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 Township of Upper was accepted for participation in the National Flood Insurance Program on December 10, 1976 and the Township Committee 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 Township of Upper is required, pursuant to N.J.S.A. 5:23 et seq., to administer and enforce the State building codes, and such building codes contain certain provisions that apply to the design and construction of buildings and structures in flood hazard areas; and

**WHEREAS**, the Township of Upper 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 Township of Upper 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 Township Committee, in the Township of Upper, County of Cape May and State of New Jersey, as follows:

**SECTION 1.** Chapter 18 – Flood Damage Control of the Revised General Ordinances of the Township of Upper, also known as the Code of Upper Township, shall be replaced in its entirety as hereinafter provided:

### **SECTION 18-1 SCOPE AND ADMINISTRATION**

**18-1.1 Title.** These regulations, in combination with the flood provisions of the Uniform Construction Code (UCC) N.J.A.C. 5:23 (hereinafter “Uniform Construction Code,” consisting of the Building Code, Residential Code, Rehabilitation Subcode, and related codes, and the New Jersey Flood Hazard Area Control Act (hereinafter “FHACA”), N.J.A.C. 7:13, shall be known as the Floodplain Management Regulations of Township of Upper (hereinafter “these regulations”).

**18-1.2 Scope.** These regulations, in combination with the flood provisions of the Uniform Construction Code and FHACA shall apply to all proposed development in flood hazard areas established in Section 18-2 of these regulations.

**18-1.3 Purposes and objectives.** The purposes and objectives of these regulations are to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific flood hazard areas through the establishment of comprehensive regulations for management of flood hazard areas, designed to:

- a. Protect human life and health.
- b. Prevent unnecessary disruption of commerce, access, and public service during times of flooding.
- c. Manage the alteration of natural floodplains, stream channels and shorelines;
- d. Manage filling, grading, dredging and other development which may increase flood damage or erosion potential.

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

**18-1.4 Coordination with Building Codes.** Pursuant to the requirement established in N.J.A.C. 5:23, the Uniform Construction Code, that the Township of Upper administer and enforce the State building codes, the Township Committee of the Township of Upper 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.

**18-1.5 Ordinary Building Maintenance and Minor Work.** Improvements defined as ordinary building maintenance and minor work projects by the Uniform Construction Code including non-structural replacement-in-kind of windows, doors, cabinets, plumbing fixtures, decks, walls, partitions, new flooring materials, roofing, etc. shall be evaluated by the Floodplain Administrator through the floodplain development permit to ensure compliance with the Substantial Damage and Substantial Improvement Section 18-3.14 of this ordinance.

**18-1.6 Warning.** The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. Enforcement of these regulations does not imply that land outside the special flood hazard areas, or that uses permitted within such flood hazard areas, will be free from flooding or flood damage.

**18-1.7 Other laws.** The provisions of these regulations shall not be deemed to nullify any provisions of local, State, or Federal law.

**18-1.8 Abrogation and greater restrictions.** These regulations supersede any ordinance in effect in flood hazard areas. However, these regulations are not intended to repeal or abrogate any existing ordinances including land development regulations, subdivision regulations, zoning ordinances, stormwater management regulations, or building codes. In the event of a conflict between these regulations and any other ordinance, code, or regulation, the more restrictive shall govern.

## SECTION 18-2 APPLICABILITY

**18-2.1 General.** These regulations, in conjunction with the Uniform Construction Code, provide minimum requirements for development located in flood hazard areas, including the subdivision of land and other developments; site improvements and installation of utilities; placement and replacement of manufactured homes; placement of recreational vehicles; new construction and alterations, repair, reconstruction, rehabilitation or additions of existing buildings and structures; substantial improvement of existing buildings and structures, including repair of substantial damage; installation of tanks; temporary structures and temporary or permanent storage; utility and miscellaneous Group U buildings and structures; and certain building work exempt from permit under the Uniform Construction Code; and other buildings and development activities.

**18-2.2 Establishment of Flood Hazard Areas.** The Township of Upper was accepted for participation in the National Flood Insurance Program on December 10, 1976.

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 Upper Township Municipal Building, 2100 Tuckahoe Rd, Petersburg, NJ 08270 and online at <https://uppertownship.com/departments/engineering/flood-maps/>

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

- a. **Effective Flood Insurance Study.** Special Flood Hazard Areas (SFHAs) identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study (FIS) for Cape May County, New Jersey (All Jurisdictions)" dated October 5, 2017, with accompanying Flood Insurance Rate Maps (FIRM) as shown on Index and panels 34009C0017F, 34009C0028F, 34009C0029F, 34009C0036F, 34009C0037F, 34009C0039F, 34009C0041F, 34009C0042F, 34009C0043F, 34009C0044F, 34009C0061F, 34009C0062F, 34009C0063F, 34009C0064F, 34009C0066F, 34009C0067F, 34009C0068F, 34009C0069F, 34009C0086F, 34009C0088F, 34009C0131F, 34009C0132F, 34009C0134F, 34009C0151F, 34009C0152F, 34009C0153F, 34009C0154F, 34009C0156F, 34009C0157F, 34009C0158F, 34009C0159F, 34009C0162F, and 34009C0166F, whose effective date is October 5, 2017, is hereby adopted and declared to be a part of this Chapter.
- b. **Federal Best Available Information.** Township of Upper shall utilize Federal flood information 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. As of the date of this ordinance, there are no preliminary maps for Upper Township. If preliminary maps are released by FEMA for Upper Township, that information shall be used for floodplain management purposes only.

**c. 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. 7:13A 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. In accordance with N.J.A.C. 7:13-3.4(d)ii the floodway for the mapped SFHA shall be considered the top of bank of any state regulated water or channel unless delineated in the future by FEMA. The following is a list of New Jersey State studied waters in this community under the FHACA, and their respective map identification numbers.

Table 18-2.2(1) List of State Studied Waters

Name of Studied Water	File Name	Map Number
Tuckahoe Rv	S0000038	1
Tuckahoe Rv	S0000039	2
Tuckahoe Rv	S0000040	3
Tuckahoe Rv	S0000041	4

**18-2.3 Establishing the Local Design Flood Elevation (LDFE).**

The Local Design Flood Elevation (LDFE) is established in the flood hazard areas determined in Section 18-2.2, above, using the best available flood hazard data sources, and the Flood Hazard Area Control Act minimum Statewide elevation requirements for lowest floors in A, Coastal A, and V zones, ASCE 24 requirements for critical facilities as specified by the building code, plus additional freeboard as specified by this ordinance.

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

- a. For a delineated watercourse, the elevation associated with the Best Available Flood Hazard Data Area determined in Section 18-2.2, plus the higher of three (3’) feet or as described in N.J.A.C. 7:13 of freeboard; or
- b. For any undelineated watercourse (where mapping or studies described in 18-2.2 a. and b. above are not available) that has a contributory drainage area of 50 acres or more, the applicants must provide one of the following to determine the Local Design Flood Elevation:
  - (1.) A copy of an unexpired NJDEP Flood Hazard Area Verification plus one foot or higher standard feet of freeboard and any additional freeboard as required by ASCE 24-14; or
  - (2.) A determination of the Flood Hazard Area Design Flood Elevation using Method 5 or Method 6 (as described in N.J.A.C. 7:13) plus one foot or [higher standard feet] of freeboard and any additional freeboard as required by ASCE

24-14. Any determination using these methods must be sealed and submitted according to Section 18-5.2 and 18-5.3.

- c. 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 two (2') feet of freeboard in accordance with ASCE 24.
- d. Class III Critical Facilities - For proposed development of new and substantially improved Flood Design Class III Critical Facilities in coastal high hazard areas, the Local Design Flood Elevation must be the higher of the 0.2% annual chance (500 year) flood elevation or the Flood Hazard Area Design Flood Elevation with an additional two (2') ft of freeboard in accordance with ASCE 24.

### **SECTION 18-3 DUTIES AND POWERS OF THE FLOODPLAIN ADMINISTRATOR**

**18-3.1 Floodplain Administrator Designation.** Floodplain Manager is designated as Floodplain Administrators. The Floodplain Administrator shall have the authority to delegate performance of certain duties to other employees.

**18-3.2 General.** The Floodplain Administrator is authorized and directed to administer the provisions of these regulations. The Floodplain Administrator shall have the authority to render interpretations of these regulations consistent with the intent and purpose of these regulations and to establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be consistent with the intent and purpose of these regulations and the flood provisions of the building code and shall not have the effect of waiving specific requirements without the granting of a variance pursuant to Section 18-7 of these regulations.

**18-3.3 Coordination.** The Floodplain Administrator shall coordinate with the Construction Official to administer and enforce the flood provisions of the Uniform Construction Code.

