

FAIR HAVEN BOROUGH COUNCIL
JUNE 24, 2019

The meeting was called to order by Mayor Lucarelli at 7:02 p.m. The Flag Salute was followed by a Moment of Silent Meditation in honor of Milton Quon (father of Michael Quon being recognized this evening) who passed away last week at the age of 105; he was a Disney Animator. The Sunshine Law Statement was read.

ROLL CALL

On Roll Call the following were present: Councilmembers Koch, Rice, Rodriguez and Sorensen. Absent: Councilmembers Banahan and Peters. Others present: Administrator Casagrande and Attorney Alfieri.

WORKSHOP SESSION

Mayor Lucarelli said that Fair Haven is blessed with a world-renowned artist, Michael Quon. He created the new banner designs displayed on the light poles along River Road. This is the second set of banners hung and created by Mike. Examples of the banners were shown to the public. A lot of color is used in the banner designs which is great. Mr. Quon said that his art signature is color. The Mayor thanked him for his artistry.

With regard to a Communications Update and Discussion, Councilwoman Sorensen said that, in January 2019, Mayor Lucarelli appointed Communications Committee Liaisons (she and Councilwoman Rice). The Communications Committee meetings are held with Administrator Casagrande, DJ Breckenridge, Allyson Cinquegrana and Betty Ann Berube to work on the best ways to keep the residents informed and engaged. We have various forms of communication (Focus Newsletter, E-blasts, Facebook, our website, Nixle Alerts, the Borough Hall Electronic sign, Instagram, Twitter,) and we just added Constant Contact a few weeks ago; it will be sent out every Monday morning and the Borough has received positive feedback. The public was advised if they have a unique Fair Haven photo, to submit it for the monthly photo at the top of Constant Contact with photo credit to the photographer. Councilwoman Sorensen reviewed how to sign up for Constant Contact. We currently have 1500 people signed up. With regard to the Borough's website, the Committee has met with website developers to improve our site and make it more user friendly. We hope to award a contract at the July 15th meeting. Another communication goal is to expand the ongoing dialogue with the public via FAQs to continue the ongoing transparency and keep everyone informed in an easy fashion. Councilwoman Sorensen and Councilwoman Rice discussed the FAQ idea with neighboring municipalities and common questions that they address. The FAQ topic will be part of ongoing Workshop discussions. Topics will be updated as time goes on. The public was asked for their suggestions.

Councilman Rodriguez said he is a huge fan of updating the Borough's website and asked what the design is. The website design has not been decided yet. Councilwoman Sorensen said that the Communication Committee would like to have a working search button, user friendly site and better navigation. The companies that the Committee has looked at can accommodate what the Borough has asked for. Site security is important as well as ADA compliance. Councilman Rodriguez thanked the Committee for the Constant Contact weekly newsletter.

Attorney Alfieri said that at the June 10th Council Meeting, Land Use Ordinance Amendments were discussed with two draft Zoning ordinances which would eliminate Category 3 restaurants. Since that meeting, it was asked that there be a walk-up window definition included. Council was advised that there are two draft versions of the ordinance to be considered (one with walk-up window and one without). Whatever ordinance is introduced this evening, will be sent to the Planning Board for their review and recommendation. Councilwoman Sorensen clarified that the ordinances presented just clear up language/definitions and do not include fast food. Attorney Alfieri said she was correct, addressing the definitions is Step A and once a subcommittee is appointed by the Mayor, then Step B will possibly take place in the future. The Mayor said he is waiting to speak with Todd Lehder, Planning Board and Zoning Board Chairman, to form the subcommittee. With regard to the ordinance, Attorney Alfieri suggested that the one with the most restrictions be introduced and taking it from there. He gave a synopsis of the matter to Councilman Rodriguez who was absent from the June 10th meeting. The walk-up definition in the ordinance came from the Moskowitz Book and was added after the last meeting when it was brought up by Councilwoman Koch. There is nothing in the draft ordinances addressing fast food and the introduction of the ordinances will not affect any current applications before the Land Use Boards. Councilman Rodriguez asked if either ordinance listed on the agenda would broaden current usage in town; no. The subcommittee to be appointed would do a more extensive review of the Land Use section in the Code Book. Administrator Casagrande read from the memo presented by Heyer Gruel Associates and discussed at the May 28th meeting. Attorney Alfieri said the Planning Board reviews Land Use Ordinance changes and compares it to the Master Plan for consistency. Councilman Rodriguez asked if there was a time frame to get something to move forward with; it depends on the subcommittee.

PUBLIC COMMENT ON AGENDA ITEMS

The meeting was opened to the public for comments or questions at 7:24 p.m. Bea Sena, Lake Avenue, asked if the subcommittee appointed will be doing the review; yes.

Laline Neff, Environmental Commission, stated she was happy that Ordinance 2019-10 which deals with the banning of plastic straws, Styrofoam and plastic bags was listed for introduction because she loves the Borough and was glad to see that we are looking to care for the environment. The ordinance is a helpful step. Her children, Sophia and Carl, were in attendance and they circulated a petition with a lot of helpers who went door to door to get signatures and educate the public. Sophia Neff said she presented the signed petition at the last Council meeting and advised why she circulated it. This issue is so important because plastics can be harmful to the marine animals and sea birds; they can feed their young plastics which will decline the wildlife population. Carl Neff said that he was excited to see that there is an ordinance for the banning of plastics on the agenda. Plastics are getting into the ocean and marine animals are eating it as well as fish. The fish are eating plastic and then humans who eat those fish have the plastic passed on to them.

Susan O'Brien, River Road, asked, "who determines what meetings go in the newsletter and Constant Contact notification?" She said that the date for "Meet the Mayor" was not included in last week's Constant Contact and should be because no one showed up on June 20th.

Ruth Blaser, River Road, recollected that fast food restaurants were in the code before it was re-codified. She was advised it was until it was repealed in December 1998. She said nothing disappears. Attorney Alfieri said the code has been re-codified twice since the repeal. It is not up to the governing body to detect why the 1998 governing body repealed the information. Administrator Casagrande said the Borough looked into the matter and a memo was sent to the governing body and certain members of the public. On another note, Mrs. Blaser said that she has an issue with paper straws because they become soggy.

Tracy Cole, Grange Avenue, said she has attended at least ten meetings since the Dunkin Donuts application came before the Zoning Board. A request was never made for clarification to strip out definitions. She said Rumson still has the definition of fast food on their books which is what Fair Haven once had. The concern is the conversation of a Committee that has not happened. She requested the prohibition of fast food restaurants reinstated. She asked for a reason as to why there is no committee formed. Mayor Lucarelli said that it has to do with the amount of time that the volunteers have and trying to coordinate the correct people and be sure that they are on the same schedule. There are time constraints and other priorities that are before this governing body and the boards. Mrs. Cole asked that the ordinance not be done piece mail; the ordinance should be comprehensive. Mayor Lucarelli thanked her for her comments and said that the two ordinances listed for introduction are the first step to moving forward and attaining the goal. She verified that the ordinances to be introduced do not prohibit fast food restaurants; she was advised she was correct. It was requested that the wording from Ordinance B99 be brought back. Mrs. Cole suggested this matter should be workshopped with a more comprehensive ordinance, not in steps, so that the matter is not dragged out further. Mayor Lucarelli said the Borough's Planner put out nuances and it is not a simple equation. We need to respect the property owners that are in the historic district and study the unintended consequences. Mrs. Cole asked what the rush was and said that everything can be factored in with a proper committee. Councilman Rodriguez said it was his idea to clear up the gray language and Council supported this unanimously; we need to be careful with the ordinance before moving forward with a subcommittee. Some folks do not want fast food restaurants, others are concerned about traffic safety; it takes time to look at how the parking and streets are managed. It is important to take our time and think everything out. Councilman Rodriguez said that he read everything in the packet and there is nothing in the ordinance that will open us up to anything new; we need a proper group to be put together to review everything that "is on the table" and all of the aspects involved. Tracy Cole said that fast food restaurants without drive thrus are going to submit applications. Councilman Rodriguez said the Borough is taking the appropriate steps so that everything is done correctly. Mrs. Cole asked that the committee be formed in name only before introducing the ordinances without actual names being given, at this time.

Valerie Wagner, Lake Avenue, said she supports the ban of plastics and Styrofoam. We have a responsibility to preserve our oceans and need to help with the crisis. She said she loves that Fair Haven is banning plastic and Styrofoam.

Carolyn Ferguson, Colonial Court, said she supports the banning of plastics and that everyone who worked on the ordinance did a great job. She supported Councilman Rodriguez's statement on the land use ordinances and felt it was a good step to start by cleaning up the language. She asked if there was a concern about walk up windows. Administrator Casagrande read the ordinance with the walk-up language that is proposed to the public. Mrs. Ferguson asked what the fear or concern was. Councilwoman Koch said it is an earmark of a fast food restaurant; more sales

in less time as well as the apps for faster service (call ahead).

Mary Ellen Maas, Schwenker Place, said she supports the plastic ban ordinance. She just returned from Cape Cod who currently has this ban in effect. It does not change anything. The side benefit for Cape Cod is that people took it further than what the ordinance requests (she gave some examples). People are encouraged to be environmentally conscience.

Mrs. Blaser said she understood that Mike Quon was recognized this evening for his banners and asked if new ones were going to be created; she was advised that what he was recognized for were both the old and new banners; the new banners are what is currently displayed along River Road.

Comments/Ideas regarding FAQs

With regard to Councilwoman Sorensen's request for FAQ ideas, it was asked if the Borough could provide an update to the plan that was presented for Borough facilities in January. Councilwoman Sorensen asked what the public would like the Borough to answer; timeline, changes to the plan, etc.

John Hoffman, Gillespie Avenue, asked for an explanation regarding the brush pick up changes, not just what, but why (zones, months, etc).

Kathy Elderhorst, Maple Avenue, thanked the Borough for addressing the tree issue at the Community Center Fields. She said DPW was amazing and cleared the fallen branches quickly. She said that she was concerned the branch fell in the afternoon when there were children around; she brought it to the Borough's attention prior to. She asked who the residents should report serious issues to; Administrator Casagrande said that residents can e-mail her. Mrs. Elderhorst asked if there would be replanting in place of what was taken out. Councilman Rodriguez said he is Shade Tree's liaison and they will address the trees; there is a list kept regarding hazardous trees.

Mike Sena, Lake Avenue, asked if there was a schedule for street sweeping because the residents never know when they are coming. He requested notification so that he can park his cars in the driveway to allow for the street sweeper to get through. He asked that Schwenkers Pond updates be provided and what the plan is for the pond. Mayor Lucarelli said the Environmental Commission is studying the pond. The bacteria in the Navesink River was cleaned with the help of Clean Ocean Action. There is focus on the nutrient load which goes back to the Sickles farm property. Plants could be planted in the pond to help clear it out. Mr. Sena asked if the pond would be more accessible at the edges.

Liz de Beer, Hance Road, said that many residents and the governing body/Borough have been trying to advise people about what can be recycled and suggested that this be an FAQ as to the why it is done the way it is.

Melissa McCue, William Street, said that recycling is collected and sometimes it is not. Mayor Lucarelli said the Borough is educating the residents, but compliance is an issue. Councilwoman Koch said she and Councilman Rodriguez discussed the possibility of the Boy Scouts in town working toward an Eagle Project by getting involved and putting stickers on the can with what should and should not be recycled (No Plastic bags filled with recyclables because it damages the machines at the County when being processed).

Maria Sciarrino, Poplar Avenue, asked if grass cuttings could be put out to the street; no, no one should be doing that. She said there are many new residents in town who do not realize that this cannot be put out. The Mayor said education is key; this can be made as an FAQ and also be put in Constant Contact. Administrator Casagrande said the Code Enforcement Officer patrols the streets and speaks with the residents. Grass clippings not being picked up does not just apply to Fair Haven, it is forbidden in a lot of municipalities and by a lot of contractors and sites. We have about 90% compliance in town out of 2,200 homes. Residents can mulch it into their lawn.

Mrs. Blaser said that Ordinance No. 2019-06, General Capital Ordinance, is vague and asked how the governing body can pass it and how the amount is determined. Administrator Casagrande explained that it is a general capital ordinance in which the amount is part of the budget. As capital is purchased, there will be more specifics in a purchase authorization resolution.

There being no further comments or questions, the meeting was closed to the public at 8:05 p.m.

APPROVAL OF MINUTES

Councilwoman Sorensen made a motion to approve the Regular Meeting minutes of June 10, 2019, second by Councilwoman Koch

Affirmative: Councilmembers Koch, Rice and Sorensen
Negative: None
Abstain: Councilman Rodriguez
Absent: Councilmembers Banahan and Peters

Councilwoman Sorensen made a motion to approve the Executive Session minutes of June 10, 2019, second by Councilwoman Koch

Affirmative: Councilmembers Koch, Rice and Sorensen
Negative: None
Abstain: Councilman Rodriguez
Absent: Councilmembers Banahan and Peters

OLD BUSINESS
HEARING AND ADOPTION OF ORDINANCES

1. Ordinance No. 2019-06, General Capital Ordinance

AN ORDINANCE PROVIDING FOR THE ACQUISITION OF VARIOUS EQUIPMENT, INFRASTRUCTURE IMPROVEMENTS AND IMPROVEMENTS TO PUBLIC BUILDINGS AND GROUNDS AND APPROPRIATING THE SUM OF \$215,000.00 THEREFORE, AUTHORIZED IN AND BY THE BOROUGH OF FAIR HAVEN, IN THE COUNTY OF MONMOUTH, NEW JERSEY

On motion of Councilwoman Sorensen, second by Councilwoman Koch with Ayes by all present, Mayor Lucarelli opened the meeting for comments or questions at 8:05 p.m.

Administrator Casagrande said that this is the generic ordinance that is passed annually. There has been \$215,000 budgeted and set up in this ordinance. All spending will be listed on a future agenda for Council approval. We have a few valid Capital ordinances from a few years ago that were not spent. The Mayor and Council annually issue money to go with pay as you go capital.

There being no further comments or questions, the Hearing was closed to the public at 8:08 p.m. on motion of Councilwoman Koch, second by Councilwoman Rice with Ayes by all present.

Offered for adoption by Councilwoman Sorensen, second by Councilman Rodriguez

Affirmative: Councilmembers Koch, Rice, Rodriguez and Sorensen
Negative: None
Abstain: None
Absent: Councilmembers Banahan and Peters

NEW BUSINESS
INTRODUCTION OF ORDINANCES

1. Ordinance No. 2019-07, Amend Land Use Chapter 30-2.4, Definitions

AN ORDINANCE OF THE COUNCIL OF THE BOROUGH OF FAIR HAVEN IN THE COUNTY OF MONMOUTH AMENDING THE FAIR HAVEN BOROUGH CODE, CHAPTER 30, LAND USE DEVELOPMENT REGULATIONS, SECTION 2.4, DEFINITIONS

BE IT ORDAINED by the Council of the Borough of Fair Haven, in the County of Monmouth, in the State of New Jersey, as follows:

I.

The purpose of this Ordinance is to amend Chapter 30, Section 30-2.4, Definitions.

NOTE: The section of Chapter 30 that is to be amended by Ordinance is Section 2.4 Definitions. All additions are shown in ***bold italics with underlines***. The deletions are shown as ~~***strikeovers in bold italics***~~. Sections of Chapter 30, Section 2.4 that will remain unchanged are shown in normal type.

II.

30-2.4 Definitions.

