

REGULAR COUNCIL MEETING  
JUNE 12, 2023

Virtual Zoom Meeting  
Irvington, N.J. – Monday Evening  
June 12, 2023 - 7:30 P.M.

1. Pledge of Allegiance
2. Moment of Silence
3. Roll Call

Present: Darlene Brown, Vernal Cox, Sean C. Evans, Charnette Frederic (arrived at 7:35 p.m.), October Hudley, Orlander G. Vick, Jamillah Z. Beasley, President

Absent: None

President Beasley read the Statement of Proper Notice pursuant to the Sunshine Law.

4. Hearing of Citizens on Agenda Items Only (limited to three minutes per person and thirty minutes total)

There were no requests to be heard.

5. Hearing of Council Members

There were no requests to be heard.

6. Reports & Recommendations of Township Officers, Boards & Commissions

A. Reports

1. Municipal Court - Weekly Summary Report For The Week Of May 15, 2023 to May 19, 2023
2. Municipal Court – Mayor’s Monthly Report For the Month Of April 2023
3. Irvington Public Library – 2022 Audit Report
4. Report from CFO Ra’Oof - Refunding Of Bond Anticipation Notes
5. Aranwood Animal Control – Second Quarter Report, 2023
6. Municipal Court - Weekly Summary Report For The Week Of May 22, 2023 to May 26, 2023
7. Municipal Court - Weekly Summary Report For The Week Of May 29, 2023 to June 2, 2023

7. Reports of Committees

- A. Request for Proposals – Certified and Licensed Lead Contractors - May 31, 2023

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ALL ITEMS LISTED ON THE CONSENT AGENDA ARE CONSIDERED ROUTINE BY THE MUNICIPAL COUNCIL AND HAVE BEEN LISTED FOR ONE ROLL CALL VOTE FOR ADOPTION OF ALL ITEMS

8. Ordinances, Bills & Claims

A. Ordinances on First Reading

Beasley – Vick

1. Amend Section 380-27 of the Revised Code Regarding Parking Commercial Vehicles on Residential Property Prohibited

AN ORDINANCE REGARDING SANITARY SEWER CONNECTION CHARGES

Adopted

Vick – Brown

2. Amend Section 355-13 of the Revised Code Regarding Certificate of Occupancy Required

AN ORDINANCE FOR ADOPTION OF THE FLOOD PLAIN MANAGEMENT REGULATIONS OF THE TOWNSHIP OF IRVINGTON

Adopted

Vick – Brown

3. Amend Section 355-15 of the Revised Code Regarding Certificate of Habitability Required

CALENDAR YEAR 2023 MODEL ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK

Adopted

Cox – Brown

4. An Ordinance Creating an Informal Review Committee

AMENDMENT TO AN ORDINANCE CREATING AN ABANDONED PROPERTY LIST TO AUTHORIZE THE ABANDONED PROPERTY PUBLIC OFFICER AND THE DESIGNATION OF QUALIFIED REHABILITATION ENTITIES

Brown – Beasley

Motion to Table  
Adopted

C. Bills & Claims

Frederic – Evans

1. Bill Lists

RESOLVED THAT THE BILLS AND CLAIMS AGAINST THE TOWNSHIP OF IRVINGTON FOR A PERIOD JUNE 12, 2023 AS ENUMERATED ON THIS LIST FOR MATERIALS, SUPPLIES AND

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SERVICES FURNISHED, DELIVERED AND/OR PERFORMED HAVE BEEN CERTIFIED BY THE DEPARTMENTS AS CORRECT, EACH CLAIM AND PURCHASE ORDER HAVE BEEN VERIFIED AND REVIEWED FOR THE AVAILABILITY OF FUNDS, ACCURACY OF ACCOUNT CODING AND COMPLETENESS BY THE ADMINISTRATION, THEREFORE:  
BE IT RESOLVED, BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON THAT THE FOLLOWING BE PAID BY THE CHIEF FINANCIAL OFFICER:

**BILL LIST**

\$4,722,067.24

**TOTAL**

\$4,722,067.24

**Adopted**

Brown – Frederic

2. Payrolls

May 19, 2023

**TOTAL**

\$2,054,021.17

June 2, 2023

**TOTAL**

\$2,126,137.90

**Adopted**

9. Resolutions and Motions

A. Resolutions

Cox – Beasley

1. Waive 20 Day Time Period for Effective Date on Ordinance Creating an Abandoned Property List to Authorize the Abandoned Property Public Officer and the Designation of Qualified Rehabilitation Entities

WHEREAS, an ordinance entitled “AMENDMENT TO AN ORDINANCE CREATING AN ABANDONED PROPERTY LIST TO AUTHORIZE THE ABANDONED PROPERTY PUBLIC OFFICER AND THE DESIGNATION OF QUALIFIED REHABILITATION ENTITIES” was duly passed on first reading by the Municipal Council on May 22, 2023 and duly adopted by the Municipal Council on second reading after public hearing on June 12, 2023; and

WHEREAS, pursuant to N.J.S.A. 40:69A-181 (a) and Section 7-32 (d) of the Revised Code of the Township of Irvington, an ordinance shall take effect twenty (20) days after final passage by the Municipal Council and approval by the Mayor; and

WHEREAS, pursuant to N.J.S.A. 40:69A-181 (b) and Section 7-32 (d) of the Revised Code of the Township of Irvington, two- thirds (2/3) of the full membership of the Municipal Council may declare an emergency, by written resolution, to reduce this twenty (20) day period:

NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON (not less than 2/3 of the full membership thereof affirmatively concurring) that pursuant to

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the provisions of N.J.S.A. 40:69A-181 (b) and Section 7-32 (d) of the Revised Code of the Township of Irvington, it does hereby declare that an emergency exists that an ordinance entitled “AMENDMENT TO AN ORDINANCE CREATING AN ABANDONED PROPERTY LIST TO AUTHORIZE THE ABANDONED PROPERTY PUBLIC OFFICER AND THE DESIGNATION OF QUALIFIED REHABILITATION ENTITIES” shall become effective immediately upon its approval by the Mayor.

Adopted

Vick – Beasley

2. Resolution of Sorrow – Lady Patricia Horton Brown

### **RESOLUTION OF SORROW LADY PATRICIA HORTON BROWN**

WHEREAS, the Municipal Council of the Township of Irvington wishes to express their deepest sorrow on the passing of Lady Patricia Horton Brown; and

WHEREAS, Lady Patricia Horton Brown was born on February 10, 1964 in Newark, NJ. She was the 4th of 6 children born to the late James McArthur Horton and Dorothy Mae Horton; and

WHEREAS, as a child Patricia was full of life and at a very young age she was determined to always be “on the go”. Lady Brown was educated in the Newark school system attending Chancellor Avenue school and the infamous Weequahic High School. As a student at Weequahic she participated in a plethora of extra-curricular activities; she participated in modeling, dancing, the honors club, flag twirling, and her most proud moments were when she was voted Ms. Football and when she lead the band front as a drum majorette; and

WHEREAS, after graduation she attended Montclair State College and Katherine Gibbs. However, as a young mother she decided to pivot her path and began her journey working at IBM. Shortly after she began her almost 3 decade career as an employee for the United States Postal Services; and

WHEREAS, Lady Brown Loved the Lord. She gave her life to Christ as a young woman. She became a faithful member of the Solid Rock Baptist Church in Irvington, NJ under the leadership of Bishop Rudy V. Carlton. Later she became a devoted member of the Clear View Baptist Church in Newark, NJ under the leadership of Pastor Eric M. Beckham. At Clear View Lady Brown served as a member of the Mass, Celestial and Inspirational choirs, Grief ministry and the president and founder of the Liturgical dance ministry; and

WHEREAS, Lady Brown met the love of her life, Pastor Richard Angelo Brown Jr. In 2012 and joined together in Holy Matrimony on July 27, 2013. They together served as the leaders of the Bethsaida Baptist church in Newark, NJ from October 2013 until May 2022 when Pastor Brown was Installed to serve as the Senior Pastor of the Gravel Hill Missionary Baptist Church in Newark, NJ; and

WHEREAS, Lady Brown loved her entire family, She would move the earth to make sure that her children and grandchildren were taken care of. Her grandchildren meant the world to her and she never wanted to miss a moment spending time with them; and

WHEREAS, Lady Brown believed in living life to the fullest she loved to shop, do arts and crafts, take pictures, travel, spend time with loved ones, sing, dance, get dressed up, put on make-up, talk on FaceTime and she was the Queen of Facebook; and

WHEREAS, Lady Brown departed this life on May 14, 2023. She was preceded in death by her father James

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McArthur Horton, her grandmothers Lillie Mae Dunn and Olave Horton, her grandfathers Rosevelt Dunn and James Horton her brother Kenneth McArthur Horton and her brother in law Gabriel “Gary” Dukes; and

WHEREAS, she leaves to cherish her memory her husband Pastor Richard Angelo Brown Jr., her mother Dorothy Mae Horton. 6 sons; Kamil Faheem Horton (Aileemah), Azeem Jihad Williams, Joshua Brown, Elijah Brown, Silas Brown and Richard Brown III. 2 daughters; Mariah Haynes, and Breana Brown. 6 grandchildren; Jeremiah Jayden Horton, Kaylee Amani Horton, Kylee Amiya Horton, James Kameron Horton, Kyree Brown and Jael Kamille Horton. 3 sisters; Darisel Horton, Gwendolyn Dukes and Jeanette Baytops (Ettwan). 1 brother, Anthony Horton (Tracey). 2 sister in laws, Nicole Brown and Veronica Brown. 8 godchildren Sharifah Turmam, Radeyah Terrell, Emilio Christian, Jevon Horton Baytops, AnJaya Pennant, Jasmine Collier, Eliah Baytops and Jai Arlena Humphrey. 3 chosen sisters; Nadiyah Abdullah, Michelle Drewey, and Sandra Evet Evans. Her godmother, Elaine Youngblood. Her chosen mom, Geraldine Vick, her Post office family, her Weequahic family, Sisters By Choice, the Gravel Hill Baptist Church family and a host of aunts, uncles, cousins, nieces, nephews, great nieces, great nephews, close relatives and friends; and

WHEREAS, Lady Brown’s presence will forever be missed, but her legacy will live on forever in the hearts of those she loved:

NOW THEREFORE BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON that the Township of Irvington hereby mourns the passing of Lady Patricia Horton Brown and extends our most sincerest condolences to her family and friends during this period of bereavement; and

BE IT FURTHER RESOLVED that a copy of this resolution be spread upon the minutes of this Governing Body in lasting tribute to Lady Patricia Horton Brown.

Adopted

Beasley – Vick                      3. Resolution of Sorrow – Sean Randolph Edmonds, Irvington Municipal Court Employee

**RESOLUTION OF SORROW  
SEAN RANDOLPH EDMONDS**

WHEREAS, the Municipal Council of the Township of Irvington wishes to express their deepest sorrow on the passing of Sean Randolph Edmonds; and

WHEREAS, Sean Randolph Edmonds was born on August 25, 1977 in Orange, NJ to the late C. Randolph Edmonds and Rosa M. Edmonds; and

WHEREAS, in addition to his beloved Mother Rosa and children, Sean is also survived by his Brother, Corey Edmonds of Louisburg, NC and Partner, Atiyya Pinnix; and

WHEREAS, Sean attended Alexander Street School, Florence Avenue School, and Frank H. Morrell High School; and

WHEREAS, Sean was married to Tawanna Ross and was the loving father of Sean Stroud, Sadaya Edmonds, and Kailyn Edmonds; and

WHEREAS, he was employed by the Irvington Municipal Court System for 19 years; and

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WHEREAS, Sean had a tremendous love for football (The Kansas City Chiefs was his team). He played Pop Warner football as a young child and played in high school. His coaching careers started in 2012 with the Irvington Golden Knights organization. Sean began coaching with the Hillside High School football organization in 2016. As a member of the Coaching staff, he led the Freshman program to multiple winning seasons including an undefeated season in 2022; and

WHEREAS, Sean was an essential part of the Varsity program with 3 State Championships and 6 Conference Championships. With his unique coaching skills, he played an essential part in many of his players being accepted into various colleges. Sean leaves a legacy of love with all those he touched; and

WHEREAS, Sean's presence will forever be missed, but his legacy will live on forever in the hearts of those he loved:

NOW THEREFORE BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON that the Township of Irvington hereby mourns the passing of Sean Randolph Edmonds and extends our most sincerest condolences to his family and friends during this period of bereavement; and

BE IT FURTHER RESOLVED that a copy of this resolution be spread upon the minutes of this Governing Body in lasting tribute to Sean Randolph Edmonds.