**18-3.4 Duties.** The duties of the Floodplain Administrator shall include but are not limited to:

- a. Review all permit applications to determine whether proposed development is located in flood hazard areas established in Section 18-2 of these regulations.
- b. Require development in flood hazard areas to be reasonably safe from flooding and to be designed and constructed with methods, practices and materials that minimize flood damage.
- c. Interpret flood hazard area boundaries and provide available flood elevation and flood hazard information.
- d. Determine whether additional flood hazard data shall be obtained or developed.
- e. Review required certifications and documentation specified by these regulations and the building code to determine that such certifications and documentations are complete.

- f. Establish, in coordination with the Construction Official, written procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to Section 18-3.14 of these regulations.
- g. Coordinate with the Construction Official and others to identify and investigate damaged buildings located in flood hazard areas and inform owners of the requirement to obtain permits for repairs.
- h. Review requests submitted to the Construction Official seeking approval to modify the strict application of the flood load and flood resistant construction requirements of the Uniform Construction code to determine whether such requests require consideration as a variance pursuant to Section 18-7 of these regulations.
- i. Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the Flood Insurance Rate Maps when the analyses propose to change base flood elevations, flood hazard area boundaries, or floodway designations; such submissions shall be made within 6 months of such data becoming available.
- j. Require applicants who propose alteration of a watercourse to notify adjacent jurisdictions and the NJDEP Bureau of Flood Engineering, and to submit copies of such notifications to the Federal Emergency Management Agency (FEMA).
- k. Inspect development in accordance with Section 18-6 of these regulations and inspect flood hazard areas to determine if development is undertaken without issuance of permits.
- l. Prepare comments and recommendations for consideration when applicants seek variances in accordance with Section 18-7 of these regulations.
- m. Cite violations in accordance with Section 18-8 of these regulations.
- n. Notify the Federal Emergency Management Agency when the corporate boundaries of the Township of Upper have been modified.
- o. Permit Ordinary Maintenance and Minor Work in the regulated areas discussed in Section 18-2.2.

**18-3.5 Use of changed technical data.** The Floodplain Administrator and the applicant shall not use changed flood hazard area boundaries or base flood elevations for proposed buildings or developments unless the Floodplain Administrator or applicant has applied for a Conditional Letter of Map Revision (CLOMR) to the Flood Insurance Rate Map (FIRM) revision and has received the approval of the Federal Emergency Management Agency. A revision of the effective FIRM does not remove the related feature(s) on a flood hazard area delineation that has been promulgated by the NJDEP. A separate application must be made to the State pursuant to N.J.A.C. 7:13 for revision of a flood hazard design flood elevation, flood hazard area limit, floodway limit, and/or other related feature.

**18-3.6 Other permits.** It shall be the responsibility of the Floodplain Administrator to assure that approval of a proposed development shall not be given until proof that necessary permits have been granted by Federal or State agencies having jurisdiction over such development, including section 404 of the Clean Water Act. In the event of

conflicting permit requirements, the Floodplain Administrator must ensure that the most restrictive floodplain management standards are reflected in permit approvals.

**18-3.7 Determination of Local Design Flood Elevations.** If design flood elevations are not specified, the Floodplain Administrator is authorized to require the applicant to:

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

accuracy of data submitted for such determination shall be the responsibility of the applicant.

It shall be the responsibility of the Floodplain Administrator to verify that the applicant's proposed Best Available Flood Hazard Data Area and the Local Design Flood Elevation in any development permit accurately applies the best available flood hazard data and methodologies for determining flood hazard areas and design elevations described in 18-2.2 and 18-2.3 respectively. This information shall be provided to the Construction Official and documented according to Section 18-3.15.

**18-3.8 Requirement to submit new technical data.** Base Flood Elevations may increase or decrease resulting from natural changes (e.g. erosion, accretion, channel migration, subsidence, uplift) or man-made physical changes (e.g. dredging, filling, excavation) affecting flooding conditions. As soon as practicable, but not later than six months after the date of a man-made change or when information about a natural change becomes available, the Floodplain Administrator shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Title 44 Code of Federal Regulations Section 65.3. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.

**18-3.9 Activities in riverine flood hazard areas.** In riverine flood hazard areas where design flood elevations are specified but floodways have not been designated, the Floodplain Administrator shall not permit any new construction, substantial improvement or other development, including the placement of fill, unless the applicant submits an engineering analysis prepared by a licensed professional engineer that demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachment, will not increase the design flood elevation more than 0.2 feet at any point within the community.

**18-3.10 Floodway encroachment.** Prior to issuing a permit for any floodway encroachment within a riverine watercourse, 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.

- a. **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.

**18-3.11 Watercourse alteration.** Prior to issuing a permit for any alteration or relocation of any watercourse, the Floodplain Administrator shall require the applicant to provide notification of the proposal to the appropriate authorities of all adjacent government jurisdictions, as well as the NJDEP Bureau of Flood Engineering and the Division of Land Resource Protection. A copy of the notification shall be maintained in the permit records and submitted to FEMA.

- a. **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.

**18-3.12 Alterations in coastal areas.** The excavation or alteration of sand dunes is governed by the New Jersey Coastal Zone Management (CZM) rules, N.J.A.C. 7:7. Prior to issuing a flood damage prevention permit for any alteration of sand dunes in coastal high hazard areas and Coastal A Zones, the Floodplain Administrator shall require that a New Jersey CZM permit be obtained and included in the flood damage prevention permit application. The applicant shall also provide documentation of any engineering analysis, prepared by a licensed professional engineer, that demonstrates that the proposed alteration will not increase the potential for flood damage.

**18-3.13 Development in riparian zones** All development in Riparian Zones as described in N.J.A.C. 7:13 is prohibited by this ordinance unless the applicant has received an individual or general permit or has complied with the requirements of a permit by rule or permit by certification from NJDEP Division of Land Resource Protection prior to application for a floodplain development permit and the project is compliant with all other Floodplain Development provisions of this ordinance. The width of the riparian zone can range between 50 and 300 feet and is determined by the attributes of the waterbody and designated in the New Jersey Surface Water Quality Standards N.J.A.C. 7:9B. The portion of the riparian zone located outside of a regulated water is measured landward from the top of bank. Applicants can request a verification of the riparian zone limits or a permit applicability determination to determine State permit requirements under N.J.A.C. 7:13 from the NJDEP Division of Land Resource Protection.

**18-3.14 Substantial improvement and substantial damage determinations.** When buildings and structures are damaged due to any cause including but not limited to man-made, structural, electrical, mechanical, or natural hazard events, or are determined to be unsafe as described in N.J.A.C. 5:23; and for applications for construction permits to improve buildings and structures, including alterations, movement, repair, additions, rehabilitations, renovations, ordinary maintenance and minor work, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Construction Official, shall:

- a. Estimate the market value, or require the applicant to obtain a professional appraisal prepared by a qualified independent appraiser, of the market value of

the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made.

- b. Determine and include the costs of all ordinary maintenance and minor work, as discussed in Section 18-4-1, performed in the floodplain regulated by this ordinance in addition to the costs of those improvements regulated by the Construction Official in substantial damage and substantial improvement calculations.
- c. Compare the cost to perform the improvement, the cost to repair the damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, where applicable, to the market value of the building or structure.
- d. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage. This determination requires the evaluation of previous permits issued for improvements and repairs over a period of 10 years prior to the permit application or substantial damage determination as specified in the definition of substantial improvement.
- e. Notify the applicant in writing when it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the building code is required and notify the applicant 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.

**18-3.15 Department records.** In addition to the requirements of the building code and these regulations, and regardless of any limitation on the period required for retention of public records, the Floodplain Administrator shall maintain and permanently keep and make available for public inspection all records that are necessary for the administration of these regulations and the flood provisions of the Uniform Construction Code, including Flood Insurance Studies, Flood Insurance Rate Maps; documents from FEMA that amend or revise FIRMs; NJDEP delineations, records of issuance of permits and denial of permits; records of ordinary maintenance and minor work, determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required certifications and documentation specified by the Uniform Construction Code and these regulations including as-built Elevation Certificates; notifications to adjacent communities, FEMA, and the State related to alterations of watercourses; assurance that the flood carrying capacity of altered waterways will be maintained; documentation related to variances, including justification for issuance or 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.

**18-3.16 Liability.** The Floodplain Administrator and any employee charged with the enforcement of these regulations, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by these regulations or other pertinent law or ordinance, shall not thereby be rendered liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or

by reason of an act or omission in the discharge of official duties. Any suit instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of these regulations shall be defended by legal representative of the jurisdiction until the final termination of the proceedings. The Floodplain Administrator and any subordinate shall not be liable for cost in any action, suit or proceeding that is instituted in pursuance of the provisions of these regulations.

## **SECTION 18-4 PERMITS**

**18-4.1 Flood Development 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 floodplain development 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 construction permit. The Township shall develop standard procedures for administering the Flood Development Permits and establishing thresholds for ordinary maintenance and minor work.