Certain words, phrases, and terms in this chapter are defined for the purpose herein as follow:

Accessory Building, Structure or Use means a subordinate building, structure or use, the purpose of which is incidental to that of a main building, structure or use on the same lot.

Addition means an extension or increase in building size, floor area or height.

Administrative Officer means the Construction Official in matters involving the administration of the construction code; the Zoning Officer in matters involving the administration of the zone code; The Municipal Code Enforcement Officer in all matters involving the enforcement of local, County and State ordinances, regulations, and statutes, inclusive of zoning and construction enforcement and the Municipal Clerk of the Borough in all other matters unless a different municipal official or officials are designated by ordinance or statute.

ADT (Average Daily Traffic) means the average number of cars per day that pass over a given point.

Adult Book Store means an establishment devoted to sale, rental, or distribution of pornographic books, magazines, pamphlets, photographs, motion pictures, phonograph records and video and audio tapes devoted to the presentation and exploitation of illicit sex, lust, passion, depravity, violence, brutality, nudity, immorality, and other obscene subjects, etc., used in connection with the aforementioned purposes.

Aggressive Soils means soils which may be corrosive to cast iron and ductile iron pipe. These soils represent approximately five (5%) percent of the soils found within the United States and include dump areas, swamps, marshes, alkaline soils, cinder beds, polluted river bottoms, etc., which are considered to be potentially corrosive.

Aisle means the traveled way by which cars enter and depart parking spaces.

Alley means a public or private street primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.

Alterations, as applied to a building or structure, means a change or rearrangement in the structural supports; or a change in the exterior appearance; or a change in height, width or depth; or moving a building or structure from one location or position to another, or changing, adding to or removing from or otherwise affecting the exterior appearance of a building or structure.

Amusement Arcade means any place of business containing more than three (3) amusement devices.

Amusement Device means any machine, contrivance, or device, which, upon the insertion of a coin, slug, token, plate, disc or key into a slot, crevice, or other openings, or by the payment of any price, is operated or may be operated by the public generally for use as a game, entertainment, or amusement, whether or not registering a score, and shall include, but not be limited to such devices as "Pac-Man" or other types of electronically operated game devices, skillball, mechanical games operations or transactions similar thereto, by whatever name they may be called and shall not include pool or billiard tables.

Apartment means a dwelling unit in a multifamily building.

Applicant means a developer submitting an application for development or for a permit required in accordance with this chapter.

Application for Development means the application form and all accompanying documents required by ordinance for approval of a subdivision plat, site plan, planned development, conditional use, zoning variance or direction of the issuance of a permit pursuant to N.J.S.A. 40:55D-34 or 45:55D-36.

Approved Stairway means a permanent access conveyance, either fixed or mechanically operated that allows for the uninterrupted ingress and egress from or to a space within a structure. Manual pull down stairs or openings requiring the placement of a ladder device for access are not considered an approved stairway.

Approving Authority means the Municipal Planning Board unless a different agency is designated by ordinance when acting pursuant to the authority of N.J.S.A. 40:55D-1 et seq.

Art Gallery means a building or portion thereof, in which sculpture, paintings, or other artistic work is displayed or sold.

ASCE means the American Society of Civil Engineers.

ASTM means the American Society for Testing Materials.

Attached Sign means a sign posted, painted or constructed, attached to the wall, roof, facade, canopy, or porch of any structure; provided the sign does not extend above the highest point of the roof.

Attic means that part of a building that is immediately below and wholly or partly within the roof framing not served by an approved stairway for ingress or egress.

Attic, Habitable. Habitable Attic means an attic which has an approved stairway as a means of access and egress and in which the ceiling area at a minimum height of seven (7) feet above the attic floor is not more than one-third (1/3) the area of the next floor below. The calculation of the height of the attic is as defined in the Uniform Construction Code. (Ord. No. 2017-02)

Auction Market means any premises on which are held at periodic times, auction sales of merchandise or any other personal property.

Automobile Repair Shop means the same as motor vehicle repair garage.

Automobile Sales Agency means a place of business where the primary purpose is the sale of new motor vehicles, having a building with either showrooms, office space, repair and/or maintenance facilities with or without outside sales on the same business premises or immediately adjacent thereto.

Automobile Service Station means the same as motor vehicle service station.

Automotive Repair Garage means the same as motor vehicle repair garage.

Awning means a structure made of cloth, metal, or other material affixed to a building with a minimum vertical clearance of eight (8) feet from the ground.

AWWA means the American Water Works Association.

Banner means a sign intended to be hung either with or without a frame, possessing characters, letters, illustrations, or ornamentation applied to plastic, or fabric of any kind excluding flags, emblems, and insignia or political, professional, religious, education, or corporate organizations.

Barrier Curb means a steep-faced curb intended to prevent encroachments.

Basement means a story partly underground and having more than one-half (1/2) of its height above the average level of the finished grade shown on an approved subdivision or site plan. However, within a floodplain, height shall be measured from existing grade.

Bedroom means a room or portion of a structure with a principal function of serving as sleeping quarters.

Belgian Block Curb means a type of paving stone generally cut in a truncated, pyramidal shape, laid with the base of the pyramid down.

Berm means a mound of soil, either natural or manmade, used as a view obstruction.

Bicycle Compatible Roadway means a road designed to accommodate the shared use of the roadway by bicycles and motor vehicles.

Bicycle Lane means a lane at the edge of a roadway reserved and marked for the exclusive use of bicycles.

Bicycle Path means a pathway usually separated from the roadway, designed specifically to satisfy the physical requirements of bicycling.

Bikeway means a pathway designed to be used by bikers.

Billboard means a structure utilized for advertising an establishment, an activity, a product, a service or entertainment, which is sold, produced, manufactured, available or furnished at a place other than on the property on which the sign is located.

Block means the length of a street between two (2) street intersections.

Blow-Offs means an outlet in a pipe through which water or sediment can be discharged.

Board of Adjustment means the Board established pursuant to N.J.S.A. 40:55D-69 and this chapter. The term "Board of Adjustment, as used in this chapter also means the Planning Board when it is acting pursuant to N.J.S.A. 40:55D-60.

Board of Adjustment Engineer means the licensed New Jersey Professional Engineer specifically retained by the Board of Adjustment (or assigned by the Municipal Engineer with the consent of the Board) to render engineering services and advice to the Board. In the absence of the specific appointment of the Borough of Adjustment Engineer, the Municipal Engineer may assume the duties of the office.

Boarding or Lodging House means any dwelling for hire in which more than two (2) persons are housed or lodged, with or without meals. This definition notwithstanding, a certificate of occupancy is required for any dwelling for hire.

Boatyard means any waterfront facility where docking accommodation and/or land-dry-storage accommodations for any watercraft, such as power boats, sailboats or row boats, are offered on a rental basis and where facilities for the building, rebuilding and general repair of boats and marine equipment are provided. A boatyard shall be deemed to include all auxiliary and accessory services as chandlery, gasoline sales and rental business activities related to the primary use.

Buffer means an area within a property or site, generally adjacent to and parallel with the property line, either consisting of natural existing vegetation or created by the use of trees, shrubs, fences and/or berms, designed to continuously limit view of and/or sound from the site to adjacent sites or properties.

Buildable Area means the central portion of any lot between required yards and/or setback lines.

Building means a combination of materials to form a construction, having a roof and adapted to permanent, temporary, or continuous occupancy.

Building Area means the total of areas determined from outside dimensions on a horizontal plane at ground level of principal and accessory buildings, exclusive of unroofed porches, terraces, stoops or steps having vertical faces, which at all points are less than three (3) feet above the level of the ground. A pergola, awning, or similar structure having more than a minimal area and which has the effect of a roof structure shall be considered a roof for the purpose of calculating building area.

Building Coverage means the area of a tract covered by buildings and roofed areas. Building coverage is expressed as a percentage of the total tract area.

Building Height means the vertical distance measured to the highest point of the building from the original lot grade, or from any revised lot grade shown on a site plan, subdivision plan, or other plan approved by the appropriate Municipal Agency (Planning Board or the Board of Adjustment). Such revised lot grade shall not include mounding, terracing, or other devices designed to allow increased building height. The vertical distance shall be the average measured along the perimeter of the building, measured at a minimum of four (4) corners of the structure.

Building Line (Setback Line) means the line beyond which a building shall not extend unless otherwise provided in this chapter.

Building Permit means a permit used for the alteration or erection of a building or structure in accordance with the provisions of the Uniform Construction Code.

Building, Principal. Principal Building means a structure in which is conducted the principal use of the site on which it is situated. In any district, any dwelling shall be deemed to be a principal building on the lot on which it is located.

Bulkhead means a structure separating land and water areas, primarily designed to resist earth pressures.

Bulk Storage means the stockpiling or warehousing of materials, which may or may not be enclosed within a structure, including, but not limited to, sand, gravel, dirt, asphalt, lumber, pipes, plumbing supplies, metal, concrete and insulation.

Business Office means a business establishment which does not offer a product or merchandise for sale to the public, but offers or provides a service, primarily administrative, personal, or clerical in nature. Business offices are all those offices which are not professional offices and include but are not limited to the following:

- a. Insurance companies;

- b. Trade associations;
- c. Real estate companies;
- d. Investment brokerage houses;
- e. Banks and trust companies;
- f. Advertising or public relations agencies;
- g. Computer and data processing;
- h. Management and consulting services;
- i. Adjustment and collecting services;
- j. Consumer credit reporting agencies.

Cable Television Company means a cable television company as defined pursuant to N.J.S.A. 48.5A-3.

Caliper means the diameter of a tree trunk measured in inches, six (6) inches above ground level for trees up to four (4) inches in diameter and measured twelve (12) inches above ground level for trees over four (4) inches in diameter.

Capital Improvement means a governmental acquisition of real property or major construction project.

Capital Improvements Program means a proposed schedule of all future projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project.

Capped System means a completed water supply and/or sewerage system put in place for future use (contingent upon expansion), rather than to meet immediate development needs.

Carport means a covering or roof to allow the parking of automobiles underneath. With the exception of supports, the carport shall have no sides unless such sides are the exterior wall of an adjacent building.

Cartway means the actual road surface area from curblines to curblines, which may include travel lanes, parking lanes, and deceleration and acceleration lanes. Where there are not curbs, the cartway is that portion between the edges of the paved, or hard surface, width.

Car Wash means a facility for the washing and cleaning of automobiles and other motor vehicles using production line methods with a conveyor, blower and other mechanical devices and/or providing space, material and equipment to individuals for self-service washing and cleaning of automobiles.

Cellar means a story wholly or partly underground and having more than one-half (1/2) of its clear height below the average level of the finished grade shown on approved subdivision or site plan. However, within a floodplain, height shall be measured from existing grade.

Centerline Offset of Adjacent Intersections means the gap between the centerline of roads adjoining a common road from opposite or same sides.

Certificate of Completeness means a certificate issued by the Administrative Officer after all required submissions have been made in proper form, certifying that an application for development is complete.

Certificate of Nonconformance means a document issued by the Zoning Officer for a nonconforming use or structure existing at the time of passage of the zoning ordinance or any amendment thereto which pursuant to N.J.S.A. 40:55D-68, may be continued upon the lot or in the building so occupied. Such certificate may be obtained at the owner's request upon any change of ownership for nonconforming use, structure or lot.

Certificate of Occupancy means a certificate issued upon completion of construction and/or alteration of any building; or change in use of any building; or change in occupancy of a nonresidential building. This certificate shall acknowledge compliance with all requirements of this chapter, such adjustments thereto granted by the Board of Adjustment or Planning Board and/or all other applicable requirements.

Change in Use means:

- a. Any increase in the number of dwelling units in a structure which would result in three (3) or more total units;
- b. Any change from a residential use to any nonresidential use;
- c. Any change from one nonresidential use to another nonresidential use (excluding changes in tenancy, occupancy or ownership where the use is the same).

Channel means a watercourse with a definite bed and banks which confined and conduct continuously or intermittently flowing water.

Channelization means the straightening and deepening of channels and/or the surfacing thereof to permit water to move rapidly and/or directly.

Child Care Center means a child care center as permitted pursuant to N.J.S.A. 40:55D-66.6.

Church. See "place of worship."

Circulation means systems, structures and physical improvements for the movement of people, goods, water, air, sewage or power by such means as streets, highway, railways, waterways, towers, airways, pipes and conduits, and the handling of people and goods by such means as terminals, stations, warehouses, and other storage buildings or transshipment points.

Clubhouse means a building to house a club or social organization not conducted for profit and which is not an adjunct to or operated by or in connection with a public tavern, cafe or other public place.

Coastal Area Facilities Review Act (CAFRA) Permit means a permit issued for specific development within the coastal area of New Jersey in accordance with N.J.S.A. 13:19 et seq. and in accordance with rules and regulations promulgated thereunder.

Coastal Wetlands means the coastal wetlands designated by the New Jersey Wetlands Act of 1970.

Collector Street or Road means a roadway which channels traffic from local streets into the arterial road system.

Commercial Parking Facility means the same as parking area, public. Also see "garage, public" and "vertical parking garage."

Common Development Line means a line within a tract or lot which designates the extent of a proposed development or improvements, separate developments within a single tract, or separate stages of development within the tract. Proposed improvements within a tract or site plan shall be shown for the entire tract, on both sides of any common development line.

Common Lateral means a lateral serving more than one (1) unit.

Common Open Space means an open space area within or related to a site designated as a development, and designed and intended for the use or enjoyment of residents and owners of the development. Common open space may contain such complementary structures and improvements as are necessary and appropriate for the use or enjoyment of residents and owners of the development.

Community Residence for the Developmentally Disabled means any community residential facility housing up to sixteen (16) developmentally disabled persons which provides food, shelter, and personal guidance for developmentally disabled persons who require assistance, temporarily or permanently, in order to live independently in the community. Such residences shall not be considered health care facilities within the meaning of the Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq. and shall include, but not be limited to, group homes, halfway houses, supervised apartment living arrangements and hotels.

Complete Application means an application for development which complies in all respects with the appropriate submission requirements set forth in this chapter, including an application form completed as specified by this chapter and the rules and regulations of the Municipal Agency, and all accompanying documents required by ordinance for approval of the application for development, including where applicable, but not limited to, a site plan or subdivision plat; provided that the Municipal Agency may require such additional information not specified in this chapter, or any revisions in the accompanying documents, as area reasonably necessary to make an informed decision as to whether the requirements necessary for approval of the application for development have been met. The application shall not be deemed incomplete for lack of any such additional information or any revisions in the accompanying documents so required by the Municipal Agency. An application shall be certified as complete immediately upon the meeting of all requirements specified in this chapter and in the rules and regulations of the Municipal Agency, and shall be deemed complete as of the day it is so certified by the Administrative Officer for purposes of the commencement of the time period for action by the Municipal Agency.

Concept Plan means a preliminary presentation and attendant documentation of a proposed

subdivision or site plan of sufficient accuracy to be used for the purpose of discussion and classification.

Conditional Use means a use permitted in a particular zoning district only upon a showing that such use in a specified location will comply with the conditions and standards for the location or operation or such use as contained in this chapter, and upon the issuance of an authorization thereof by the Municipal Agency.

Condominium means an ownership arrangement, not a land use; therefore it is allowed in any zone and under the same restrictions as the residential land uses that it comprises. A condominium shall not negate lot nor other requirements intended to provide adequate light, air, and privacy. A condominium is a dwelling unit which has all of the following characteristic.