Adopted

Vick – Cox                      4. Change Order - Professional Services Design Contract for the  
Handicapped Accessibility at the Municipal Complex - Greenman-Pedersen Inc. -  
\$4,800.00

**RESOLUTION TO APPROVE A CHANGE ORDER IN PROFESSIONAL SERVICES CONTRACT FOR  
THE HANDICAPPED ACCESSIBILITY AT THE MUNICIPAL COMPLEX**

Whereas a professional services design contract was awarded to Keller & Kirkpatrick (now operating as Greenman-Pedersen Inc.) to provide design services to prepare plans and specifications for public bidding for the handicapped accessibility improvements at the Municipal complex, which addressed the Municipal Building, Police Headquarters and Fire Headquarters, as Resolutions DPW 18-0214-2 and DPW 19-0211-4; and

Whereas, recent changes in the building code requirements for handicapped accessibility necessitate a review of the impact on the present plans for this project; and

Whereas, a proposal to perform this additional work was requested by the Township Engineer and received from Greenman-Pedersen Inc. to provide this work in the amount of \$ 4,800.00; and

Whereas, the Township Engineer has reviewed this proposal and recommends that a Change Order to the design contract for this project be approved for Greenman-Pedersen Inc. in the amount of \$ 4,800.00.

NOW, THEREFORE, BE IT RESOLVED BY MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON that a Change Order to the professional services contract for e engineering services for the Handicapped Accessibility at the Municipal complex Project is awarded to Greenman-Pedersen Inc. at their proposed price not to exceed \$ 4,800.00.

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BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:34-5.2, the required Certificate of Availability of Funds No. C23-0099 for the above work has been obtained from the Chief Financial Officer of the Township of Irvington and the appropriation to be charged for this expenditure is in the amount of \$ 4,800.00 is Account T-21-41-859-22B-801.

Adopted

Beasley – Brown                      5. Authorize 2023 Springfield Avenue Business Improvement District's Sidewalk Sale

WHEREAS, the Springfield Avenue Center Business Improvement District proposes its annual Summer 2023 Sidewalk Sale and Activities to commence and include:

SATURDAY, JULY 8  
Rain date: Saturday, July 15

SATURDAY, AUGUST 5  
Rain date: Saturday, August 12

to be done in conjunction with cultural events; and

WHEREAS, Section 171-11 of the Revised Code of the Township of Irvington provides that the provisions shall not prevent the placement of booths or showcases for the display of merchandise, foods and other material along the route of any parade or at the site of any cultural event duly licensed by the Township:

NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON that it declares that the provisions of Section 171-11 are hereby met and the Springfield Avenue Center Business Improvement District schedule of Summer 2023 Sidewalk Sale and Activity are hereby approved as set forth herein:

SATURDAY, JULY 8  
Rain date: Saturday, July 15

SATURDAY, AUGUST 5  
Rain date: Saturday, August 12

Adopted

Hudley – Evans                      6. Resolution to Award a Professional Services Contract to Prepare the Grant Application for the 2024 Transportation Trust Fund Program

**RESOLUTION TO AWARD A PROFESSIONAL SERVICES CONTRACT TO  
PREPARE THE GRANT APPLICATION FOR THE 2024  
TRANSPORTATION TRUST FUND PROGRAM**

WHEREAS the New Jersey Department of Transportation (NJDOT) annually solicits grant applications from municipalities for participation in the Transportation Trust Fund Program and the Township is desirous of participating in this program; and

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WHEREAS, The effort required to prepare the grant estimate and file the application within the NJDOT's grant system is beyond the current workload of the Township Engineer and, to that end, the Township Engineer has solicited quotes from the six engineering consultants on the Township's annual list of engineering consultants; and

WHEREAS, in response to the above referenced Request for Quotes(RFQ) , three engineering consultants responded to the RFQ, with the proposal of Neglia Associated being the least costly quote received at a quoted fee of \$ 3,650.00; and

WHEREAS, the Township Engineer has reviewed this proposal and recommends that a contract for professional services for this work be awarded to the firm of Neglia Engineering Associates, Lyndhurst, NJ in the amount of \$ 3,650.00.

NOW, THEREFORE, BE IT RESOLVED BY MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON that a professional services contract for the preparation of the 2024 transportation Trust Fund Grant is awarded to Neglia Engineering Associates, Lyndhurst, NJ in the amount of \$ 3,650.00.

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:34-5.2, the required Certificate of Availability of Funds No. C23-0108 for the above work has been obtained from the Chief Financial Officer of the Township of Irvington and the appropriation to be charged for this expenditure is in the amount of \$ 3,650.00 is Account 3-01-21-165-165-299.

Adopted

Beasley – Brown                      7. Resolution of Sorrow – Carl Ellis Hamer, ABC Investigator, Public Safety Department

**RESOLUTION OF SORROW  
CARL ELLIS HAMER**

WHEREAS, the Municipal Council of the Township of Irvington wishes to express their deepest sorrow on the passing of Carl Ellis Hamer; and

WHEREAS, Carl Ellis Hamer, also known as (Sultan) was born on November 11, 1961, in Newark, New Jersey to the late Alfred Hamer and Vivian Hamer Blackshire; and

WHEREAS, Carl was the fifth addition to a family of seven children. Carl was educated in the School Systems in Newark, Montclair and East Orange, New Jersey; and

WHEREAS, Carl's thirst for a higher education led him up the street from his East Orange home to the little urban campus college called Upsala College, to pursue a degree in Business Administration and Management. Attending college set the stage for Carl's growth and development to travel into the world of exploration. In his quest to travel the road less traveled by many, led him out of the country and into several different parts of the world such as Osaka Japan, Haiti, Dominican Republic and London in the United Kingdom; and

WHEREAS, eager to return home, ready and enthusiastic about grasping every opportunity to use the skills he developed in his travels, Carl established several LLC's, such as POTAO International Consultants, Down Well Cleaning Group, ADB and American & Dominican Businessmen; and

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WHEREAS, Carl began his employment with the Township of Irvington in September 2003 as the ABC Investigator within the Building Department. His dedication to his role is reflected by his advancement to the position of Chief License Inspector in the Alcoholic Beverage Control Investigative Unit in the Public Safety Department. He excelled in his role and was the right man for the job. Carl was easy spoken with a watchful eye and had a pocket full of integrity when he hit the streets; and

WHEREAS, he was a resolute servant and worked tirelessly for the residents of the Township of Irvington. Carl loved his job and despite his failing health, he worked every day until his passing; and

WHEREAS, Carl was built for the job he so loved. A small man in stature but, tall integrity; and

WHEREAS, Carl leaves to cherish his memory a host of family and friends; and

WHEREAS, Carl's presence will forever be missed, but his legacy will live on forever in the hearts of those he loved:

NOW THEREFORE BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON that the Township of Irvington hereby mourns the passing of Carl Ellis Hamer and extends our most sincerest condolences to his family and friends during this period of bereavement; and

BE IT FURTHER RESOLVED that a copy of this resolution be spread upon the minutes of this Governing Body in lasting tribute to Carl Ellis Hamer.

Adopted

Beasley – Brown                      8. Authorize Temporary Compensation to Shawna M. Supel, Assistant Municipal Clerk

WHEREAS, on June 8, 2020 by resolution number MC 20-0608-24 the Municipal Council authorized Shawna Supel to be compensated to perform the duties of the Municipal Clerk during his absence; and

WHEREAS, Municipal Clerk, Harold E. Wiener has been on an extended sick leave causing his absence since May 19, 2023; and

WHEREAS, in his absence, Shawna Supel has been performing his duties; and

WHEREAS, the Municipal Council seeks to assure that Ms. Supel is compensated for the exemplary work she has performed in his absence. The Municipal Council seeks to compensate Ms. Supel in a manner that is consistent with equal pay and recognizes the value of the work she performed during this time; and

WHEREAS, the Municipal Council approved to have Ms. Supel compensated on the same level and amount as the compensation for the Municipal Clerk's current salary and to be effective from May 30, 2023 and to continue until such time as the Municipal Clerk returns to fulltime duty:

NOW, THEREFORE, BE IT RESOLVED, BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON hereby authorizes this temporary increase in the compensation to be paid to Shawna Supel.

Adopted

Cox – Hudley

**9. Resolution Authorizing the Hiring of Seventeen New Full Time Police Officers**

**TOWNSHIP OF IRVINGTON  
COUNTY OF ESSEX STATE OF NEW JERSEY**

**RESOLUTION HIRE SEVENTEEN NEW FULL TIME POLICE OFFICERS**

WHEREAS, the Township of Irvington, Essex County, State of Jersey (hereinafter referred to as the "Township") is a jurisdiction governed by Title 11A and the Civil Service regulations and rules established under Title 4A of the Administrative Code; and

WHEREAS, P.L.2021, c.7 (C.11A:4-1.3) permits municipalities to allow State or county correctional police officers to be certified as county prosecutor detectives or investigators, and county or municipal police officers; and

WHEREAS, recently amended State assembly bill, No. 3672, approved as, P.L.2021, c.7 (C.11A:4-1.3), The Civil Service Commission shall exempt from requirement to take an examination for an entry-level law enforcement officer position a person who [has] successfully [completed] completes a full Basic Course for Police Officers training course at a school approved and authorized by the New Jersey Police Training Commission within nine months of the date of hire.

WHEREAS, Correctional Officer Latrese McNair has been a certified Correctional Officer since 2013; and

WHEREAS, Correctional Officer Shaun Watford has been a certified Correctional Officer since 2010; and

WHEREAS, Correctional Officer Victor Vazquez has been a certified Correctional Officer since 2015; and

WHEREAS, Correctional Officer Jason Nunez has been a certified Correctional Officer since 2016; and

WHEREAS, Correctional Officer Carlos Balseca has been a certified Correctional Officer since 2010; and

WHEREAS, Correctional Officer Jose Mendes has been a certified Correctional Officer since 2013; and

WHEREAS, Correctional Officer Pietro Lomuscio has been a certified Correctional Officer since 2009; and

WHEREAS, Correctional Officer YaYa Coulibaly has been a certified Correctional Officer since 2022; and

WHEREAS, Correctional Officer Tanisha Bermudez has been a certified Correctional Officer since 2022; and

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WHEREAS, Correctional Officer Timothy Peterson has been a certified Correctional Officer since 2014; and

WHEREAS, Correctional Officer Kyle Keller has been a certified Correctional Officer since 2012; and

WHEREAS, Correctional Officer Daniel McNair has been a certified Correctional Officer since 2008; and

WHEREAS, Correctional Officer David Buie has been a certified Correctional Officer since 2020; and

WHEREAS, Correctional Officer Matthew Holland has been a certified Correctional Officer since 2015; and

WHEREAS, Correctional Officer Christopher Murchison has been a certified Correctional Officer since 2022; and

WHEREAS, Correctional Officer Emmanuel Green has been a certified Correctional Officer since 2022; and

WHEREAS, Correctional Officer Jaquil Muhammad has been a certified Correctional Officer since 2016; and

WHEREAS, a PTC waiver is issued to officers who graduated from a PTC approved academy and who only require specific courses of instruction for full certification; and

WHEREAS, a modified basic training course must be completed; and

WHEREAS, the appointees shall be enrolled in a PTC approved Academy to commerce with courses of instruction; and

WHEREAS, each appointee shall be appointed to the title of Police Officer on June 26, 2023, and maintain the status of employment only after successful completion of all mandated requirements. Candidates shall be appointed to the title of Police Officer with the Township of Irvington; and

WHEREAS, the continued employment of each appointee shall be conditioned upon his passing all applicable Township requirements and Academy; and

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Township Committee of the Township of Irvington for the reasons set forth above that the Township hereby authorizes upon completing all requirements each candidate name in the resolution be hired under the title of Police Officer as set forth in State assembly bill, S 3672, P.L.2021, c.7.

