

Borough of Neptune City
Regular Meeting of the Mayor and Council
Agenda
April 11, 2022

Call to Order
Roll Call:
Open Public Meetings Act
Flag Salute

MINUTES

COMMUNICATIONS

PRESENTATIONS

BOARD OF EDUCATION REPORT

MAYORS REPORT

COUNCIL REPORTS

Administration & Finance – Brian Thomas
Public Works – Danielle Pappas
Law & Ordinance – Glen Kocsis
Administration & Justice – Dana Farley
Special Services- Pamela Renee
Human Services- Scott Dellett

ADMINISTRATORS REPORT

PUBLIC PARTICIPATION (FOR AGENDA ITEMS)

UNFINISHED BUSINESS

Ordinance 22-03 Adoption Floodplain management regulations

NEW BUSINESS

Ordinance 22-04 Introduction Short Term Rentals
Ordinance 22-05 Introduction Outdoor Dining
Ordinance 22-06 Introduction Redevelopment Plan

CONSENT AGENDA

All items listed are considered to be routine and non-controversial by the Mayor and Council and will be approved by one motion. There will be no separate discussion on these items unless a Council member(s) so request it, in which case the item(s) will be removed from the Consent Agenda and considered in its normal sequence on the agenda. The one motion signifies and adoption of all resolutions, receive and file letters, correspondence, reports and approval of applications and minutes.

Resolution 22-49 Payment of Bills
Resolution 22-50 Change Order for Fire Truck
Resolution 22-51 Temporary Emergency Budget- Sewer
Resolution 22-52 Temporary Emergency Budget-Current
Resolution 22-53 Update Banking and Depository

PUBLIC PARTICIPATION

AJOURN

RESOLUTION 22-49
AUTHORIZING PAYMENT OF THE BILLS

BE IT RESOLVED that the bills as presented, all have been certified and approved as complete as to form, goods having been delivered, and/or services performed and sufficient funds being available for payment for said bills, be paid in the amount of **\$52,420.13**

Councilperson	Motion	2 nd Motion	Aye	Nay	Abstain
Dellett					
Farley					
Kocsis					
Pappas					
Renee					
Thomas					

CERTIFICATION

I, Tamara Brown, Municipal Clerk of the Borough of Neptune City, hereby certify the foregoing to be a true copy of a resolution adopted by the Council of the Borough of Neptune City at their meeting held April 11, 2022.

WITNESS, my hand and the seal of the Borough of Neptune City this 11th day of April, 2022.

TAMARA BROWN, MUNICIPAL CLERK

RESOLUTION 22-50

**AUTHORIZATION FOR CHANGE ORDER
FOR CONTRACT SEAGRAVE FIRE APPARATUS, LLC
FOR FIRE TRUCK CHANGES**

WHEREAS, The Borough Council awarded contract to Seagrave Fire Apparatus, LLC to provide a Marauder Pumper Fire Truck MODEL TB70CA to the Borough of Neptune City for a cost Not to Exceed Seven Hundred Thousand Dollars and xx/100 (\$700,000), and

WHEREAS, it is the recommendation of the Borough Administrator to approve the change order for the amount of \$2,822.00, and

WHEREAS, the change order conforms to the Local Public Contracts Law, and such provided in the Bond Ordinance for this project, and

NOW THEREFORE BE IT RESOLVED, that the Mayor and Council of the Borough of Neptune City hereby approve the change order which would modify the contract with Seagrave Fire Apparatus, LLC.

CERTIFICATION

I, Tamara Brown, Municipal Clerk of the Borough of Neptune City, hereby certify the foregoing to be a true copy of a resolution adopted by the Council of the Borough of Neptune City at their meeting held April 11, 2022.

WITNESS, my hand and the seal of the Borough of Neptune City this 11th day of April, 2022.

TAMARA BROWN, MUNICIPAL CLERK

**RESOLUTION 2022-51
MEETING APRIL 11, 2022**

WHEREAS, an emergent condition has arisen in that the Borough is expected to enter contracts, commitments or payments prior to the 2022 budget and no adequate provision has been made in the 2022 temporary budget for the aforesaid purposes, and

WHEREAS, N.J.S.A. 40A:4-20 provides for the creation of an emergency temporary appropriation for said purposes, and

WHEREAS, the total emergency appropriation resolutions adopted in the year 2022 pursuant to the provisions of Chapter 96, P.L. 1951 (N.J.S.A. 40A:4-20) including this resolution total \$171,500.00.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Borough of Neptune City, Monmouth County, New Jersey (not less than two-thirds of all members thereof affirmatively concurring) that in accordance with the provisions of N.J.S.A. 40A:4-20 that emergency appropriations be and the same hereby made in the amount of \$171,500.00 as follows:

SEWER UTILITY OPERATING FUND:

Sewer Operations	Salaries and Wages	\$	42,500.00
Sewer Operations	Other Expenses		125,000.00
Social Security	Other Expenses		<u>4,000.00</u>
		\$	<u><u>171,500.00</u></u>

Said emergency temporary appropriations will be provided for in the 2022 budget.

That one certified copy of this resolution be filed with the Director, Division of Local Government Services.

I, Tamara Brown, Municipal Clerk of the Borough of Neptune City, County of Monmouth, State of New Jersey, do hereby certify that the above resolution was approved by the governing body at the meeting of April 11, 2022.

Tamara Brown
Borough Clerk

RESOLUTION 2022-52
MEETING APRIL 11, 2022

WHEREAS, an emergent condition has arisen in that the Borough is expected to enter contracts, commitments or payments prior to the 2022 budget and no adequate provision has been made in the 2022 temporary budget for the aforesaid purposes, and

WHEREAS, N.J.S.A. 40A:4-20 provides for the creation of an emergency temporary appropriation for said purposes, and

WHEREAS, the total emergency appropriation resolutions adopted in the year 2022 pursuant to the provisions of Chapter 96, P.L. 1951 (N.J.S.A. 40A:4-20) including this resolution total \$1,468,563.00.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Borough of Neptune City, Monmouth County, New Jersey (not less than two-thirds of all members thereof affirmatively concurring) that in accordance with the provisions of N.J.S.A. 40A:4-20 that emergency appropriations be and the same hereby made in the amount of \$1,468,563.00 as follows:

CURRENT FUND:		
General Administration	Other Expenses	\$ 4,000.00
Mayor and Council	Salaries and Wages	10,000.00
Mayor and Council	Other Expenses	1,000.00
Municipal Clerk	Salaries and Wages	16,500.00
Municipal Clerk	Other Expenses	4,000.00
Central Postage	Other Expenses	1,500.00
Finance	Salaries and Wages	6,500.00
Finance	Other Expenses	3,400.00
Information Technology	Other Expenses	25,000.00
Tax Collection	Salaries and Wages	7,800.00
Tax Collection	Other Expenses	2,400.00
Tax Assessor	Salaries and Wages	6,200.00
Tax Assessor	Other Expenses	5,000.00
Legal Services	Other Expenses	6,000.00
Engineering Services	Salaries and Wages	4,000.00
Land Use Board	Other Expenses	3,000.00
Land Use Board	Salaries and Wages	3,000.00
Uniform Construction Code	Other Expenses	9,200.00
Uniform Construction Code	Salaries and Wages	310.00
Sub Code Officials	Other Expenses	8,500.00
Sub Code Officials	Salaries and Wages	400.00
Code Enforcement	Other Expenses	5,800.00
Code Enforcement	Salaries and Wages	150.00
Employee Group Health	Other Expenses	230,000.00
Police	Other Expenses	475,000.00
Police	Salaries and Wages	35,000.00
Police - Clerical	Other Expenses	21,250.00
Crossing Guards	Salaries and Wages	8,000.00
Emergency Management	Other Expenses	3,500.00
Fire Department	Salaries and Wages	9,000.00
Fire Prevention Bureau	Other Expenses	5,000.00
Fire Prevention Bureau	Salaries and Wages	1,000.00
Prosecutor	Other Expenses	9,300.00
Streets and Roads	Salaries and Wages	138,000.00
Streets and Roads	Salaries and Wages	10,000.00
Traffic Lights	Other Expenses	2,000.00
Solid Waste Collection	Other Expenses	1,250.00
Solid Waste Collection	Salaries and Wages	100,000.00
Vehicle Maintenance	Other Expenses	15,000.00
Buildings and Grounds	Other Expenses	6,000.00
Buildings and Grounds	Salaries and Wages	13,200.00
Animal Control	Other Expenses	2,700.00
Community Center	Other Expenses	30,000.00
Community Center	Salaries and Wages	5,000.00
Maintenance of Parks	Other Expenses	3,400.00
Library	Other Expenses	13,000.00
Library	Salaries and Wages	1,000.00
Electric	Other Expenses	8,500.00
Street Lighting	Other Expenses	8,500.00
Telephone	Other Expenses	7,225.00
Water	Other Expenses	1,000.00
Gasoline	Other Expenses	8,000.00
Gasoline	Other Expenses	11,500.00
Fire Hydrants	Other Expenses	11,250.00
Social Security	Other Expenses	40,000.00
Deferred Contribution Retirement Program	Other Expenses	500.00
Safe and Secure Communities Program	Salaries and Wages	30,000.00
Shared Service - Bay Head Chief Financial Officer	Other Expenses	9,000.00
Shared Service - Bradley Beach Prisoner	Other Expenses	1,500.00
Shared Service - Neptune Township Reverse 911	Other Expenses	2,800.00
Shared Service - Neptune Township EMS	Other Expenses	10,000.00
Shared Service - Monmouth County 911	Other Expenses	2,228.00
Municipal Court	Salaries and Wages	40,000.00
Municipal Court	Other Expenses	2,500.00
Public Defender	Salaries and Wages	3,000.00
		<u>\$ 1,468,563.00</u>

Said emergency temporary appropriations will be provided for in the 2022 budget.

That one certified copy of this resolution be filed with the Director, Division of Local Government Services.