- a. The unit (the interior and associated exterior areas designated for private use in the development plan) is owned by the occupant;
- b. The unit may be any permitted dwelling type;
- c. All or a portion of the exterior open space and any community interior spaces are owned and maintained in accordance with the provisions for open space, roads, or other development features as specified in this chapter.

Construction Official means the officer in charge of granting building or construction permits in the Borough.

Conventional Development means development other than "planned development" as defined in this section.

Corner Lot means a lot at the junction of and abutting two (2) or more intersection streets where the interior angle of intersection does not exceed one hundred thirty-five (135) degrees.

Corporation Stop also known as **Corporation Cock** means a valve which is placed in a building's water or gas service pipe near its junction with the public water or gas main.

Country Club means a facility for golf, tennis and related recreational uses which may include a club house, restaurant, and incidental lodging for members or guests.

County Master Plan means a composite of the comprehensive plan or master plan for the physical development of Monmouth County with the accompanying maps, plats, charts, and descriptive and explanatory matter adopted by the County Planning Board pursuant to N.J.S.A. 40:27-2 and N.J.S.A. 40:27-4.

County Planning Board means the Planning Board of the County of Monmouth as defined in N.J.S.A. 40:27-6.1.

Court or Courtyard means an unoccupied open space on the same lot with a building, which is bounded on three (3) or more sides by building walls.

Coverage means the same as lot coverage.

Critical Area means a sediment-producing highly erodible or severely eroded area.

Culvert means a structure designed to convey a water course not incorporated in a closed drainage system under a road or pedestrian walk.

Cul-de-sac means a local street with only one (1) outlet and having the other end for the reversal of traffic movement.

Curb means a vertical or sloping edge of a roadway. See also Belgian block curb," "barrier curb," "mountable curb."

Curb Level means the officially established grade of the curb in front of the midpoint of the front lot line.

Cushion means supportive or protective bedding materials placed underneath piping.

Day Camp means a licensed, organized and supervised daytime facility used for recreational purposes.

Day Care Center. See "child care center."

Days means calendar day(s).

Decorative Flag means a piece of fabric which is ornamental in nature and has no advertising or business logo.

Demolition means the partial or total razing, dismantling, or destruction, whether entirely or in significant part, of any building, structure, object, or site. "Demolition" includes the removal of a building, structure or object from its site or the removal or destruction of the facade or surface.

Density means the permitted number of dwelling units per gross area of land to be developed.

Design Flood means the relative size or magnitude of a major flood of reasonable expectancy, which reflects both flood experience and flood potential and is the basis of the delineation of the floodway, the flood hazard area, and the water surface elevations.

Design Guidelines means guidelines that provide a general framework for sound planning.

Design Standards means standards that set forth specific improvement requirements.

Detention Basin means a manmade or natural water collector facility designed to collect surface and subsurface water in order to impede its flow and to release the same gradually at a rate not greater than that prior to the development of the property, into natural or manmade outlets.

Developer means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development including the holder of an option or contract or purchase, or other person having an enforceable proprietary interest in such land.

Development means the division of a parcel of land into two (2) or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or of any mining excavation or landfill, and any use or change in the use of any building or other structure, or land or extension or use of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1 et seq. and this chapter.

Development Regulation means a zoning ordinance, subdivision ordinance, site plan ordinance, official map ordinance, or other Borough regulation of the use and development of land, or amendment thereto adopted and filed pursuant to the Municipal Land Use Law.

Developmentally Disabled means experiencing a disability which originates before eighteen (18) years of age, which has continued or is expected to continue indefinitely, which constitutes a substantial handicap, and which is attributable to mental retardation, cerebral palsy, epilepsy, autism, or other conditions found by the Commissioner of Human Services to give rise to an extended need for similar services.

Development Permit means a document signed by the Zoning Officer (1) which is required by ordinance as a condition precedent to the commencement of a use or the erection, construction, reconstruction, alteration, conversion or installation of a structure or building; and (2) which acknowledges that such use, structure or building complies with the provisions of this chapter or variance therefrom duly authorized by a Municipal Agency.

Development Regulation means this chapter, official map ordinance, or other municipal regulation of the use and development of land, or amendment thereto adopted and filed pursuant to N.J.S.A. 40:55D-1 et seq.

Directional Sign means a sign providing no advertising of any kind, which provides direction or instruction to guide persons to facilities intended to serve the public, including but not specifically limited to those signs identifying rest rooms, public walkways, parking areas, and other similar facilities.

District means any part of the territory of the Borough which is designated as a zone on the official zoning map (on file in the Borough Clerk's office) and to which certain uniform regulations and requirements of this chapter apply.

Drainage means the removal of surface water or groundwater from land by drains, grading or other means and includes control of runoff during and after construction or development to minimize erosion and sedimentation, to assure the adequacy of existing and proposed culverts and bridges, to induce water recharge into the ground where practical, to lessen nonpoint pollution to maintain the integrity of stream channels for their biological functions as well as for drainage and the means necessary for water supply preservation or prevention of alleviation of flooding.

Drainage Facility means any component of the drainage system.

Drainage Right-of-Way means the lands required for the installation of stormwater sewers or drainage ditches, or required along a natural stream or watercourse for preserving the channel and providing for the flow of water therein to safeguard the public against flood damage in accordance with N.J.S.A. 58:1-1 et seq., State Water Policy Commission.

Drainage System means the system through which water flow from the land, including all watercourses, water bodies and wetlands.

Drive-In Restaurant means the same as restaurant, drive-in.

Driveway means a paved or unpaved area used for ingress or egress of vehicles, and allowing access from a street to a building or other structure or facility.

Drop Manhole means a manhole provided for inspection and maintenance of sewers where an incoming sewer is considerably higher than the outgoing.

Drop Pipe means a vertical pipe used to convey sewage from a higher to a lower elevation.

Dry Lines. See "capped system."

Dwelling means any building or portion thereof designed or used exclusively for one (1) or more dwelling units.

Dwelling, Multiple. Multiple Dwelling means a building designed for, or containing three (3) or more dwelling units, which are entirely separated from each other by vertical walls or horizontal floors, unpieced, except for access to outside or a common cellar.

Dwelling, Single-Family. Single-Family Dwelling means a detached building designed for or containing one (1) dwelling unit.

Dwelling, Two-Family. Two-Family Dwelling means a detached building designed for, or containing two (2) dwelling units, which are entirely separated from each other by vertical walls, unpieced, except for access to the outside or a common cellar.

Dwelling Unit means a building or part thereof having cooking, sleeping, and sanitary facilities designed for, or occupied by one (1) family, and which is entirely separated from any other dwelling unit in the building by vertical walls, or horizontal floors, unpieced, except for access to the outside or a common cellar.

Easement means a right-of-way granted, but not dedicated, for limited use of private land for a public or quasi-public purpose and within which the owner of the property shall not erect any permanent structures.

Eave means the lower border of a roof that joins or overhangs the wall.

Educational Use means public, parochial or private elementary or secondary schools, duly licensed by the State of New Jersey, attendance at which is sufficient compliance with the compulsory education requirements of the State. Summer day camps shall not be considered as educational uses or accessories to such uses. Duly accredited colleges and universities shall also be considered educational uses.

Eleemosynary means the giving of money and/or services to a charitable or philanthropic organization.

Environmental Commission means the municipal Environmental Commission, a municipal advisory body, created pursuant to N.J.S.A. 40:56A-1 et seq.

Environmental Constraints means features, natural resources, or land characteristics that are sensitive to improvements and may require conservation measures or the application of creative development techniques to prevent degradation of the environment, or may require degradation of the environment, or may require limited development, or in certain instances may preclude development.

Environmental Impact Report (EIR) means for the purposes of this chapter, a compilation of studies, reports, documents and finding of fact prepared by an applicant as part of and for a development application. An environmental impact statement meeting the requirements of the N.J.S.A. 13:10-1 et seq., Coastal Area Facility Review Act, and specifically outlined in Section 7 of

the rules and regulations promulgated in compliance with the Act will be accepted in lieu of the EIR.

Erosion means the detachment and movement of soil or rock fragments by water, wind, ice, and/or gravity.

Erosion and Sediment Control Plan means a plan which fully indicates necessary land treatment measures, including a schedule of the timing for their installation, which will effectively minimize soil erosion and sedimentation. Such measures shall be equivalent to or exceed standards adopted by the New Jersey State Soil Conservation Committee and administered by the Freehold Soil Conservation District in conformance with N.J.S.A. 40:55-120.

Escrow means a deed, bond, money or a piece of property delivered to a third person to be delivered by him to the grantee only upon fulfillment of a condition.

Essential Services means underground gas, electrical, telephone, telegraph, steam or water transmission or distribution systems, including mains, drains, sewers, pipes, conduits, cables; and including normal above ground appurtenances such as fire alarm boxes, police call boxes, light standards, poles, traffic signals, and hydrants, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by public utilities or municipal or other governmental agencies or for the public health or safety or general welfare. "Essential services" shall not be deemed to include wireless telecommunications towers and antennas.

Excavation or Cut means any act by which soil or rock is cut into, dug, quarried, uncovered, removed, displaced or relocated.

Excavation Work means the excavation, removal, replacement, repair, construction, or other disturbance of any portion of the public improvement within a public street or drainage right-of-way. These public improvements include, but are not limited to curb, sidewalk, driveway, and driveway aprons, drainage structures and conduits, pavements, base courses, gutters, retaining walls, channels, headwalls, railings, guard rails, or any other public improvement existing within the public right-of-way. For the purposes of this chapter, that work which is being performed outside of the public right-of-way, but which required the storage of materials or the operation of equipment within the public right-of-way, in such a manner as may cause damage, will also be deemed excavation work. "Excavation work" shall also include the construction, addition, installation, or other provision of the whole or portions of the improvements within a public street, drainage right-of-way or other public way or public grounds by persons other than those exempted from the provisions of this chapter including privately sponsored construction of curbing, sidewalks, pavement extensions, aprons, drainage or any other portions of the public improvements.

Exempt Development means that site plan and/or subdivision approval shall not be required prior to issuance of a development permit for the following:

- a. Construction, additions, or alterations related to single-family detached or two-family dwellings or their accessory structures on individual lots;
- b. Any change of use of land or structure to a use for which the standards of this chapter are the same or less restrictive;
- c. Individual applications for accessory mechanical or electrical equipment, whose operation and location conforms to the design and performance standards of this chapter, and whose installation is on a site already occupied by an active principal use for which site plan approval is not otherwise required;
- d. Sign(s) installed on a site already occupied by a principal use for which site plan approval is not otherwise required and provided such sign(s) conform to this chapter;
- e. Interior alterations which do not increase the required number of off-street parking spaces;
- f. Division of property and conveyances so as to combine existing lots, which are not considered to be subdivisions in accordance with the definition of subdivision contained within this section.
- g. Any increase in the total number of employees, number of employees in any shift or the number of vehicles to be stored or parked on the site not exceeding twenty-five (25%) percent of the amount existing at the time of passage of this ordinance or as set forth at the time of a previous site plan approval.
- h. Construction or installation of underground facilities which do not alter the general use, appearance or grade of the site.
- i. The construction, alteration of or addition to any off-street parking area which provides an increase of five (5) or less vehicle parking spaces, provided a parking variance is not required.
- j. Where the proposed development, change of occupancy or change of use does not affect or increase circulation, drainage, relationship of buildings to each other, landscaping, buffering, lighting, parking requirements or any other considerations of site plan review.

Existing Permanent Sign means a permanent sign displayed in the Borough on the effective date of this chapter.

Family means one (1) or more persons living together as a single entity or nonprofit housekeeping unit, as distinguished from individuals or groups occupying a hotel, club, fraternity or sorority house. The family shall be deemed to include necessary servants when servants share the common housekeeping facilities and services.

Family Day Care Home means any private residence approved by the Division of Youth and Family Services or an organization with which the Division contracts for family day care in which child care services are regularly provided to no less than three (3) and not more than five (5) children for no less than fifteen (15) hours per week. A child being cared for under the following circumstances is not included in the total number of children receiving child care services:

- a. The child being cared for is legally related to the provider; or
- b. The child is being cared for as part of a cooperative agreement between parents for the care of their children by one (1) or more of the parents, where no payment for the care is being provided.

Farm means any parcel of land, which is used for gain in the raising of agricultural products, livestock or dairy products.

Farm Building means any building used for the housing of agricultural equipment, produce, livestock, or poultry or for the incidental or customary processing of farm products, and provided that such building is located on, operated in conjunction with and necessary to the operation of a farm as defined by this chapter.

Fence means a structure constructed of wood, masonry, stone, wire, metal or any other manufactured material or combination of materials serving as an enclosure, barrier, or boundary.

Fence, Open. Open Fence means a fence in which one-half (1/2) of the area, between grade level and the top cross member (wire, wood, or other material), is open.

Fence Permit means a document signed by the Code Enforcement Officer (1) which is required by ordinance as a condition precedent to the construction, reconstruction, alteration, or installation of a fence; and (2) which acknowledges that the fence complies with the provisions of the Borough zoning ordinance or variance, therefrom duly authorized pursuant to N.J.S.A. 40:55D-60 or N.J.S.A. 40:55D-70.

Fence Post means the vertical upright of a fence which provides support and the point of attachment for the rails.

Final Approval means the official action of the Planning Board taken on a preliminary approved major subdivision or site plan after all conditions, engineering plans and other requirements have been completed or fulfilled and the required improvements have been installed or guarantees property posted for their completion, or approval conditioned upon the posting of such guarantees.

Final Plat means the final map of all or a portion of the site plan or subdivision which is presented to the Planning Board for final approval in accordance with the provisions of this chapter, and which is approved shall be filed with the proper County office.

Flat Roof means a roof having a continuous horizontal surface with a minimal pitch and arranged to be essentially parallel to the floor plane.

Flood or **Flooding** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- a. The overflow of inland or tidal waters; and/or
- b. The unusual and rapid accumulation or runoff of surface waters from any source.

Floodplain means the relatively flat area adjoining any natural or manmade stream, pond, lake, river, or any other body of water which is subject to a one hundred (100) year flood.

Floodplain Encroachment Permit means permission of the Borough to build in accordance with municipal floodplain regulations.

Floodway means 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 two-tenths (0.2) foot.

Floor means a story of a building.

Floor Area Ratio means the sum of the area of all floors of buildings or structures compared to the total area of the site.

Floor Area, Sales. Sales Floor Area means the sum of the gross horizontal areas of the floor or several floors of a commercial building which are used for display of merchandise to the general public and including any areas occupied by counters, showcases, or display racks, and any aisles, entranceways, arcades, or other such public areas.

Flushing means the cleaning out of debris and sediment from pipes by force of moving liquid, usually water.

Freestanding Sign means a sign not attached to any building but standing on the ground. Such signs are usually, but not necessarily, supported from the ground by one (1) or more poles or posts on similar uprights with or without braces.

Front Building Face Area means the area of the face of a building that is located on the front, as established by street side of the building, is inclusive of all windows and doors, but exclusive of the roof.

Funeral Home or Mortuary means a funeral home or mortuary operated by a licensed mortician in accordance with N.J.S.A. 27:23-1 et seq. A funeral home or mortuary shall not be considered a professional office.

Gable Roof means a double sloping roof that forms a gable at each end.

Garage means a detached accessory building or portion of a main building for the parking or temporary storage of automobiles of the occupants of the main building to which the garage is accessory.

Garage, Private. Private Garage means an enclosed building used as an accessory to the main building which provides for the storage of motor vehicles and in which no occupation, business, or service for profit is carried on.