BE IT FURTHER RESOLVED that copy of this Resolution shall be transmitted to the New Jersey Civil Service Commission.

**From:** [gaustin](#)  
**To:** [Shawna Supel](#)  
**Subject:** Resolution No DP-23-0612-14 Error  
**Date:** Wednesday, June 28, 2023 12:14:51 PM  
**Importance:** High

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Good afternoon,

Please correct the minor spelling error of candidate number three, listed as Victor Marquez, on Resolution No DP-23-0612-14. Candidate number three's last name should be properly recorded as Victor Vazquez.

Please send an updated Resolution at your earliest convenience.

Thank you for your time and attention to this matter.

*Respectfully,*

*Detective Lieutenant Quaasim Austin-Turner*

*Training Academy/School Resource Officer Commander*

*Irvington Department of Public Safety*

*Division of Police*

Adopted

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Through December 31, 2026

WHEREAS, the Township of Irvington and the PBA Local 29 have engaged in labor negotiations for the purpose of establishing salaries and other conditions of employment for members of the said association of the Township of Irvington; and

WHEREAS, the Township of Irvington and the PBA Local 29 have mutually agreed to the salaries and other conditions of employment for the period beginning January 1, 2023 and ending December 31, 2026:

NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON that they hereby ratify and approve the terms and conditions of the Contract attached hereto and made a part hereof; and

BE IT FURTHER RESOLVED that the Mayor and the Township Clerk are authorized and empowered to execute the said Contract.

Adopted

Brown – Frederic                      11. Ratify and Approve the Provision of Lead Safe Irvington Funds in the Amount Not To Exceed \$18,450.00 for 103 Florence Avenue - EnviroScience Solutions LLC

**RESOLUTION FOR LEAD SAFE IRVINGTON PROGRAM**

**WHEREAS**, the Township of Irvington has been awarded Office of Lead Hazard Control and Healthy Homes (OLHCHH) funds by the Department of Housing and Urban Development (HUD) and it has obligated funds for the purpose of financing its LEAD SAFE Irvington Program administered by the Department of Economic Development and Grants Oversight; and

**WHEREAS**, the Township of Irvington, Department of Economic Development and Grants Oversight has identified that the applicant, who is the owner of 103 Florence Ave, Irvington, New Jersey, 07111 is eligible to receive assistance through the LEAD SAFE Irvington Program per the Township's policies and procedures; and

**WHEREAS**, the Department of Economic Development and Grants Oversight has contacted all the contractors on resolution number EDGO 22-0314-3 and (1) Contractor submitted an acceptable Bid package. (2) two Contractors did not submit a Bid package before the deadline and (1) Contractor Bid package was not approved by the Inspector.

**WHEREAS** the Contractor selected through a competitive BID to perform the Remediation work is EnviroScience Solutions LLC and said funds shall be disbursed to the Contractor for the benefit of the applicant; in this specific case the bid of \$18,540.00 was the only BID submitted. Pow R Save submitted an email stating that they missed the bid and did not submit a bid. The BGI Resources Intl bid was determined to be unacceptable because it excluded Exterior Lead readings, was not submitted on official Company letterhead and the total Bid cost was not included. The Apex Company has been dormant for the entire year and not responded to any bid request.

**NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON** that the Township of Irvington does ratify and approve the provision of LEAD SAFE Irvington

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funds to the applicant(s) in the amount not to exceed \$18,540.00 for a period of affordability of five (5) years; and

**BE IT FURTHER RESOLVED** that the aforesaid funds of \$18,540.00 will be disbursed in (1) installment of \$18,540.00 after review of work performed and proof of funds expended to facilitate the remediation; and

**BE IT FURTHER RESOLVED** that the aforesaid funds are to be used for the remediation of the subject property and related soft cost associated with the remediation of the subject property as set forth in Exhibit A (Scope of Work), attached hereto for the premises known as, 103 Florence Ave, Irvington, New Jersey 07111, single family unit(s) and owned by homeowner; and

**BE IT FURTHER RESOLVED** that any such funds not expended in the remediation and related soft cost associated with the remediation of the subject property in accordance with adopted policy and procedures shall be recaptured by the TOWNSHIP OF IRVINGTON for use in assisting other HUD/OLHCHH Program applicant(s); and

**BE IT FURTHER RESOLVED** that pursuant to N.J.A.C. 5:34-5.2, the required Certificate of Fund Req. No. C22-0125 in the amount of \$18,540.00 for the above has been obtained from the Chief Financial Officer of the Township of Irvington. The appropriation to be charged for this expenditure is Account No. G-02-XX-716-19A-250 in the amount of \$18,540.00.

Adopted

Frederic – Hudley                      12. Authorize Use of CDBG Funds for 2022-2023 - The Bridge -  
\$19,000.00

**The Bridge Inc.**

WHEREAS, the Township of Irvington is a recipient of 2022-2023 Community Development Block Grant (CDBG) Program funds administered by the U.S. Department of Housing and Urban Development; and

WHEREAS, the Township of Irvington wishes to award CDBG grant funds in the amount **\$19,000.00** to **The Bridge Inc.**, a private Non-Profit corporation of the State of New Jersey with principal offices **50 UNION AVENUE, IRVINGTON, NEW JERSEY 07111** for the provision of public services, which constitute an eligible CDBG activity; and,

WHEREAS, the Township of Irvington has allocated sufficient CDBG funds to fund a proposed grant agreement in the amount of **\$19,000.00** with **The Bridge Inc.**, a private Non-Profit Corporation of the State of New Jersey; and

WHEREAS, the U.S. Department of Housing and Urban Development has issued federal regulations which revise 24 CFR 570 Sub-Part J, requiring all CDBG recipients to enter into formal legal agreements with private non-profit organizations, called "CDBG sub-recipients", in order for these organizations to receive CDBG funding from the Township of Irvington; and

WHEREAS, the Township of Irvington is also subject to the provisions of federal OMB Circular A-102 Attachment 0, "Procurement Standards" which apply the Township's procurement of services, supplies and property with CDBG funds; and

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WHEREAS, OMB Circular A-102 also requires the Township to conform to all applicable state and local laws relating to formal legal agreements by municipal government procurement of goods and services; and

WHEREAS, the governing body of the Township of Irvington is required under state law (N.J.S.A. 40A:11-1 et seq.) to authorize the execution of formal grant agreements and procurement contracts (in excess of \$8,500.00) with private contractors:

NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON as follows:

1. The Mayor and the Township Clerk are hereby authorized and directed to execute an agreement with **The Bridge Inc., for counseling services suffering from addiction and/or mental health for individuals and families living in the Irvington area with low/moderate income levels.**

2. Pursuant to N.J.A.C. 5:34-5.2, the required certificate of Availability of Funds No. C23-0088 in the amount of **\$19,000.00** for the above has been obtained from the Chief Financial Officer of the Township of Irvington. The appropriation to be charged for this expenditure is Account No. T-21-41-850-23C-804.

Adopted

Brown – Frederic                      13. Authorize Use of CDBG Funds for 2022-2023 - C.O.M.B.A.T.T. -  
Grant Amount - 19,000.00

**C.O.M.B.A.T.T.  
(Community Organization Making Better Alternatives Today for Tomorrow, Inc.)**

WHEREAS, the Township of Irvington is a recipient of 2022-2023 Community Development Block Grant (CDBG) Program funds administered by the U.S. Department of Housing and Urban Development; and

WHEREAS, the Township of Irvington wishes to award CDBG grant funds in the amount **\$19,000.00** to **C.O.M.B.A.T.T. (Community Organization Making Better Alternatives Today for Tomorrow, Inc.,** a private Non-Profit corporation of the State of New Jersey with principal offices **1763 SIXTH STREET, EWING, NEW JERSEY 08638** for the provision of public services, which constitute an eligible CDBG activity; and,

WHEREAS, the Township of Irvington has allocated sufficient CDBG funds to fund a proposed grant agreement in the amount of **\$19,000.00** with the **C.O.M.B.A.T.T. (Community Organization Making Better Alternatives Today for Tomorrow, Inc.,** a private Non-Profit Corporation of the State of New Jersey; and

WHEREAS, the U.S. Department of Housing and Urban Development has issued federal regulations which revise 24 CFR 570 Sub-Part J, requiring all CDBG recipients to enter into formal legal agreements with private non-profit organizations, called "CDBG sub-recipients", in order for these organizations to receive CDBG funding from the Township of Irvington; and

WHEREAS, the Township of Irvington is also subject to the provisions of federal OMB Circular A-102 Attachment 0, "Procurement Standards" which apply the Township's procurement of services, supplies and property with CDBG funds; and

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WHEREAS, OMB Circular A-102 also requires the Township to conform to all applicable state and local laws relating to formal legal agreements by municipal government procurement of goods and services; and

WHEREAS, the governing body of the Township of Irvington is required under state law (N.J.S.A. 40A:11-1 et seq.) to authorize the execution of formal grant agreements and procurement contracts (in excess of \$8,500.00) with private contractors:

NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON as follows:

1. The Mayor and the Township Clerk are hereby authorized and directed to execute an agreement with **C.O.M.B.A.T.T. (Community Organization Making Better Alternatives Today for Tomorrow, Inc., for an after-school behavior modification project, an educational, social and recreational experience to at-risk youths who reside in Irvington, New Jersey.**

2. Pursuant to N.J.A.C. 5:34-5.2, the required certificate of Availability of Funds No. C23-0087 in the amount of **\$19,000.00** for the above has been obtained from the Chief Financial Officer of the Township of Irvington. The appropriation to be charged for this expenditure is Account No. T-21-41-850-23C-805.