**18-4.2 Application for Flood Development Permit.** The applicant shall file an application in writing on a form furnished by the Floodplain Administrator. Such application shall:

- a. Identify and describe the development to be covered by the permit.
- b. Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and definitively locate the site.
- c. Indicate the use and occupancy for which the proposed development is intended.
- d. Be accompanied by a site plan and construction documents as specified in Section 18-5 of these regulations, grading and filling plans and other information deemed appropriate by the Floodplain Administrator.
- e. State the valuation of the proposed work, including the valuation of ordinary maintenance and minor work.
- f. Be signed by the applicant or the applicant's authorized agent.
- g. Permit fee shall be \$100.00.

**18-4.3 Validity of permit.** The issuance of a permit under these regulations or the Uniform Construction Code shall not be construed to be a permit for, or approval of, any violation of this appendix or any other ordinance of the jurisdiction. The issuance of a permit based on submitted documents and information shall not prevent the Floodplain Administrator from requiring the correction of errors. The Floodplain Administrator is authorized to prevent occupancy or use of a structure or site which is in violation of these regulations or other ordinances of this jurisdiction.

**18-4.4 Expiration.** A permit shall become invalid when the proposed development is not commenced within 180 days after its issuance, or when the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions shall be requested in writing and justifiable cause demonstrated. The Floodplain Administrator is

authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each.

**18-4.5 Suspension or revocation.** The Floodplain Administrator is authorized to suspend or revoke a permit issued under these regulations wherever the permit is issued in error or on the basis of incorrect, inaccurate, or incomplete information, or in violation of any ordinance or code of this jurisdiction.

#### **18-4.6 Flood Compliance Certificate**

- a. A Flood Compliance Certificate is required of all residential dwelling units including one-family, two-family, three-family, and multiple-family, and individual condominium and cooperative units contained therein prior to the transfer of title of a residential dwelling.
- b. A Flood Compliance Certificate shall not be required if:
  - (1). A Certificate of Occupancy has been issued in connection with new construction of the residential dwelling within one (1) year of the transfer of title.
  - (2). If, prior to the closing and transfer of title, the prospective owner provides a notarized affidavit to the Zoning Office that the property will be demolished within ninety (90) days of the transfer of title, and that the property will not be occupied during that period of time. If demolition has not occurred prior to the expiration of the ninety (90) day period, and the owner has not requested, in writing, to extend the ninety (90) day period, or the property is occupied during the initial or extended ninety (90) day period, the owner shall immediately obtain a Flood Compliance Certificate.
- c. It shall be the responsibility of the seller of the residential dwelling to obtain the Flood Compliance Certificate prior to the transfer of title. The seller shall make application to the Floodplain Administrator, on forms provided by the Floodplain Administrator, for the certificate. The seller shall make his/her residential dwelling available for inspection by employees of the Floodplain Administrator, upon appointment, during regular business hours, Monday through Friday, from 8:30 a.m. to 4:00 p.m. The Floodplain Administrator shall notify the seller of the result of the inspection within three (3) business days of the inspection. If the inspection demonstrates that a Flood Compliance Certificate should be issued, it shall be issued by the Floodplain Administrator within three (3) business days of the inspection.
- d. The inspection of the residential dwelling shall be made to determine that there has been no substantial or material change from nonhabitable space to habitable space as identified in the building plans upon which the Certificate of Occupancy was issued for the residential dwelling, and that there is not any other substantial or material deviation from the building plans upon which the Certificate of Occupancy was issued for the residential dwelling.
- e. Any residential dwelling receiving a Certificate of Occupancy prior to January 1, 1999 will be presumed to have met the requirements of this Ordinance for the issuance of Flood Compliance Certificate. The Township of Upper, or any other



- person challenging this preemptive validity, must show clear and convincing evidence that the Flood Compliance Certificate should not be issued.
- f. The fee for inspection of any structure subject to the requirements of this section shall be \$100.00.
  - g. Any violation of the provisions of this Ordinance shall be subject to the penalties set forth under subsection 8 .

## **SECTION 18-5 SITE PLANS AND CONSTRUCTION DOCUMENTS**

**18-5.1 Information for development in flood hazard areas.** The site plan or construction documents for any development subject to the requirements of these regulations shall be drawn to scale and shall include, as applicable to the proposed development:

- a. Delineation of flood hazard areas, floodway boundaries and flood zone(s), base flood elevation(s), and ground elevations when necessary for review of the proposed development. For buildings that are located in more than one flood hazard area, the elevation and provisions associated with the most restrictive flood hazard area shall apply.
- b. Where base flood elevations or floodway data are not included on the FIRM or in the Flood Insurance Study, they shall be established in accordance with Section 18-5.2.
- c. Where the parcel on which the proposed development will take place will have more than 50 lots or is larger than 50 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 18-5.2c of these regulations.
- d. Location of the proposed activity and proposed structures, and locations of existing buildings and structures; in coastal high hazard areas and Coastal A zones, new buildings shall be located landward of the reach of mean high tide.
- e. Location, extent, amount, and proposed final grades of any filling, grading, or excavation.
- f. Where the placement of fill is proposed within a floodway, the amount, type, and source of fill material; compaction specifications; a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose. The applicant shall provide an engineering certification confirming that the proposal meets the flood storage displacement limitations of N.J.A.C. 7:13.
- g. Extent of any proposed alteration of sand dunes.
- h. Existing and proposed alignment of any proposed alteration of a watercourse.
- i. Floodproofing certifications, V Zone and Breakaway Wall Certifications, Operations and Maintenance Plans, Warning and Evacuation Plans and other documentation required pursuant to FEMA publications.
- j. Existing and proposed grades shall be shown along any buildings, property lines, sidewalk, curb, pavement and grades shall be shown ten (10') feet beyond the property line to show there will be no negative impact of the proposed development on neighboring properties.

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.

**18-5.2 Information in flood hazard areas without base flood elevations (approximate Zone A).** Where flood hazard areas are delineated on the effective or preliminary FIRM and base flood elevation data have not been provided, the applicant shall consult with the Floodplain Administrator to determine whether to:

- a. Use the Approximation Method (Method 5) described in N.J.A.C. 7:13 in conjunction with Appendix 1 of the FHACA to determine the required flood elevation.
- b. Obtain, review, and reasonably utilize data available from a Federal, State or other source when those data are deemed acceptable to the Floodplain Administrator to reasonably reflect flooding conditions.
- c. Determine the base flood elevation in accordance with accepted hydrologic and hydraulic engineering techniques according to Method 6 as described in N.J.A.C. 7:13. Such analyses shall be performed and sealed by a licensed professional engineer.

Studies, analyses, and computations shall be submitted in sufficient detail to allow review and approval by the Floodplain Administrator prior to floodplain development permit issuance. The accuracy of data submitted for such determination shall be the responsibility of the applicant. Where the data are to be used to support a Letter of Map Change (LOMC) from FEMA, the applicant shall be responsible for satisfying the submittal requirements and pay the processing fees.

**18-5.3 Analyses and certifications by a Licensed Professional Engineer.** As applicable to the location and nature of the proposed development activity, and in addition to the requirements of this section, the applicant shall have the following analyses signed and sealed by a licensed professional engineer for submission with the site plan and construction documents:

- a. For development activities proposed to be located in a regulatory floodway, a floodway encroachment analysis that demonstrates that the encroachment of the proposed development will not cause any increase in base flood elevations; where the applicant proposes to undertake development activities that do increase base flood elevations, the applicant shall submit such analysis to FEMA as specified in Section 18-5.4 of these regulations and shall submit the Conditional Letter of Map Revision, if issued by FEMA, with the site plan and construction documents.
- b. For development activities proposed to be located in a riverine flood hazard area where base flood elevations are included in the FIS or FIRM but floodways have not been designated, hydrologic and hydraulic analyses that demonstrate that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachments will not increase the base flood elevation more than 0.2 feet at any point within the jurisdiction. This requirement does not apply in isolated flood hazard areas not connected to a riverine flood hazard area or in flood hazard areas identified as Zone AO or Zone AH.

- c. For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which demonstrates that the flood-carrying capacity of the altered or relocated portion of the watercourse will not be decreased, and certification that the altered watercourse shall be maintained, neither increasing nor decreasing the channel's flood-carrying capacity. The applicant shall submit the analysis to FEMA as specified in Section 18-5.4 of these regulations. The applicant shall notify the chief executive officer of all affected adjacent jurisdictions, the NJDEP's Bureau of Flood Engineering and the Division of Land Resource Protection; and shall provide documentation of such notifications.
- d. For activities that propose to alter sand dunes in coastal high hazard areas (Zone V) and Coastal A Zones, an engineering analysis that demonstrates that the proposed alteration will not increase the potential for flood damage and documentation of the issuance of a New Jersey Coastal Zone Management permit under N.J.A.C. 7:7.
- e. For analyses performed using Methods 5 and 6 (as described in N.J.A.C. 7:13) in flood hazard zones without base flood elevations (approximate A zones).