I, Tamara Brown, Municipal Clerk of the Borough of Neptune City, County of Monmouth, State of New Jersey, do hereby certify that the above resolution was approved by the governing body at the meeting of April 11, 2022.

Tamara Brown
Borough Clerk

RESOLUTION 22-53
DESIGNATION OF BANK DEPOSITORIES FOR 2022

WHEREAS, the following Banks and Trust Companies be the official depositories wherein all of the accounts for the Borough of Neptune City be kept:

Manasquan Bank
TD Bank
Kearny Bank
Santander Bank
1st Constitution Bank

WHEREAS, disbursements of the following accounts be made by checks signed by the Mayor, Chief Financial Officer or Municipal Clerk, Borough Administrator or Treasurer.

Developer's Trust	Unemployment Trust
Sewer Operating	Board of Recreation
Payroll	Payroll Agency
Trust Fund	Law Enforcement Trust Fund
General Capital	Animal Control
Sewer Capital	Tax Lien Redemption
Current Account	

WHEREAS, disbursements for the Municipal Court Bail and General Accounts be made by checks signed by the Court Administrator, and

WHEREAS, disbursements for the Tax Lien Account be made by checks signed by the Tax Collector, and

WHEREAS, disbursements for the Board of Recreation be made by checks signed by the Mayor, Chief Financial Officer or Municipal Clerk, Borough Administrator or Treasurer, and

BE IT FURTHER RESOLVED that the Mayor and Council of the Borough of Neptune City do hereby adopt the Cash Management Plan which is attached to this resolution.

Councilperson	Motion	2nd Motion	Aye	Nay	Abstain
Dellett					
Farley					
Kocsis					
Pappas					
Renee					
Thomas					

CERTIFICATION

I, Tamara Brown, Municipal Clerk of the Borough of Neptune City, hereby certify the foregoing to be a true copy of a resolution adopted by the Council of the Borough of Neptune City at their meeting held April 11, 2022.

WITNESS, my hand and the seal of the Borough of Neptune City this 11th day of April, 2022.

TAMARA BROWN, MUNICIPAL CLERK

* * * * *

**ORDINANCE FOR ADOPTION OF THE FLOODPLAIN MANAGEMENT REGULATIONS
OF THE BOROUGH OF NEPTUNE CITY**

ORDINANCE NO. 2022-03

AN ORDINANCE BY THE MAYOR AND COUNCIL AMENDING THE BOROUGH OF NEPTUNE CITY CODE OF ORDINANCES TO REPEAL CHAPTER 66: FLOOD DAMAGE PREVENTION; TO ADOPT A NEW CHAPTER 66; FLOOD DAMAGE PREVENTION; TO ADOPT FLOOD HAZARD MAPS; TO DESIGNATE A FLOODPLAIN ADMINISTRATOR; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

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

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

WHEREAS, the Borough of Neptune City was accepted for participation in the National Flood Insurance Program on August 11, 1978 and the Mayor and Council desires to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59, 60, 65, and 70 necessary for such participation; and

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

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

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

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Neptune City that the following floodplain management regulations are hereby adopted.

SECTION 1. RECITALS.

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

SECTION 2. These regulations specifically repeal and replace the following ordinance(s) and regulation(s): **Chapter 66: Flood Damage Prevention.**

ARTICLE I SCOPE AND ADMINISTRATION

66-1 Title. These regulations, in combination with the flood provisions of the Uniform Construction Code (UCC) N.J.A.C. 5:23 (hereinafter "Uniform Construction Code," consisting of the Building Code, Residential Code, Rehabilitation Subcode, and related codes, and the New Jersey Flood Hazard Area Control Act (hereinafter "FHACA"), N.J.A.C. 7:13, shall be known as the *Floodplain Management Regulations* of the Borough of Neptune City (hereinafter "these regulations").

66-2 Scope. These regulations, in combination with the flood provisions of the Uniform Construction Code and FHACA shall apply to all proposed development in flood hazard areas established in Article II of these regulations.

66-3 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.

66-4 Coordination with Building Codes. Pursuant to the requirement established in N.J.A.C. 5:23, the Uniform Construction Code, that the Borough of Neptune City administer and enforce the State building codes, the Mayor and Council of the Borough of Neptune City does hereby acknowledge that the Uniform Construction Code contains certain

provisions that apply to the design and construction of buildings and structures in flood hazard areas. Therefore, these regulations are intended to be administered and enforced in conjunction with the Uniform Construction Code.

66-5 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 66-26 of this ordinance.

66-6 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.

66-7 Other laws. The provisions of these regulations shall not be deemed to nullify any provisions of local, State, or Federal law.

66-8 Violations and Penalties for Noncompliance. No structure or land shall hereafter be constructed, re-located to, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a violation under N.J.S.A. 40:49-5. Any person who violates this ordinance or fails to comply with any of its requirements shall be subject to one (1) or more of the following: a fine of not more than \$1250, imprisonment for a term not exceeding ninety(90) days or a period of community service not exceeding 90 days.

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

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

66-8.1 Solid Waste Disposal in a Flood Hazard Area. Any person who has unlawfully disposed of solid waste in a floodway or floodplain who fails to comply with this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$2500 or up to a maximum penalty by a fine not exceeding \$10,000 under N.J.S.A. 40:49-5.

66-9 Abrogation and greater restrictions. These regulations supersede any ordinance in effect in flood hazard areas. However, these regulations are not intended to repeal or abrogate any existing ordinances including land development regulations, subdivision regulations, zoning ordinances, stormwater management regulations, or building codes. In the event of a conflict between these regulations and any other ordinance, code, or regulation, the more restrictive shall govern.

ARTICLE II APPLICABILITY

66-10 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.

66-11 Establishment of Flood Hazard Areas. The Borough of Neptune City was accepted for participation in the National Flood Insurance Program on August 11, 1978.

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 Neptune City Borough Hall, 106 West Sylvania Avenue, Neptune City, New Jersey, 07753-6428.

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

- A. **Effective Flood Insurance Study.** Special Flood Hazard Areas (SFHAs) identified by the Federal Emergency Management Agency in a scientific and engineering report entitled Flood Insurance Study, Monmouth County, New Jersey (All Jurisdictions) dated June 20, 2018 and the accompanying Flood Insurance Rate Maps (FIRM) identified in Table 66-11(A) whose effective date is June 15, 2022 are hereby adopted by reference.

Table 66-11(A)

Map Panel #	Effective Date	Revision Letter
34025C0333	June 15, 2022	G
34025C0334	June 15, 2022	G

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

Table 66-11(B)

Map Panel #	Preliminary Date
34025C0333H	January 30, 2015
34025C0334H	January 31, 2014

- C. **Other Best Available Data.** The Borough of Neptune City shall utilize high water elevations from flood events, groundwater flooding areas, studies by federal or state agencies, or other information deemed appropriate by the Borough of Neptune City. Other "best available information" may not be used which results in less restrictive flood elevations, design standards, or smaller flood hazard areas than the sources described in Section 66-11 (A) and (B), above. This information shall be used for floodplain regulation purposes only.
- D. **State Regulated Flood Hazard Areas.** For State regulated waters, the NJ Department of Environmental Protection (NJDEP) identifies the flood hazard area as the land, and the space above that land, which lies below the "Flood Hazard Area Control Act Design Flood Elevation", as defined in Article IX, and as described in the New Jersey Flood Hazard Area Control Act at N.J.A.C. 7:13. A FHACA flood hazard area exists along every regulated water that has a drainage area of 50 acres or greater. Such area may extend beyond the boundaries of the Special Flood Hazard Areas (SFHAs) as identified by FEMA.

66-12 Establishing the Local Design Flood Elevation (LDFE).

The Local Design Flood Elevation (LDFE) is established in the flood hazard areas determined in Section 66-11, 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 66-11, above plus one foot or as described by N.J.A.C. 7:13 of freeboard; or
- B. For any undelineated watercourse (where mapping or studies described in 66-11 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 of freeboard and any additional freeboard as required by ASCE 24; 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 of freeboard and any additional freeboard as required by ASCE 24. Any determination using these methods must be sealed and submitted according to Sections 66-35 and 66-36.
- C. AO Zones -- For Zone AO areas on the municipality's FIRM (or on preliminary flood elevation guidance from FEMA), the Local Design Flood Elevation is determined from the FIRM panel as the highest adjacent grade plus the depth number specified plus one foot of freeboard. If no depth number is specified, the Local Design Flood Elevation is three (3) feet above the highest adjacent grade.
- D. Class IV Critical Facilities - For any proposed development of new and substantially improved Flood Design Class IV Critical Facilities, the Local Design Flood Elevation must be the higher of the 0.2% annual chance (500 year) flood elevation or the Flood Hazard Area Design Flood Elevation with an additional 2 feet of freeboard in accordance with ASCE 24.
- E. Class III Critical Facilities - For proposed development of new and substantially improved Flood Design Class III Critical Facilities in coastal high hazard areas, the Local Design Flood Elevation must be the higher of the 0.2% annual chance (500 year) flood elevation or the Flood Hazard Area Design Flood Elevation with an additional 1 foot of freeboard in accordance with ASCE 24.

ARTICLE III DUTIES AND POWERS OF THE FLOODPLAIN ADMINISTRATOR

66-13 Floodplain Administrator Designation. The Borough Construction Official is designated the Floodplain Administrator. The Floodplain Administrator shall have the

authority to delegate performance of certain duties to other employees.

66-14 General. The Floodplain Administrator is authorized and directed to administer the provisions of these regulations. The Floodplain Administrator shall have the authority to render interpretations of these regulations consistent with the intent and purpose of these regulations and to establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be consistent with the intent and purpose of these regulations and the flood provisions of the building code and shall not have the effect of waiving specific requirements without the granting of a variance pursuant to Article VII of these regulations.

66-15 Coordination. The Floodplain Administrator shall coordinate with the Construction Official to administer and enforce the flood provisions of the Uniform Construction Code.