Adopted

Frederic – Hudley

14. Authorize Use of CDBG Funds for 2022-2023 - The Partnership for Maternal and Child Health of Northern NJ - \$19,000.00

**The Partnership for Maternal and Child Health of Northern NJ**

WHEREAS, the Township of Irvington is a recipient of 2022-2023 Community Development Block Grant (CDBG) Program funds administered by the U.S. Department of Housing and Urban Development; and

WHEREAS, the Township of Irvington wishes to award CDBG grant funds in the amount **\$19,000.00** to **The Partnership for Maternal and Child Health of Northern NJ**, a private Non-Profit corporation of the State of New Jersey with principal offices at **50 Park Place, Suite 700, Newark, NJ 07102** for the provision of public services, which constitute an eligible CDBG activity; and,

WHEREAS, the Township of Irvington has allocated sufficient CDBG funds to fund a proposed grant agreement in the amount of **\$19,000.00** with the **The Partnership for Maternal and Child Health of Northern NJ**, a private Non-Profit Corporation of the State of New Jersey; and

WHEREAS, the U.S. Department of Housing and Urban Development has issued federal regulations which revise 24 CFR 570 Sub-Part J, requiring all CDBG recipients to enter into formal legal agreements with private non-profit organizations, called "CDBG sub-recipients", in order for these organizations to receive CDBG funding from the Township of Irvington; and

WHEREAS, the Township of Irvington is also subject to the provisions of federal OMB Circular A-102 Attachment 0, "Procurement Standards" which apply the Township's procurement of services, supplies and property with CDBG funds; and

WHEREAS, OMB Circular A-102 also requires the Township to conform to all applicable state and local laws relating to formal legal agreements by municipal government procurement of goods and services; and

WHEREAS, the governing body of the Township of Irvington is required under state law (N.J.S.A. 40A:11-1 et seq.) to authorize the execution of formal grant agreements and procurement contracts (in excess of \$8,500.00) with private contractors:

NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON as follows:

1. The Mayor and the Township Clerk are hereby authorized and directed to execute an agreement with **The Partnership for Maternal and Child Health of Northern NJ**, for which **activities provided by the Partnership's IFDC Family Success Center for families to build self-sufficiency, foster family stability, and encourage goal setting. All services are free and open to all residents.**

2. Pursuant to N.J.A.C. 5:34-5.2, the required certificate of Availability of Funds No. C23-0086 in the amount of **\$19,000.00** for the above has been obtained from the Chief Financial Officer of the Township of Irvington. The appropriation to be charged for this expenditure is Account No. T-21-41-850-23C-803.

Adopted

Frederic – Brown                      15. Authorize Use of CDBG Funds for 2022-2023 - New Hope Village 4 Veterans - \$15,000.00

**New Hope Village 4 Veterans**

WHEREAS, the Township of Irvington is a recipient of 2022-2023 Community Development Block Grant (CDBG) Program funds administered by the U.S. Department of Housing and Urban Development; and

WHEREAS, the Township of Irvington wishes to award CDBG grant funds in the amount **\$15,000.00** to **New Hope village 4 Veterans** a private Non-Profit corporation of the State of New Jersey with principal offices at **287 Columbia Ave, Irvington, NJ 07111** for the provision of public services, which constitute an eligible CDBG activity; and,

WHEREAS, the Township of Irvington has allocated sufficient CDBG funds to fund a proposed grant agreement in the amount of **\$15,000.00** with the **New Hope Village 4 Veterans**, a private Non-Profit Corporation of the State of New Jersey; and

WHEREAS, the U.S. Department of Housing and Urban Development has issued federal regulations which revise 24 CFR 570 Sub-Part J, requiring all CDBG recipients to enter into formal legal agreements with private non-profit organizations, called "CDBG sub-recipients", in order for these organizations to receive CDBG funding from the Township of Irvington; and

WHEREAS, the Township of Irvington is also subject to the provisions of federal OMB Circular A-102 Attachment 0, "Procurement Standards" which apply the Township's procurement of services, supplies and property with CDBG funds; and

WHEREAS, OMB Circular A-102 also requires the Township to conform to all applicable state and local laws relating to formal legal agreements by municipal government procurement of goods and services; and

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WHEREAS, the governing body of the Township of Irvington is required under state law (N.J.S.A. 40A:11-1 et seq.) to authorize the execution of formal grant agreements and procurement contracts (in excess of \$8,500.00) with private contractors:

NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON as follows:

1. The Mayor and the Township Clerk are hereby authorized and directed to execute an agreement with **New Hope Village 4 Veterans**, which **provides apartments and critical social services for homeless veterans and their families also assisted living. The program also provides educational services for the entire family.**

2. Pursuant to N.J.A.C. 5:34-5.2, the required certificate of Availability of Funds No. C23-0085 in the amount of **\$15,000.00** for the above has been obtained from the Chief Financial Officer of the Township of Irvington. The appropriation to be charged for this expenditure is Account No. T-21-41-850-22C-803.

Adopted

Brown – Hudley                      16. Authorize Use of CDBG Funds for 2022-2023 - Irvington Counseling Center - \$19,000.00

**Irvington Counseling Center**

WHEREAS, the Township of Irvington is a recipient of 2022-2023 Community Development Block Grant (CDBG) Program funds administered by the U.S. Department of Housing and Urban Development; and

WHEREAS, the Township of Irvington wishes to award CDBG grant funds in the amount **\$19,000.00** to **Irvington Counseling Center**, a private Non-Profit corporation of the State of New Jersey with principal offices **21-29 Wagner Place, Irvington, NJ 07111** for the provision of public services, which constitute an eligible CDBG activity; and,

WHEREAS, the Township of Irvington has allocated sufficient CDBG funds to fund a proposed grant agreement in the amount of **\$19,000.00** with the **Irvington Counseling Center**, a private Non-Profit Corporation of the State of New Jersey; and

WHEREAS, the U.S. Department of Housing and Urban Development has issued federal regulations which revise 24 CFR 570 Sub-Part J, requiring all CDBG recipients to enter into formal legal agreements with private non-profit organizations, called "CDBG sub-recipients", in order for these organizations to receive CDBG funding from the Township of Irvington; and

WHEREAS, the Township of Irvington is also subject to the provisions of federal OMB Circular A-102 Attachment 0, "Procurement Standards" which apply the Township's procurement of services, supplies and property with CDBG funds; and

WHEREAS, OMB Circular A-102 also requires the Township to conform to all applicable state and local laws relating to formal legal agreements by municipal government procurement of goods and services; and

WHEREAS, the governing body of the Township of Irvington is required under state law (N.J.S.A. 40A:11-1 et seq.) to authorize the execution of formal grant agreements and procurement contracts (in excess of \$8,500.00) with private contractors:

NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON as follows:

1. The Mayor and the Township Clerk are hereby authorized and directed to execute an agreement with **Irvington Counseling Center, to provide a complete mental health program for seniors in need of services, which includes Individual, Family and Group Counseling with activities, as well as Psychiatric Services, Home visits and crisis intervention are provided for the frail and elderly that cannot leave their homes.**

2. Pursuant to N.J.A.C. 5:34-5.2, the required certificate of Availability of Funds No. C23-0084 in the amount of **\$19,000.00** for the above has been obtained from the Chief Financial Officer of the Township of Irvington. The appropriation to be charged for this expenditure is Account No. T-21-41-850-23C-801.

Adopted

Frederic – Hudley

17. Amend Resolution Number DA 23-0214-6 - Grant Funding through the Community Services Block Grant (CSBG) of Essex County to Service the Low-Income Poverty Constituents of Essex County in the Amount Amended to \$245,000.00 from January 1, 2023 - December 31, 2023

AMENDMENT TO RESOLUTION DA 23-02146 ADOPTED ON February 14, 2023.  
RESOLUTION ACCEPTING FUNDING FROM COMMUNITY SERVICES BLOCK GRANT (CSBG)

WHEREAS, Irvington Neighborhood Improvement Corporation seeks to amend resolution number DA 23-02146 due to an increase in funding.

WHEREAS, The County of Essex, acting through its Department of Citizens Services, Division of Community Action through the Community Services Block Grant (CSBG) proposes to enter into a sub grant agreement with Irvington Neighborhood Improvement Corporation to service the low-income poverty constituents of Essex County for the contract price of \$90,000.00 during the 2023 program year of January 1, 2023– December 31, 2023 which has been amended to \$245,000.00

WHEREAS, said grant agreement has been negotiated and approved by the County Executive of Essex County and to the Board of Chosen Freeholders; and

NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON that the Township of Irvington be and hereby authorized to execute a Grant Agreement with the Essex County Division of Community Action as sub-recipient of Community Services Block Grant funds in the amount of \$245,000.00.

BE IT FURTHER RESOLVED that the Township of Irvington does hereby accept the award of \$245,000.00 for such activities.

Adopted

Vick – Beasley

18. Resolution Authorizing the First Amendment of the Redevelopment

Agreement by and Between the Township of Irvington and 124-130 Ellis Avenue Urban Renewal LLC

**RESOLUTION OF THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON, COUNTY OF ESSEX, NEW JERSEY AUTHORIZING THE FIRST AMENDMENT OF THE REDEVELOPMENT AGREEMENT BY AND BETWEEN THE TOWNSHIP OF IRVINGTON AND 124-130 ELLIS AVENUE URBAN RENEWAL LLC**

**WHEREAS**, the Township of Irvington (the “**Township**”) is authorized pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq., as amended and supplemented (the “**Redevelopment Law**”) to determine whether certain parcels of land within the Township constitute an area in need of redevelopment; and

**WHEREAS**, in accordance with the requirements of the Redevelopment Law, by Resolution No. UEZ 02-0813-14, dated August 13, 2002, the Municipal Council of the Township (the “**Township Council**”) designated certain properties within the east ward of the Township as an area in need of redevelopment (the “**Redevelopment Area**”); and

**WHEREAS**, pursuant to *N.J.S.A. 40A:12A-7* of the Redevelopment Law and in accordance with the procedures set forth therein, the Township Council duly adopted *the East Ward/East Springfield Avenue Redevelopment Plan* (as amended, the “**Redevelopment Plan**”) for the Redevelopment Area; and

**WHEREAS**, to realize the redevelopment of the Redevelopment Area, the Township determined to exercise the powers of redevelopment and serve as the “redevelopment entity” responsible for carrying out redevelopment projects in accordance with the relevant Redevelopment Plan, pursuant to *N.J.S.A. 40A: 12A-4(c)*; and

**WHEREAS**, Redeveloper and Township entered into that certain Redevelopment Agreement dated July 20, 2022, (the “**Redevelopment Agreement**”), with respect to the acquisition and assemblage of the Property (as defined in the Redevelopment Agreement); and to develop, finance, construct, implement, and cohesively redevelop the Property with a five (5) story residential building with thirty-three (33) market-rate residential units and four (4) affordable residential units (comprised of 3 three-bedroom units, 16 two-bedroom units 13 one- bedroom units and 5 studio apartments) and 32 parking spaces, together with certain other on-site and off-site improvements (the “**Project**”); and

**WHEREAS**, the Parties have determined to further amend the terms of the Redevelopment Agreement to provide for revisions to the Project Description, Schedule B of the Redevelopment Agreement and to provide for revisions to the Development Timetable, Schedule C of the Redevelopment Agreement and to otherwise update the terms of the Redevelopment Agreement in accordance with same; and

**WHEREAS**, the Redeveloper has requested that the Township modify and update the Development Timetable, Schedule C of the Redevelopment Agreement (the “**First Amendment**”); and

**WHEREAS**, the Township and Redeveloper have determined to enter into this First Amendment for the purpose of amending the Schedule C of the Redevelopment Agreement, substantially in the form attached hereto,

**NOW, THEREFORE, BE IT RESOLVED** by the Municipal Council of the Township of Irvington as follows:

**SECTION 1.** Generally. The aforementioned recitals are incorporated herein as though fully set forth at length.

**SECTION 2.** Execution of the Amendment Agreement Authorized.

- a. The Mayor is hereby authorized to execute the First Amendment to the Redevelopment Agreement, substantially in the form attached hereto as Exhibit A, subject to modification or revision deemed necessary and appropriate in consultation with counsel, and to take all other necessary and appropriate action to effectuate the Agreement, as amended.
- b. The Municipal Clerk is hereby authorized and directed, upon the execution of the Second Amendment, to attest to the signature of the Mayor upon such documents and is hereby further authorized and directed to affix the corporate seal of the Township upon such document.

**SECTION 3.** Severability. If any part of this Resolution shall be deemed invalid, such parts shall be severed and the invalidity thereby shall not affect the remaining parts of this Resolution.