**18-5.4 Submission of additional data.** When additional hydrologic, hydraulic or other engineering data, studies, and additional analyses are submitted to support an application, the applicant has the right to seek a Letter of Map Change (LOMC) from FEMA to change the base flood elevations, change floodway boundaries, or change boundaries of flood hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA. Submittal requirements and processing fees shall be the responsibility of the applicant.

## SECTION 18-6 INSPECTIONS

**18-6.1 General.** Development for which a permit is required shall be subject to inspection. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of these regulations or the building code. Inspections presuming to give authority to violate or cancel the provisions of these regulations or the building code or other ordinances shall not be valid.

**18-6.2 Inspections of development.** The Floodplain Administrator shall inspect all development in flood hazard areas authorized by issuance of permits under these regulations. The Floodplain Administrator shall inspect flood hazard areas from time to time to determine if development is undertaken without issuance of a permit.

**18-6.3 Buildings and structures.** The Construction Official shall make or cause to be made, inspections for buildings and structures in flood hazard areas authorized by permit in accordance with the Uniform Construction Code, N.J.A.C. 5:23.

- a. Lowest floor elevation. Upon placement of the lowest floor, including the basement, and prior to further vertical construction, certification of the elevation required in Section 18-15.2 shall be submitted to the Construction Official on an Elevation Certificate.
- b. Lowest horizontal structural member. In V zones and Coastal A zones, upon placement of the lowest floor, including the basement, and prior to further vertical construction, certification of the elevation required in Section 18-15.2 shall be

submitted to the Construction Official on an Elevation Certificate.

- c. Installation of attendant utilities (electrical, heating, ventilating, air-conditioning, and other service equipment) and sanitary facilities elevated as discussed in Section 18-15.2.
- d. Final inspection. Prior to the final inspection, certification of the elevation required in Section 18-15.2 shall be submitted to the Construction Official on an Elevation Certificate.

**18-6.4 Manufactured homes.** The Floodplain Administrator shall inspect manufactured homes that are installed or replaced in flood hazard areas to determine compliance with the requirements of these regulations and the conditions of the issued permit. Upon placement of a manufactured home, certification of the elevation of the lowest floor shall be submitted on an Elevation Certificate to the Floodplain Administrator prior to the final inspection.

## **SECTION 18-7 VARIANCES**

**18-7.1 General.** The Upper Township Zoning Board of Adjustment shall hear and decide requests for variances. The Upper Township Zoning Board of Adjustment shall base its determination on technical justifications submitted by applicants, the considerations for issuance in Section 18-7.5, the conditions of issuance set forth in Section 18-7.6, and the comments and recommendations of the Floodplain Administrator and, as applicable, the Construction Official. The Upper Township 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.

**18-7.2 Historic structures.** A variance to the substantial improvement section 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, and the variance is the minimum necessary to preserve the historic character and design of the structure.

**18-7.3 Functionally dependent uses.** A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use provided the variance is the minimum necessary to allow the construction or substantial improvement, and that all due consideration has been given to use of methods and materials that minimize flood damage during the base flood and create no additional threats to public safety.

**18-7.4 Restrictions in floodways.** A variance shall not be issued for any proposed development in a floodway when any increase in flood levels would result during the base flood discharge, as evidenced by the applicable analysis and certification required in Section 18-5.3a of these regulations.

**18-7.5 Considerations.** In reviewing requests for variances, all technical evaluations, all relevant factors, all other portions of these regulations, and the following shall be considered:

- a. The danger that materials and debris may be swept onto other lands resulting in further injury or damage.

- b. The danger to life and property due to flooding or erosion damage.
- c. The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners.
- d. The importance of the services provided by the proposed development to the community.
- e. The availability of alternate locations for the proposed development that are not subject to flooding or erosion and the necessity of a waterfront location, where applicable.
- f. The compatibility of the proposed development with existing and anticipated development.
- g. The relationship of the proposed development to the comprehensive plan and floodplain management program for that area.
- h. The safety of access to the property in times of flood for ordinary and emergency vehicles.
- i. The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwater and the effects of wave action, where applicable, expected at the site.
- j. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets, and bridges.

**18-7.6 Conditions for issuance.** Variances shall only be issued upon:

- a. Submission by the applicant of a showing of good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site limit compliance with any provision of these regulations or renders the elevation standards of the building code inappropriate.
- b. A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable.
- c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- d. A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- e. Notification to the applicant in writing from the Floodplain Administrator that the issuance of a variance to construct a structure below the base flood level may 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 18-8 VIOLATIONS**

**18-8.1 Violations.** 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. 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. 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.

**18-8.2 Authority.** The Floodplain Administrator is authorized to serve notices of violation or stop work orders to owners of property involved, to the owner's agent, or to the person or persons doing the work for development that is not within the scope of the Uniform Construction Code, but is regulated by these regulations and that is determined to be a violation.

**18-8.3 Unlawful continuance.** Any person who shall continue any work after having been served with a notice of violation or a stop work order, except such work as that person is directed to perform to remove or remedy a violation or unsafe condition, shall be subject to penalties as prescribed by N.J.S.A. 40:49-5 as appropriate.

**18-8.4 Review Period to Correct Violations.** A 30-day period shall be given to the property owner as an opportunity to cure or abate the condition. The property owner shall also be afforded an opportunity for a hearing before the Court for an independent determination concerning the violation.

**18-8.5 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 \$1,000 or up to a maximum penalty by a fine not exceeding \$10,000 under N.J.S.A. 40:49-5.

**18-8.6 Penalties.** 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. 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.

## SECTION 18-9 DEFINITIONS

**18-9.1 General.** The following words and terms shall, for the purposes of these regulations, have the meanings shown herein. Other terms are defined in the Uniform

Construction Code N.J.A.C. 5:23 and terms are defined where used in the International Residential Code and International Building Code (rather than in the definitions section). Where terms are not defined, such terms shall have ordinarily accepted meanings such as the context implies.

## **18-9.2 Definitions**

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

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

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

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

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

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

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

**AGRICULTURAL STRUCTURE** - A structure used solely for agricultural purposes in which the use is exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities, including the raising of livestock. Communities must require that new construction or substantial improvements of agricultural structures be elevated or 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 Zone 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. Construction 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. Construction 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 18-7 of this ordinance, meaning the exceptional hardship that would result from a failure to grant the requested variance. The Township Committee 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 18-2.3. 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, 18-98 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 construction 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 construction



permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation.

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

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

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

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

**SUBSTANTIAL DAMAGE** – Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 40 percent of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT** – Any combination of reconstruction, rehabilitation, addition, or other improvement including those considered ordinary maintenance and minor work of a structure taking place over a 10-year period, the cumulative cost of which equals or exceeds forty (40) percent of the market value of the structure before the "start of construction" of the improvement. The period of accumulation includes the first improvement or repair of each structure is permanent subsequent to December 20, 2012. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of State or local health, sanitary or safety code specifications which have been identified by the local code enforcement officer and which are the minimum necessary to assure safe living conditions; or
- b. Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as 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 18-10 SUBDIVISIONS AND OTHER DEVELOPMENTS**

**18-10.1 General.** Any subdivision proposal, including proposals for manufactured home parks and subdivisions, or other proposed new development in a flood hazard area shall be reviewed to assure that:

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

**18-10.2 Subdivision requirements.** Where any portion of proposed subdivisions,

including manufactured home parks and subdivisions, lies within a flood hazard area, the following shall be required:

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

## **SECTION 18-11 SITE IMPROVEMENT**

**18-11.1 Encroachment in riverine 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 18-5.3a 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 18-5.3a is satisfied, proposed elevation, addition, or reconstruction of a lawfully existing structure within a floodway shall also be in accordance with Section 18-15.2 of this ordinance and the floodway requirements of N.J.A.C. 7:13.

The following are prohibited activities:

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

**18-11.2 Coastal High Hazard Areas (V Zones) and Coastal A Zones.** In Coastal High Hazard Areas and Coastal A Zones:

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

**18-11.3 Sewer facilities.** All new and replaced sanitary sewer facilities, private sewage treatment plants (including all pumping stations and collector systems) and on-site waste disposal systems shall be designed in accordance with the New Jersey septic system regulations contained in N.J.A.C. 14A and N.J.A.C. 7:9A, the UCC Plumbing Subcode (N.J.A.C. 5:23) and Chapter 7, ASCE 24, to minimize or eliminate infiltration of floodwater into the facilities and discharge from the facilities into flood waters, or impairment of the facilities and systems.

**18-11.4 Water facilities.** All new and replacement water facilities shall be designed in accordance with the New Jersey Safe Drinking Water Act (N.J.A.C. 7:10) and the provisions of Chapter 7 ASCE 24, to minimize or eliminate infiltration of floodwater into the systems.

**18-11.5 Storm drainage.** Storm drainage shall be designed to convey the flow of surface waters to minimize or eliminate damage to persons or property.

**18-11.6 Streets and sidewalks.** Streets and sidewalks shall be designed to minimize potential for increasing or aggravating flood levels.