66-16 Duties. The duties of the Floodplain Administrator shall include but are not limited to:

- A. Review all permit applications to determine whether proposed development is located in flood hazard areas established in Article II of these regulations.
- B. Require development in flood hazard areas to be reasonably safe from flooding and to be designed and constructed with methods, practices and materials that minimize flood damage.
- C. Interpret flood hazard area boundaries and provide available flood elevation and flood hazard information.
- D. Determine whether additional flood hazard data shall be obtained or developed.
- E. Review required certifications and documentation specified by these regulations and the building code to determine that such certifications and documentations are complete.
- F. Establish, in coordination with the Construction Official, written procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to Section 66-26 of these regulations.
- G. Coordinate with the Construction Official and others to identify and investigate damaged buildings located in flood hazard areas and inform owners of the requirement to obtain permits for repairs.
- H. Review requests submitted to the Construction Official seeking approval to modify the strict application of the flood load and flood resistant construction requirements of the Uniform Construction code to determine whether such requests require consideration as a variance pursuant to Article VII of these regulations.
- I. Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the Flood Insurance Rate Maps when the analyses propose to change base flood elevations, flood hazard area boundaries, or floodway designations; such submissions shall be made within 6 months of such data becoming available.
- J. Require applicants who propose alteration of a watercourse to notify adjacent jurisdictions and the NJDEP Bureau of Flood Engineering, and to submit copies of such notifications to the Federal Emergency Management Agency (FEMA).
- K. Inspect development in accordance with Article VI of these regulations and inspect flood hazard areas to determine if development is undertaken without issuance of permits.
- L. Prepare comments and recommendations for consideration when applicants seek

- variances in accordance with Article VII of these regulations.
- M. Cite violations in accordance with Article VIII of these regulations.
 - N. Notify the Federal Emergency Management Agency when the corporate boundaries of the Borough of Neptune City have been modified.
 - O. Permit Ordinary Maintenance and Minor Work in the regulated areas discussed in Section 66-11.

66-17 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.

66-18 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.

66-19 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 66-11 and 66-12 respectively. This information shall be provided to the Construction Official and documented according to Section 66-27.

66-20 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.

66-21 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.

66-22 Floodway encroachment. Prior to issuing a permit for any floodway encroachment, including fill, new construction, substantial improvements and other development or land-disturbing activity, the Floodplain Administrator shall require submission of a certification prepared by a licensed professional engineer, along with supporting technical data, that demonstrates that such development will not cause any increase in the base flood level.

66-22.1 Floodway revisions. A floodway encroachment that increases the level of the base flood is authorized if the applicant has applied for a Conditional Letter of Map Revision (CLOMR) to the Flood Insurance Rate Map (FIRM) and has received the approval of FEMA.

66-23 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.

66-23.1 Engineering analysis. The Floodplain Administrator shall require submission of an engineering analysis prepared by a licensed professional engineer, demonstrating that the flood-carrying capacity of the altered or relocated portion of the watercourse will be maintained, neither increased nor decreased. Such watercourses shall be maintained in a manner that preserves the channel's flood-carrying capacity.

66-24 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.

66-25 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.

66-26 Substantial improvement and substantial damage determinations. When buildings and structures are damaged due to any cause including but not limited to man-made, structural, electrical, mechanical, or natural hazard events, or are determined to be unsafe as described in N.J.A.C. 5:23; and for applications for building permits to improve buildings and structures, including alterations, movement, repair, additions, rehabilitations, renovations, ordinary maintenance and minor work, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Construction Official, shall:

- A. Estimate the market value, or require the applicant to obtain a professional appraisal prepared by a qualified independent appraiser, of the market value of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made.
- B. Determine and include the costs of all ordinary maintenance and minor work, as discussed in Section 66-11, 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.
- E. Notify the applicant in writing when it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the building code is required and notify the applicant when it is determined that work does not constitute substantial improvement or repair of substantial damage. The Floodplain Administrator shall also provide all letters documenting substantial damage and compliance with flood resistant construction requirements of the building code to the NJDEP Bureau of Flood Engineering.

66-27 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.

66-28 Liability. The Floodplain Administrator and any employee charged with the enforcement of these regulations, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by these regulations or other pertinent law or ordinance, shall not thereby be rendered liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties. Any suit instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of these regulations shall be defended by legal representative of the jurisdiction until the final termination of the proceedings. The Floodplain Administrator and any subordinate shall not be liable for cost in any action, suit or proceeding that is instituted in pursuance of the provisions of these regulations.

ARTICLE IV PERMITS

66-29 Permits Required. Any person, owner or authorized agent who intends to conduct any development in a flood hazard area shall first make application to the Floodplain Administrator and shall obtain the required permit. Depending on the nature and extent of proposed development that includes a building or structure, the Floodplain Administrator may determine that a floodplain development permit or approval is required in addition to a building permit.

66-30 Application for permit. The applicant shall file an application in writing on a form furnished by the Floodplain Administrator. Such application shall:

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

66-31 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.

66-32 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.

66-33 Suspension or revocation. The Floodplain Administrator is authorized to suspend or revoke a permit issued under these regulations wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or code of this jurisdiction.

ARTICLE V SITE PLANS AND CONSTRUCTION DOCUMENTS

66-34 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 66-35.
- C. Where the parcel on which the proposed development will take place will have more than 50 lots or is larger than 5 acres and base flood elevations are not included on the FIRM or in the Flood Insurance Study, such elevations shall be established in accordance with Section 66-35 C. of these regulations.
- D. Location of the proposed activity and proposed structures, and locations of existing buildings and structures; in coastal high hazard areas and Coastal A zones, new buildings shall be located landward of the reach of mean high tide.
- E. Location, extent, amount, and proposed final grades of any filling, grading, or excavation.
- F. Where the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications; a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose. The applicant shall provide an engineering certification confirming that the proposal meets the flood storage displacement limitations of N.J.A.C. 7:13.
- G. Extent of any proposed alteration of sand dunes.
- H. Existing and proposed alignment of any proposed alteration of a watercourse.
- I. Floodproofing certifications, V Zone and Breakaway Wall Certifications, Operations and Maintenance Plans, Warning and Evacuation Plans and other documentation required pursuant to FEMA publications.

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

66-35 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.

66-36 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 66-37 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 66-37 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).

66-37 Submission of additional data. When additional hydrologic, hydraulic or other engineering data, studies, and additional analyses are submitted to support an application, the applicant has the right to seek a Letter of Map Change (LOMC) from FEMA to change the base flood elevations, change floodway boundaries, or change boundaries of flood hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA. Submittal requirements and processing fees shall be the responsibility of the applicant.

ARTICLE VI INSPECTIONS

66-38 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.

66-39 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.

66-40 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 66-76 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 66-76 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 66-76.

- D. **Final inspection.** Prior to the final inspection, certification of the elevation required in Section 66-76 shall be submitted to the Construction Official on an Elevation Certificate.

66-41 Manufactured homes. The Floodplain Administrator shall inspect manufactured homes that are installed or replaced in flood hazard areas to determine compliance with the requirements of these regulations and the conditions of the issued permit. Upon placement of a manufactured home, certification of the elevation of the lowest floor shall be submitted on an Elevation Certificate to the Floodplain Administrator prior to the final

inspection.

ARTICLE VII VARIANCES

66-42 General. The Neptune City Land Use Board shall hear and decide requests for variances. The Neptune City Land Use Board shall base its determination on technical justifications submitted by applicants, the considerations for issuance in Section 66-46, the conditions of issuance set forth in Section 66-47, and the comments and recommendations of the Floodplain Administrator and, as applicable, the Construction Official. The Neptune City Land Use Board has the right to attach such conditions to variances as it deems necessary to further the purposes and objectives of these regulations.

66-43 Historic structures. A variance to the substantial improvement requirements of this ordinance is authorized provided that the repair or rehabilitation of a historic structure is completed according to N.J.A.C. 5:23-6.33, Section 1612 of the International Building Code and R322 of the International Residential Code, the repair or rehabilitation will not preclude the structure's continued designation as a historic structure, the structure meets the definition of the historic structure as described by this ordinance, and the variance is the minimum necessary to preserve the historic character and design of the structure.

66-44 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.

66-45 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 66-36 A. of these regulations.

66-46 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.

66-47 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 over the signature of the Floodplain Administrator that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and that such construction below the base flood level increases risks to life and property.

ARTICLE VIII VIOLATIONS

66-48 Violations. Any development in any flood hazard area that is being performed without an issued permit or that is in conflict with an issued permit shall be deemed a violation. A building or structure without the documentation of elevation of the lowest floor, the lowest horizontal structural member if in a V or Coastal A Zone, other required design certifications, or other evidence of compliance required by the building code is presumed to be a violation until such time as that documentation is provided.

66-49 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.

66-50 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.

66-51 Review Period to Correct Violations. A 30-day period shall be given to the

property owner as an opportunity to cure or abate the condition. The property owner shall also be afforded an opportunity for a hearing before the court for an independent determination concerning the violation. Subsequent to the expiration of the 30-day period, a fine greater than \$1,250.00 may be imposed if a court has not determined otherwise or, upon reinspection of the property, it is determined that the abatement has not been substantially completed.

ARTICLE IX DEFINITIONS

66-52 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.

66-53 Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

BEST AVAILABLE FLOOD HAZARD DATA ELEVATION - The most recent available preliminary

flood elevation guidance FEMA has provided. The Best Available Flood Hazard Data may be depicted on but not limited to Advisory Flood Hazard Area Maps, Work Maps, or Preliminary FIS and FIRM.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

FLOOD OR FLOODING

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

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

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

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

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

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

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

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

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

FLOODWAY – The channel of a river or other watercourse and the adjacent land areas that must

be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 0.2 foot.

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

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

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

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

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

HISTORIC STRUCTURE – Any structure that is:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

qualified independent appraiser.

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

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

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

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

RESIDENTIAL – Pursuant to the ASCE 24:

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

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

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

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

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

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

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

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

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

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

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

market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT – Any reconstruction, rehabilitation, addition, or other improvement of a structure taking place, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

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

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

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

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

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

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

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

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

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

agricultural structures that have been issued variances by the community.