Garage, Public. Public Garage means a building or part thereof, other than a private garage, used for the storage, care or repair of motor vehicles for profit, including any sale of motor accessories, or where any such vehicles are kept for hire. The rental of storage space for more than two (2) motor vehicles not owned by occupants of the premises shall be deemed a public garage.

Gas Station means the same as motor vehicle service station.

Genetically Engineered Material means any substance which results from the directed alteration of genetic material through intervention in genetic processing including techniques whereby recombinant DNA is produced and made to function as an organism.

Golf Course means an area of fifty (50) or more contiguous acres containing a full size professional golf course, at least nine (9) holes in length, together with the necessary and usual accessory uses and structures such as, but not limited to: club house facilities, dining and refreshment facilities, swimming pools, tennis courts, and the like, provided that the operation of such facilities incidental and subordinated to the operation of a golf course.

Governing Body means the Mayor and Borough Council of the Borough of Fair Haven.

Grade, Existing. Existing Grade means the existing undisturbed elevation of land, ground, and topography preexisting or existing on a lot, parcel or tract of land at the time of the adoption of this chapter.

Grade, Finished. Finished Grade means the completed surface of lawns, walks and roads brought to grade(s) as shown on official plans or designs relating thereto or as existing if no plans or designs have been approved.

Ground Cover means low-growing plants or sod that in time form a dense mat covering the area in which they are planted preventing soil from being blown or washed away and the growth of unwanted plants.

Ground Sign means any sign supported by either uprights affixed to the ground or supported by a base affixed to the ground.

Gutter means a shallow channel usually set along a curb or the pavement edge of a road for purposes of catching and carrying off runoff water.

Habitable Floor Area means the sum of the gross horizontal area of all the stories and halfstories of a building as measured from the exterior face of exterior building walls, or from the centerline of wall separating two (2) buildings. In residential buildings, garages, attics, and cellars shall not be calculated as "habitable floor area." For a new dwelling, fifty percent (50%) of the area of an attached garage shall be calculated as "habitable floor area." (Ord. No. 2014-15)

Habitable Floor Area Ratio means the habitable floor area compared to the total area of the lot on which it is sited.

Habitable Room means any room within a building used for the purpose of sleeping, eating, preparation of food, offices, selling of merchandise, public gatherings, or assembly lobbies. All habitable rooms within a dwelling unit shall have natural light, ventilation, and heat. Within a dwelling, garages, porches, cellars, and utility rooms are not considered to be "habitable rooms."

Hazardous Materials means including, but not limited to, inorganic mineral acids of sulfur, fluorine, chloride, nitrogen, chromium, phosphorus, selenium and arsenic and their common salts; lead, nickel, and mercury and their inorganic salts or metallo-organic derivatives; coal tar acids, such as phenols and cresols, and their salts; petroleum products; and radioactive materials.

Health Care Facility means the facility or institution, whether public or private, engaged principally in providing services for health maintenance organizations, diagnosis, or treatment of human disease, pain, injury, deformity, or physical condition, including, but not limited to, a general hospital, special hospital, mental hospital, public health center, diagnostic center, treatment center, rehabilitation center, extended care facility, skilled nursing home, nursing home, intermediate bio-analytical laboratory (except as specifically excluded hereunder), or central services facility serving one (1) or more such institutions but excluding institutions that provide healing solely by prayer and excluding such bio-analytical laboratories as are independently owned and operated, and are not owned, operated, managed, or controlled, in whole or in part, directly or indirectly, by any one (1) or more health care facilities, and the predominant source of business of which is not by contract with health care facilities within the State of New Jersey and which solicit or accept specimens and operate predominantly in interstate commerce.

High Water Line means for the purposes of this chapter a line showing the upper inland wetlands boundary (a biological "high water line") on a series of maps prepared by the State of New Jersey Department of Environmental Protection in accordance with the provisions of The Wetlands Act, N.J.S.A. 13:9A-1 et seq., the line being established from photographs and each of these maps being on file in the office of the County Clerk, Monmouth County, New Jersey.

Home Business. See Home Occupation.

Home Occupation means any use customarily conducted for profit entirely within a dwelling and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, and does not change the character thereof, provided that no article is sold or offered for sale except such as may be produced by members of the immediate family residing in the dwelling; and provided, further, that no machinery or equipment used which will cause electrical or other interference with radio and television reception in adjacent residences, or cause offensive noise or vibration. Such activities as automotive repair or body work, clinics, hospitals, barber shops, beauty parlors, tea rooms, tourist homes, animal hospitals, nursery schools, and music or dancing schools other than for individual instruction shall not be deemed home occupations under the terms of this chapter.

Hospital means a building or series of buildings, primarily for treatment of patients to be housed on the premises, and providing health, medical and surgical care for sick or injured human beings, including as an integral part of the building, such related facilities as laboratories, out-patient departments, clinics, training facilities, central service facilities and staff offices. The definition of "hospital" shall not include nursing homes, medical care centers and the like.

Household means the person or persons occupying a dwelling unit.

Hydrologic Response means the properties, distribution, and circulation of water.

IES means the Illuminating Engineering Society.

Illuminated Sign means a sign in which an artificial source of light is used in connection with the display of such sign.

Impervious Surfaces means a surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration of water.

Impoundment means a body of water, such as a pond, confined by a dam, dike, floodgate or other barrier.

Improved Parking Area means an area for the temporary location of motor vehicles which has been modified from its natural condition by excavation, fill or structures.

Improved Street means a street curbed and paved in accordance with the standards set forth in this chapter for new streets or, alternately, a street which has been improved to the standards specified by the Borough Engineer.

Improvement means any manmade, immovable item which becomes part of, placed upon, or is affixed to, real estate.

Individual Sewage Disposal System means a septic tank, seepage tile sewage disposal system, or any other approved sewage treatment device serving a single unit.

Interested Party means (1) in a criminal or quasi-criminal proceeding, any citizen of the State of New Jersey; and (2) in the case of a civil proceeding in any court or in an administrative proceeding before a Municipal Agency, any person, whether residing within or without the municipality, whose rights to use, acquire, or enjoy property is or may be affected by any action taken under N.J.S.A. 40:55D-1 et seq. or under any other law of this State or of the United States have been denied, violated or infringed by an action or failure to act under N.J.S.A. 40:55D-1 et seq. or this chapter.

Interior or Inside Lot means a lot bounded by a street on one (1) side only.

Interior Street or Road means a street or road that is developed wholly within a parcel under one (1) ownership and meeting all municipal standards.

Internal Street or Road means a street used for internal vehicular circulation within a tract or development. Major internal streets are those internal streets which have an entrance and/or exit on the access street or right-of-way frontage of the tract. Internal streets may be private and not dedicated or deeded to the public, subject to approval by the Planning Board and by the Municipal Engineer.

Island, in street design shall mean a raised area, usually curbed, placed on guide traffic, separate lanes, or used for landscaping, signing, or lighting.

ITE means the Institute of Transportation Engineers.

Jetty means a projection of stone, brick, wood or other material, but generally formed of piles, serving as a protection against the encroachment or assault of the waves and currents.

Junk or Salvage Yard means the use of any area and/or structure keeping or abandonment of junk, including scrap metal, glass, paper, cordage, or other scrap material, or for the dismantling, demolition or abandonment of structures, automobiles or other vehicles, equipment and machinery, or paths thereof, provided, however, that this definition shall not be deemed to include any of the foregoing uses which are accessory and incidental to any agricultural use permitted in any zone. The term "junk yard" as herein defined includes automobile salvage or wrecking yards.

Lakes and Ponds means natural or manmade bodies of water which normally contain or retain water for extended periods. Ponds are bodies of water with a surface area, measured under ten (10) year storm conditions, of two (2) acres or less. Lakes are bodies of water with a surface greater than two (2) acres, measured under ten (10) year storm conditions. The shoreline of a lake or pond is measured at the perimeter of the surface of water under ten (10) year storm conditions, as certified by the applicant's licensed land surveyor, and approved by the Municipal Engineer.

Land means any real property including improvements and fixtures on, above or below the surface.

Land Disturbance means any activity involving the clearing, grading, transporting, filling of land, and any other activity which causes land to be exposed to the danger of erosion.

Landscape, Landscaping means the orderly, planned arrangement of shrubs, ground cover, flowers, trees and other plant material, including incidental use of berms and decorative mulches, gravel and similar materials to produce an aesthetically pleasing appearance, to satisfy ground stabilization requirements, and/or providing a visual screen, all arranged and implemented in accordance with

good landscaping and horticultural practices.

Lateral Sewers means pipes conducting sewage from individual buildings to larger pipes called trunk or interceptor sewers that usually are located in street rights-of-way.

Loading Space means an off-street space or berth on the same lot with a building, or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials. Such space shall have clear means of ingress and egress to a public street at all times.

Local Street or **Local Road** means any street other than a collector street.

Local Utility means any sewerage authority created pursuant to the Sewerage Authorities Law, N.J.S.A. 40:14A-1 et seq.; any utilities authority created pursuant to the Municipal and County Utilities Authority Law, N.J.S.A. 40:14B-1 et seq.; or any utility, authority, commission, special district, or other corporate entity not regulated by the Board of Regulatory Commissioners, under Title 48 of the Revised Statutes that provides gas, electricity, heat, power, water, or sewer service to a municipality or the residents thereof.

Lot means a designated parcel, tract or area of land established by a plat or otherwise as permitted by law and to be used, developed or built upon as a unit.

Lot Area means the acreage and/or square footage of a lot contained within the lot lines of the property. Any portion of a lot included in a street right-of-way shall not be included in calculating lot area. Portions of lots encumbered by easements shall be included in calculating lot area.

Lot, Corner. Corner Lot means any lot at the junction of and fronting on two (2) or more intersecting streets.

Lot Coverage means the area of a lot covered by buildings and structures and accessory buildings or structures and expressed as a percentage of the total lot area. For the purpose of these regulations, total lot coverage shall include all other impervious surfaces and all parking areas and automobile access driveways and internal roadways, whether covered by an impervious or pervious material.

Lot Depth means the shortest distance between the front lot line and a line parallel to the front lot line through the midpoint of the rear lot line, provided that, in triangular lots having no rear lot line, the distance shall be measured to the midpoint of a line parallel to the front lot line which shall not be less than ten (10) feet in length measured between its intersections with the side lot lines.

Lot Frontage means the distance measured on a horizontal plane between the side lot lines measured along the street right-of-way line. The minimum lot frontage shall not be less than the required lot frontage except that on curved alignments with an outside radius of less than five hundred (500) feet, the minimum distance between the side lot lines measured at the street line shall not be less than seventy-five (75%) percent of the required minimum lot frontage, except that no lot shall have a frontage of less than fifty (50) feet. Where the lot frontage is so permitted to be reduced, the lot width at the building setback line shall not be less than the required minimum frontage of the zone district. For the purpose of this chapter, only continuous uninterrupted lot lines shall be accepted as meeting the frontage requirements.

Lot, Interior. Interior Lot means a lot other than a corner lot.

Lot Line means any line designating the extent or boundary of a lot which shall further be defined as follows:

1. Front Lot Line. A lot line or portion thereof which is coexistent with a street line and along which the lot frontage is calculated.
2. Rear Lot Line. The lot line most distant and generally opposite and parallel to the front lot line (for corner lots see subsection 30-7.4b).
3. Side Lot Line. Any lot line other than a front or rear lot line.

Lot Width means the distance between the property side lines measured along the front yard setback line. Unless otherwise specified lot width shall equal minimum lot frontage.

Low- and Moderate-Income Companion Unit means a dwelling unit restricted to occupancy by a lower income household and approved as a conditional use pursuant to this chapter.

Lower Income Household means a household whose income is within the current moderate- or low-income limits for the Borough's housing region as established by the New Jersey Council on

Affordable Housing.

Lowest Floor means the lowest level (including basement, crawl space and garage) of the lowest enclosed area.

Maintenance Bond means any security that is acceptable to the Governing Body to assure the maintenance of approved installations by developers.

Maintenance Guarantee means any security which may be accepted by the Borough for the maintenance of any improvements required by N.J.S.A. 40:55D-1 et seq. and this chapter, including but not limited to surety bonds, letters of credit, under the circumstances specified in N.J.S.A. 40:55d-53.5, and cash.

Major Site Plan means any site plan not classified as a minor site plan or exempt site development.

Major Subdivision means any subdivision not classified as a minor subdivision.

Manhole means an inspection chamber whose dimensions allow easy entry and exit and working room for a person inside.

Manning Equation means a method for calculating the hydraulic capacity of a conduit to convey water.

Manufactured Home means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities.

Manufacturing means the treatment or processing of raw products, and the production of articles or finished products from raw or prepared materials by giving them new forms or qualities.

Marina means any waterfront facility wherein berthing spaces for any and all watercraft or boats are provided. A marina shall be deemed to include, in addition, automobile parking facilities; sanitary facilities; motor fuel sales; boat sales, repairs, maintenance and service, excluding, however, facilities for the construction of new boats.

Marine Activities means any facilities or activity associated with fishing or boating, either for sport or for commercial gain.

Massage Parlor means any establishment devoted to the providing of massage services to persons not in connection with any medical, osteopathic, chiropractic, prescribed therapeutic or athletic or callisthenic activities.

Master Plan means a composite of one (1) or more written or graphic proposals for the development of the municipality as set forth in and adopted by the Planning Board pursuant to N.J.S.A. 40:55D-28.

Mayor means the Mayor of Fair Haven.

Median means that portion of a divided highway separating the traveled ways of traffic proceeding in opposite directions.

Mentally Ill Person means a person afflicted with mental disease to such an extent that a person so afflicted requires care and treatment for his own welfare, or the welfare of others, or of the community, but shall not include a person who has been committed after having been found not guilty of a criminal charge or unfit to be tried on a criminal charge by reason of insanity.

Minor Site Plan means a development plan for one (1) or more lots which is (are) subject to development which:

- a. Requires site plan approval; and
- b. Meets the requirements set forth in Section 30-12 of this chapter and contains the information needed to make an informed determination as to whether the requirements established by this chapter for approval of a minor site plan have been met; and
- c. Meet the following conditions:
 1. The construction of drainage facilities is not required either on or off site;
 2. New building construction and/or building additions do not exceed one thousand (1,000) square feet of gross floor area;
 3. The proposed development does not increase parking requirements by more than five (5) spaces;
 4. The proposed development conforms to the performance standards set forth in

Chapter 16.20 of this title;

5. The proposed development will not require the issuance of a CAFRA permit;
6. The proposed development does not involve planned development;
7. The proposed development does not involve any new street or the extension of any existing street;
8. The proposed development does not involve the extension or construction of any off-tract improvement, the cost of which is to be prorated pursuant to N.J.S.A. 40:55D-42;
9. The proposed development does not involve the disturbance of five thousand (5,000) square feet or more of ground area;

Minor Subdivision means a subdivision of land for the creation of not more than two (2) lots plus the remainder of the original lot provided such subdivision does not involve, (1) a planned development, (2) any new street, or (3) the extension of any off-tract improvement, the cost of which is to be prorated pursuant to N.J.S.A. 40:55D-42 and provided that the Municipal Agency or the Subdivision Committee of the Planning Board finds that all the following conditions have been met:

- a. That curbs and sidewalks have been installed or that the developer agrees to install and post performance guarantees for curbs and sidewalks, or that curbs and sidewalks are not required due to specific conditions in the area;
- b. That the subdivision does not require the extension of municipal facilities at the expense of the municipality;
- c. That the subdivision and construction resulting therefrom will not adversely affect drainage patterns of the basin in which the lots are situated;
- d. That the subdivision will not adversely affect the development of the remainder of the parcel of the adjoining property;
- e. That the subdivision is not in conflict with any provision or portion of the master plan, official map or this chapter or that appropriate variances have been obtained (or must be obtained as a condition of approval);
- f. That no portion of the lands involved have constituted a part of a minor subdivision within three (3) years preceding the application.