**18-11.7 Limitations on placement of fill.** Subject to the limitations of these regulations, fill shall be designed to be stable under conditions of flooding including rapid rise and rapid drawdown of floodwater, prolonged inundation, and protection against flood-related erosion and scour. In addition to these requirements, when intended to support buildings and structures (Zone A only), fill shall comply with the requirements of the UCC (N.J.A.C. 5:23). Proposed fill and encroachments in flood hazard areas shall comply with the flood storage displacement limitations of N.J.A.C. 7:13.

**18-11.8 Limitations on sites in coastal high hazard areas (V Zones) and Coastal A Zones.**

In coastal high hazard areas and Coastal A Zones, alteration of sand dunes shall be permitted only when the engineering analysis required by Section 18-5.3g 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 18-15.9(3) of these regulations and as permitted under the NJ Coastal Zone Management Rules (N.J.A.C. 7:7).

**18-11.9 Hazardous Materials.** The placement or storage of any containers holding hazardous substances in a flood hazard area is prohibited unless the provisions of N.J.A.C. 7:13 which cover the placement of hazardous substances and solid waste is met.

## **SECTION 18-12 MANUFACTURED HOMES**

**18-12.1 General.** All manufactured homes installed in flood hazard areas shall be installed pursuant to the Nationally Preemptive Manufactured Home Construction and Safety Standards Program (24 CFR 3280).

**18-12.2 Elevation.** All new, relocated, and replacement manufactured homes to be placed or substantially improved in a flood hazard area shall be elevated such that the bottom of the frame is elevated to or above the elevation specified in Section 18-15.2.

**18-12.3 Foundations.** All new, relocated, and replacement manufactured homes, including substantial improvement of existing manufactured homes, shall be placed on permanent, reinforced foundations that are designed in accordance with Section R322 of the Residential Code.

**18-12.4 Anchoring.** All new, relocated, and replacement manufactured homes to be placed or substantially improved in a flood hazard area shall be installed using methods and practices which minimize flood damage and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

**18-12.5 Enclosures.** Fully enclosed areas below elevated manufactured homes shall comply with the requirements of Section 18-15.

**18-12.6 Protection of mechanical equipment and outside appliances.** Mechanical equipment and outside appliances shall be elevated to or above the elevation of the bottom of the frame required in Section 18-15.2 of these regulations.

**Exception.** Where such equipment and appliances are designed and installed to prevent water from entering or accumulating within their components and the systems are constructed to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of flooding up to the elevation required by Section 18-15.2, the systems and equipment shall be permitted to be located below that elevation. Electrical wiring systems shall be permitted below the design flood elevation provided they conform to the provisions of NFPA 70 (National Electric Code).

## SECTION 18-13 RECREATIONAL VEHICLES

**18-13.1 Placement prohibited.** The placement of recreational vehicles shall not be authorized in coastal high hazard areas (V-Zones) and in riverine floodways.

**18-13.2 Temporary placement.** Recreational vehicles in flood hazard areas shall be fully licensed and ready for highway use and shall be placed on a site for less than 180 consecutive days.

**18-13.3 Permanent placement.** Recreational vehicles that are not fully licensed and ready for highway use, or that are to be placed on a site for more than 180 consecutive days, shall meet the requirements of Section 18-15.2 for habitable buildings.

## SECTION 18-14 TANKS

**18-14.1 Tanks.** Underground and above-ground tanks shall be designed, constructed, installed, and anchored in accordance with ASCE 24 and N.J.A.C. 7:13.

## SECTION 18-15 OTHER DEVELOPMENT AND BUILDING WORK

**18-15.1 General requirements for other development and building work.** All development and building work, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in these regulations or the Uniform Construction Code (N.J.A.C. 5:23), shall:

- a. Be located and constructed to minimize flood damage;
- b. Meet the limitations of Section 18-5.3a(1) of this ordinance when located in a regulated riverine floodway;
- c. Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic and hydrodynamic loads, including the effects of buoyancy, during the conditions of flooding up to the Local Design Flood Elevation determined according to Section 18-2.3;
- d. Be constructed of flood damage-resistant materials as described in ASCE 24 Chapter 5;
- e. Have mechanical, plumbing, and electrical systems above the Local Design Flood Elevation determined according to Section 18-2.3 or meet the requirements of ASCE 24 Chapter 7 which requires that attendant utilities are located above the Local Design Flood Elevation unless the attendant utilities and equipment are:

- (1) Specifically allowed below the Local Design Flood Elevation; and
- (2) Designed, constructed, and installed to prevent floodwaters, including any backflow through the system from entering or accumulating within the components.
- f. Not exceed the flood storage displacement limitations in fluvial flood hazard areas in accordance with N.J.A.C. 7:13; and
- g. Not exceed the impacts to frequency or depth of offsite flooding as required by N.J.A.C. 7:13 in floodways.

**18-15.2 Requirements for Habitable Buildings and Structures.**

- a. Construction and Elevation in A Zones not including Coastal A Zones.
  - (1) No portion of a building is located within a V Zone.
  - (2) No portion of a building is located within a Coastal A Zone, unless a licensed design professional certifies that the building's foundation is designed in accordance with ASCE 24, Chapter 4.
  - (3) All new construction and substantial improvement of any habitable building (as defined in Section 18-9) 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 18-2.3, be in conformance with ASCE Chapter 7, and be confirmed by an Elevation Certificate.
  - (4) All new construction and substantial improvements of non-residential structures shall:
    - i. Have the lowest floor, including basement, together with the attendant utilities (including all electrical, heating, ventilating, air-conditioning and other service equipment) and sanitary facilities, elevated to or above the Local Design Flood Elevation as determined in Section 18-2.3, 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.
  - (5) All new construction and substantial improvements with fully enclosed areas below the lowest floor shall be used solely for parking of vehicles, building access, or storage in an area other than a basement and which are subject to flooding. Enclosures shall:
    - i. For habitable structures, be situated at or above the adjoining exterior grade along at least one entire exterior wall, in order to provide positive drainage of the enclosed area in accordance with N.J.A.C. 7:13; enclosures (including crawlspaces and basements) which are below grade on all sides

are prohibited;

- ii. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters unless the structure is non-residential and the requirements of 18-15.2a(4)ii are met;
- iii. Be constructed to meet the requirements of ASCE 24 Chapter 2;
- iv. Have openings documented on an Elevation Certificate; and
- v. Have documentation that a deed restriction has been obtained for the lot if the enclosure is greater than six feet in height. This deed restriction shall be recorded in the Office of the County Clerk or the Registrar of Deeds and Mortgages in which the building is located, shall conform to the requirements in N.J.A.C.7:13, and shall be recorded within 90 days of receiving a Flood Hazard Area Control Act permit or prior to the start of any site disturbance (including pre-construction earth movement, removal of vegetation and structures, or construction of the project), whichever is sooner. Deed restrictions must explain and disclose that:

1. The enclosure is likely to be inundated by floodwaters which may result in damage and/or inconvenience.
2. The depth of flooding that the enclosure would experience to the Flood Hazard Area Design Flood Elevation;
3. The deed restriction prohibits habitation of the enclosure and explains that converting the enclosure into a habitable area may subject the property owner to enforcement;

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

- (1) All new construction and substantial improvements shall be constructed according to structural designs, plans and specifications conforming with ASCE 24 Chapter 4 which are signed by a licensed design professional and certified by that individual in a V Zone Certificate.
- (2) All new construction and substantial improvement of any habitable building (as defined in Section 18-9) 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 18-2.3, be in conformance with ASCE Chapter 7, and be confirmed by an Elevation Certificate.
- (3) All new construction and substantial improvements of non-residential structures shall:
  - 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 18-2.3, 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.

- (4) All new construction and substantial improvements shall have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. All breakaway walls shall be constructed according to structural designs, plans and specifications conforming with ASCE 24 Chapter 4, signed by a licensed design professional, and certified by that individual in a Breakaway Wall Certificate.
- (5) All new construction and substantial improvements with fully enclosed areas below the lowest floor shall be used solely for parking of vehicles, building access, or storage in an area other than a basement and which are subject to flooding. Enclosures shall:
  - 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 18-15b(3)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 18-8.2.2(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.

**18-15.3 Garages and accessory storage structures.** Garages and accessory storage structures shall be designed and constructed in accordance with the Uniform Construction Code.



**18-15.4 Fences.** Fences in riverine 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 18-5.3(1) of these regulations. Pursuant to N.J.A.C. 7:13, any fence located in a riverine 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 18-7 of this ordinance.

**18-15.5 Retaining walls, sidewalks, and driveways.** Retaining walls, sidewalks and driveways that involve placement of fill in riverine floodways shall meet the requirements of Section 18-5.3a of these regulations and N.J.A.C. 7:13.

**18-15.6 Swimming pools.** Swimming pools shall be designed and constructed in accordance with the Uniform Construction Code. Above-ground swimming pools and below-ground swimming pools that involve placement of fill in riverine floodways shall also meet the requirements of Section 18-5.3a of these regulations. Above-ground swimming pools are prohibited in riverine floodways by N.J.A.C. 7:13.