ARTICLE X SUBDIVISIONS AND OTHER DEVELOPMENTS

66-54 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.

66-55 Subdivision requirements. Where any portion of proposed subdivisions, including manufactured home parks and subdivisions, lies within a flood hazard area, the following shall be required:

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

ARTICLE XI SITE IMPROVEMENT

66-56 Encroachment in floodways. Development, land disturbing activity, and encroachments in floodways shall not be authorized unless it has been demonstrated through hydrologic and hydraulic analyses required in accordance with Section 66-36A. 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 66-36A. is satisfied, proposed elevation, addition, or reconstruction of a lawfully existing structure within a floodway shall also be in accordance with Section 66-76 of this ordinance and the floodway requirements of N.J.A.C. 7:13.

66-56.1 Prohibited in floodways. The following are prohibited activities:

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

66-57 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.

66-58 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.

66-59 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.

66-60 Storm drainage. Storm drainage shall be designed to convey the flow of surface waters to minimize or eliminate damage to persons or property.

66-61 Streets and sidewalks. Streets and sidewalks shall be designed to minimize potential for increasing or aggravating flood levels.

66-62 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.

66-63 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 66-36D. 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 66-83C of these regulations and as permitted under the NJ Coastal Zone Management Rules (N.J.A.C. 7:7).

66-64 Hazardous Materials. The placement or storage of any containers holding hazardous substances in a flood hazard area is prohibited unless the provisions of N.J.A.C. 7:13 which cover the placement of hazardous substances and solid waste is met.

ARTICLE XII MANUFACTURED HOMES

66-65 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).

66-66 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 66-76.

66-67 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.

66-68 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.

66-69 Enclosures. Fully enclosed areas below elevated manufactured homes shall comply with the requirements of Section 66-76.

66-70 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 66-76 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 66-76, the systems and equipment shall be permitted to be located below that elevation. Electrical wiring systems shall be permitted below the design flood elevation provided they conform to the provisions of NFPA 70 (National Electric Code).

ARTICLE XIII RECREATIONAL VEHICLES

66-71 Placement prohibited. The placement of recreational vehicles shall not be authorized in coastal high hazard areas and in floodways.

66-72 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.

66-73 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 66-76 for habitable buildings.

ARTICLE XIV TANKS

66-74 Tanks. Underground and above-ground tanks shall be designed, constructed, installed, and anchored in accordance with ASCE 24 and N.J.A.C. 7:13.

ARTICLE XV OTHER DEVELOPMENT AND BUILDING WORK

66-75 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 66-36A of this ordinance when located in a regulated floodway;
- C. Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic and hydrodynamic loads, including the effects of buoyancy, during the conditions of flooding up to the Local Design Flood Elevation determined according to Section 66-12;
- 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 66-12 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.

66-76 Requirements for Habitable Buildings and Structures.

- A. Construction and Elevation in A Zones not including Coastal A Zones.

- (1) No portion of a building is located within a V Zone.
- (2) No portion of a building is located within a Coastal A Zone, unless a licensed design professional certifies that the building's foundation is designed in accordance with ASCE 24, Chapter 4.
- (3) All new construction and substantial improvement of any habitable building (as defined in Article IX located in flood hazard areas shall have the lowest floor, including basement, together with the attendant utilities (including all electrical, heating, ventilating, air-conditioning and other service equipment) and sanitary facilities, elevated to or above the Local Design Flood Elevation as determined in Section 66-12, be in conformance with ASCE Chapter 7, and be confirmed by an Elevation Certificate.
- (4) All new construction and substantial improvements of non-residential structures shall:
 - (a) Have the lowest floor, including basement, together with the attendant utilities (including all electrical, heating, ventilating, air-conditioning and other service equipment) and sanitary facilities, elevated to or above the Local Design Flood Elevation as determined in Section 66-12, be in conformance with ASCE Chapter 7, and be confirmed by an Elevation Certificate; or

- (b) Together with the attendant utility and sanitary facilities, be designed so that below the Local Design Flood Elevation, the structure:
 - i. Meets the requirements of ASCE 24 Chapters 2 and 7; and
 - ii. Is constructed according to the design plans and specifications provided at permit application and signed by a licensed design professional, is certified by that individual in a Floodproofing Certificate, and is confirmed by an Elevation Certificate.
- (5) All new construction and substantial improvements with fully enclosed areas below the lowest floor shall be used solely for parking of vehicles, building access, or storage in an area other than a basement and which are subject to flooding. Enclosures shall:
 - (a) For habitable structures, be situated at or above the adjoining exterior grade along at least one entire exterior wall, in order to provide positive drainage of the enclosed area in accordance with N.J.A.C. 7:13; enclosures (including crawlspaces and basements) which are below grade on all sides are prohibited;
 - (b) Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters unless the structure is non-residential and the requirements of 66-76A(4)(b) are met;
 - (c) Be constructed to meet the requirements of ASCE 24 Chapter 2;
 - (d) Have openings documented on an Elevation Certificate; and
 - (e) Have documentation that a deed restriction has been obtained for the lot if the enclosure is greater than six feet in height. This deed restriction shall be recorded in the Office of the County Clerk or the Registrar of Deeds and Mortgages in which the building is located, shall conform to the requirements in N.J.A.C. 7:13, and shall be recorded within 90 days of receiving a Flood Hazard Area Control Act permit or prior to the start of any site disturbance (including pre-construction earth movement, removal of vegetation and structures, or construction of the project), whichever is sooner. Deed restrictions must explain and disclose that:
 - i. The enclosure is likely to be inundated by floodwaters which may result in damage and/or inconvenience.
 - ii. The depth of flooding that the enclosure would experience to the Flood Hazard Area Design Flood Elevation;
 - iii. The deed restriction prohibits habitation of the enclosure and explains that converting the enclosure into a habitable area may subject the property owner to enforcement;

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

- (1) All new construction and substantial improvements shall be constructed according to structural designs, plans and specifications conforming with ASCE 24 Chapter 4 which are signed by a licensed design professional and certified by that individual in a V Zone Certificate.
- (2) All new construction and substantial improvement of any habitable building (as defined in Article IX) located in coastal high hazard areas shall have the lowest horizontal structural member, together with the attendant utilities (including all electrical, heating, ventilating, air-conditioning and other service equipment) and sanitary facilities, elevated to the Local

Design Flood Elevation as determined in Section 66-12, be in conformance with ASCE Chapter 7, and be confirmed by an Elevation Certificate.

(3) All new construction and substantial improvements of non-residential structures shall:

- (a) Have the lowest horizontal structural member, including basement, together with the attendant utilities (including all electrical, heating, ventilating, air-conditioning and other service equipment) and sanitary facilities, elevated to or above the Local Design Flood Elevation as determined in Section 66-12, be in conformance with ASCE 24 Chapter 7, and be confirmed by an Elevation Certificate; or
- (b) Together with the attendant utility and sanitary facilities, be designed so that below the Local Design Flood Elevation, the structure:
 - i. Meets the requirements of ASCE 24 Chapters 4 and 7; and
 - ii. Is constructed according to the design plans and specifications provided at permit application and signed by a licensed design professional, is certified by that individual in a Floodproofing Certificate, and is confirmed by an Elevation Certificate.

(4) All new construction and substantial improvements shall have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. All breakaway walls shall be constructed according to structural designs, plans and specifications conforming with ASCE 24 Chapter 4, signed by a licensed design professional, and certified by that individual in a Breakaway Wall Certificate.

(5) All new construction and substantial improvements with fully enclosed areas below the lowest floor shall be used solely for parking of vehicles, building access, or storage in an area other than a basement and which are subject to flooding. Enclosures shall:

- (a) Be situated at or above the adjoining exterior grade along at least one entire exterior wall, in order to provide positive drainage of the enclosed area in accordance with N.J.A.C. 7:13; enclosures (including crawlspaces and basements) which are below grade on all sides are prohibited.
- (b) Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters unless the structure is non-residential and the requirements of 66-76B(3)(b) are met;
- (c) Be constructed to meet the requirements of ASCE 24 Chapter 4;
- (d) Have openings documented on an Elevation Certificate and have breakaway wall construction documented on a Breakaway Wall Certificate unless the requirements of 66-76B(3)(b) are met for a non-residential structure; and
- (e) Have documentation that a deed restriction has been obtained for the lot if the enclosure is greater than six feet in height. This deed restriction shall be recorded in the Office of the County Clerk or the Registrar of Deeds and Mortgages in which the building is located, shall conform to the requirements in N.J.A.C.7:13, and shall be recorded within 90 days of receiving a Flood Hazard Area Control Act permit or prior to the start of any site disturbance (including pre-construction earth movement, removal of vegetation and structures, or construction of the project), whichever is sooner. Deed restrictions must explain and disclose that:

- i. The enclosure is likely to be inundated by floodwaters which may result in damage and/or inconvenience.
- ii. The depth of flooding that the enclosure would experience to the Flood Hazard Area Design Flood Elevation;
- iii. 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;

66-77 Garages and accessory storage structures. Garages and accessory storage structures shall be designed and constructed in accordance with the Uniform Construction Code.

66-78 Fences. Fences in floodways that have the potential to block the passage of floodwater, such as stockade fences and wire mesh fences, shall meet the requirements of Section 66-36A of these regulations. Pursuant to N.J.A.C. 7:13, any fence located in a floodway shall have sufficiently large openings so as not to catch debris during a flood and thereby obstruct floodwaters, such as barbed-wire, split-rail, or strand fence. A fence with little or no open area, such as a chain link, lattice, or picket fence, does not meet this requirement. Foundations for fences greater than 6 feet in height must conform with the Uniform Construction Code. Fences for pool enclosures having openings not in conformance with this section but in conformance with the Uniform Construction Code to limit climbing require a variance as described in Article VII of this ordinance.

66-79 Retaining walls, sidewalks, and driveways. Retaining walls, sidewalks and driveways that involve placement of fill in floodways shall meet the requirements of Section 66-36A of these regulations and N.J.A.C. 7:13.