**SECTION 4.** Availability of the Resolution. A copy of this Resolution shall be available for public inspection at the offices of the Township.

**SECTION 5.** Effective Date. This Resolution shall take effect immediately.

**EXHIBIT A**

First Amendment to the Redevelopment Agreement

Adopted

Vick – Cox

19. Resolution Authorizing and Directing the Irvington Planning Board to Investigate the Property Identified in the Township Tax Maps as Block 166, Lots 20-22 and Identified in the Township Tax Records as 9-13 Madison Avenue to Determine Whether Such Property Constitutes a Non-Condensation Area in Need of Redevelopment

**RESOLUTION OF THE TOWNSHIP OF IRVINGTON AUTHORIZING AND DIRECTING THE IRVINGTON PLANNING BOARD TO INVESTIGATE THE PROPERTY IDENTIFIED IN THE TOWNSHIP TAX MAPS AS BLOCK 166, LOTS 20-22 AND IDENTIFIED IN THE TOWNSHIP TAX RECORDS AS 9-13 MADISON AVENUE TO DETERMINE WHETHER SUCH PROPERTY CONSTITUTES A NON-CONDEMNATION AREA IN NEED OF REDEVELOPMENT, PURSUANT TO THE LOCAL REDEVELOPMENT AND HOUSING LAW, N.J.S.A. 40A:12A-1, ET SEQ.**

**WHEREAS**, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 *et seq.* (the “**Redevelopment Law**”), authorizes a municipality to determine whether certain parcels of land in the municipality constitute areas in need of redevelopment; and

**WHEREAS**, to make such a determination under the Redevelopment Law, the Municipal Council (the “**Township Council**”) of the Township of Irvington (the “**Township**”) must first authorize the Irvington Planning Board (the “**Planning Board**”) to conduct a preliminary investigation of the area and make recommendations to the Township Council; and

**WHEREAS**, in accordance with the Redevelopment Law, the Township Council believes it is in the best interest of the Township that an investigation occur with respect to the property identified on Township tax maps as Block 166, Lots 20-22, and identified in the Township tax records as 9-13 Madison Avenue along with all streets and rights of way appurtenant thereto (the “**Study Area**”) and to determine whether all or a portion of the Study Area meets the criteria set forth in the Redevelopment Law to be designated as an area in need of redevelopment; and

**WHEREAS**, the Township therefore authorizes and directs the Planning Board to conduct an investigation of the Study Area and to make recommendations to the Township Council, all in accordance with the Redevelopment Law; and

**WHEREAS**, if the Study Area is designated as an area in need of redevelopment, the Township Council authorizes the Township to use all of those powers provided under the Redevelopment Law for use in a redevelopment area, except the power of eminent domain pursuant to N.J.S.A. 40A:12A-8(c) (as designated, a “**Non-Condensation Redevelopment Area**”),

**NOW, THEREFORE, BE IT RESOLVED**, by the Municipal Council of the Township of Irvington, New Jersey as follows:

1. **Generally.** The aforementioned recitals are incorporated herein as though fully set forth at length.
2. **Investigation of Study Area Authorized.** The Planning Board is hereby authorized and directed to conduct an investigation pursuant to N.J.S.A. 40A:12A-6 to determine whether the Study Area satisfies the criteria set forth in the Redevelopment Law, including N.J.S.A. 40A:12A-5, to be designated as a “Non-Condensation Redevelopment Area”.
3. **Map to be Prepared.** As part of its investigation, the Planning Board shall prepare a map showing the boundary of the Study Area.
4. **Public Hearing Required.** The Planning Board shall conduct a public hearing, after giving due notice of the proposed boundary of the Study Area and the date of the hearing to any persons who are interested in or would be affected by a determination that the Study Area is a Non-Condensation Redevelopment Area.
5. **Planning Board to Make Recommendations.** After conducting its investigation, preparing a map of the proposed redevelopment area, and conducting a public hearing at which all objections to the designation are received, considered, and made part of the public record, the Planning Board shall make a recommendation to the Township Council as to whether the Township should designate the Study Area as a Non-Condensation Redevelopment Area.
6. **Redevelopment Plan.** The East Ward/East Springfield Avenue Redevelopment Plan (the “**Redevelopment Plan**”), adopted by the Township Council pursuant to N.J.S.A. 40A:12A-7 of the Redevelopment Law, governs properties adjacent to the Study Area. In the event the Planning Board determines to recommend that the governing body designate the Study Area as a Non-Condensation Redevelopment Area, the Planning Board is hereby authorized and directed to prepare recommended amendments to the Redevelopment Plan for the incorporation of the Study Area, without need of further action by the governing body.

7. **Severability.** If any part of this Resolution shall be deemed invalid, such parts shall be severed and the invalidity thereby shall not affect the remaining parts of this Resolution.

8. **Availability of the Resolution.** A copy of this Resolution shall be available for public inspection at the offices of the Township Clerk.

9. **Effective Date.** This Resolution shall take effect immediately.

Adopted

Frederic – Cox                      20. Authorizing a Negotiated Contract for Portable Restrooms with Trailers for the Department of Public Works - John to Go Inc. – \$102,577.26

AUTHORIZING A NEGOTIATED CONTRACT FOR PORTABLE RESTROOMS WITH TRAILER FOR DPW

WHEREAS, the Township of Irvington duly advertised for the request for bids for a contract entitled "Portable Restrooms with Trailers" which was advertised in the New Jersey Star ledger on November 30, 2022 and January 06, 2023, and no bids were received, and;

WHEREAS, the Administration would like to use the exception under 40A:11-5(3), and negotiate a contract for portable restrooms with trailers for one year, and;

WHEREAS, the Public Works Director contacted vendors for service and only John to Go Inc., provided a price proposal for service, and;

WHEREAS, the Administration wishes to award a contract to John to Go Inc., of 21 Van Natta Drive, Ringwood NJ 07456 for one year starting on May 1, 2023 until April 30, 2024, and;

WHEREAS, the vendor will charge the Township a total sum of \$102,577.26 annually for said service, and;

NOW THEREFORE BE IT RESOLVED by the Municipal Council of Township of Irvington hereby authorize a negotiated contract for portable Restrooms with trailers to John to Go Inc., of 21 Van Natta Drive, Ringwood NJ 07456 for a total contract amount not to exceed \$102,577.26 for one year and;

BE IT FUTHER RESLOVED, that the required certification of availability of funds C23-0018 in the amount of \$102,577.26 from account number 3-01-26-290-290-118 has been obtained from the Chief Financial Officer, and;

BE IT FURTHER RESOLVED that the Township Attorney is hereby authorized and directed to prepare the necessary contract, and the Mayor and Township Clerk are authorized and directed to sign the same; and

BE IT FURTHER RESOLVED, notice of this action shall be published in newspapers as required by law by the Municipal Clerk.

Adopted

10. Communication and Petitions

A. Communications

1. New Jersey State League of Municipalities – Legislative Bulletin – 2022-2023 Legislative Session

11. Pending Business

None

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**NON-CONSENT AGENDA**

9. Resolutions and Motions

A. Resolutions

Vick – Cox

21. Authorize Fair and Open Contract for Lease of Office Space at 660 Stuyvesant Avenue - BSR Group - Not to Exceed \$48,000.00 From July 1, 2023 Through June 30, 2024

**RESOLUTION AUTHORIZING THE AWARD OF A FAIR AND OPEN CONTRACT FOR THE LEASE OF OFFICE SPACE**

WHEREAS, sealed bids were received on May 03, 2023 for Lease of Office Space in response to published advertisement for bids in the New Jersey Star Ledger on April 13, 2023; and

WHEREAS, one bid was received and opened by the Municipal Clerk and the Purchasing Agent; and

WHEREAS, the bid received was reviewed according to the New Jersey Local Public Contract law, and referred to the Business Administration for review and recommendation; and

WHEREAS, the Township Administrator has recommend that an award be made to The BSR Group LLC of 660 Stuyvesant Ave, Irvington, NJ 07111 for the lease of office space; and

WHEREAS, this lease agreement is for one year starting July 01, 2023 until June 30, 2024; and,

WHEREAS, the landlord, The BSR Group LLC will be paid a monthly sum of \$4,000.00 for the rental of the office space and the Township; and,

NOW THEREFORE, BE IT RESOLVED that the Municipal Council of the Township of Irvington authorizes the award of a and open contract to The BSR Group LLC of 660 Stuyvesant Ave, Irvington, NJ 07111 for a yearly amount not to exceed \$48,000.00; and,

BE IT FURTHER RESOLVED that the Township Attorney is hereby authorized and directed to prepare the necessary contract, and the Mayor and Township Clerk are authorized and directed to sign the same; and

BE IT RESOLVED that the required Certification of Availability of Funds, certification number

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C23-0107 was obtained from the Chief Financial Officer for the first two months of service for an amount of \$8,000.00 and the appropriation to be charged for this expenditure is 3-01-20-100-100-256 and the remaining balance of \$40,000.00 will be obtained from the Chief Financial Officer upon the adoption of the 2023 and 2024 Municipal Budget.

Adopted  
Abstain: Beasley

**B. Ordinances on Second Reading**

1. President Beasley: An ordinance Regarding Sanitary Sewer Connections will be heard a time. The Assistant Clerk will read then notice of hearing.

The Assistant Clerk will read the ordinance by title

**Sanitary Sewer Connection Charges**

**Definitions**

The following words, when used in this article, shall be deemed to have the meanings herein specified:

**PERSON**

Any individual, company, firm, partnership, association, society or corporation.

**SANITARY SEWER SYSTEM**

The sanitary sewerage system of the Township of Irvington which transmits sewerage to the trunk, interceptor or treatment facilities of the Joint Meeting of Essex and Union County.

**SERVICE CONNECTION**

The sanitary sewer line running from the building to the main (sanitary sewer system) in the street.

**TOWNSHIP**

The Township of Irvington in the County of Essex.

**Connection to sewer required.**

Any building used in whole or part as a dwelling or which requires or uses sanitary sewerage disposal and which is within 200 feet or such other reasonable distance from the sanitary sewer system as determined by the administrative authority, now or hereafter, shall be connected to the sanitary sewer system:

**A.**

Existing buildings: within 180 days after adoption of this article.

**B.**

New buildings: prior to issuance of a certificate of occupancy.

**C.**

Buildings on a street in which a sanitary sewer system is hereafter constructed: within 180 days after completion of the construction of said system.

**Connection fee.**

Hereafter, before any building service connection is connected to the sanitary sewer system by any owner of property or his agents, said owner shall make application to the Township Engineer on applications furnished for that purpose and pay the Township a connection charge of \$150 per equivalent dwelling unit.

A.

When a developer is commencing construction on a new development or section of a development, the connection fees for the entire section or development, if not sectionalized, shall be posted prior to the construction of the sanitary sewer extension or issuance of the first building permit, whichever occurs first.

B.

Determination of fee.

(1)

The connection fee provided for in this article is based upon the flow from a four-inch diameter individual residential service connection and the flows generated by the same. Where a connection is to serve more than one residential unit, the connection charge shall apply to each equivalent dwelling unit tributary to the connection.

(2)

When larger connections are required as for commercial or industrial uses, the connection fee shall increase based upon the available capacity of the connection in accordance with the following table:

Size of Connection (inches)	Capacity at V (velocity) = 2 feet per second (gallons per minute)	Equivalent Factor
4 (minimum)	78.33	1
5	322.39	1.56
6	176.24	2.25
8	313.32	4.00
10	489.56	6.25
12	704.97	9.00

Example: An eight-inch connection would result in a connection fee four times that of a four-inch connection.

Compliance required.