Mixed Use means two (2) or more different uses, one (1) of which is residential.

Mixed Use Residential means the same as mixed use.

MLUL means Municipal Land Use Law.

Mobile Home. See Manufactured Home.

Motor Vehicle Repair Garage means a building or portion of a building or land, or portion thereof, which is not primarily devoted to the retail sale of gasoline of new or used automobiles or trucks, in which the overhauling or replacement of automobiles, automobile parts, or any portion thereof, is conducted as a business for profit.

Motor Vehicle Service Station means any area of land, including structures thereon, which is used for the retail sale of gasoline or any other motor vehicle fuel and oil and other lubricating substances, including any sale of motor vehicle accessories and which may include facilities for lubricating, washing or servicing of motor vehicles, except that auto body work of any nature and retail sales unrelated to motor vehicle use shall be prohibited.

Mulch means a layer of wood chips, dry leaves, straw, hay, plastic, or other materials placed on the surface of the soil around plants to retain moisture, prevent weeds from growing, hold the soil in place, and aid plant growth.

Multi-Family Building means any building containing two (2) or more dwelling units, including townhouses within a lot. Dwelling units within multi-family buildings are classified as multi-family dwellings.

Municipal Agency means the Planning Board or Board of Adjustment when acting pursuant to N.J.S.A. 40:55D-1 et seq. and this chapter.

Municipal Land Use Law means N.J.S.A. 40:55D-1 et seq.

Municipal Resident means a person who is domiciled in the municipality.

New Construction means structures for which the start of construction commenced on or after the effective date of the ordinance codified in this chapter.

Nonconforming Lot means a lot, the area, dimension or location of which was lawful prior to the adoption, revision or amendment of the ordinance codified in this chapter, but which fails to

conform to requirements of the zoning district in which it is located by reason of such adoption, revision or amendment.

Nonconforming Sign means a sign that does not comply with the provisions of this chapter and would have been in existence before the adoption of this chapter.

Nonconforming Structure means a structure the size, dimension or location of which was lawful prior to the adoption, revision or amendment of a zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption, revision, or amendment.

Nonconforming Use means a use or activity which was lawful prior to the adoption, revision, or amendment of the ordinance codified in this chapter, but which fails to conform to the requirements of the zoning district in which it is located by reason of such adoption, revision or amendment.

Nondesignated Site means all lots and structures thereon within any historic districts which are not designated historic sites.

Nonpoint Source Pollution means pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agriculture.

Nursery School means a school designed to provide daytime care or three (3) or more children from two (2) to six (6) years of age inclusive, and operated on a regular basis.

Occupancy means the specific purpose for which land or a building is used, designed or maintained.

Occupancy Permit means the same as certificate of occupancy.

Official County Map means the map, with changes and additions thereto, adopted and established, from time to time, by resolution of the Board of Chosen Freeholders of Monmouth County pursuant to N.J.S.A. 40:27-5.

Official Map means a map adopted by ordinance by the Governing Body pursuant to N.J.S.A. 40:55D-32 et seq.

Off-Site means located outside the lot lines of the lot in question, but within the property limits (of which the lot is a part) which is the subject of a development application. Off-site areas shall include any contiguous portion of a street or right-of-way.

Off-Street Parking Space means a temporary storage area for a motor vehicle that is directly accessible to an access aisle, and that is not located on a dedicated street right-of-way.

Off-Tract means not located on the property which is the subject of a development application nor on a contiguous portion of a street or right-of-way.

On-Site means located on the lot in question.

On-Street Parking Space means a temporary storage area for a motor vehicle which is located on a dedicated street right-of-way.

On-Tract means located on the property which is the subject of a development application or on a contiguous portion of a street or right-of-way.

Open Porch or Steps means a porch or steps with a fixed roof no larger than six (6) feet wide by four (4) feet deep and with no sidewalk other than the wall of the structure to which it is attached.

Open Space means any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space; provided that such areas may be improved with only those buildings, structures, streets and other improvements that are designed to be incidental to the natural openness of the land.

Owner means any individual, family group, firm, association, syndicate, co-partnership or corporation having sufficient proprietary interest in land which is the subject of a development proposal.

Parking Area means an open area used for the open storage of motor vehicles and includes any

driveways and access drives, as well as accessory incidental structures or improvements such as curbing, drainage, lighting, and signing.

Parking Area, Private. Private Parking Area means an area, other than a street, intended for the same use as a private garage, is accessory to a residential or nonresidential building or use and not used by the general public.

Parking Area, Public. Public Parking Area means a paved open area, other than a street or other public way, used for the parking of motor vehicles and available to the public, whether for a fee, free, or as an accommodation of clients or customers.

Parking Garage means the same as Garage, Public.

Parking Space means an off-street space provided for the parking of a motor vehicle exclusive of driveways or access drives, either within a structure or garage or in the open or as may be otherwise defined in this chapter.

Party Immediately Concerned means for purposes of notice any applicant for development, the owners of the subject property and all owners of property and government agencies entitled to notice under N.J.S.A. 40:55D-12.

Patio means an area of land not used for receiving and storing material where the grounds have been surfaced with construction material such as brick, stone, cement or lumber, which does not project above grade level and which is entirely uncovered by a roof or any superstructure.

Pavement. See Cartway.

Peep Show means any establishment showing to patrons in private or semi-private viewing areas the live or photographic or magnetically recorded depictions of persons engaged in the presentation and exploitation of illicit sex, lust, passion, depravity, violence, brutality, nudity, immorality and other obscene subjects.

Performance Guarantee means any security, which may be accepted by the municipality, including but not limited to surety bond, letters of credit under the circumstances specified in N.J.S.A. 40:55D-53.5 and cash.

Personal Services means an act by which skills of one (1) person are utilized for the benefit of another, provided no function involves manufacture, cleaning, repair, storage or distribution of products or goods except for cleaning and repairing of clothing and similar personal accessories.

Pervious Surface means any material that permits full or partial absorption of stormwater into previously unimproved land.

Pesticide means any substance or mixture of substance labeled, designed, or intended for use in preventing, destroying, repelling, sterilizing or mitigating any insects, rodents, nematodes, predatory animals, fungi, weeds and other forms of plant or animal life or viruses, except viruses on or in living man or other animals. The term "pesticide" shall also include any substance or mixture of substances labeled, designed or intended for use as a defoliant, desiccant, or plant regulator.

Petroleum Products means oil or petroleum of any kind and in any form including crude oils and derivatives of crude oils, whether alone, as sludge, oil refuse or oil mixed with other wastes.

Place of Worship means a building or group of buildings, congregations, public worship including cathedrals, chapels, churches, meeting houses, mosques, synagogues, temples, and similarly used buildings, as well as accessory uses such as Sunday schools, social halls, parish houses, and similar type buildings.

Planned Development means planned unit development, planned residential development, residential cluster, planned commercial development or planned industrial development.

Planning Board means the municipal Planning Board established pursuant to N.J.S.A. 40:55D-23. The term "Planning Board" as used in this chapter also means the Board of Adjustment when it is acting pursuant to N.J.S.A. 40:55D-76.

Planning Board Engineer means the licensed New Jersey professional engineer specifically retained by the Planning Board or assigned by the Municipal Engineer (with the consent of the Board) to render engineering services and advice to the Board. In the absence of the specific appointment of a Planning Board Engineer, the Municipal Engineer may assume the duties of the

office.

Plat means a map or maps of subdivision or site plan.

Plat, Final. Final Plat means the map or maps of all or a portion of the development prepared and submitted to the approving authority for final approval. "Final plat" shall also include and be synonymous with the term final site plan.

Plat, Preliminary. Preliminary Plat means the plan prepared and submitted to the approving authority as a part of the application for preliminary approval. "Preliminary plat" shall also include and be synonymous with the term preliminary site plan.

Portable Sign means a sign which can be carried or moved about.

Preliminary Approval means the conferral of certain rights pursuant to N.J.S.A. 40:55D-46, -48, and -49 prior to final approval after specific elements of a development plan have been agreed upon by the Planning Board and the applicant.

Preliminary Floor Plans and Elevations means architectural drawings prepared during early and introductory stages of the design of a project illustrating in a schematic form, its scopes, scale, relationship to its site and immediate environs and exterior colors and finishes.

Premises means a lot or tract or land or any combination thereof held under a single ownership or control.

Primary or Principal Use means the primary or principal purpose for which a building, structure or lot is issued.

Professional Office means the office of a member of a recognized profession, such as, but not necessarily limited to, the office of physicians, dentists, architects, professional engineers, and lawyers.

Prohibited Use means that use which is not specifically allowed or permitted in a particular zone and for which the granting of a variance of N.J.S.A. 40:55D-70D would be necessary, in order to provide that use in that particular zone.

Projecting Sign means a sign which is attached to the building wall at a right angle.

Public Areas means (1) public parks, playgrounds, trails, paths and other recreational areas; (2) other public open spaces; (3) scenic and historic sites; and (4) sites for schools and other public buildings and structures.

Public Development Proposal means a master plan, capital improvement program or other proposal for land development adopted by the appropriate public body, or any amendment thereto.

Public Drainage Way means the land reserved or dedicated for the installation of stormwater sewers or drainage ditches, or required along a natural stream or watercourse for preserving the biological as well as drainage function of the channel and providing for the flow of water to safeguard the public against flood damage, sedimentation, and erosion and to assure the adequacy of existing and proposed culverts and bridges, to induce water recharge into the ground where practical, and to lessen non-point pollution.

Public Open Space means an open space area conveyed or otherwise dedicated to the Borough, a Municipal Agency, Board of Education, Federal, State, or County agency, or other public body for recreational or conversational uses.

Public Utility means any public utility regulated by the Board of Regulatory Commissioners and defined pursuant to N.J.S.A. 48:2-13.

Quorum means the majority of the full authorized membership of a Municipal Agency.

Radioactive Use means any natural or artificially produced substance or combination of substances which emits radiation spontaneously.

Rational Method means a method of runoff calculation.

Recharge means the replenishment of underground water reserves.

Recreation Area means facilities and open space areas set aside, designed and/or improved, and used for recreation purposes, and may include, but shall not be limited to, playfields, golf courses, playgrounds, swimming pools, tennis courts, and other court games, tot lots, parks, picnic areas, nature preserves, boating and fishing areas and facilities.

Recreational Vehicle means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities are travel trailer, camping trailer, truck camper, and motor home.

Residential Density means the number of dwelling units per gross acre of residential land including areas used for streets, easements and/or open space portions of a development.

Restaurant means any establishment, however designated, at which food is sold for consumption on the premises, normally to patrons seated within an enclosed building. However, a snack bar at a public or community playground, playfield, park, or swimming pool operated solely by the agency or group operating the recreation facilities, and for the convenience of patrons of the facility, shall not be deemed to be a restaurant.

Restaurant, Category One. Category One Restaurant means a restaurant which is designed for and whose primary function and operation is the preparation and service by employees of meals to a customer or customers seated at the table at which the meal is consumed. A category one restaurant operates without substantial carry-out service; with no delivery service; with no drive-thru, drive-in or service in vehicles; and without service at counters or bars unless the restaurant is licensed to serve alcoholic beverages.

Restaurant, Category Two. Category Two Restaurant means a restaurant whose primary function is the preparation and service by employees of food or drink to customers as part of an operation which may be designed with carry-out service; delivery service; self-service; or on-premises consumption, except that no drive-in, drive-thru, or service in vehicles is permitted.

~~*Restaurant, Category Three. Category Three Restaurant means a restaurant whose primary function is the preparation and service by employees of food or drink to customers as part of an operation which may be designed with carry-out service; delivery service; self-service; on-premises consumption; or customer pick-up service utilizing a vehicular drive-thru.*~~

~~*Restaurant, Drive-In. Drive-In Restaurant means an establishment where the majority of the patrons purchase food, soft drinks, ice cream, and similar confections for takeout or consumption on the premises but outside the confines of the principal building, or in automobiles parked upon the premises, regardless of whether or not, in addition thereto, seats or other accommodations are provided for the patrons food or drink is served to and consumed by a customer while parking on the premises.*~~

~~*Restaurant, Drive-Thru. Drive-Thru Restaurant means an establishment in which food or drink is served to customers within automobiles outside of the confines of the building and where the consumption of such food or drink is intended to occur off premises.*~~

Resubdivision means (1) the further division or relocation of lot lines of any lot or lots within a subdivision previously made and approved or recorded according to law; or (2) the alteration of any streets within any subdivision previously made and approved or recorded according to law, but does not include conveyances so as to combine existing lots by deed or by other instrument.

Retaining Wall means a structure more than eighteen (18) inches high erected between lands of different elevation to protect structures and/or to prevent the washing down or erosion of earth from the upper slope level.

Retention Basin means a pond, pool or basin used for the permanent storage of water runoff.

Revetment means a fencing of stone, concrete, etc., built to protect a scarp, embankment, or shore structure against erosion by wave action or current.

Right-of-Way means a strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, gas pipeline, water main, sanitary or storm sewer main, shade trees, or for another special use.

Rooming House means the same as boarding or lodging house.

Sand Dunes means naturally occurring or manmade accumulations of sand in ridges or mounds landward of the beach.

Satellite Dish Antenna or **Satellite Antenna** means a parabolic reflector antenna which is designed for the purpose of receiving signals from and/or transmitting signals to a transmitter relay located in planetary orbit.

School means the same as educational use.

Screen means a structure or planting consisting of fencing, berms, and/or evergreen trees or shrubs providing a continuous view obstruction within a site or property.

SCS means Soil Conservation Service.

Seawall means a wall or embankment to resist encroachment of the sea.

Secondary Use means the same as accessory use.

Sediment means solid material, both mineral and organic, that is in suspension, is being transported or has been moved from its site or origin by air, water or gravity as a product of erosion.

Sediment Basin means a barrier or dam built at suitable locations to retain rock, sand, gravel, silt or other materials.

Sedimentation means the transport and depositing of solid material by water.

Septic System means an underground system with a septic tank used for the decomposition of domestic wastes.

Septic Tank means a water-tight receptacle that receives the discharge of sewage.

Setback means the horizontal distance between a building or structure and any front, side or rear lot line, measured perpendicular to such lot lines at the point where the building is closest to such lot lines.

Setback Line (Building Line) means the line beyond which a building shall not extend unless otherwise provided in this chapter.

Sewer means any pipe conduit used to collect and carry away sewage or stormwater runoff from the generating source to treatment plants or receiving streams.

Shade Tree means a tree in a public place, street, special easement, or right-of-way adjoining a street.

Shape Requirement. See Lot Shape Requirement.

Shopping Center means an integrated development of such uses as retail stores and shops, personal service establishments, professional and business offices, banks, post offices, restaurants, and auditoriums, houses in an enclosed building or buildings, utilizing such common facilities as customer parking, pedestrian walkways, truck loading and unloading space, utilities and sanitary facilities and having a minimum total floor area of twenty thousand (20,000) square feet.

Shoulder means the graded part of the right-of-way that lies between the edge of the main pavement (main traveled way) and the curbline.