66-80 Swimming pools. Swimming pools shall be designed and constructed in accordance with the Uniform Construction Code. Above-ground swimming pools and below-ground swimming pools that involve placement of fill in floodways shall also meet the requirements of Section 66-36A of these regulations. Above-ground swimming pools are prohibited in floodways by N.J.A.C. 7:13.

66-81 Roads and watercourse crossings.

- A. For any railroad, roadway, or parking area proposed in a flood hazard area, the travel surface shall be constructed at least one foot above the Flood Hazard Area Design Elevation in accordance with N.J.A.C. 7:13.
- B. Roads and watercourse crossings that encroach into regulated floodways or riverine 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 66-36A of these regulations.

66-82 Other development in coastal high hazard areas (Zone V) and Coastal A Zones. In Coastal High Hazard Areas (V Zones) and Coastal A Zones, development activities other than buildings and structures shall be permitted only when also authorized by the appropriate Federal, State or local authority; when located outside the footprint of, and not structurally attached to, buildings and structures; and when analyses prepared by a licensed professional engineer demonstrates no harmful diversion of floodwater or wave runup and wave reflection that would increase damage to adjacent buildings and structures. Such other development activities include but are not limited to:

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

66-83 Nonstructural fill in coastal high hazard areas (Zone V) and Coastal A Zones. In coastal high hazard areas and Coastal A Zones:

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

ARTICLE XVI TEMPORARY STRUCTURES AND TEMPORARY STORAGE

66-84 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.

66-85 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.

66-86 Floodway encroachment. Temporary structures and temporary storage in floodways shall meet the requirements of Section 66-36A of these regulations.

ARTICLE XVII UTILITY AND MISCELLANEOUS GROUP U

66-87 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.

66-88 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 66-12.

66-89 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 66-12 and in accordance with ASCE 24. Utility lines shall be designed and elevated in accordance with N.J.A.C. 7:13.

66-90 Enclosures below base flood elevation. Fully enclosed areas below the design flood elevation shall be constructed in accordance with Section 66-76 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.

66-91 Flood-damage resistant materials. Flood-damage-resistant materials shall be used below the Local Design Flood Elevation determined in Section 66-12.

66-92 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 66-12.

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

SECTION 3. SEVERABILITY.

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

SECTION 4. EFFECTIVE DATE.

This ordinance shall take effect on June 15, 2022.

ORDINANCE NO. 2022-04

**AN ORDINANCE OF THE BOROUGH OF NEPTUNE CITY, COUNTY OF
MONMOUTH, STATE OF NEW JERSEY, REGULATING RENTALS IN THE
BOROUGH, INCLUDING SHORT TERM RENTALS**

WHEREAS, pursuant to N.J.S.A. 40:52-1(d) and (n), the Borough of Neptune City is expressly authorized to regulate the rental of real property for a term of less than one hundred seventy-five (175) consecutive days for residential purposes by a person having a permanent place of residence elsewhere; and

WHEREAS, in order to promote and protect the health, safety, and welfare of the residents and visitors of the Borough, the governing body wishes to regulate the rental of real property in the Borough, including short term rentals; and

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Neptune City, in the County of Monmouth, State of New Jersey, as follows:

CHAPTER ____ is hereby added as follows:

§ ____ HOUSING CODE ADOPTED.

§ ____ Adoption of Code.

The International Property Maintenance Code 2021, together with any subsequent amendment, change, or supplement thereto, is adopted and incorporated herein as it fully set forth at length, save and except such portions as are hereinafter deleted, modified, or amended, in and for the Borough of Neptune City. Wherever the International Property Code is referenced herein, the reference is to the most recent International Property Code.

§ ____ Where Code May Be Examined.

The International Property Maintenance Code is posted on the Borough's website for the use and examination of the public.

§ ____ Copies on File.

Copies of said International Property Maintenance Code will be available for use and examination by the public at the office of the Construction Official or the Borough Clerk, together with any resolutions amending the Code. Copies of the Code will also be available for purchase at the at the office of the Building Department.

§ ____ Amendments.

Amendments to the International Property Maintenance Code shall be filed pursuant to this Chapter.

§ ____ **Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

ANNUAL RENTAL

A residence building which all or part thereof is leased on a calendar year basis, or for twelve (12) consecutive months, but not to include a rooming unit in a registered rooming house, motel, or hotel.

DWELLING

Any building or portion thereof designed or used exclusively for one or more dwelling units.

DWELLING UNIT

A unit of a minimum of one (1) room and bath providing complete living facilities for one family, including facilities or provisions for facilities required in the storage, preparation, serving and clearing of food.

RENTAL

Includes the use of a residence by someone other than the owner, even where no funds are transferred for said use.

SECONDARY RESIDENCE

A residence which is not the principal abode of an owner, but not to include a rooming unit in a registered rooming house, motel, or hotel.

SEGMENTED DWELLING

A room within or section of a dwelling that constitutes an area less than the entire dwelling.

§ ____ **ROOMING HOUSES.**

§ ____ **ANIMAL HOUSE REGULATIONS.**

a. Purpose and findings. The Borough finds, determines, and declares that:

1. Neptune City is a resort community, and its citizens have experienced disturbances, damage, and public expense resulting from carelessly granted and inadequately supervised rentals to irresponsible tenants by inept or indifferent landlords.
2. This section is enacted to preserve the peace and tranquility of the community for its residents and to maintain the municipality as a viable vacation resort for all persons and families availing themselves of the facilities in the community.

3. The enactment of this section is necessary and desirable to provide a means to curb and discourage those occasional excesses arising from irresponsible rentals.

4. The Legislature of the State of New Jersey enacted N.J.S.A. 40:48-2.12n et seq. to enable communities to take effective action to assure that excesses, when they occur, shall not be repeated and that landlords offering rentals shall be held to sufficient standards of responsibility. Pursuant to the legislative authority conferred therein, the Borough hereby adopts the regulatory measures set forth in this Chapter.

5. In addition to the statutory authority set forth in N.J.S.A. 40:48-2.12n et seq., the Borough, pursuant to the legislative powers conferred by N.J.S.A. 40:48-1 et seq. and N.J.S.A. 40:60-6, hereby adopts the additional regulatory measures set forth herein.

b. Definitions. As used in this section, the following terms shall have the meanings indicated:

HEARING OFFICER

A licensed attorney of the State of New Jersey appointed by the Borough of Neptune City. The hearing officer shall not own or lease any real property within the Borough of Neptune City, nor hold any interest in the assets of or profits arising from the ownership of such property.

LANDLORD

The person or persons who own or purport to own any building in which there is rented or offered for rent, housing space for living or dwelling under either a written or oral lease, including, but not limited to, any building subject to the Hotel and Multiple Dwelling Law, P.L. 1967, c. 76 (N.J.S.A. 55:12A-1 et seq.) and owner-occupied two-unit premises.

RENTAL

Any rental of residential accommodations for any period of time. This section shall apply to rooming houses, boardinghouses, and lodging houses licensed or regulated under other ordinances of this Borough, as well as to single-family residential dwellings, apartments, or other multiunit dwellings.

SUBSTANTIATED COMPLAINT

An act of disorderly, indecent, tumultuous or riotous conduct, which shall include, but not be limited to, disorderly or petty disorderly persons' offenses, ordinance violations, drinking in public, lewdness, urinating in public, defecating in public, and acts of criminal mischief, committed upon or in proximity to any rental premises and attributable to the acts or incitements of any of the tenants of those premises which have been substantiated by prosecution and conviction in any court of competent jurisdiction as a violation of any provision of Title 2C of the New Jersey Statutes or any municipal ordinance governing disorderly conduct. For purposes of this definition, the phrase "upon or in proximity to" shall mean anywhere on the property or upon or within the adjacent right-of-way.

c. Hearing on proceedings to require posting of bond and assessment of penalties.

1. If, in any twenty-four (24) month period, two (2) complaints, on separate occasions, of disorderly, indecent, tumultuous or notorious conduct, which shall include, but not be limited to, disorderly or petty disorderly persons' offenses, ordinance violations, drinking in public, lewdness, urinating in public, defecating in public, and acts of criminal mischief, shall be committed upon or in proximity to any rental premises and are attributable to the acts or incitements of any of the tenants of those premises and have been substantiated by prosecution and conviction in any court of competent jurisdiction as a violation of any provision of Title 2C of the New Jersey Statutes or any municipal ordinance governing disorderly conduct, the Borough Council, or any officer or employee of the Borough so designated by the Borough Council for this purpose, may institute proceedings to require the landlord of the seasonal rental premises to post a bond against the consequences of future incidents of the same character.
2. The Borough Council, or any such employee of the municipality designated by the Borough Council, shall cause to be served upon the landlord, in person, or by registered mail, to the address appearing on the tax records of the municipality, and to the agent of the owner identified by the owner pursuant to this Chapter, by registered mail, notice advising of the institution of such proceedings together with particulars of the substantiated complaint upon which those proceedings are based and of the time and place at which the hearing will be held in the matter, which shall be in the municipal building, municipal court, or such other public place as designated by the Borough Council and which shall be no sooner than thirty (30) days from the date upon which the notice is served or mailed.
3. At the hearing convened pursuant to Subsection (c)(2) above, the hearing officer shall give full hearing to both the complaint of the municipality and to any evidence in contradiction or mitigation that the landlord, if present or represented and offering such evidence, may present. The hearing officer may consider, to the extent deemed relevant by the hearing officer, prior complaints about the residents of the property, even if those complaints did not result in a conviction. At the conclusion of the hearing, the hearing officer shall determine whether the landlord shall be required to post a bond in accordance with the terms of this section.
4. Any bond required to be posted shall be in accordance with the judgment of the hearing officer, in light of the nature and extent of the offenses indicated in the substantiated complaints upon which the proceedings are based, to be adequate in the case of subsequent offenses to make reparation for:
 - a. Damages likely to be caused to public or private property and damages consequent upon disruption of affected residents' rights of fair use and quiet enjoyment of their premises; and
 - b. Securing the payment of fines and penalties likely to be levied for such offenses; and

5. Any bond or other security deposited in compliance with Subsection c4 above shall remain in force for a period of four years. Upon the lapse of the four-year period, the landlord shall be entitled to the discharge of the bond unless, prior thereto, further proceedings leading to a forfeiture or partial forfeiture of the bond or other security shall have been had under Subsection d below, in which case the security shall be renewed in an amount and for a period that shall be specified by the hearing officer. A transfer of ownership or control of the property shall not void a requirement for security imposed under this section. The person or persons to whom ownership or control is transferred shall maintain that security and shall be subject to injunctive proceedings as authorized by Subsection (c)(4) above in the same manner as the landlord upon which the requirement was originally imposed; provided, however, the Borough Council may, by resolution, shorten the period for which security is required to not less than one year from the date of the transfer of ownership or control if, during that year, no substantiated complaints are recorded with respect to the property in question.

e. Bond forfeiture; extension.