Said connection to the sewer system shall comply with the rules, regulations and ordinances of the Township of Irvington, either now existing or hereafter adopted.

Responsibility for connection costs.

Service connections shall be made at the expense of the person wishing to connect to the sanitary sewer system. The cost of required permits, i.e., plumbing, road opening, etc., and restoration associated with installation of the service connections shall be borne by the person connecting to the sanitary sewer system.

Violations and penalties.

A.

Any person, firm or corporation who shall violate any provisions of this article shall, upon conviction thereof by any court authorized by law to hear and determine the matter, be fined such sum not exceeding \$1,250 as such court in its discretion may impose; or, if the party so convicted be a natural person, such person may be imprisoned for such term not exceeding 90 days or be subject to community service for not more than 90 days or be fined a sum not exceeding \$2,000, or any combination thereof, as such court in its discretion may impose. Each day that such violation exists shall constitute a separate offense.

B.

The owner of any building or structure, lot or land, or part thereof, where anything in violation of this article shall be placed or shall exist or be suffered, allowed or permitted to exist and any architect, builder, developer, contractor, agent, person or corporation engaged in connection therewith and who assists in the commission of any such violation shall each be guilty of a separate violation and, upon conviction thereof, shall each be liable to the fine or imprisonment, or both, specified above.

The public hearing on this ordinance is now open

Evans – Beasley                      Motion to close public hearing

Adopted

Evans – Beasley                      Motion to adopt this ordinance on second reading after public hearing

Adopted

2. President Beasley: An ordinance revising the Flood Plain will be heard a time. For the record, this notice is identical to the prior notice read. The Assistant Clerk will read the ordinance by title.

**ORDINANCE FOR ADOPTION OF THE FLOODPLAIN MANAGEMENT REGULATIONS OF THE TOWNSHIP OF IRVINGTON**

**AN ORDINANCE BY THE MUNICIPAL COUNCIL AMENDING THE TOWNSHIP OF IRVINGTON CODE OF ORDINANCES TO REPEAL Chapter 313; TO ADOPT A NEW Chapter 313; TO ADOPT FLOOD HAZARD MAPS; TO DESIGNATE A FLOODPLAIN ADMINISTRATOR; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.**

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

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

**WHEREAS**, the Township of Irvington was accepted for participation in the National Flood Insurance Program on April 10, 2007 and the Municipal 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 Township of Irvington 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 Township of Irvington is required, pursuant to N.J.S.A. 40:49-5, to enforce zoning codes that secure safety from floods and contain certain provisions that apply to the development of lands; and

**WHEREAS**, the Township of Irvington 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 Municipal Council of the Township of Irvington 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 313 of the General Ordinances of the Township of Irvington.

## **SECTION 101 SCOPE AND ADMINISTRATION**

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

**101.2 Scope.** These regulations, in combination with the flood provisions of the Uniform Construction Code and FHACA shall apply to all proposed development in flood hazard areas established in Section 102 of these regulations.

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

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

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

**101.4 Coordination with Building Codes.** Pursuant to the requirements established in N.J.A.C. 5:23, the Uniform Construction Code, that the Township of Irvington administer and enforce the State building codes, the Municipal Council of the Township of Irvington does hereby acknowledge that the Uniform Construction Code contains certain provisions that apply to the design and construction of buildings and structures in flood hazard areas. Therefore, these regulations are intended to be administered and enforced in conjunction with the Uniform Construction Code.

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

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

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

**101.8 Violations and Penalties for Noncompliance.** No structure or land shall hereafter be constructed, re-located to, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a violation under N.J.S.A. 40:49-5. Any person who violates this ordinance or fails to comply with any of its requirements shall be subject to one (1) or more of the following: a fine of not more than \$ 1500.00, 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 \$1500.00 may be imposed if the court has not determined otherwise, or if upon reinspection of the property, it is determined that the abatement has not been substantially completed.

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

**101.8.1 Solid Waste Disposal in a Flood Hazard Area.** Any person who has unlawfully disposed of solid waste in a floodway or floodplain who fails to comply with this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$2500.00 or up to a maximum penalty by a fine not exceeding \$10,000 under N.J.S.A. 40:49-5.

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

## **SECTION 102 APPLICABILITY**

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

**102.2 Establishment of Flood Hazard Areas.** The Township of Irvington was accepted for participation in the National Flood Insurance Program on April 10, 2007.

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 Office of the Township Engineer, Room 205, Irvington Municipal Building, 1 Civic Square, Irvington, New Jersey.

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

- 1) **Effective Flood Insurance Study.** Special Flood Hazard Areas (SFHAs) identified by the Federal Emergency Management Agency in a scientific and engineering report entitled Flood Insurance Study, Essex County, New Jersey (All Jurisdictions)," dated June 4, 2007 and the accompanying Flood Insurance Rate Maps (FIRM) identified in Table 102.2(1) whose effective date is 6/4/2007 are hereby adopted by reference.

Table 102.2(1)

Map Panel #	Effective Date	Suffix
34013CO151F	6/4/2007	
340184	6/4/2007	

- 2) **Federal Best Available Information.** The Township of Irvington 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.
- 3) **Other Best Available Data.** The Township of Irvington shall utilize high water elevations from flood events, groundwater flooding areas, studies by federal or state agencies, or other information deemed appropriate by The Township of Irvington. Other “best available information” may not be used which results in less restrictive flood elevations, design standards, or smaller flood hazard areas than the sources described in Section 102.2 (1) and (2), above. This information shall be used for floodplain regulation purposes only.
- 4) **State Regulated Flood Hazard Areas.** For State regulated waters, the NJ Department of Environmental Protection (NJDEP) identifies the flood hazard area as the land, and the space above that land, which lies below the “Flood Hazard Area Control Act Design Flood Elevation”, as defined in Section 201, and as described in the New Jersey Flood Hazard Area Control Act at N.J.A.C. 7:13. A FHACA flood hazard area exists along every regulated water that has a drainage area of 50 acres or greater. Such area may extend beyond the boundaries of the Special Flood Hazard Areas (SFHAs) as identified by FEMA. The following is a list of New Jersey State studied waters in this community under the FHACA, and their respective map identification numbers.

Table 102.2 List of State Studied Waters

Name of Studied Water	File Name	Map Number
Elizabeth River	NA	34013CO151F

### **102.3 Establishing the Local Design Flood Elevation (LDFE).**

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

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

- 1) For a delineated watercourse, the elevation associated with the Best Available Flood Hazard Data Area determined in Section 102.2, above plus one foot or as described by N.J.A.C. 7:13 of freeboard; or
- 2) For any undelineated watercourse (where mapping or studies described in 102.2 (1) and (2) 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:
  - a. 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
  - b. 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 Section 105.2-3.
- 3) 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.
- 4) 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.
- 5) 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.

## SECTION 103 DUTIES AND POWERS OF THE FLOODPLAIN ADMINISTRATOR

**103.1 Floodplain Administrator Designation.** The Township Engineer is designated the Floodplain Administrator. The Floodplain Administrator shall have the authority to delegate performance of certain duties to other employees.

**103.2 General.** The Floodplain Administrator is authorized and directed to administer the provisions of these regulations. The Floodplain Administrator shall have the authority to render interpretations of these regulations consistent with the intent and purpose of these regulations and to establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be consistent with the intent and purpose of these regulations and the flood provisions of the building code and shall not have the effect of waiving specific requirements without the granting of a variance pursuant to Section 107 of these regulations.

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

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

- (1) Review all permit applications to determine whether proposed development is located in flood hazard areas established in Section 102 of these regulations.
- (2) Require development in flood hazard areas to be reasonably safe from flooding and to be designed and constructed with methods, practices and materials that minimize flood damage.
- (3) Interpret flood hazard area boundaries and provide available flood elevation and flood hazard information.
- (4) Determine whether additional flood hazard data shall be obtained or developed.
- (5) Review required certifications and documentation specified by these regulations and the building code to determine that such certifications and documentations are complete.
- (6) Establish, in coordination with the Construction Official, written procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to Section 103.14 of these regulations.
- (7) Coordinate with the Construction Official and others to identify and investigate damaged buildings located in flood hazard areas and inform owners of the requirement to obtain permits for repairs.
- (8) Review requests submitted to the Construction Official seeking approval to modify the strict application of the flood load and flood resistant construction requirements of the Uniform Construction code to determine whether such requests require consideration as a variance pursuant to Section 107 of these regulations.
- (9) Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the Flood Insurance Rate Maps when the analyses propose to change base flood elevations, flood hazard area boundaries, or floodway designations; such submissions shall be made within 6 months of such data becoming available.
- (10) Require applicants who propose alteration of a watercourse to notify adjacent jurisdictions and the NJDEP Bureau of Flood Engineering, and to submit copies of such notifications to the Federal Emergency Management Agency (FEMA).

- (11) Inspect development in accordance with Section 106 of these regulations and inspect flood hazard areas to determine if development is undertaken without issuance of permits.
- (12) Prepare comments and recommendations for consideration when applicants seek variances in accordance with Section 107 of these regulations.
- (13) Cite violations in accordance with Section 108 of these regulations.
- (14) Notify the Federal Emergency Management Agency when the corporate boundaries of the Township of Irvington have been modified.
- (15) Permit Ordinary Maintenance and Minor Work in the regulated areas discussed in Section 102.2.

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

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

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

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

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

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

changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.

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

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

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

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

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

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

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

water is measured landward from the top of bank. Applicants can request a verification of the riparian zone limits or a permit applicability determination to determine State permit requirements under N.J.A.C. 7:13 from the NJDEP Division of Land Resource Protection.

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

- (1) Estimate the market value, or require the applicant to obtain a professional appraisal prepared by a qualified independent appraiser, of the market value of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made.
- (2) Determine and include the costs of all ordinary maintenance and minor work, as discussed in Section 102.2, performed in the floodplain regulated by this ordinance in addition to the costs of those improvements regulated by the Construction Official in substantial damage and substantial improvement calculations.
- (3) Compare the cost to perform the improvement, the cost to repair the damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, where applicable, to the market value of the building or structure.
- (4) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage.
- (4) Notify the applicant in writing when it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the building code is required and notify the applicant in writing when it is determined that work does not constitute substantial improvement or repair of substantial damage. The Floodplain Administrator shall also provide all letters documenting substantial damage and compliance with flood resistant construction requirements of the building code to the NJDEP Bureau of Flood Engineering.

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

used to determine the Local Design Flood Elevation in the floodplain development permit.

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

## **SECTION 104 PERMITS**

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

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

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

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

**104.4 Expiration.** A permit shall become invalid when the proposed development is not commenced within 180 days after its issuance, or when the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions shall be requested in writing and justifiable cause demonstrated. The Floodplain Administrator is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each.

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

## **SECTION 105 SITE PLANS AND CONSTRUCTION DOCUMENTS**

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

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

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

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

- (1) Use the Approximation Method (Method 5) described in N.J.A.C. 7:13 in conjunction with Appendix

1 of the FHACA to determine the required flood elevation.

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

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

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

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

**105.4 Submission of additional data.** When additional hydrologic, hydraulic or other engineering data, studies, and additional analyses are submitted to support an application, the applicant has the right to seek a

Letter of Map Change (LOMC) from FEMA to change the base flood elevations, change floodway boundaries, or change boundaries of flood hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA. Submittal requirements and processing fees shall be the responsibility of the applicant.

## SECTION 106 INSPECTIONS

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

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

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

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

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

## SECTION 107 VARIANCES

**107.1 General.** The Essex County Construction Board of Appeals shall hear and decide requests for variances. The Essex County Construction Board of Appeals shall base its determination on technical

justifications submitted by applicants, the considerations for issuance in Section 107.5, the conditions of issuance set forth in Section 107.6, and the comments and recommendations of the Floodplain Administrator and, as applicable, the Construction Official. The Essex County Construction Board of Appeals has the right to attach such conditions to variances as it deems necessary to further the purposes and objectives of these regulations.