**18-15.7 Roads and watercourse crossings.**

- a. For any railroad, roadway, or parking area proposed in a flood hazard area, the travel surface shall be constructed at least one foot above the Flood Hazard Area Design Elevation in accordance with N.J.A.C. 7:13.
- b. Roads and watercourse crossings that encroach into regulated riverine 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 18-5.3a of these regulations.

**18-15.8 Other development in coastal high hazard areas (Zone V) and Coastal A Zones.** In Coastal High Hazard Areas (V Zones) and Coastal A Zones, development activities other than buildings and structures shall be permitted only when also authorized by the appropriate Federal, State or local authority; when located outside the footprint of, and not structurally attached to, buildings and structures; and when analyses prepared by a licensed professional engineer demonstrates no harmful diversion of floodwater or wave runoff and wave reflection that would increase damage to adjacent buildings and structures. Such other development activities include but are not limited to:

- a. Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;
- a. 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
- b. On-site filled or mound sewage systems.

**18-15.9 Nonstructural fill in coastal high hazard areas (Zone V) and Coastal A Zones.** In coastal high hazard areas and Coastal A Zones:

- a. Minor grading and the placement of minor quantities of nonstructural fill shall be permitted for landscaping and for drainage purposes under and around buildings.

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

## **SECTION 18-16 TEMPORARY STRUCTURES AND TEMPORARY STORAGE**

**18-16.1 Temporary structures.** Temporary structures shall be erected for a period of less than 180 days. Temporary structures shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the base flood. Fully enclosed temporary structures shall have flood openings that are in accordance with ASCE 24 to allow for the automatic entry and exit of flood waters.

**18-16.2 Temporary storage.** Temporary storage includes storage of goods and materials for a period of less than 180 days. Stored materials shall not include hazardous materials.

**18-16.3 Floodway encroachment.** Temporary structures and temporary storage in floodways shall meet the requirements of Section 18-5.3a of these regulations.

## **SECTION 18-17 UTILITY AND MISCELLANEOUS GROUP U**

**18-17.1 Utility and Miscellaneous Group U.** In accordance with Section 312 of the International Building Code, Utility and Miscellaneous Group U includes buildings and structures that are accessory in character and miscellaneous structures not classified in any specific occupancy in the Building Code, including, but not limited to, agricultural buildings, aircraft hangars (accessory to a one- or two-family residence), barns, carports, communication equipment structures (gross floor area less than 1,500 sq. ft.), fences more than 6 feet (1829 mm) high, grain silos (accessory to a residential occupancy), livestock shelters, private garages, retaining walls, sheds, stables, tanks and towers.

**18-17.2 Flood loads.** Utility and miscellaneous Group U buildings and structures, including substantial improvement of such buildings and structures, shall be anchored to prevent flotation, collapse or lateral movement resulting from flood loads, including the effects of buoyancy, during conditions up to the Local Design Flood Elevation as determined in Section 18-2.3.

**18-17.3 Elevation.** Utility and miscellaneous Group U buildings and structures, including substantial improvement of such buildings and structures, shall be elevated such that the lowest floor, including basement, is elevated to or above the Local Design Flood Elevation as determined in Section 18-2.3 and in accordance with ASCE 24. Utility lines shall be designed and elevated in accordance with N.J.A.C. 7:13.

**18-17.4 Enclosures below base flood elevation.** Fully enclosed areas below the design flood elevation shall be constructed in accordance with Section 18-15.2 and with ASCE 24 for new construction and substantial improvements. Existing enclosures such as a basement or crawlspace having a floor that is below grade along all adjoining exterior walls shall be abandoned, filled-in, and/or otherwise modified to conform with the requirements of N.J.A.C. 7:13 when the project has been determined to be a substantial improvement by the Floodplain Administrator.

**18-17.5 Flood-damage resistant materials.** Flood-damage-resistant materials shall be used below the Local Design Flood Elevation determined in Section 18-2.3.

**18-17.6 Protection of mechanical, plumbing, and electrical systems.** Mechanical, plumbing, and electrical systems, equipment and components, heating, ventilation, air conditioning, plumbing fixtures, duct systems, and other service equipment, shall be elevated to or above the Local Design Flood Elevation determined in Section 18-2.3.

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

**SECTION 2: EFFECTIVE DATE:** This ordinance shall take effect immediately upon the following publication as required by law.

**SECTION 3: REPEALER:** All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency only.

**SECTION 4: SEVERABILITY:** If any section, paragraph, subdivision, subsection, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, subsection, clause or provision declared invalid and the remainder of this Ordinance shall remain in full force and effect and shall be enforceable.

**SECTION 5: CODIFICATION:** This Ordinance shall be codified in the Upper Township Code at the sections referred to above.

NOTICE IS HEREBY GIVEN THAT THE FOREGOING ORDINANCE WAS INTRODUCED FOR FIRST READING AT A MEETING OF THE TOWNSHIP

COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE 11<sup>th</sup> DAY OF OCTOBER, 2022 AND WAS TAKEN UP FOR CONSIDERATION AS TO FINAL ADOPTION AT A PUBLIC HEARING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE 14<sup>th</sup> DAY OF NOVEMBER, 2022 AT 4:30 P.M. AT THE TOWNSHIP HALL, PETERSBURG, NEW JERSEY, AT WHICH TIME SAID ORDINANCE WAS ADOPTED.

BARBARA L. YOUNG, TOWNSHIP CLERK  
TOWNSHIP OF UPPER

24. Public hearing and final adoption of Ordinance No. 026-2022 RE: AN ORDINANCE AMENDING REVISED GENERAL ORDINANCE CHAPTER IXX (LAND SUBDIVISION, SITE PLAN AND LAND USE ADMINISTRATION) AND CHAPTER XX (ZONING) OF THE CODE OF UPPER TOWNSHIP. **Municipal Attorney Dan Reeves stated that this Ordinance is based on a model Ordinance promulgated at the state level. However, the Pinelands Commission had made changes to the model ordinance, which said changes were not included in the Township's Ordinance as introduced. It is his recommendation that this ordinance be amended to include the additional statutory language as set forth by the Pinelands Commission. Mayor Corson then opened the public hearing, during which there were the following speakers.**

**Janice Connell, Strathmere, President of Strathmere Improvement Association,** spoke in opposition to the proposed lighting standards contained in the ordinance and offered several revisions to simplify and clarify the standards.

**Ted Kingston, Strathmere,** spoke in opposition to the proposed ordinance. He stated that the intent of the ordinance is good, but the proposed lighting standards are confusing as it is written. He stated that ordinance should state that the lighting standards meet the standards as set forth by the International Dark-Sky Association.

**Elaine Holsombach, Strathmere and Palermo,** spoke in opposition to the Dark Skies philosophy and stated that residential lighting is needed for safety and security.

**Linda Bateman, Strathmere,** spoke in favor of setting the lighting standards in accordance with International Dark-Sky Association.

**Mayor Corson closed the public hearing. The Municipal Attorney stated that the Committee can either continue the public hearing to the next meeting for further discussion, or an amendment to the ordinance can be approved tonight, and the ordinance as amended will be published and listed for adoption at the next meeting on November 28, 2022. It was stated that substantive changes to the lighting standards will need to be referred to the Planning Board, however, there is not enough time to complete that process before the end of the year. After a brief discussion, there was a motion by Curtis Corson, seconded by Kimberly Hayes, to amend Ordinance No. 026-2022 to remove the lighting standards, add the additional statutory language as set forth by the Pinelands Commission, and set the public hearing of Ordinance 026-2022, as amended, to the November 28, 2022 meeting. During roll call vote all five Committee members voted in the affirmative.**

25. Public hearing and final adoption of Ordinance No. 027-2022 RE: AN ORDINANCE AMENDING REVISED GENERAL ORDINANCE CHAPTER III (POLICE REGULATIONS) AND CHAPTER VII (TRAFFIC) OF THE CODE OF UPPER TOWNSHIP. **Committeeman Pancoast stated that he believes that this ordinance restricting the hours commercial landscapers can do business is overreaching and stated that the stop time is unreasonable especially during the summer months on the mainland. After a brief discussion there was a motion by Jay Newman, second by Kimberly Hayes, to amend Section 3-17.3(g) (1) and (2) to change the prohibited hours**

of operation, excepting the Resort Residential and Resort Commercial zones, to be between 9:00 pm to 7:00 am Monday through Saturday between Memorial Day and Labor Day and between the hours of 7:00 pm and 7:00 am the rest of the year. During roll call vote all five Committee members voted in the affirmative. Mayor Corson then opened the public hearing, during which there were the following speakers:

**Janice Connell, Strathmere, President of Strathmere Improvement Association**, stated that the caveat in the ordinance that the restricted uses and activities are permitted if they comply with NJAC 7:29-1.2 means that the ordinance cannot be enforced because the Township does not have the ability to measure sound standards. It was agreed that reference to NJAC 7:29-1.2 should be removed.