1. If, during the period for which a landlord is required to give security pursuant to Subsection (c) above, a substantiated complaint is recorded against the property in question, the Borough Council or its designee may institute proceedings against the landlord for the forfeiture or partial forfeiture of the security, for an extension, as provided in Subsection (c)(5) above, of the period for which the security is required, or for an increase in the amount of security required or for any or all of those purposes.

2. Any forfeiture or partial forfeiture of security shall be determined by the hearing officer solely in accordance with the amount deemed necessary to provide for the compensatory purposes set forth in Subsection (c)(4) above. Any decision by the hearing officer to increase the amount or extend the period of the required security shall be determined in light of the same factors set forth in Subsection (c)(4) above and shall be taken only to the extent that the nature of the substantiated complaint or complaints out of which proceedings arise under this section indicates the appropriateness of such change, in order to effectually carry out the purposes of this section. The decision of the hearing officer in such circumstances shall be enforceable in the same manner as provided in Subsection (c)(4) above.

f. Revocation or suspension of licenses.

1. Causes. Any license granted or issued pursuant to this Chapter may be suspended or revoked as provided herein, after notice and hearing, for any of the following causes:
 - a. In the event any tenant or occupant of any individual living unit upon the licensed premises is charged with a violation of a Borough ordinance, notice of the pending charge will be given by mail to the licensee and the person designated to receive notices on the licensee's behalf pursuant to this Chapter.

- b. In the event two (2) such complaints are issued during one licensing year and result in convictions in municipal court, then such convictions may be grounds for suspension or revocation of the license. In the event the owner of the licensed premises is the complaining party and said complaint results in a conviction in municipal court, such conviction shall not be counted as a complaint for purposes of license suspension or revocation.

§ __ RESPONSIBILITY.

The owner, tenant, occupant, agent, or contractor shall maintain such structures and premises in compliance with these requirements. A person shall not occupy as owner-occupant or let to another for occupancy or use premises which do not comply with the following requirements of this Chapter.

§ __ RENTAL CERTIFICATE OF INSPECTION; RENTAL LICENSE REQUIRED.

- a. Rental certificate of inspection required. The owner or owners of any dwelling unit, or any agent acting on behalf of any owner or owners as defined herein, who intends to rent or lease all or any part thereof as a residential rental, during all or any portion of the ensuing year, shall first make application to the Construction Official of the Borough for the issuance of a rental certificate of inspection on each form or forms as may be required by the Construction Official. Such application shall be accompanied by the appropriate filing fee as set forth in in this Chapter.
- b. Rental license required. No person, corporation or partnership shall let or lease any furnished or unfurnished housing or living unit for residential purposes for occupancy, including the period between May 15 and September 30, unless a license to let each such unit is first procured and kept in effect at all such times as required by this chapter or any other law or ordinance of the Borough of Neptune City.

§ __ FEES.

The fee for such license or renewal thereof shall be \$300 per unit, and the license shall be valid for the calendar year of its issue. Any subsequent reinspection or failure to show for a scheduled inspection is \$100.

§ __ CONTENTS OF APPLICATION FOR CERTIFICATE OF INSPECTION AND APPLICATION FOR LICENSE.

Every person required to procure a certificate of inspection and a license under the provisions of this chapter shall submit an application for such to the Construction Department at the Municipal Building of the Borough of Neptune City, which application shall be accompanied by the full amount of the fees chargeable for the certificate and/or license sought. All applications for a certificate or license under the provisions of this chapter shall be by a written statement upon the forms provided by the Construction Department and shall contain the following:

- a. A statement that there have been no prior revocations or suspensions of license, and that there are no pending open complaints awaiting a hearing. In the event that there has been

a prior revocation, suspension or violation, or a pending complaint, the Construction Code Official shall not issue the license or certificate. An appeal from the Construction Code Official's decision not to issue the license may be taken as provided herein; and

- b. A statement that neither the property or the individual applicant, or any entity that the individual applicant has been a member of, or an owner of, has had any prior violations of any Borough ordinance since January 1, 2022, and that there are no pending complaints awaiting a hearing. In the event that there has been a violation, or is a complaint, the Construction Code Official shall not issue a license or certificate. An appeal from the Construction Code Official's decision not to issue the license or certificate may be taken as provided herein; and
- c. A statement that the applicant is not violating the Zoning Ordinance of the Borough of Neptune City at the property in question; and
- d. The name of the person to whom the license will be issued and his or her residence address; if the applicant is not an individual, then the names, positions, and the residence addresses of all officers and managers of the applicant; and
- e. The address of the premises and the name and residence address of the owner of the premises and the names and permanent address of each proposed tenant; and
- f. The name and address of an agent of the owner of the premises residing in or having an office in the Borough of Neptune City who is authorized to accept mailed service of any notice or order and to comply with same on behalf of the owner; and
- g. The name and address of the real estate agent, if any, negotiating the tenancy; and
- h. A drawing, satisfactory to the Construction Code Official, delineating the approved driveway and any and all legal parking spaces on the property, and clearly delineating the front, side and rear yards of the property. Said delineation shall be by way of a permanent, unmovable marker approved by the official who conducts the certificate of inspection. The drawing shall prominently announce the fact that there is no parking on the delineated front, side and/or rear lawns. A copy of this drawing shall be kept on file in the Building Department and the Police Department. The owner shall post a copy of the drawing in the dwelling unit in the same location as the certificate of inspection for the unit and deliver a copy of such drawing to each and every tenant at the beginning of the tenant's rental term. Any dispute concerning the drawing shall be an appeal to the Zoning Board from the determination of the Construction Code Official.

§ ____ INSPECTION OF RENTAL UNIT.

- a. After submission of the application and the required fees to the Construction Department, the Code Enforcement Officer shall make any investigation necessary to determine if there has been compliance with the Borough Code, including the provisions of this Chapter and all applicable fire codes, and shall indicate his written approval or disapproval of the application within twenty (20) business days after the application is filed with the Construction Department.

- b. If approved, the certificate or license shall be issued by the Construction Department. If disapproved, the Code Enforcement Officer shall notify the applicant and the Borough Construction Code Official, in writing, of such disapproval and the reasons therefor, and the applicant shall have ten (10) days from receipt of notice of disapproval to appeal from the decision of the Code Enforcement Officer.
- c. If a rental license has been denied, the appeal shall be to the governing body which, after due hearing, can affirm or reverse the decision of the Code Enforcement Officer. Such appeal shall be heard and decided within thirty (30) days of the filing of the appeal.
- d. Upon the filing of the application the Construction Official, or his subordinates or designates, shall conduct an inspection of the subject units within thirty (30) days from the filing of the application. Any reinspection(s) as provided herein shall be made within ten (10) days from the date the Construction Official is notified, in writing, by the applicant that the violations cited have been abated.
- e. All rentals shall be inspected at least once every three (3) years upon application and, for rentals of a year or more, upon a change of occupancy. The applicant shall be required to list the name(s) and permanent addresses of all who will occupy the premises during the tenancy.
- f. All certificates of occupancy issued under this chapter shall expire on December 31 of the year in which they were issued, unless the tenancy is for more than a year, in which case the certificate of inspection shall expire on December 31 of the third (3rd) year.
- g. All licenses issued under this Chapter shall expire on December 31 of the year issued.

§ __ NOTICE OF VIOLATIONS.

Notice of any violations of the aforesaid inspection(s) shall be provided to applicant pursuant to the International Property Maintenance Code. Upon correction of the violation(s), the applicant shall notify the Construction Official, in writing, of such fact, and a reinspection shall be made upon payment of the appropriate fee.

§ __ ISSUANCE OF CERTIFICATE, LICENSE.

Upon completion of a satisfactory inspection, the Construction Official shall forthwith issue the certificate of inspection and/or license. The certificate of inspection and/or license will expire on December 31 of the year issued, or until a change in tenancy occupancy occurs, whichever occurs first.

§ __ LICENSE SPECIFICATIONS.

Each license issued under the provisions of this chapter shall state upon its face the following:

- a. The name and address of the licensee and of the agent authorized to accept service of any notice or process on behalf of the licensee.

- b. The name and permanent address of each tenant of the premises.
- c. The amount of license fee therefor.
- d. The dates of issuance and expiration thereof.
- e. Name and signature of the individual performing the inspection.
- f. Date of final inspection.
- g. Number of permitted occupants.

§ ____ FAILURE TO OBTAIN INSPECTION.

In the event that an owner or owners or any agent acting on behalf of any owner or owners or any residential property fails to obtain an inspection on a change of tenancy or as otherwise required by this Chapter, said owner or owners and agent shall have committed a violation of this Chapter.

§ ____ DURATION OF RENTALS.

§ ____ Purpose and Scope.