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

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

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

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

- (1) The danger that materials and debris may be swept onto other lands resulting in further injury or damage.
- (2) The danger to life and property due to flooding or erosion damage.
- (3) The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners.
- (4) The importance of the services provided by the proposed development to the community.
- (5) The availability of alternate locations for the proposed development that are not subject to flooding or erosion and the necessity of a waterfront location, where applicable.
- (6) The compatibility of the proposed development with existing and anticipated development.
- (7) The relationship of the proposed development to the comprehensive plan and floodplain management program for that area.
- (8) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- (9) The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwater and the effects of wave action, where applicable, expected at the site.
- (10) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets, and bridges.

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

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

## SECTION 108 VIOLATIONS

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

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

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

**108.4 Review Period to Correct Violations.** A 30-day period shall be given to the property owner as an opportunity to cure or abate the condition. The property owner shall also be afforded an opportunity for a hearing before the court for an independent determination concerning the violation. Subsequent to the expiration of the 30-day period, a fine greater than \$1,500.00 may be imposed if a court has not determined otherwise or, upon reinspection of the property, it is determined that the abatement has not been substantially completed.

## SECTION 201 DEFINITIONS

**201.1 General.** The following words and terms shall, for the purposes of these regulations, have the meanings shown herein. Other terms are defined in the Uniform Construction Code N.J.A.C. 5:23 and terms

are defined where used in the International Residential Code and International Building Code (rather than in the definitions section). Where terms are not defined, such terms shall have ordinarily accepted meanings such as the context implies.

## **201.2 Definitions**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

substantially improved V Zone and Coastal A Zone structures. A completed certification must be submitted at permit application.

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

**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.

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

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

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

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

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

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

#### **FLOOD OR FLOODING**

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

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

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

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

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

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

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

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

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

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

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

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

**HARDSHIP** – As related to Section 107 of this ordinance, meaning the exceptional hardship that would result from a failure to grant the requested variance. The Township of Irvington 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.

**LOCAL DESIGN FLOOD ELEVATION (LD FE)** – 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 LD FE 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.

**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.

**REPETITIVE LOSS** – any flood-related damage sustained by a structure on two separate occasions during a 10 year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

**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 over a [number of years] year period, the cumulative cost of which equals or exceeds 50 percent [or optional lower number] of the market value of the structure before the “start of construction” of the improvement. The period of accumulation includes the first improvement or repair of each structure that is permanent subsequent to [date]. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. This term also includes structures which have incurred “repetitive loss” or “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

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

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

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

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

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

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

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

## SECTION 301 SUBDIVISIONS AND OTHER DEVELOPMENTS

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

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

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

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

## SECTION 401 SITE IMPROVEMENT

**401.1 Encroachment in floodways.** Development, land disturbing activity, and encroachments in floodways shall not be authorized unless it has been demonstrated through hydrologic and hydraulic analyses required in accordance with Section 105.3(1) of these regulations, that the proposed encroachment will not result in any increase in the base flood level during occurrence of the base flood discharge. If Section 105.3(1) is satisfied, proposed elevation, addition, or reconstruction of a lawfully existing structure within a floodway shall also be in accordance with Section 801.2 of this ordinance and the floodway requirements of N.J.A.C. 7:13.

**401.1.1 Prohibited in floodways.** The following are prohibited activities:

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

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

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

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

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

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

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

## **SECTION 501 MANUFACTURED HOMES**

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

**501.2 Elevation.** All new, relocated, and replacement manufactured homes to be placed or substantially improved in a flood hazard area shall be elevated such that the bottom of the frame is elevated to or above the elevation specified in Section 801.2.

**501.3 Foundations.** All new, relocated, and replacement manufactured homes, including substantial improvement of existing manufactured homes, shall be placed on foundations as specified by the manufacturer only if the manufacturer's installation instructions specify that the home has been designed for flood-resistant considerations and provides the conditions of applicability for velocities, depths, or wave action as required by 24 CFR Part 3285-302. The Floodplain Administrator is authorized to determine whether the design meets or exceeds the performance necessary based upon the proposed site location conditions as a precondition of issuing a flood damage prevention permit. If the Floodplain Administrator determines that the home's performance standards will not withstand the flood loads in the proposed location, the applicant must propose a design certified by a New Jersey licensed design professional and in accordance with 24 CFR 3285.301 (c) and (d) which conforms with ASCE 24, the accepted standard of engineering practice for flood resistant design and construction.

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

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

**501.6 Protection of mechanical equipment and outside appliances.** Mechanical equipment and outside appliances shall be elevated to or above the elevation of the bottom of the frame required in Section 801.2 of these regulations.

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

## SECTION 601 RECREATIONAL VEHICLES

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

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

**601.3 Permanent placement.** Recreational vehicles that are not fully licensed and ready for highway use, or that are to be placed on a site for more than 180 consecutive days, shall meet the requirements of Section 801.2 for habitable buildings and Section 501.3.

## SECTION 701 TANKS

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

## SECTION 801 OTHER DEVELOPMENT AND BUILDING WORK

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

- (1) Be located and constructed to minimize flood damage;
- (2) Meet the limitations of Section 105.3(1) of this ordinance when located in a regulated floodway;
- (3) Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic and hydrodynamic loads, including the effects of buoyancy, during the conditions of flooding up to the Local Design Flood Elevation determined according to Section 102.3;
- (4) Be constructed of flood damage-resistant materials as described in ASCE 24 Chapter 5;
- (5) Have mechanical, plumbing, and electrical systems above the Local Design Flood Elevation determined according to Section 102.3 or meet the requirements of ASCE 24 Chapter 7 which requires that attendant utilities are located above the Local Design Flood Elevation unless the attendant utilities and equipment are:
  - i. Specifically allowed below the Local Design Flood Elevation; and
  - ii. Designed, constructed, and installed to prevent floodwaters, including any backflow through the system from entering or accumulating within the components.

- (6) Not exceed the flood storage displacement limitations in fluvial flood hazard areas in accordance with N.J.A.C. 7:13; and
- (7) Not exceed the impacts to frequency or depth of offsite flooding as required by N.J.A.C. 7:13 in floodways.

**801.2 Requirements for Habitable Buildings and Structures.**

- 1) Construction and Elevation in A Zones not including Coastal A Zones.
  - a. No portion of a building is located within a V Zone.
  - b. No portion of a building is located within a Coastal A Zone, unless a licensed design professional certifies that the building's foundation is designed in accordance with ASCE 24, Chapter 4.
  - c. All new construction and substantial improvement of any habitable building (as defined in Section 201) located in flood hazard areas shall have the lowest floor, including basement, together with the attendant utilities (including all electrical, heating, ventilating, air-conditioning and other service equipment) and sanitary facilities, elevated to or above the Local Design Flood Elevation as determined in Section 102.3, be in conformance with ASCE Chapter 7, and be confirmed by an Elevation Certificate.
  - d. All new construction and substantial improvements of non-residential structures shall:
    - i. Have the lowest floor, including basement, together with the attendant utilities (including all electrical, heating, ventilating, air-conditioning and other service equipment) and sanitary facilities, elevated to or above the Local Design Flood Elevation as determined in Section 102.3, be in conformance with ASCE Chapter 7, and be confirmed by an Elevation Certificate; or
    - ii. Together with the attendant utility and sanitary facilities, be designed so that below the Local Design Flood Elevation, the structure:
      - 1. Meets the requirements of ASCE 24 Chapters 2 and 7; and
      - 2. Is constructed according to the design plans and specifications provided at permit application and signed by a licensed design professional, is certified by that individual in a Floodproofing Certificate, and is confirmed by an Elevation Certificate.
  - e. All new construction and substantial improvements with fully enclosed areas below the lowest floor shall be used solely for parking of vehicles, building access, or storage in an area other than a basement and which are subject to flooding. Enclosures shall:
    - iii. For habitable structures, be situated at or above the adjoining exterior grade along at least one entire exterior wall, in order to provide positive drainage of the enclosed area in accordance with N.J.A.C. 7:13; enclosures (including crawlspaces and basements) which are below grade on all sides are prohibited;
    - iv. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters unless the structure is non-residential and the requirements of 801.2.1(d)ii are met;

- v. Be constructed to meet the requirements of ASCE 24 Chapter 2;
- vi. Have openings documented on an Elevation Certificate; and
- vii. Have documentation that a deed restriction has been obtained for the lot if the enclosure is greater than six feet in height. This deed restriction shall be recorded in the Office of the County Clerk or the Registrar of Deeds and Mortgages in which the building is located, shall conform to the requirements in N.J.A.C.7:13, and shall be recorded within 90 days of receiving a Flood Hazard Area Control Act permit or prior to the start of any site disturbance (including pre-construction earth movement, removal of vegetation and structures, or construction of the project), whichever is sooner. Deed restrictions must explain and disclose that:
  - 1. The enclosure is likely to be inundated by floodwaters which may result in damage and/or inconvenience.
  - 2. The depth of flooding that the enclosure would experience to the Flood Hazard Area Design Flood Elevation;
  - 3. The deed restriction prohibits habitation of the enclosure and explains that converting the enclosure into a habitable area may subject the property owner to enforcement;
- f. Enclosures are prohibited for new construction or substantial improvements; OR For new construction or substantial improvements, enclosures shall be less than 295 square feet in size.

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

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

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

**801.6 Swimming pools.** Swimming pools shall be designed and constructed in accordance with the Uniform Construction Code. Above-ground swimming pools and below-ground swimming pools that involve placement of fill in floodways shall also meet the requirements of Section 105.3(1) of these regulations. Above-ground swimming pools are prohibited in floodways by N.J.A.C. 7:13.

**801.7 Roads and watercourse crossings.**

- (1) For any railroad, roadway, or parking area proposed in a flood hazard area, the travel surface shall be constructed at least one foot above the Flood Hazard Area Design Elevation in accordance with

N.J.A.C. 7:13.

- (2) Roads and watercourse crossings that encroach into regulated floodways or riverine waterways with base flood elevations where floodways have not been designated, including roads, bridges, culverts, low- water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, shall meet the requirements of Section 105.3(1) of these regulations.

## **SECTION 901 TEMPORARY STRUCTURES AND TEMPORARY STORAGE**

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

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

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

## **SECTION 1001 UTILITY AND MISCELLANEOUS GROUP U**

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

**1001.2 Flood loads.** Utility and miscellaneous Group U buildings and structures, including substantial improvement of such buildings and structures, shall be anchored to prevent flotation, collapse or lateral movement resulting from flood loads, including the effects of buoyancy, during conditions up to the Local Design Flood Elevation as determined in Section 102.3.

**1001.3 Elevation.** Utility and miscellaneous Group U buildings and structures, including substantial improvement of such buildings and structures, shall be elevated such that the lowest floor, including basement, is elevated to or above the Local Design Flood Elevation as determined in Section 102.3 and in accordance with ASCE 24. Utility lines shall be designed and elevated in accordance with N.J.A.C. 7:13.

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

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

**1001.6 Protection of mechanical, plumbing, and electrical systems.** Mechanical, plumbing, and electrical systems, equipment and components, heating, ventilation, air conditioning, plumbing fixtures, duct systems, and other service equipment, shall be elevated to or above the Local Design Flood Elevation determined in Section 102.3.

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

### **SECTION 3. SEVERABILITY.**

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

### **SECTION 4. EFFECTIVE DATE.**

This ordinance shall take effect upon final passage and approval according to law.