**Ted Kingston, Strathmere**, inquired about subsections a through f of section 3-17.3. It was stated that only subsection g is being amended.

**Dodie Coretini, Strathmere**, stated that other sections of the noise and nuisance ordinance should also be modified. It was stated that this public hearing is for the proposed Ordinance.

**Mayor Corson closed the public hearing. There was then a motion by John Coggins, second by Mark Pancoast, to further amend Ordinance 027-2022 by removing all references to the exception for activities that comply with the applicable sound limits set forth in NJAC 7:29-1.2. During roll call vote all five Committee members voted in the affirmative. There was then a motion by Jay Newman, second by Kimberly Hayes, to set the public hearing of Ordinance 027-2022, as amended, to the December 12, 2022 meeting. During roll call vote all five Committee members voted in the affirmative.**

## CORRESPONDENCE

## NEW BUSINESS

26. New Jersey Department of Agriculture Gypsy Moth Survey. **The Municipal Engineer stated that the survey of the Township has indicated an increased infestation of gypsy moths. Motion by Jay Newman, second by Kimberly Hayes, to participate in the Gypsy Moth Program. During roll call vote all five Committee members voted in the affirmative.**
27. Proposed 2023 Department of Public Works Resident Information packet. **The Township Administrator gave a brief overview of the proposed changes.**
28. Cape May County Municipal Alliance Volunteer of the Year Kyle Lindholm. **Committeewoman Hayes announced that Upper Township Senior EMT Kyle Lindholm has been chosen as the Cape May County Volunteer of the Year. She stated that Kyle was the spearhead of the Upper Township EMS Camp this past summer and has been such an asset to the community. She next made a motion, seconded by Mark Pancoast, that a Resolution honoring Kyle be prepared for the next meeting. During roll call vote all five Committee members voted in the affirmative.**
29. Acceptance of a donation from Marty Grawl to the Recreation Trust from Donations. **Committeewoman Hayes stated that Mr. Grawl was so appreciative of the assistance from Recreation Leader Larry Cole that he donated \$100.00 to the Sports and Rec Trust Fund. She made a motion, seconded by Mark Pancoast, to accept the donation. During roll call vote all five Committee members voted in the affirmative.**

## UNFINISHED BUSINESS

## PAYMENT OF BILLS

30. "I hereby move that all claims submitted for payment at this meeting be approved and then incorporated in full in the minutes of this meeting." **Motion by Jay Newman, second by Kimberly Hayes. During roll call vote all five Committee members voted in the affirmative.**

Bills approved for payment: **\$323,560.47**  
Payroll: **\$179,474.54**

#### **PUBLIC COMMENT – LIMITED TO FIVE (5) MINUTES PER PERSON**

**Richard Rinck, Stagecoach Road**, requested help in urging the County to remove the rumble strips that were recently installed at several intersections along Stagecoach Road. Mayor Corson made a motion, second by Kimberly Hayes, to have a letter drafted requesting that the rumble strips be removed. During roll call vote all five Committee members voted in the affirmative.

**Lou Paone, Jill Avenue**, also spoke about the rumble strips on Stagecoach Road and the negative effect it has had on the quality of life for area residents.

**Michelle Watkins, Ortlieb Lane**, requested that an ordinance be adopted prohibiting the use of firearms for target practice around residential properties, and spoke about the issue on Ortlieb Lane with a neighbor regularly shooting on his property.

**Gary Watkins, Ortlieb Lane**, also spoke about the issue of the use of firearms in residential areas.

**Paul Edgell, Ortlieb Lane**, also spoke about the issue of the use of firearms in residential areas.

**Tim Hanna, Prosit Lane**, also spoke about the issue of the use of firearms in residential areas.

**Amber Watkins, Ortlieb Lane**, also spoke about the issue of the use of firearms in residential areas. Later in the meeting she emphasized that the problem isn't just with the noise but also the safety issue.

**Christine Edgell, Ortlieb Lane**, also spoke about the issue of the use of firearms in residential areas.

**Samantha Edgell, Ortlieb Lane**, also spoke about the issue of the use of firearms in residential areas.

**Dodie Coretini, Strathmere**, spoke about the need to amend the noise and nuisance ordinance so that the ordinance can be enforced and prevent the issues on Ortlieb Lane.

**Tom Runyan, Route 9**, stated that he is the person responsible for the shooting and stated that he takes every precaution to ensure that everything is safe.

**Tom Keck, Ortlieb Lane**, also spoke about the issue of the use of firearms in residential areas.

**Janice Connell, Strathmere**, offered her congratulations to Barbara Young on her retirement and stated that it has been a pleasure working with her. She next inquired on the status of virtual access to the Committee meetings for the public. It was stated that virtual access is not under consideration. Ms. Connell next thanked the Committee for the Resolution requesting the speed limit be lowered on Commonwealth Avenue. Lastly, she offered congratulations to Ralph Cooper and the Township for obtaining the Sustainable Jersey Bronze recertification.

**Ed Vallese, Ortlieb Lane**, also spoke about the issue of the use of firearms in residential areas.

#### **CLOSED SESSION**

31. Resolution to conduct a closed meeting pursuant to N.J.S.A. 10:4-12, from which the public shall be excluded.

**TOWNSHIP OF UPPER  
RESOLUTION NO. 341-2022  
MOTION GOING INTO CLOSED SESSION  
NOVEMBER 14, 2022**

I hereby move that a resolution be incorporated into the minutes authorizing the Township Committee to enter into an executive session for the following matters pursuant to the Open Public Meetings Act:

**MATTERS**

1. Personnel
2. Contract negotiation – Living Shoreline
3. Contract negotiation – Redevelopment Agreement

I also include in my motion the estimated time and the circumstances under which the discussion conducted in closed session can be disclosed to the public as follows:

- A. It is anticipated that the matters discussed in closed session may be disclosed to the public upon the determination of the Township Committee that the public interest will no longer be served by such confidentiality.
- B. With respect to contract negotiations such matters will be made public when negotiations have ceased and there is no longer a reason for confidentiality.
- C. With respect to employment and personnel matters such discussions will be made public if and when formal action is taken or when the individuals involved consent that it can be made public.

Moved by: John Coggins

Motion seconded by: Jay Newman

Roll Call Vote with all five Committee members voting in the affirmative.

**RECONVENE PUBLIC PORTION OF MEETING**

Motion by John Coggins, second by Kimberly Hayes, to reconvene the public portion of the meeting. During roll call vote all five Committee members voted in the affirmative.

32. Authorizing Triad Associates to prepare and process a SFY 2023 NJDCA Small Cities Public Facilities Grant application on behalf of the Township of Upper. **Motion by Kimberly Hayes, second by Mark Pancoast to adopt the following Resolution. During roll call vote all five Committee members voted in the affirmative.**

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 342-2022**

**RE: AUTHORIZING TRIAD ASSOCIATES TO PREPARE AND PROCESS A  
SFY 2023 NJDCA SMALL CITIES PUBLIC FACILITIES GRANT APPLICATION  
ON BEHALF OF THE TOWNSHIP OF UPPER**

---

**WHEREAS**, the Township of Upper wishes to apply for the SFY 2023 NJDCA Small Cities Public Facilities (SCPF) grant for ADA Improvements at Amanda’s Field; and

**WHEREAS**, the Township Committee further wishes to authorize Triad Associates, the Township’s grant consultant, to prepare and process the SCPF grant application on behalf of the Township; and

**WHEREAS**, in accordance with the Professional Services Agreement, dated May 23, 2022, between the Township of Upper and Triad Associates, the Township shall sign an Authorization to Proceed with Triad Associates setting forth the scope of services and compensation terms for the preparation of the SCPF grant application.

**NOW, THEREFORE, BE IT RESOLVED** by the Township Committee of the Township of Upper, in the County of Cape May and State of New Jersey, as follows:

1. The allegations of the preamble are incorporated herein by this reference.
2. The Mayor and Clerk of the Township of Upper are hereby directed to sign an Authorization to Proceed, attached hereto, authorizing Triad Associates to prepare and process a SFY 2023 NJDCA Small Cities Public Facilities (SCPF) grant for ADA Improvements at Amanda’s Field on behalf of the Township of Upper.
3. All Township officials, officers and employees are empowered to take such action as may be necessary or advisable in order to carry out the intent and purpose of this Resolution.

Resolution No. 342-2022

Offered by: Hayes                      Seconded by: Pancoast

Adopted: November 14, 2022

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Coggins	X			
Hayes	X			
Newman	X			
Pancoast	X			
Corson	X			

**ADJOURNMENT**

There being no further business this evening the meeting was adjourned at 7:29 P.M., with a motion by Jay Newman, second by Kimberly Hayes, and all five Committee members voting in the affirmative. The next regular meeting is scheduled for November 28, 2022, at 6:30 P.M.