Sidewalk Area means a paved path provided for pedestrian use and usually located at the side of a road within the right-of-way.

Sight Triangle means the triangular area intended to remain free of visual obstructions to prevent potential traffic hazards formed by two (2) intersecting street lines or the projection of such lines which border a corner property, and by a line connecting a point on each such line located a designated distance from the intersection of the street lines.

Sign Area means that are defined by the outside edge of the frame surrounding the sign or by the edge of the sign if no frame exists, where no frame or edge exists, the area shall be defined by a projected enclosed four (4) sides (straight lines) geometric shape that most clearly outlines the signs.

Signs means an identification, description, illustration, or device illuminated or nonilluminated which is visible to the general public and directs attention to a product, service place, activity, person, institution, business or solicitation, including any permanently installed or situated merchandise; or any emblem, painting flag, streamer, banner, pennant, or placard design to advertise, identify, or convey information.

Site means any plot, parcel or parcels of land.

Site Plan means a development plan of one (1) or more lots on which is shown (1) the existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, drainage, floodplains, marshes, and waterways, (2) the location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping, structures and signs, lighting, screening devices, and (3) any other information that may be reasonably required in order to make an informed determination pursuant to the provisions of this chapter requiring review and approval of site plans by the Planning Board adopted pursuant to N.J.S.A. 40:55D-37 et seq.

Sketch Plat. See Concept Plan.

Soil means all unconsolidated mineral and organic material of any origin and overlies bedrock and which can be readily excavated.

Soil Cement means a mixture of Portland cement and locally available soil. It serves as a soil stabilizer.

Soil Conservation District means the Freehold Soil Conservation District, a governmental subdivision of the State which was organized in accordance with the provisions of N.J.S.A. 4:24-2 et seq.

Solid Waste means garbage, sludge, refuse, trash, rubbish, debris or other discarded solid materials.

Special Event Sign means a sign advertising a specific occasion such as, but restricted to, holidays, grand openings, and inventory reduction.

Stabilized Turf or Earth means turf, or earth (soil), strengthened usually by the mixing of cement or lime with the original material to achieve increase strength, thereby reducing shrinkage and movement.

Standards of Performance means (1) standards, requirements, rules and regulations adopted by this chapter pursuant to N.J.S.A. 40:55D-65(d) regulating noise levels, glare, airborne or sonic vibrations, heat, electronic or atomic radiation, noxious odors, toxic matters, explosive and inflammable matters, smoke, and airborne particles, waste discharge, screening of unsightly objects or conditions and such other similar matters as may be reasonably required by the municipality or (2) required by applicable Federal or State laws or Municipal Agencies.

Steep Slopes means areas where the average slope exceeds fifteen (15%) percent which, because of this slope, are subject to high rates of stormwater runoff and erosion.

Stormwater Detention means a provision for storage of stormwater runoff and the controlled release of such runoff during and after a flood or storm.

Stormwater Retention means a provision for storage of stormwater runoff.

Story means that portion of a building between a floor and ceiling, excluding cellars.

Story, Half. Half Story means that portion of a building under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than two (2) feet above the floor of such half-story. A basement shall also be included as a half-story.

Stream Corridors means those areas which include the floodway and permanent channel of brooks and streams.

Street means any street, highway, avenue, boulevard, road, parkway, viaduct, alley, drive, or other way (1) which is an existing State, Country or municipal roadway, or (2) which is shown upon a plat heretofore approved pursuant to law, or (3) which is approved by official action as provided by N.J.S.A. 40:55D-1 et seq., or (4) which is shown on a plat duly filed and recorded in the office of the County Recording Officer prior to the appointment of a Planning Board and grant to such Board the power to review plats; and includes the land between the street lines, whether improved or

unimproved, and may comprise pavement, shoulders, gutters, curbs, sidewalks, parking areas and other areas within the street lines.

Street Furniture means manmade aboveground items that are usually found in street rights-of-way, including benches, kiosks, plants, canopies, shelters, and phone booths.

Street Hardware means the mechanical and utility systems within a street right-of-way such as hydrants, manhole covers, traffic lights and signs, utility poles and lines, parking meters and the like.

Street Hierarchy means the conceptual arrangement of streets based upon function. A hierarchical approach to street design classifies streets according to function, from high traffic arterial roads down to streets whose function is residential access. Systematizing street design into a road hierarchy promotes safety, efficient land use, and residential quality.

Street, Improved. See Improved Street.

Street Line means the line which separates the publicly owned or controlled street right-of-way from the private property which abuts upon the street; as distinct from a sidewalk line, curblin, or edge-of-pavement line. On a street or highway shown on the adopted master plan of the Borough of Fair Haven, the street line shall be considered to be the proposed right-of-way line for the street. Where a definite right-of-way has not been established, the street line shall be assumed to be at a point twenty-five (25) feet from the centerline of the existing pavement.

Street Loop. Loop Street means a street that has its only ingress and egress at two (2) points on the same subcollector or collector street.

Street, Unimproved. Unimproved Street means a street that does not have an all-weather pavement. An unimproved street could be constructed of loose gravel, any type of loose stone, or section. In the event that the Construction Official or other Borough Official has any question as to whether a road is improved, unimproved, or potential drainage problems exist with regard to the issuance of a development permit, building permit or certificate of occupancy, such Official shall contact the Borough Engineer for his evaluation and written determination.

Stripping means any activity which removes or significantly disturbs vegetated or otherwise stabilized soil surface, including clearing and grubbing operations.

Structural Alterations means the same as alterations.

Structure means a combination of materials to form a construction for occupancy, use or ornamentation whether installed on, above, or below the surface of a parcel of land.

Subdivider means any person or legal entity commencing proceedings under this chapter to effect the subdivision of land hereunder.

Subdivision means the division of a lot, tract, or parcel of land into two (2) or more lots, tracts, parcels or other divisions of land for sale or development. The following shall not be considered subdivisions within the meaning of this chapter if no new streets are created: (1) divisions of land found by the Planning Board or Subdivision Committee thereof appointed by the Chairman to be for agricultural purposes where all resulting parcels are five (5) acres or larger in size, (2) divisions of property by testamentary or intestate provisions, (3) division of property upon court order including, but not limited to, judgments of foreclosure, (4) consolidation of existing lots by deed or other recorded instrument, and (5) the conveyance of one (1) or more adjoining lots, tracts or parcels of land, owned by the same person or persons and all of which are found and certified by the Administrative Officer to conform to the requirements of the development regulations contained in this chapter for frontage on an improved street, zoning district regulations, and for design standards and improvement specifications; and further provided that each lot, tract, or parcel of land is shown and designated as separate lots, tracts, or parcels of land shown on the official tax map of the Borough. Those adjoining lots, tracts, or parcels of land shown on the official tax map of the Borough which are owned by the same person or persons but which individually do not conform to the zoning district regulations and/or which do not meet the required frontage on an improved street shall be treated under this chapter as a single parcel of land no portion of which may be conveyed without subdivision approval as prescribed by this chapter. The term "subdivision" shall also include the term "resubdivision."

Subdivision and Site Plan Committee means a committee appointed by the chairperson of the Planning Board for the purpose of reviewing, commenting and making recommendations with respect to subdivision and site plan applications and having the power to approve minor site plans and subdivisions. Only those committee members who are members or alternatives of the Board

having jurisdiction to act have the power to vote on a matter involving a minor site plan or subdivision pursuant to N.J.S.A. 40:55D-46.1 and N.J.S.A. 40:55D-47.

Subgrade means the natural ground lying beneath a road.

Surface Waters means those waters that fall on land or arise from springs and diffuse themselves over the surface of the ground following no defined course or channel.

Swimming Pool, Above Ground. Above Ground Swimming Pool means any swimming pool with sides that are not flush with the ground. Hot tubs, Jacuzzis and children's wading pools shall not be considered above ground swimming pools.

Swimming Pool, Commercial. Commercial Swimming Pool means a swimming pool that is operated for profit and open to the public or to a limited number of members and their guests, upon payment of an hourly, daily, weekly, monthly, annual or other fee or operated as a service rendered by a hotel, motel, or apartment development.

Swimming Pool, Private. Private Swimming Pool means a swimming pool located on a single-family lot with a residence on it and used as an accessory to the residence, and the pool is utilized with no admission charges and not for the purpose of profit.

Swimming Pool, Public. Public Swimming Pool means the same as swimming pool, commercial.

Telecommuting means a work arrangement for performing work electronically from a dwelling solely by a member of the household.

Temporary Sign means a nonpermanent sign erected, affixed, or maintained on a premises for a short, usually fixed, period of time.

Tidelands means lands which are washed by tidal flows in accordance with the NJDEP Tideland Council maps which are on file with the NJDEP and Borough Clerk.

Topsoil means the original upper layer of soil material to a depth of six (6) inches which is usually darker and richer than the subsoil.

Tract means an area of land consisting of one (1) or more contiguous lots under single ownership or control, used for development or for a common purpose. Tract interchangeable with the words, development area, site and property.

Transcript means a typed or printed verbatim record, or reproduction thereof, of the proceedings of the Municipal Agency.

Trip means a single or one-way vehicle movement to or from the property or study area. "Trips" can be added together to calculate the total number of vehicles expected to enter and leave a specific land use or site over a designated period of time.

ULI means Urban Land Institute.

Uniform Construction Code means the New Jersey Uniform Construction Code, N.J.S.A. 52:27D-122 et seq. (N.J.A.C. 5:23-1.1 et seq.)

USCGS (also USC&G and USC&GS) means United States Coast and Geodetic Survey.

Use means the specific purposes for which a parcel of land or a building or a portion of a building is designed, arranged, intended, occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use.

Utilities means essential services including, but not limited to sewers, water, electricity, gas, and telephone, regulated by the State of New Jersey or by the Federal government.

Variance means permission to depart from the literal requirements of zoning regulations of this chapter pursuant to N.J.S.A. 40:55D-40b, and N.J.S.A. 40:55D-70c and 70d.

View or Public View means the view by the public of a building, structure, object, or site from any point on a street or walkway which is used as a public thoroughfare, either vehicular and/or pedestrian.

Wall Sign means a sign attached directly to an exterior wall of a building or dependent upon a

building for support with the exposed face of the sign located in a place substantially parallel to such exterior building wall to which the sign is attached or supported by.

Warehouse means any structure designed for or utilized primarily for the storage of goods and materials. The term shall include self-storage, mini, or other form of commercial warehouse activities.

Water Course means channel or canal for the conveyance of water, particularly drainage lands.

Wetlands (Nontidal or Freshwater) means an area regulated by the New Jersey Freshwater Wetlands Act (N.J.S.A. 13:9B-1 et seq.) that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

Wetlands (Tidal) means areas known as marshes, swamps or other lowland subject to tidal action or any area now or formerly connected to tidal waters, whose surface is at or below an elevation of one (1) foot above local extreme high water and of which vegetation unique to tidal marshes, swamps or lowlands has become adopted. This definition shall include, but is not limited to, all the mapped New Jersey State wetlands.

Window Sign means a sign painted onto the interior of a window or door of a building which is intended for viewing from the exterior of such building.

Wooded Areas means any area within a tract covered by trees, woods or forests, including closely grouped or stands of ten (10) or more mature or specimen trees of six (6) inch caliper or greater; or individual shade and specimen trees of twelve (12) inch caliper or greater, or individual ornamental trees of four (4) inch caliper or greater.

Yard means the space which lies between a building or structure and a lot line. A yard is to be unoccupied and unobstructed from the ground upward except as herein permitted. Yards will be identified as either front yard, side yard or rear yard.

Yard, Front. Front Yard means a yard extending across the full width of the lot and lying between the front line of the lot and the nearest line of a building or structure. The depth of the front yard shall be measured at right angles to the front line of the lot.

Yard, Rear. Rear Yard means a yard extending across the full width of the lot and lying between the rear line of the lot and the nearest line of a building or structure. The depth of a rear yard shall be measured at right angles to the rear of the lot in the same manner as specified herein for the measurement of lot depth.

Yard, Side. Side Yard means a yard between the side line of the lot and the nearest line of a building or structure and extending from the front yard to the rear yard, or in the absence of either of such yards, to the front or rear lot lines as the case may be. The width of a side yard shall be measured at right angles to the side line of the lot.

Zone means the same as district.

Zoning Official means the municipal official designated to enforce the provisions of this chapter.

Zoning Permit means the same as development permit.

Offered for introduction by Councilwoman Sorensen, second by Councilwoman Koch

Affirmative: Councilmembers Koch, Rice, Rodriguez and Sorensen

Negative: None

Abstain: None

Absent: Councilmembers Banahan and Peters

2. Ordinance No. 2019-08, Amend Land Use Chapter 30-5.3, Permitted and Prohibited Uses

**AN ORDINANCE OF THE COUNCIL OF THE BOROUGH OF FAIR HAVEN IN THE
COUNTY OF MONMOUTH AMENDING THE FAIR HAVEN BOROUGH CODE,
CHAPTER 30, LAND USE DEVELOPMENT REGULATIONS, SECTION 5.3,
PERMITTED AND PROHIBITED USES**

BE IT ORDAINED by the Council of the Borough of Fair Haven, in the County of

Monmouth, in the State of New Jersey, as follows:

I.

The purpose of this Ordinance is to amend Chapter 30, Section 30-5.3, Permitted and Prohibited Uses.

NOTE: The section of Chapter 30 that is to be amended by Ordinance is Section 5.3 Permitted and Prohibited Uses. All additions are shown in ***bold italics with underlines***. The deletions are shown as ~~***strikeovers in bold italics***~~. Sections of Chapter 30, Section 5.3 that will remain unchanged are

II.

30-5.3 Permitted and Prohibited Uses.

- a. Permitted principal uses, accessory uses, and conditional uses within each zone district are set forth in the schedules of permitted uses. The letter "P" means that the use is a permitted principal use in the zone. The letter "C" means the use is a permitted conditional use. The letter "A" means permitted accessory use in the zone. Any use, except for essential services, which is not specifically listed as a permitted use, an accessory use or a conditional use on the schedule of uses shall be deemed a prohibited use.
- b. Prohibited uses shall include but not be limited to the following:
 1. All billboards, signboards, advertising signs and devices not expressly related to the business being conducted on the premises or otherwise specifically permitted by this section.
 2. Camping sites, trailer camps, trailer courts or trailer coaches used as dwellings, offices or storage facilities or commercial activities related to the outdoor storage or display of trailer coaches, except that during development construction trailers may be permitted specifically limited as to the extent of time such use and requiring the payment of an annual fee to the municipality for the granting of such license for such use.
 3. Auction markets.
 4. Junk yards, automobile wrecking yards or disassembly yards, or the sorting or baling of scrap metal, paper, rags, or other scrap or waste material, except for recycling operations operated by or with the approval of the Borough.
 5. Privately operated dumps for the disposal of garbage, trash, refuse, junk, or other such material.
 6. Adult book stores.
 7. Peep shows.
 8. Massage parlors as defined in Section 30-2 of this chapter.
 9. Amusement arcade.
 10. Explosive storage, except small arms ammunition, or by special permit, where explosives are to be used on the premises.
 11. Incineration, reduction, storage or dumping of slaughterhouse refuse, rancid fats, garbage, or dead animals.
 12. Slaughtering and slaughterhouses for fowl or animals.
 13. Any use of any building or premises in such a manner that the health, morals, safety or general welfare of the community may be endangered.
 14. Keeping or raising of pigs, sheep, horses, donkeys, mules, cattle, goats, chickens, and other such livestock, unless a waiver is obtained in accordance with the provisions of subsection 5-18.4 of these Revised General Ordinances.
 15. Asphalt plants, concrete plants, asphalt batching plants, concrete batching plants, asphalt mixing plants, concrete mixing plants, asphalt manufacturing plants, concrete manufacturing plants.
 16. Auto, horse or dog racetracks.
 17. Keeping or raising of mink, fox or similar fur bearing animals.
 18. Open air drive-in motion picture theaters.
 19. Seasonal resort cottages.
 20. Any use which emits excessive and objectionable amounts of dust, fumes, noise, odor, vibration, smoke, glare or waste products.