The public hearing on this ordinance is now open

Hudley - Beasley                      Motion to close public hearing

Adopted

Hudley - Beasley                      Motion to adopt this ordinance on second reading after public hearing

Adopted

3. President Beasley: An ordinance to exceed the municipal budget appropriation limits and to establish a CAP Bank – Calendar Year 2023 will be heard a time. For the record, this notice is identical to the prior notice read. The Assistant Clerk will read the ordinance by title.

### **CALENDAR YEAR 2023**

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

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

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

WHEREAS, the Municipal Council of the Township Of Irvington in the County of Essex finds it advisable and necessary to increase its CY 2023 budget by up to 3.5% over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and,

WHEREAS, the Municipal Council hereby determines that a 3.5 % increase in the budget for said year, amounting to \$ 3,447,837.95 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and,

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

NOW THEREFORE BE IT ORDAINED, by the Municipal Council of the Township Of Irvington, in the County of Essex, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2023 budget year, the final appropriations of the Township Of Irvington shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by 3.5 %, amounting to \$ 3,447,837.95, and that the CY 2023 municipal budget for the Township Of Irvington be approved and adopted in accordance with this ordinance; and,

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

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

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

The public hearing on this ordinance is now open

Cox - Beasley

Motion to close public hearing

Adopted

Cox - Beasley

Motion to adopt this ordinance on second reading after public hearing

Adopted

4. President Beasley: An ordinance amending an ordinance creating an abandoned property list to authorize the abandoned property Public Officer and the designation of qualified rehabilitation entities will be heard a time. For the record, this notice is identical to the prior notice read. The Assistant Clerk will read the ordinance by title.

AMENDMENT TO AN ORDINANCE CREATING AN ABANDONED PROPERTY LIST TO AUTHORIZE THE ABANDONED PROPERTY PUBLIC OFFICER AND THE DESIGNATION OF QUALIFIED REHABILITATION ENTITIES.

WHEREAS, the Township of Irvington contains a number of vacant buildings that have been abandoned by their owners and that are in a state of disrepair and neglect; and

WHEREAS, these buildings by virtue of their condition and their proximity to other buildings are diminishing the value of neighboring properties and have a negative affect on the quality of life of adjacent residents and property owners, increasing the risk of property damage through arson and vandalism and discouraging neighborhood stability and revitalization: and

WHEREAS, many of these buildings or the land on which they are situated, can be used for productive purposes, which will further the revitalization of Irvington and improve its economic and social condition; and

WHEREAS, The Township of Irvington desires to use the powers granted local governments under the laws of the State of New Jersey to address the conditions created by these buildings, and further their reuse for productive purposes; and

WHEREAS, by creating an abandoned property list, as set forth in section 36 of P.L 1966, c.62 (C.55; 19-55) as amended by section 28 of P.L 2003, c.210, the municipality will better be able to address the conditions created by these buildings, and further their reuses for productive purposes; and

WHEREAS, by virtue of his authority, the Mayor has designated the Director of the Division of Neighborhood Property Preservation as the Abandoned Property Public Officer.

NOW THEREFORE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON THAT:

Section 1. The Director of the Division of Neighborhood Property Preservation as “Public Officer” is hereby directed to identify abandoned properties within the municipality, place said properties on an abandoned property list established as provided in section 36 of P.L 1996, c.62 (C.55: 19-55), as amended by section 28 of P.L.2003, c.2 10, and provide such notices and carry out such other tasks as are required to effectuate an abandoned property list provided by law.

Section2. The abandoned property list shall apply to the Township of Irvington as a whole.

Section 3. The public officer, for the purpose of carrying out the responsibilities established by the ordinance, shall have all the responsibilities and powers provided by law and shall exercise the authority granted the public officer of a municipality pursuant to P.L.1996, c.62(C.5:19-20 et.al.);

Section 4. The public officer shall exercise the authority granted the municipality pursuant to section 13 P.L.2003, c.210 to designate qualified rehabilitation entitles to act as the designee of the municipality with respect to the provisions of that section.

Section 5. All Ordinances or parts of Ordinances inconsistent or in conflict with of the provisions of the within Ordinance are hereby repealed.

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Section 6. This Amended Ordinance shall take effect upon final passage according to law.

The public hearing on this ordinance is now open

Cox - Beasley                      Motion to close public hearing

Adopted

Cox - Beasley                      Motion to adopt this ordinance on second reading after public hearing

Adopted

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**ALCOHOLIC BEVERAGE CONTROL BOARD**

**JUNE 12, 2023**

1. Chairman Cox calls the Meeting to Order

Roll Call

Present: Commissioners Beasley, Brown, Evans, Frederic, Hudley Vick, Chairman Cox

2. New Business

Cox – Frederic                      A. Renewal of Plenary Retail Club Licenses for the 2023-2024 Licensing Year

**WHEREAS**, the following named individuals, partnerships or corporations, being applicants for Club Licenses for the Year 2023-2024 to sell alcoholic beverages under the provisions of NJSA Title 33, having been investigated as required by said Law, and the Alcoholic Beverage Control Board being satisfied that said applicants in all things have met the requirements of the law and are suitable and proper organizations to whom Plenary Retail Consumption Licenses should be issued; and

**NOW, THEREFORE BE IT RESOLVED** by the Municipal Council, Acting as the Alcoholic Beverage Control Board of the Township of Irvington, that Plenary Retail Consumption Licenses be issued to the following named individual, partnerships and corporations for the sale of alcoholic beverages by the glass or container to be consumed on the licensed premises, for the Year 2023-2024 at the address set opposite their name.

<b>License Number</b>	<b>Name</b>	<b>Address</b>
0709-31-093-001	Ukrainian Community Center Inc. T/A Ukrainian Community Center	140-146 Prospect Ave
0709-31-101-001	The Most Worshipful	875 Sanford Avenue

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Garden State Grand Lodge Ancient Free  
T/A Club 875

**BE IT FURTHER RESOLVED**, that the said licenses be issued in the name and under the seal of the Township of Irvington and be signed by the ABC Board Secretary, in order to fulfil the provisions of Chapter 158 of the Irvington Township Code, known as Ordinance MC 3635, which license, after being so signed, shall be released by the ABC Board Secretary to the licensee.

Adopted

Cox – Frederic                      B. Renewal of Plenary Retail Consumption Licenses for the 2023-2024  
Licensing Year

**WHEREAS**, the following named individuals, partnerships or corporations, being applicants for Plenary Retail Consumption Licenses for the Year 2023-2024 to sell alcoholic beverages under the provisions of NJSA Title 33, having been investigated as required by said Law, and the Alcoholic Beverage Control Board being satisfied that said applicants in all things have met the requirements of the law and are suitable and proper organizations to whom Plenary Retail Consumption Licenses should be issued; and

**NOW, THEREFORE BE IT RESOLVED** by the Municipal Council, Acting as the Alcoholic Beverage Control Board of the Township of Irvington, that a Plenary Retail Consumption Licenses be issued to the following named individual, partnerships and corporations for the sale of alcoholic beverages by the glass or in original containers for consumption on the licensed premises, for the Year 2023-2024 at the address set opposite their name.

<b>License Number</b>	<b>Name</b>	<b>Address</b>
0709-33-009-008	Funhouse Entertainment LLC	1162 Stuyvesant Avenue
	DBA/Marckys Restaurant	
0709-33-017-007	Antojitos Restaurant Inc.	1240 Springfield Avenue
	DBA/Antojitos Restaurant	
0709-33-018-004	Dairy King Inc	63 New Street
	DBA/Mugs Pub	
0709-33-034-002	Vic's Place Inc	395 Stuyvesant Avenue
	DBA/Vic's Place	
0709-33-041-007	Yungas Brothers LLC	1383 Springfield Avenue
	DBA/Yunga Bar & Restaurant	
0709-33-048-006	Kay LLC	193-197 Western Parkway
	DBA/Kay	
0709-33-062-008	Nuevo Centenario Inc	1180 Springfield Avenue
	DBA/Bottoms Up	
0709-33-064-009	Havam LLC	31 Welland Avenue
	DBA/The Foxes Bar & Lounge	
0709-33-073-005	72 Lyons Avene Corporation	702 Lyons Avenue
	DBA/Marlos Cocktail Lounge	
0709-33-085-004	B2 Sport Lounge LLC	865 Springfield Avenue
	DBA/ Moonlight Restaurant Restaurant and Lounge	

**BE IT FURTHER RESOLVED**, that the said licenses be issued in the name and under the seal of the Township of Irvington and be signed by the ABC Board Secretary, in order to fulfil the provisions of Chapter

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158 of the Irvington Township Code, known as Ordinance MC 3635, which license, after being so signed, shall be released by the ABC Board Secretary to the licensee.

Adopted

Cox – Frederic                      C. Renewal of Plenary Retail Distribution Licenses for the 2023-2024  
Licensing Year

**WHEREAS**, the following named individuals, partnerships or corporations, being applicants for Plenary Retail Distribution Licenses for the Year 2023-2024 to sell alcoholic beverages under the provisions of NJSA Title 33, having been investigated as required by said Law, and the Alcoholic Beverage Control Board being satisfied that said applicants in all things have met the requirements of the law and are suitable and proper individuals, partnerships or corporations to whom Plenary Retail Distribution Licenses for the sale of package goods should be issued; and

**NOW, THEREFORE BE IT RESOLVED** by the Municipal Council, Acting as the Alcoholic Beverage Control Board of the Township of Irvington, that a Plenary Retail Distribution Licenses be issued to the following named individuals, partnerships and corporations for the sale of package goods in original containers for **consumption off** the licensed premises, for the Year 2023-2024 at the address set opposite their respective name.

<b>License Number</b>	<b>Name</b>	<b>Address</b>
0709-44-001-010	Vighnavinashanaya Corporation	701 Lyons Avenue
	DBA/Roseway Liquors and Deli	
0709-44-003-013	Smruti Corporation	751 Lyons Avenue
	DBA/Rajashri Wine & Liquor	
0709-44-004-004	Irvington Liquors LLC	1398 Springfield Avenue
	DBA/Irvington Liquors	
0709-44-031-009	Prit Inc	990 Clinton Avenue
	DBA/Sams Gourmet Liquors & Grocery	
0709-44-032-003	Arnav Liquors Inc	876 Springfield Avenue
	DBA/Irvington-Discount Liquor	
0709-44-053-009	Mahashakti Incorporated	1050 Clinton Avenue
	DBA/Muellers Star Liquor	
0709-44-069-005	Pankil Corporation	1070 Springfield Aveue
	DBA/Madison Superette	
0709-44-084-011	Gold Key Liquor & Grocery Deli Inc	1117 Grove Street
	DBA/Al-Liquor	
0709-44-086-006	Satgurudev Inc	580 Chancellor Avenue
	DBA/Chancellor Liquor	
0709-44-097-006	Maharaj Inc	649 18 <sup>th</sup> Avenue
	DBA/Krauszer's Food and Wine	

**BE IT FURTHER RESOLVED**, that the said licenses be issued in the name and under the seal of the Township of Irvington and be signed by the ABC Board Secretary, in order to fulfil the provisions of Chapter 158 of the Irvington Township Code, known as Ordinance MC 3635, which license, after being so signed, shall be released by the ABC Board Secretary to the licensee.

Adopted

3. Adjournment

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12. Miscellaneous

A. General Hearing of Citizens and Council Members limited to three minutes per person (MUST SIGN UP IN ADVANCE OF MEETING)

Robert Shaw, 57 Coit Street

Council President Beasley responded to the issues raised by the above referenced citizen.

13. Adjournment

There being no further business, the meeting adjourned at 8:01 P.M.

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Jamillah Z. Beasley, Council President

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Shawna Supel, Assistant Municipal Clerk