- a. Authority. In accordance with New Jersey law, a municipality may make and enforce within its limits, all ordinances and regulations not in conflict with general laws, as it may deem necessary and proper for the good government, order and protection of persons and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants. The Borough of Neptune City hereby adopts the within Ordinance in accordance with said authority.
- b. Purpose and Scope. This section aims to curtail, and in certain circumstances prohibit, the increasingly widespread practice of renting or leasing various types of dwellings, or segments thereof, located primarily in residential neighborhoods, on a short-term basis to transient guests. This practice has been popularized and facilitated by various websites that advertise and broker these rentals. Left unregulated, this practice will transform many residential dwellings into a detriment to the health, safety, and quiet enjoyment of the affected neighborhoods.
- c. This section does not apply to lawfully established and operating hotels, motels, rooming houses, boardinghouses, and bed-and-breakfast establishments.
- d. Notwithstanding the provisions of this Chapter, no rental shall be permitted without obtaining a required certificate of inspection and license prior to occupancy.

§ ____ Short-Term Rentals Prohibited.

No type of dwelling unit, as defined in §134-4, or segment thereof, may be rented or leased for a term of less than thirty (30) consecutive calendar days.

§ ____ **Exceptions for Seasonal Short-Term Rentals.**

Notwithstanding the restriction set forth above, minimum rentals of seven (7) days or more of a dwelling unit are permitted during the period from May 15 through September 30.

§ ____ **Exceptions for Owner-Occupied.**

Notwithstanding the restriction set forth above, the duration restriction shall not apply to owner-occupied single family dwelling units and/or multiple family dwelling units so long as the owner personally resides in one of the units during the time of the tenancy.

§ ____ **REGULATIONS.**

In addition to any other provision of law, every licensee and/or certificate holder under this chapter shall:

- a. Permit all reasonable inspections of the premises.
- b. Permit access to the premises at all reasonable times by the Code Official and or his designee.
- c. Ascertain and at all times comply with all laws and regulations applicable to such premises.
- d. Avoid all forbidden, improper, unlawful or unnecessary practices, business or conditions which do or may affect the public health, morals or welfare.
- e. Refrain from operating the licensed operation on the premises after expiration of his license or certificate and during the period when his license or certificate is revoked or suspended.
- f. Post and maintain his license and certificate upon the licensed premises in a place where it may be seen at all times.
- g. No basement, kitchen, garage, lobby, hallway, barn or porch shall be used or occupied as a sleeping room in any premises registered under the provisions of this chapter.
- h. No rental shall occur for occupancy of more than the number of individuals permitted to occupy the bedrooms.
- i. Obtain a Certificate of Inspection issued by the Borough Code Enforcement Official.

§ ____ **COMMERCIAL RENTALS.**

The lease or rental of any dwelling for commercial or corporate purposes is prohibited.

§ ____ **RENTALS OF AMENITIES.**

The lease or rental, for any purpose, of any amenity, feature, accessory, or appurtenance to or associated with, a dwelling is prohibited.

§ ____ ADVERTISEMENT.

The print, electronic, or internet advertisement of any rental that is prohibited by or fails to comply with the provisions of this Chapter, including the regulations on duration, or any other applicable provision of the Borough Code, is prohibited. Anyone who publishes such an advertisement, including AirBnB, VBRO and the like, shall be guilty of a violation of this Chapter.

§ ____ ENFORCEMENT.

It shall be the duty of the Chief of Police, the Code Enforcement Officer and/or any police officer of the Borough of Neptune City to determine if this Chapter has been complied with, and to enforce the provisions of this Chapter against any person found to be violating the same. Any police officer, Code Enforcement Official, or other employee of the Borough so authorized by the Borough Administrator may issue a summons for violation of this Chapter.

§ ____ POSTING OF LIST OF NAMES AND ADDRESSES OF TENANTS.

- a. The landlord licensee shall post on the back of the front door of the premises the rental certificate of inspection required and a list setting forth the full names and permanent addresses of each tenant, including the name and permanent addresses of each person contributing toward the cost of the rental.
- b. In the event of a change in tenancy, the licensee shall file with the Construction Department a list of the names and permanent addresses of the new tenants, a copy of which shall be posted as required above.
- c. Failure to file said list within two business days after commencement of a tenancy shall cause the expiration of all licenses. Any such expired licenses must be renewed with an application as with any application for a new license.

§ ____ REVOCATION OF CERTIFICATE.

In addition to any other provisions of the Borough Code, if subsequent to the issuance of a rental certificate of inspection, the Construction Official, his subordinates or designates learn or become aware of violations of this Code, an inspection shall be made of the subject premises. If violations are found to exist, the Borough may, in its discretion, proceed under the provisions of the International Property Maintenance Code, or any other applicable, regulation, rule, ordinance, statute or other law. In addition thereto, if cited violations are not abated within ten (10) calendar days from service of the notice, the rental certificate of inspection shall be revoked by the Construction Official by mailing a notice of revocation by certified mail to the owner or owners and to the tenant or tenants and the premises shall then be vacated. The Construction Official has the discretion to allow a longer period of time for the correction of violations if warranted and reasonable under the circumstances.

§ ____ REVOCATION OR SUSPENSION OF LICENSES.

Any license granted or issued pursuant to this chapter may be suspended or revoked as provided herein after notice and hearing for any of the following causes:

- a. Any fraud, misrepresentation or false statement contained in the application for license.
- b. Any violation of this chapter or any Borough ordinance.
- c. Conducting the use, licensed under this chapter, by applicant himself, or any of his agents, servants, employees, tenants or occupants in any unlawful manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

§ ____ HEARING ON PROCEEDINGS FOR LICENSE SUSPENSION OR REVOCATION.

- a. Notice of hearing for revocation or suspension of a license shall be given, in writing, by the Borough Clerk or the Code Enforcement Officer, setting forth specifically the grounds of complaints and the time and place of the hearing. Such notice shall be mailed by certified mail to the licensee and his designated agent at the address indicated on the license application, and the complainant, at least five (5) days prior to the date set forth for the hearing.
- b. Conduct of hearing. The hearing shall be held before a hearing officer to be designated by resolution of the governing body and shall be tape-recorded. At such hearing, proof of conviction of any occupant of the licensed premises for a violation of any Borough ordinance relating to noise or disorderly conduct occurring on the licensed premises shall be admissible.
- c. Penalties. The hearing officer, upon a finding that the charges against the licensee have been sustained, may, in his discretion, suspend the license for a specified period or revoke the license. In the discretion of the hearing officer, such sentence may be suspended conditioned on subsequent compliance with the chapter. If noncompliance with such condition is established at a subsequent hearing, the sentence will be reimposed.
- d. Any suspension of license may include a period of suspension during the term of any renewal of the license.

§ ____ COMPLAINTS.

In addition to the provision for revocation, the Code Enforcement Officer, the Chief of Police, any police officer of the Borough of Neptune City, or any taxpayer or resident of the Borough, may make complaint in the Municipal Court of the Borough of Neptune City for any violation of this Chapter, or any article, section, paragraph, or provision thereof.

§ ____ REPORTING OF VIOLATIONS.

The Municipal Court Clerk of the Borough of Neptune City shall report all dispositions of guilt related to this Chapter to the Chief of Police and Construction Official in the Borough of Neptune City within twenty (20) days of the date of said guilty disposition by written notification.

§ ____ VIOLATIONS AND PENALTIES.

- a. Every person convicted of a violation of a provision of this Chapter shall be subject to the maximum fine and penalties established under N.J.S.A. 40:49-5, and any subsequent amendments thereto.
- b. Each and every day a violation of this Chapter persists shall constitute a separate violation.
- c. In addition to any other penalty, a property owner shall be denied a certificate of inspection and a license for all rental properties in which any of the owners or their principles has an interest for a period of two (2) years after a conviction for violation of this Chapter.
- d. In addition to any other penalty, any real estate agent, broker, or other real estate professional who assists in a violation, or otherwise participates in a rental prohibited under this chapter, shall be prohibited from applying for, or receiving, any certificate of inspection or license for any property for a period of two (2) years from the date of the conviction for violating this chapter.
- e. To the extent the conduct prohibited under this Chapter also violates other provisions of the Borough Code, those violation. constitute separate offense subject to additional fines and penalties as prescribed.

ORDINANCE NO. 2022-05

**AN ORDINANCE OF THE BOROUGH OF NEPTUNE CITY, COUNTY OF
MONMOUTH, STATE OF NEW JERSEY, ADOPTING REGULATIONS FOR
OUTDOOR DINING**

WHEREAS, as a result of the COVID-19 pandemic and the emergency orders issued by the State and Federal authorities, several businesses in the Borough of Neptune City have utilized outdoor seating space for the provision of food and beverages; and

WHEREAS, the Borough anticipates that these businesses will continue with the provision of outdoor dining, if permitted by local ordinance and regulation; and

WHEREAS, the Borough requires to provide the owners and operators of restaurants in the Borough the opportunity to obtain a license permitting outdoor dining service without the cost, expense, and delay of the requirement to obtain approval of the site plan by the Borough of Neptune City Planning Board; and

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Neptune City, in the County of Monmouth, State of New Jersey, as follows:

CHAPTER ____ is hereby added as follows:

§ ____ OUTDOOR DINING

§ ____ Outdoor Dining Permitted:

All restaurants, cafeterias, dining establishments, and food courts, with or without a liquor license, and all holders of a liquor license with retail consumption privileges (hereinafter "Establishments") are permitted to off in-person service in outdoor areas, provided that the Establishment obtains an Outdoor Dining Permit from the Borough of Neptune City for outdoor dining in accordance with the requirements set forth herein.

§ ____ Permit Required.

The Outdoor Dining Permit Application shall include a completed application, signed and dated by the owner of the Establishment, or such owner's authorized agent, together with a plan depicting the existing and proposed layout and location of such outdoor tables and seating, which shall also include a confirmation of the number of existing approved tables and seats, a depiction of all aisles, routes of ingress and egress, clearances and distances between tables and between the seating area of any curb line (six (6) foot minimum pedestrian clearance is required), trash and recycling receptacles, any proposed lighting, and any proposed temporary structures to protect the outdoor dining area from the elements. In addition to the creation and/or expansion of the outdoor dining area, the application and plan may include proposed awnings, tents, and other similar devices to protect the outdoor dining areas from the elements, and any additional wiring, heating, and/or electrical changes that are proposed within this new outdoor seating area, provided that no

permanent structures shall be permitted under this Chapter. If the owner of the Establishment is not the owner of the property, the property owner must also sign the application.