- 21. The use of boats or vehicles as residential dwellings.
- 22. Restaurants, *drive-in and drive-thru*~~category three~~, as defined in Section 30-2 of this chapter.
- 23. Heliports, helistops or aviation field.
- 24. Businesses selling recreational marijuana, its derivatives, accessories and/or the paraphernalia that facilitates the use of such.

Offered for introduction by Councilwoman Rice, second by Councilwoman Sorensen

Affirmative: Councilmembers Koch, Rice, Rodriguez and Sorensen

Negative: None

Abstain: None

Absent: Councilmembers Banahan and Peters

3. Ordinance No. 2019-09, Amend Tow Truck Operator Ordinance - Fees

AMEND BOROUGH CODE 4-15, SECTION 10, FEES AND CHARGES FOR TOW TRUCK OPERATORS

BE IT ORDAINED by the Council of the Borough of Fair Haven, in the County of Monmouth, in the State of New Jersey, as follows:

I.

The purpose of this Ordinance is to supplement Chapter 4, specifically Section 15.10 Fees and Charges for Tow Truck Operators.

NOTE: The section of Chapter 4 that is to be supplemented by Ordinance is Section 15.10 Fees and Charges. All additions are shown in **bold italics with underlines**. The deletions are shown as **strikeovers in bold italics**. Sections of Chapter 4-15 that will remain unchanged are shown in normal type.

BE IT ORDAINED by the Governing Body of the Borough of Fair Haven that it is necessary to establish regulations for Tow Truck Operators in the Borough of Fair Haven.

Purpose and Scope.

The purpose of this section is to establish a rotating tower/wrecker list to be utilized by the Police Department of the Borough of Fair Haven regarding wrecked, abandoned, impounded or similar vehicles and to regulate the towing and storage of motor vehicles which result from Police Department calls for assistance, and to establish towing and storage fee schedules.

The provisions of this section apply to all businesses who provide towing and storage services for motor vehicles who shall participate in the rotating call list in the Borough of Fair Haven.

General Licensing

Definitions. Certain words and phrases in this section shall have the following meanings:

Authorized Storage Facility shall mean a motor vehicle storage facility in compliance with the Zoning Ordinance of the Borough of Fair Haven or other municipality which has a temporary storage facility for disabled or abandoned vehicles.

Automobile or Motor Vehicle shall mean a private passenger automobile of a private passenger or station wagon type and a motor vehicle with a pickup body, or delivery sedan, a van or a panel truck as well as motorcycles and mopeds.

Basic Towing Service shall mean the removal and transportation of an automobile from a highway, street or other public or private road, or a parking area, or from a storage facility, and other services normally incident thereto, but does not include recovery of an automobile from a position beyond the right-of-way berm, or from being impaled upon any other object within the right-of way berm.

Borough shall mean the Borough of Fair Haven

Cruising shall mean the operation of an unengaged wrecker along the public streets in any fashion intended likely or calculated to solicit business.

Inside Buildings shall mean a vehicle storage facility that is completely indoors, having one (1) or

more openings in the walls for storage and removal of vehicles and that is secured by a locking device on each opening.

Motor Vehicle Accident shall mean an occurrence in which a motor vehicle comes in contact with any other object for which the motor vehicle must be towed or removed for placement in a storage facility.

Operator shall mean the person, firm or corporation which owns or leases and operates or causes to be operated a tow truck and includes the words "owner", "licensee" and/or "contractor."

Outside Secured shall mean an automobile storage facility that is not indoors and is secured by a fence, wall or other manmade barrier that is at least six (6') feet high and is installed with an alarm system or similar on-site security measures. The facility is to be lighted at night.

Outside Unsecured shall mean an automobile storage facility that is not indoors and is not secured by a fence, wall or other manmade barrier, and all other storage facilities not defined above as inside building or outside secured.

Police Officer shall mean, for the purposes of this section, any regular police officer or special police officer of the Borough of Fair Haven and any State Police Officer or the Borough Code Enforcement Officer, Zoning Officer, Parking Enforcement Officer or their designees.

Storage Charges for 24-Hour Period shall mean the maximum allowable amount to be charged by a storage facility for a 24-hour period or fraction thereof. A new 24-hour period begins at 12:01 a.m.

Tow List shall mean a list containing the names and addresses of towing and storage contractors maintained by the Police Department who will be called on a rotating basis when the Police Department determines that the assistance of such services is required within the Borough.

Tow Vehicle shall mean only those vehicles equipped with a boom or booms, winches, slings, tilt beds, wheel lifts or underreach equipment specifically designed by its manufacturer for the removal or transport of motor vehicles.

Tow Vehicle's Base of Service shall mean the towing operator's principal place of business where the tow vehicle is stationed when not in use.

Applicability.

This section shall apply to any operator who provides towing and who seeks to provide motor vehicle tow service in the Borough of Fair Haven pursuant to the rotating towing call list described herein.

License Required.

No operator shall operate within the Borough of Fair Haven without obtaining a license in accordance with the provisions of this section. Specifically exempted from this license requirement are towing operators engaged solely in the towing, transporting, conveying or removing from private property within the Borough, or those directly and privately engaged or designated by the person responsible for the vehicle to be towed, transported, conveyed or removed.

No operator shall be eligible for inclusion on the rotating call list described in this section unless such operator shall obtain a license from the Borough of Fair Haven for inclusion on the tow list. There shall be no subcontracting of services allowed.

Application Process for License.

a. An application for a license to be placed upon the list to be utilized by the Police Department shall be made by the person or firm engaged in operating a storage facility and a tow vehicle in the Borough of Fair Haven.

b. The application shall include the following information:

1. The full name, address, telephone number and tax identification number of the applicant. If the application is made for a partnership, corporation or other business entity, it shall state the names and addresses of the officers; names and addresses of the directors or partners; names and addresses of anyone owning ten (10%) percent or more of the applicant; and the address and telephone number of the corporate registered office and registered agent or the managing partner.
2. The description by make, model, license number, year, gross vehicle weight, vehicle identification number and color of each tow vehicle which will respond to towing calls.

3. A statement setting forth a maximum gross vehicle weight the applicant is capable of towing.
4. A statement setting forth a maximum size vehicle the applicant is capable of towing.
5. The address at which each such tow vehicle will be principally kept.
6. The street address and the municipal tax map lot and block number of the proposed authorized storage facility to which towed vehicles will be taken and at which they will be stored. In the event that the applicant does not own or control such a storage facility, the applicant shall present a lease agreement by a person who does own or control such a storage facility evidencing that the applicant has permission to store towed vehicles at that facility; said lease shall be for a term of not less than the period of validity of the license sought.
7. The names, addresses and driver's license numbers of all drivers of tow truck wreckers.
8. The telephone number available on a 24-hour per day basis at which the Police Department may summons a tow vehicle at any time of day or night.
9. Copies of insurance policies or certificates of insurance required under this section.
10. An Employment Nondiscrimination Statement.
11. A Statement of Compliance with all State and Federal laws and regulations concerning wages, hours and terms of employment.

c. The applicant shall file with the Borough Clerk completed application forms which forms shall be furnished by the Chief of Police. Each application for a license shall be accompanied by an application fee of one hundred fifty (\$150.00) dollars.

d. The Borough Clerk shall refer the application for a license to the Police Department for investigation and report. After the application has been submitted and reviewed by the Police Department, the Chief of Police will recommend approval or disapproval of the application. The Police Chief's recommendation shall be dependent upon both the applicant's ability to perform in accordance with this section and upon the applicant's personal fitness to engage in a business regulated in the public interest. Factors which the Chief of Police shall consider for reasons of personal fitness shall include:

- (1) convictions of indictable offenses;
- (2) convictions of crimes involving moral turpitude; and
- (3) convictions of crimes involving use or possession of a controlled dangerous substance.

Application Filing Dates and Term of License.

Applications for the initial licenses under this section shall be made to the Borough Clerk on or before August 31, 2007. The first licenses issued hereunder shall be effective until December 31, 2008. Thereafter, licenses shall be effective for a period of one (1) year commencing January 1 of each pertinent year. Applications for licenses shall be filed no later than December 1st prior to the commencement of the period for which a license is sought. By filing the application, each applicant agrees to comply with all provisions of this Chapter.

License Fees.

The fee for each license under this section is ~~one hundred (\$100.00)~~ **one hundred fifty (\$150.00)** dollars.

Establishment and Operation of Call List.

- a. The Chief of Police or his designee shall establish a rotating call list for towing service for the Borough to be called by a member of the Police Department in the event the owner or driver of a disabled vehicle is unable to or fails to indicate any specific choice of towing operator to remove the disabled vehicle. A current copy of the call list shall be available for inspection by the public at the office of the Borough Clerk and the Police Department. Any towing and storage contractors qualifying and obtaining a license pursuant to this section shall be included on the list and those on the list shall be called on a rotating basis to provide the required towing and storage services.
- b. Whenever a towing and storage contractor is called through the Police Department, whether as a result of being next on the tow list, or for another reason, that the towing and storage contractor will rotate to the bottom of the list.
- c. The Chief of Police or his designee shall establish such other procedures and such reasonable regulations concerning the call list as are necessary to expedite and facilitate the rendition of the

services described herein, including such procedures which will insure that all towing operators on the call list are summoned on a nondiscriminatory basis in rotating order. Notwithstanding the foregoing, nothing contained herein shall prevent the Chief of Police or his designee from requesting additional towing service from others if, in the judgment of such person, the size, nature or scope of the conditions or the performance of the called towing service requires that assistance be rendered.

Standards and Qualifications. The following are the minimum standards/qualifications required to be considered for inclusion on the tow list:

a . Accidents Involving Large Vehicles. The towing and storage contractors must be prepared to promptly clear the roadway of any or all types of disabled vehicles. Where the vehicles are too large for the service to remove from the scene, after clearing the roadway, the service may call for assistance of others. The towing and storage contractor is required to have appropriate arrangements available for this assistance at all times.

b. Response Time. The towing and storage contractor must meet the following response times within the Borough of Fair Haven:

1. Day (7:00 a.m.-7:00 p.m, seven (7) days a week) - fifteen (15) minutes;
2. Night (7:00 p.m.-7:00 a.m., seven (7) days a week) - twenty (20) minutes;
3. Heavy Duty Service Requirements - thirty (30) minutes.

Response time determination is to be initiated when the police call requesting towing is completed. Where the police cannot reach the next eligible contractor on the list, that contractor shall be deemed to have forfeited its position and the next succeeding contractor on the list shall be called.

c . Performance Standards. The contractor will be responsible for the conduct of contractor's employees.

The towing and storage contractor will meet the following response performance standards:

- 1, Ninety (90%) percent of all calls referred will be answered (towing vehicle on scene) within the response time outlined above.
2. Not more than ten (10%) percent of the calls will be answered within an additional ten (10) minutes (day or night).
3. No response will be later than twenty-five (25) minutes, whether day or night, with the exception of paragraph b,3 above.

d . Equipment Requirements. No license shall be issued to a towing operator and storage contractor who does not possess for use in this business the following equipment, which equipment shall be inspected by the Chief of Police or his authorized representative prior to the issuance of a license:

1. Tow Vehicle. Each towing operator must have available at least one (1) professionally constructed wrecking vehicle, capable of performing all towing or roadway clearance tasks assigned by the Borough.

2. Safety Equipment. Each vehicle shall have appropriate authorized beacon and warning lights, tow vehicle illumination, stop lights and portable fire extinguishers.

3. Specialized Equipment. At least one (1) of the available tow vehicles must be equipped for dolly service and winching.

4. Cleanup Equipment. All tow vehicles must carry road cleanup equipment and supplies including brooms, rakes, trash cans and shovels and speedy dry type materials. The towing service is responsible for the prompt and safe removal of the disabled vehicle and for the prompt and complete removal of all litter and debris resulting from the accident with the exception of hazardous materials as set forth in N.J.S.A. 39:4-56.8.

e. Disabled Vehicle Storage. The towing service must operate a suitable, fenced and secure vehicle storage area in an area zoned for such use. The lot must be able to store at least fifteen (15) full-size vehicles. Said storage yard must be within a five (5) mile radius of the intersection of River Road and Fair Haven Road in the Borough of Fair Haven. This radius shall be measured by the shortest available route. The storage yard must be adjacent to or part of the towing operator's regular commercial business, which must be in operation at least six (6) days a week during working hours.

The storage yard and the commercial business must satisfy the applicable Borough Ordinances in all respects.

Authorized personnel with the Department of Police will have twenty-four (24) hour, seven (7) day a week, access to vehicles within the authorized service storage yard. If there are in excess of fifteen (15) vehicles to be stored, they may be stored elsewhere as long as the alternate lot complies with the specifications of the regular storage lot, and appears on the towing and storage contractor's insurance certificate.

f. Insurance.

1. The towing and storage contractor shall maintain the following minimum insurance coverage with an insurance company licensed to do business in New Jersey in the name of the applicant for the entire term of the contract:

(a) Automobile liability in an amount not less than one million (\$1,000,000.00) dollars combined single limits.

(b) Worker's compensation as required by statute.

(c) Garage keeper's liability in an amount not less than sixty thousand (\$60,000.00) dollars per location.

(d) Garage liability in an amount not less than one million (\$1,000,000.00) dollars combined single limit.

(e) Miscellaneous coverage to provide complete protection to the Borough against any and all risks of loss or liability, including comprehensive general liability.

2. The property damage policies are to be endorsed to provide for collision coverage for the vehicles in tow. The Borough is to be listed as an additional insured. Also, the policies are to provide for the indemnification of the Borough. The insured's coverage must be for the entire term of the license.

3. Certificate of Insurance. At time of application, the towing and storage contractor shall present a Certificate of Insurance evidencing the above coverage by an insurance company licensed to do business in the State of New Jersey. Included on such Certificate shall be a statement that the insurance company or agent will notify, in writing, the Chief of Police immediately of any change, cancellation or lapse of such coverage.

Such statement shall not include language making such notification permissive, nor language absolving the company/agent from liability for failure to notify. Additionally, the applicant agrees to notify the Chief of Police immediately of any change, cancellation or lapse of insurance coverage.

g. General Standards. All towing operators and their employees shall be fully trained and knowledgeable in the operation of all required equipment and shall be subject to background investigations by the Borough Police Department.

All towing operators must be available for service on a 24-hour, seven (7) days per week basis without exception, unless authorized by the Chief of Police.

h. Indemnification. All licensees agree to indemnify and hold the Borough of Fair Haven and its officers and employees harmless from any liability, expense or costs of suit, including reasonable attorney's fees and costs, arising out of or resulting from any action of the applicant in performing towing and storage services in the Borough of Fair Haven.

i . Rules and Regulations.

1. No towing operator shall engage in cruising as defined in this section.

2. No towing operator shall solicit or attempt to divert patrons of another towing operator whether or not licensed under this section, nor shall a towing operator solicit or divert prospective patrons of a given repair service to any other repair service.