Minutes prepared by,



**Bill List**

80440 11/14/22 A0012 ACME MARKETS INC. 840.00 3266  
80441 11/14/22 A0025 ADVANTAGE RENTAL & SALES 677.67 3266  
80442 11/14/22 A0091 ATLANTIC CITY ELECTRIC 30,679.09 3266  
80443 11/14/22 A0191 ACTION UNIFORM CO. LLC 240.00 3266  
80444 11/14/22 A0212 ANCERO, LLC 9,666.36 3266  
80445 11/14/22 A0225 AUTOZONE NORTHEAST LLC 992.69 3266  
80446 11/14/22 A0235 AMAZON CAPITAL SERVICES, INC. 25.98 3266  
80447 11/14/22 A0239 AT&T MOBILITY NAT'L ACCTS LLC 120.69 3266  
80448 11/14/22 B0020 BLAKER,RAYMOND 576.00 3266  
80449 11/14/22 B0035 BELMONT & CRYSTAL SPRINGS 56.96 3266  
80450 11/14/22 B0076 BOND,LAURENCE E. 767.38 3266  
80451 11/14/22 B0090 BROADLEY'S MDI 125.00 3266  
80452 11/14/22 B0220 BERGEY'S TRUCK CENTERS 785.22 3266  
80453 11/14/22 B0242 BELASCO, LOUIS M. 600.00 3266  
80454 11/14/22 B0283 BRITTIN, JOHN 594.29 3266  
80455 11/14/22 B0287 BIGLEAF NETWORKS, INC. 598.00 3266  
80456 11/14/22 B0288 KINGBARNES LLC 872.50 3266  
80457 11/14/22 C0019 CITY OF OCEAN CITY 63,978.50 3266  
80458 11/14/22 C0042 CAMPBELL SUPPLY COMPANY 385.14 3266  
80459 11/14/22 C0068 COMCAST 1,694.81 3266  
80460 11/14/22 C0143 CODY'S POWER EQUIPMENT 1,670.78 3266  
80461 11/14/22 C0223 CASA PAYROLL SERVICE 218.50 3266  
80462 11/14/22 C0246 CRAFT OIL CORPORATION 684.40 3266  
80463 11/14/22 C0307 CNS ACQUISITION CORPORATION 835.00 3266  
80464 11/14/22 D0237 DIETZ, KERRY 125.00 3266  
80465 11/14/22 E0012 EHRlich PEST CONTROL INC 116.64 3266  
80466 11/14/22 E0079 EVANS III, WILLIAM 38.88 3266  
80467 11/14/22 F0080 FAMILIES UNITED NETWORK 300.00 3266  
80468 11/14/22 F0222 FENTON, SEAN R 540.00 3266  
80469 11/14/22 G0016 GARDNER HARDWARE INC. 16.94 3266  
80470 11/14/22 G0028 GENTILINI FORD, INC. 662.34 3266  
80471 11/14/22 G0086 W.W. GRAINGER, INC. 607.01 3266  
80472 11/14/22 G0145 GRAU, AMANDA 402.72 3266  
80473 11/14/22 G0147 GREATAMERICA FINANCIAL SVCS. 191.00 3266  
80474 11/14/22 G0157 GRANTURK EQUIPMENT CO., INC. 1,941.17 3266  
80475 11/14/22 H0002 H.A. DEHART & SON CORP. 183.18 3266  
80476 11/14/22 H0073 HOME DEPOT CRC/GECF 611.86 3266  
80477 11/14/22 H0097 HERRON, JOANNE R. 7.88 3266  
80478 11/14/22 H0142 HUB, THE 1,139.95 3266  
80479 11/14/22 H0195 HOHMAN, CHRISTOPHER 185.46 3266  
80480 11/14/22 I0002 IAAO 480.00 3266  
80481 11/14/22 J0087 JASM CONSULTING LLC 950.00 3266  
80482 11/14/22 K0103 KYOCERA DOCUMENT SOLUTIONS 144.67 3266  
80483 11/14/22 K0114 KIMBALL MIDWEST 261.85 3266  
80484 11/14/22 L0007 LC EQUIPMENT, INC. 200.00 3266  
80485 11/14/22 L0080 LOWES, INC. 131.35 3266  
80486 11/14/22 L0102 LEGALIZED GAMES OF CHANCE 1,000.00 3266  
80487 11/14/22 M0081 MID-ATLANTIC WASTE SYSTEMS 5,066.85 3266  
80488 11/14/22 M0188 MCCARTHY TIRE SERVICE OF PHILA 994.95 3266  
80489 11/14/22 M0268 Mazzoni, Jessica L 24.50 3266  
80490 11/14/22 M0277 EQUITABLE FINANCIAL LIFE INS. 189.30 3266  
80491 11/14/22 M0290 MADDEN & MADDEN, PC 513.60 3266  
80492 11/14/22 N0004 NJ-AMERICAN WATER CO. 130.53 3266  
80493 11/14/22 N0043 NAPA AUTO PARTS 499.46 3266  
80494 11/14/22 N0088 N.J. CONFERENCE OF MAYORS 475.00 3266  
80495 11/14/22 N0143 NATIONAL TIME SYSTEMS 362.75 3266  
80496 11/14/22 N0154 NEW HORIZON COMMUNICATIONS 818.75 3266  
80497 11/14/22 O0064 OC & UT Rotary 300.00 3266  
80498 11/14/22 O0066 OCHS Girls Soccer 300.00 3266  
80499 11/14/22 O0067 OCHS Boys Soccer 300.00 3266  
80500 11/14/22 P0032 PEDRONI FUEL CO. 4,122.49 3266

80501 11/14/22 P0056 TURF EQUIPMENT AND SUPPLY CO 371.31 3266  
80502 11/14/22 P0136 POSTNET 572.80 3266  
80503 11/14/22 P0140 PIONEER MANUFACTURING CO, INC 1,974.70 3266  
80504 11/14/22 P0166 PARKER MCCAY P.A. 2,640.00 3266  
80505 11/14/22 P0195 PHOENIX ADVISORS, LLC 1,400.00 3266  
80506 11/14/22 R0030 RIGGINS, INC. 10,191.72 3266  
80507 11/14/22 R0100 ROBERTS OXYGEN COMPANY, INC. 119.55 3266  
80508 11/14/22 R0137 RAMMEL, TODD 255.30 3266  
80509 11/14/22 S0035 SCHOPPY WILLIAM TROPHY CO. 34.95 3266  
80510 11/14/22 S0057 SERVICE TIRE TRUCK CENTERS 87.00 3266  
80511 11/14/22 S0113 SMITH, THOMAS G. 1,024.00 3266  
80512 11/14/22 S0134 SO. JERSEY GAS COMPANY 642.98 3266  
80513 11/14/22 S0160 STAR LODGE # 65 300.00 3266  
80514 11/14/22 S0239 SHORE VET. ANIMAL CONTROL LLC 2,300.00 3266  
80515 11/14/22 S0254 SHOPRITE 208.06 3266  
80516 11/14/22 S0328 SJEV 750.00 3266  
80517 11/14/22 S0361 SOUTH JERSEY WATER TEST, LLC 447.00 3266  
80518 11/14/22 S0363 STARR GENERAL CONTRACTING CORP 1,002.00 3266  
80519 11/14/22 T0047 W.E. TIMMERMAN CO., INC. 225.66 3266  
80520 11/14/22 T0168 TOWNSHIP OF UPPER 235.89 3266  
80521 11/14/22 T0180 TRI-COUNTY PEST CONTROL, INC 25.00 3266  
80522 11/14/22 T0192 MARSH & McLENNAN AGENCY/TRION 257.01 3266  
80523 11/14/22 T0213 TREASURER, STATE OF NEW JERSEY 146,346.02 3266  
80524 11/14/22 U0067 UT HEALTH REIMB. ACCOUNT 3,469.47 3266  
80525 11/14/22 U0074 UT Hurricanes Baseball 9U 300.00 3266  
80526 11/14/22 V0013 VERIZON WIRELESS 463.96 3266  
80527 11/14/22 V0022 VERIZON 604.56 3266  
80528 11/14/22 V0024 VAL-U AUTO PARTS L.L.C. 1,602.40 3266  
80529 11/14/22 V0025 V.E. RALPH & SON, INC. 442.00 3266  
80530 11/14/22 V0027 VANORDER, ROGER 64.90 3266  
80531 11/14/22 V0052 VIKING TERMITE & PEST CONTROL 59.40 3266  
80532 11/14/22 V0053 VERIZON CONNECT FLEET USA LLC 545.60 3266  
80533 11/14/22 W0030 WEST PUBLISHING CO. 1,568.64 3266  
80534 11/14/22 W0087 W.B. MASON EGG HARBOR 539.56 3266  
80535 11/14/22 W0131 WEX BANK 58.61 3266  
80536 11/14/22 Y0008 YOUNG, DANIEL J. ESQUIRE PC 360.00 3266  
80537 11/14/22 Y0020 YOUNG, BARBARA L. 49.38 3266  
Total: 323,560.47