§ ____ Expanded Outdoor Dining Areas.

- a. The application and plan for outdoor dining may propose expanded outdoor dining areas, including, but not limited to, sidewalks, decks, patios, and private lawns contiguous with the Establishment, provided that any area proposed for outdoor seating and dining must be accessible from the Establishment, shall not obstruct the free flow of pedestrian traffic, and shall provide a safe location for patrons.
- b. Parking areas will not be permitted.
- c. The total amount of seats available to patrons shall not exceed the permitted occupancy of the Establishment.
- d. In the event the outdoor dining area is proposed to be located in the right of way in front of a neighboring property, it must be an immediate neighboring property and written consent of the neighboring property owner shall be provided as part of the application.
- e. If the neighboring property is not owner-occupied, the written consent of any tenant(s) shall also be provided.

§ ____ Review of Permit Application.

The application and plan for an Outdoor Dining Permit shall be reviewed by the Borough Zoning Officer, Construction Official, Borough Administrator, Fire Official, and Police Department (hereinafter "Reviewer"). At the discretion of any Reviewer, additional information needed to process the application may be required and must be submitted by the applicant. The Outdoor Dining Permit does not replace, or eliminate the need for, any construction permit required for any improvement at the Establishment's outdoor dining area.

§ ____ Standards for Permits.

The following standards are created for the outdoor dining areas:

- a. Outdoor dining areas must be designated and operated in accordance with the State of New Jersey, Department of Health, and any applicable County Health Department requirements.
- b. Outdoor dining areas may be located on sidewalks, decks, patios, and private lawns contiguous with the Establishment. Parking areas will not be permitted.
- c. If the contiguous area is located in a County Right of Way, approval from the County must be obtained.
- d. Lighting will be required if the outdoor dining area is proposed to be utilized after dusk and there is inadequate existing lighting. Electrical permits may be required.

- e. A non-enclosed tent, awning or umbrellas may be utilized within an outdoor dining area provided they do not restrict pedestrian access. Six (6) foot minimum pedestrian clearance is required. A tent permit from the zoning department must be obtained annually and Fire Department approval must be obtained, if applicable.
- f. Serving stations and a host podium may be located within an outdoor dining area. There shall be no outdoor cooking allowed.
- g. No change in grading will be permitted in order to create an outdoor dining area.
- h. Establishments with existing outdoor dining areas may seek to expand the existing area in accordance with the regulations set forth herein.
- i. The operator of an outdoor dining area shall be responsible to provide, maintain, and empty an adequate amount of outdoor trash and recycling receptacles for the outdoor dining area, and shall not be permitted to dispose of trash or recycling into municipal receptacles.
- j. The operator of an outdoor dining area shall be responsible for maintaining a sanitary, safe, litter-free, and well-kept appearance of the property at all times.
- k. Adequate provision for pedestrian safety must be provided. To allow for pedestrian circulation, a minimum of six (6) feet of sidewalk along the curb and to the entrance of the establishment shall be maintained and free of tables and other encumbrances. Sidewalk seating must be limited to tables of four (4) seats or less.
- l. Planters, posts with ropes, wrought iron railings, or other removable enclosures are encouraged and shall be used as a way of defining the area occupied by the outdoor dining area.
- m. To the extent possible, all elements of the outdoor dining area shall be compatible with the architectural character of the building where the establishment is located.
- n. Outdoor dining areas may have outdoor heaters, provided same are in locations identified on the plan and subject to inspection by the Borough Zoning Officer and/ or the Fire Department.
- o. Establishments with outdoor dining areas shall not be entitled to additional signage, over and beyond what is permitted for the restaurant use.
- p. Establishments with on-premises retail consumption privileges are responsible for compliance with the New Jersey Alcoholic Beverage Control Commission.
- q. No live outdoor entertainment/performances will be permitted in the outdoor dining areas permitted by this Code. Any other outdoor music must comply with Borough noise ordinances and be considerate of businesses and residential neighbors.

§ ____ General Permit Conditions.

Outdoor Dining Permits shall be subject to the following general conditions:

- a. Outdoor Dining Permits are valid from April 1st through November 30th.
- b. An Outdoor Dining Permit may be amended or revoked if the Borough Administrator or his/her designee identifies a safety issue that may involve but not be limited to traffic, fire, pedestrian safety, or trash management, and/or if the Establishment fails to comply and/or if conditions of the permit are not adhered to.
- c. For any outdoor seating and dining activities in a public right-of-way, the Establishment shall provide a Certificate of Insurance, with acceptable limits of coverage as required by the Borough Administrator, naming the Borough as an additional insured, and shall indemnify and hold harmless the Borough, its employees, agents and/or officers from all claims, losses, liens, expenses, suits, including costs and attorney's fees, arising out of the placement, operation and maintenance of the outdoor dining area approved by said Outdoor Dining Permit.
- d. All expenses and expenditure of any funds in reliance on the provisions of the Outdoor Dining Permit shall be at the Establishment's sole and exclusive cost and expense.
- e. Any changes to a permit granted hereunder shall require the submission of a new permit application.

§ ____ Existing Approvals.

Nothing herein shall prevent the continued use of outdoor dining area at any establishment already authorized and approved by the Borough pursuant to any prior site plan or other land use approval. Outdoor dining areas authorized by an Outdoor Dining Permit shall be conducted during the same hours of operation currently applicable to the establishment.

§ ____ Approvals.

The issuance of an Outdoor Dining Permit for outdoor dining, including, but not limited to, location, scope, setbacks, and size of the outdoor dining area, is solely in the discretion of the Borough. In order for an application to be considered for administrative approval, the following must be met:

- a. There must be an approved site plan on file with the Borough for the site.
- b. All of the conditions indicated above must be met.
- c. If any of the conditions listed above cannot be met, or if the applicant does not agree with the determination made by the Borough Administrator or his/her designee, the applicant shall make an application to the Land Use Board for site plan approval.
- d. No new impervious cover is proposed.
- e. The cost of the administrative review shall be \$250.00 and shall be nonrefundable.

§ ____ **Violations and Penalties.**

Any person or entity who violates any provisions of this Chapter shall be fined as set forth in Borough Code Section 1-16, "Violations and Penalties." Every day that a violation continues shall constitute a separate and distinct offense. Each and every violation shall be considered a separate violation.

ORDINANCE NO. 2022-06

**BOROUGH OF NEPTUNE CITY
COUNTY OF MONMOUTH**

**ORDINANCE ADOPTING THE EAST COAST ICE REDEVELOPMENT
PLAN CONSISTING OF BLOCK 13, LOT 1 AND BLOCK 18, LOT 1
WITHIN THE EAST COAST ICE REDEVELOPMENT PLAN AREA**

WHEREAS, redevelopment plans must be adopted by ordinance pursuant to N.J.S.A. 40A:12A-7, and said plans must include an outline for the planning, development, redevelopment or rehabilitation of the identified project area; and

WHEREAS, on September 28, 2020, pursuant to Resolutions No. 20-140 and 20-141, the governing body of the Borough of Neptune City (the "Borough") directed the Land Use Board to conduct a preliminary investigation to determine whether an area including Block 18, Lot 1 (96 Laird Avenue) and Block 13, Lot 1 (87 Rosewood Place) (the "Properties") is an area in need of redevelopment according to the criteria set forth in N.J.S.A. 40A:12A-5 and N.J.S.A. 40A:12A-3; and

WHEREAS, on March 9, 2021, the Land Use Board held a properly noticed public hearing at which the Borough's professional redevelopment planner Jennifer Beahm, PP, AICP of Leon S. Avakian Inc. presented the findings of a preliminary investigation report (the "Investigation Report") resulting in a determination to recommend that the Properties be designated as an area in need of redevelopment; and

WHEREAS, on April 13, 2021, the Land Use Board accepted and adopted the recommendations and proposed findings of the Investigation Report and recommended to the Mayor and Council that the Properties be declared a Non-Condemnation Area in Need of Redevelopment; and

WHEREAS, on April 26, 2021, the Borough adopted Resolution No. 21-81 declaring the Properties to be an area in need of redevelopment for non-condemnation purposes; and

WHEREAS, the Borough's professional redevelopment planner, Jennifer Beahm, PP, AICP, has prepared a Redevelopment Plan entitled the "East Coast Ice Redevelopment Plan" dated April 2022 including Block 13, Lot 1 and Block 18, Lot 1 (the "East Coast Ice Redevelopment Plan"); and

WHEREAS, the Borough wishes to adopt the East Coast Ice Redevelopment Plan to establish development standards for designated redeveloper(s) of the Properties within the delineated redevelopment plan area.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Neptune City in the County of Monmouth, State of New Jersey, as follows:

SECTION 1. East Coast Ice Redevelopment Plan. The East Coast Ice Redevelopment Plan dated April 2022 prepared by Jennifer Beahm, PP, AICP, attached hereto and made part hereof as Exhibit A is hereby approved and adopted pursuant to N.J.S.A. 40A:12A-1 et seq., shall supersede the current zoning applied to Block 13, Lot 1 and Block 18, Lot 1, and be enacted as an amendment to the Borough's Zoning Map.

SECTION 2. Severability. If any section, subsection or paragraph of this ordinance be declared unconstitutional, invalid or inoperative, in whole or in part, by a court of competent jurisdiction, such chapter, section subchapter or paragraph shall to the extent that is not held unconstitutional, invalid or inoperative remain in full force and effect and shall not affect the remainder of this ordinance.

SECTION 3. Repealer. All ordinances and resolutions, and parts of ordinances and resolutions which are inconsistent with provisions of this ordinance shall be, and are hereby, repealed to the extent of any such inconsistency.

SECTION 4. Effective Date. This ordinance shall take effect immediately after final adoption and approval pursuant to law.