3. No flashing lights or sirens shall be used by a towing operator except by permission granted by the Chief of Police.

4. The governing body hereby designates the Police Department generally, and the Chief of Police particularly, as the supervising authority to enforce the provisions of this section as well as the rules and regulations adopted hereunder.

5. Prior to license renewal and again during the month of March, each towing operator licensed under this section shall be inspected by the Chief of Police or his designee for fitness.

6. Each licensed towing operator at all times shall maintain and carry the necessary equipment to remove disabled or locked vehicles or equipment necessary to operate or open vehicles to enable public safety personnel to remove entrapped passengers.

7. Each towing operator, prior to departure from the scene where it performed towing services, shall clean and clear the streets of any customary debris resulting from any accident at such scene and shall at all times carry the necessary equipment to perform such cleaning services.

8. No towing operator, licensed under this Section or otherwise, shall respond to the scene of an accident except upon the request of the driver or owner of the vehicles involved or except upon notification by the channel of communication established by the Police Department to notify licensed towing operators of the necessity of their presence.

9. Refusal to tow at the scene of the towing and the type of car refused shall be reported by the Police Officer assigned to the incident to his superior. The report of refusal shall be furnished to the Chief of Police and the Borough Clerk as soon as practicable.

10. When any unusual situation occurs which may be dangerous to the safety of the public, such as dangerous cargo, solvents, fluids, natural gas, etc., the most qualified towing operator will be selected by the Police Department.

11. Where no designation has been made, licensed towing operators are authorized to remove the vehicle to the towing operator's place of business.

12. Where vehicles are towed to premises controlled by the Police Department for the purpose of utilizing the vehicle or its contents as evidence, or for other purposes, such vehicle shall not be released from police custody unless the owner of the vehicle furnishes the Police Department with a receipt that towing service fees have been paid.

13. In all cases where cars are to be towed for illegal parking, summonses for such offenses shall be issued prior to towing.

14. No towing operator operating under the license issued hereunder shall employ directly or indirectly any personnel or employees of the Borough of Fair Haven.

15. The Police Department shall maintain a log record of calls to licensed towing operators under this section. Said record shall be available for inspection by any licensed towing operator upon reasonable notice.

16. The authorized towing operator shall not charge any towing or storage fee for vehicles which have been ordered impounded by the Police Department as a result of an investigation, nor for Borough of Fair Haven municipal cars that have broken down or have been involved in accidents within the Borough limits, and which vehicles are stored at a Borough facility. With such a municipal tow, the towing operator will not lose the position at the top of the rotational list.

17. No license issued pursuant to this section shall be transferable and upon cessation of activity under the license through revocation or otherwise, the license shall be determined null and void.

18. Such additional rules and regulations as may be promulgated shall take effect after notification of such rules and regulations upon all holders of licenses for towing operators. Service shall be made by forwarding these rules and regulations by certified mail, return receipt requested, to the licensee at the address listed in his most recent application.

j. Fees and Charges.

1. Fee Schedule. Each applicant shall attach to its application for a license a copy of its current fee schedule, which must not be in excess of that provided for in this section. In the event an applicant is included on the tow list and will be amending its fee schedule from that previously filed with the Chief of Police, such amendment, together with a complete amended fee schedule, shall be filed with the Borough Clerk and the Chief of Police at least thirty (30) days prior to implementing

and charging pursuant to such amended fee schedule. The fact of filing a fee schedule with the Chief of Police shall not in any way be construed as authority to charge any fees in excess of those permitted by this section. All customer bills must be in an amount not exceeding the rates provided for herein.

2. Maximum Rates. The maximum rates, as fixed on Schedule "A" attached to and incorporated into this section, shall apply to the towing and storage of all passenger vehicles except those exempted pursuant to N.J.S.A. 17:33B-47 et seq. and N.J.A.C. 11:3-38.1 et seq. as well as to all non-passenger vehicles not exceeding three (3) tons in weight. There shall be no additional charges for services including, but not limited to, flat bedding, waiting time, cleanup costs, and additional labor, when only basic towing services as defined are provided.

3. Services to Other Types of Vehicles or Extraordinary Services; Rates. In the case of services rendered to vehicles other than the types of vehicles mentioned in paragraph j,2. (Schedule A, referred to herein), may be found at the end of this section. preceding, or services of a nature beyond basic towing services as defined, or services other than covered by basic rate, or services rendered in an extraordinary case involving unusual conditions, the rate to be charged shall be fair and reasonable and shall not exceed those fees set forth on the filed fee schedule referred to in paragraph j,l. hereinabove, based on the location, the length of time, the number of men and machinery involved and the difficulty of the job.

k. Authorized Borough Service Receipt Form.

1. Towing Service Receipt Form. The towing and storage contractor will complete and file with the Police Department a towing service receipt form for every vehicle serviced on Borough assignment. A pre-printed form supplied by the towing and storage contractor will include at least the following information:

- (a) Authorized service business name, address and business phone number.
- (b) Time, location and vehicle information.
- (c) Towing representative's signature.
- (d) Detailed service charges and fees.

2. Distribution of Form. The receipt will be multi-copy and issued as follows:

- (a) Original. Issued immediately to owner upon completion of service and payment of bill.
- (b) Police. Issued monthly to Police Department upon completion of services.
- (c) Owner's Accident Receipt. Issued at the accident site to the owner prior to the removal of the vehicle. In the event the owner is incapacitated or disputes the assignment, the owner's accident receipt may be issued to the Police Department.
- (d) Copies. As deemed necessary by towing service.

3. Follow-up Report. A quarterly report must be filed with the Police Department containing the following information:

Description of each vehicle towed pursuant to request by Police Department during months for which report is given;

Name and address to title owner of vehicle;

Date vehicle was towed;

Amount charged for tow;

Amount charged for storage to date of report;

Date vehicle was released;

List of all vehicles towed pursuant to Police Department request which vehicles are unclaimed for over thirty (30) days.

Towing and Storage Fees.

At no time shall a towing and storage contractor charge fees in excess of those authorized by this section. Contractor shall make appropriate accommodations for customer fees to be payable by major credit card.

Special Towing Services. If special towing services are required, the towing and storage contractor shall quote the vehicle owner or his authorized agent directly. In the event that the owner is incapacitated, a written copy of the price quote should be filed with the Police Department.

No "release fees" may be charged for the release of vehicles. No vehicle shall be released by the towing and storage contractor unless the owner presents an authorization to release form issued by the Police Department.

Other Towing Arrangements by Persons Responsible for Automobile.

Nothing contained in this section shall prevent a person responsible for a motor vehicle disabled upon the public streets or highways within the Borough of Fair Haven from arranging for the prompt removal of the vehicle from the scene of an accident or disablement by a wrecking or towing service of his/her own selection. The person responsible will be advised by the Police Department of the ability to select such towing service at the required time of removal, providing such person is present, fully conscious and capable of taking prompt action.

Discipline, Including Suspension or Removal from Tow List.

In the event that a person or entity shall fail to perform satisfactorily, or performs in violation of this section, such person or entity may be disciplined, including removal from the tow list, by the towing performance review committee consisting of two (2) members of the Internal Affairs Unit of the Police Department. Discipline may run from a reprimand to removal from the tow list. As soon as practical after a decision by the Towing Performance Review Committee, the Chief of Police shall cause written notice of such action to be given to the person or entity to be disciplined. The person or entity disciplined shall have the right to submit in writing, for the record, such rebuttal as deemed appropriate and an explanation of the steps being taken and procedures being implemented to correct any deficiencies. Any person or entity receiving a suspension for more than five (5) days may appeal the disciplinary action to the Borough Administrator. The Administrator, or his/her designee, shall hold a hearing regarding such appeal prior to the discipline being implemented. Any appeal must be made and served upon the Administrator within ten (10) days of receipt by the person or entity disciplined of the written notice from the Police Department regarding the suspension or removal.

Availability of Towing and Storage Fees.

The Police Department and the Office of the Borough Clerk shall maintain copies of this section as well as copies of all fee schedules of towing and storage contractors submitted to the Borough pursuant to this section, which section and fee schedule shall be available for inspection by the public during regular business hours of the Borough.

Authority of the Police Department.

The Police Chief is hereby given the authority to promulgate rules or regulations necessary to carry out the intent and purpose of this section, subject to approval of such rules and regulations by resolution of the Mayor and Council of the Borough of Fair Haven.

Penalties.

Any person or entity who shall be found to have violated any section of this section, or to have submitted a false or misleading application, shall in addition to penalties under this section, such as removal from the tow list or revocation of license, be subject upon conviction in the Municipal Court, to a penalty for each offense not to exceed one thousand (\$1,000.00) dollars and not more than ten (10) days incarceration.

SCHEDULE A

Borough of Fair Haven Towing and Storage Fee Schedule

All Autos and Trucks to 3 Tons

a. Regular Towing Service.

1. Borough day ~~\$75.00~~ **\$150.00**
2. Night, weekend and holiday ~~\$85.00~~ **\$175.00**
3. Flatbed (to be used only when necessary or requested by the police) ~~\$95.00~~ **\$175.00**
4. Towing elsewhere as agreed in writing with owner prior to tow

When towing services are required, the Day rate shall apply when the towing service is called by the Police between 8:30 a.m. and 4:30 p.m., Monday through Friday, except scheduled National Holidays.

The Night, Weekend and Holiday rates shall otherwise apply.

b. Storage Service.

1. Each day

~~(a) Inside building~~

(b) Outside secured \$45.00

~~(c) Outside unsecured \$20.00~~

c. Special Services.

1. If owner of vehicle appears on scene prior to tow truck arriving on scene but in time so that the police officer may cancel the request for towing, which cancellation shall be within five minutes of the original call to the towing operator - \$25.00

2. If owner of vehicle appears on scene after tow truck has arrived on scene but before the vehicle has been hooked up for tow - ~~\$30.00~~ \$50.00

3. If owner of vehicle appears on scene after tow truck has arrived on scene and after the vehicle has been hooked up for tow - ~~\$35.00~~ \$75.00

4. If a vehicle has to be placed on dollies to secure transportation, or if go-jacks are used to secure the vehicle then an additional fee of \$25.00

5. To move a motor vehicle by use of a cable and winch from a position that is not accessible for direct hook - first ½ hour -\$90; by conventional means loading onto a tow truck (Winching hour, or part is not pulling a motor vehicle onto a thereof, tilt bed or car carrier, nor lifting a thereafter motor vehicle with a conventional tow sling.) - \$40.00 for each ½ hour.

Offered for introduction by Councilwoman Rice, second by Councilwoman Sorensen

Affirmative: Councilmembers Koch, Rice, Rodriguez and Sorensen

Negative: None

Abstain: None

Absent: Councilmembers Banahan and Peters

4. Ordinance No. 2019-10, Ordinance Banning Plastic Straws, Styrofoam and Plastic Bags

**AN ORDINANCE OF THE BOROUGH OF FAIRHAVEN, COUNTY OF MONMOUTH,
STATE OF NEW JERSEY, NEW SECTION ENTITLED "LIMITING USE OF SINGLE-USE
PLASTIC BAGS, POLYSTYRENE FOAM CONTAINERS AND PLASTIC STRAWS BY
BUSINESSES"**

1.1 INTENT.

The intent of this Ordinance is to adopt regulations relating to and limiting the use of single-use plastic bags, polystyrene foam containers and plastic straws by businesses in the Borough of Fair Haven. The regulations are intended as necessary and proper steps by the Borough to address a significant global problem relating to the sale and use of single -use plastic bags, polystyrene foam containers and plastic straws; to further incentivize the use of reusable bags at businesses, and, ultimately, to protect the environment, wildlife, and the public health, welfare, and safety.

1.2 DEFINITIONS.

The following definitions apply to this Chapter:

"BUSINESS OR STORE" means any retail establishment that engages in the retail sale of goods and products. The definition includes, but is not limited to pharmacies, supermarkets, grocery stores, convenience stores, clothing stores, surf shops, dry cleaners, food marts, and food service establishments.

"EFFECTIVE DATE" shall be defined as the date on which final adoption and publication in accordance with the law are complete.

"ENFORCEMENT DATE" shall be 180 days from the Effective Date.

"FOOD SERVICE ESTABLISHMENT" means any establishment which serves made-to-order food or beverages for dine-in, takeout or delivery.

"RETAIL" means the sale of goods and products for use and/ or consumption.

"COMPLIANT BAG" means recyclable paper carry-out bags and reusable bags as defined below:

A. A recyclable paper carry-out bag is a paper bag that meets all of the following minimum requirements:

- (1) It is one-hundred-percent recyclable overall and contains a minimum of 40% post-consumer recycled material;
- (2) It can be composted; and
- (3) It displays the words "recyclable" and/or "reusable" in a highly visible manner on the outside of the bag.

B. A reusable bag is a bag made of cloth or other washable fabric with handles that are specifically designed and manufactured for multiple reuse and meets all of the following additional requirements:

1. It has a minimum lifetime of 125 uses;
2. It can carry a minimum of 22 pounds;
3. It is machine washable or is made from a material that can be cleaned or disinfected;
4. It does not contain lead, cadmium, or any other heavy metal in toxic amounts, as defined by applicable state and federal standards and regulations; and
5. If made of plastic, it is a minimum of at least 2.25 mils thick

"CUSTOMER" means any person purchasing goods or services from a business or store.

"OPERATOR" means the person in control of, or having the responsibility for, the operation of a business or store, which may include, but is not limited to, the owner of the business or store.

"PERSON" means any natural person, firm, corporation, partnership, or other organization or group, however organized.

"POST-CONSUMER RECYCLED MATERIAL" means a bag constructed of a material that would otherwise be destined for solid waste disposal, having completed its intended end use and product life cycle. "Post-consumer recycled material" does not include materials and by-products generated from, and commonly reused within, an original manufacturing and fabrication process.

"PRODUCE BAG OR PRODUCT BAG" means a very thin bag without handles used exclusively to carry produce, meats, or other food items to the point of sale inside a store or, for reasons of public health and safety, to prevent such food items from coming into direct contact with other purchased items.

"RECYCLABLE" means material that can be sorted, cleansed, and reconstituted using available recycling collection programs for the purpose of reusing the altered, incinerated, converted, or otherwise thermally destroyed solid waste generated therefrom.

"SINGLE-USE, PLASTIC CARRYOUT BAG" means any bag made predominantly of plastic derived from either petroleum or a biologically based source, such as corn or other plant sources, that is provided by an operator of a business or store to a customer at the point of sale. The term includes compostable and biodegradable bags but does not include reusable bags, produce bags, or product bags. This definition specifically exempts the following from the category of "single-use plastic carry-out bag":

- A. Bags provided by operators and used by consumers inside a business or store to:
1. Package bulk items, such as fruit, vegetables, nuts, grains, candies, or small hardware items;
 2. Contain or wrap frozen foods, meat, or fish, whether packaged or not;
 3. Contain or wrap flowers, potted plants or other items where dampness may be an issue;
 4. Contain unwrapped prepared foods or bakery goods; or
 5. Pharmacy prescription bags
- B. Newspaper bags, door-hanger bags, laundry and/or dry-cleaning bags, or bags sold in packages containing multiple bags intended for use as food storage bags, garbage bags, yard waste bags, or pet waste bags.

1.3 REGULATION OF SINGLE-USE, PLASTIC CARRYOUT BAGS, POLYSTYRENE FOAM CONTAINERS AND PLASTIC STRAWS.

No business or store shall provide any single-use, plastic carryout bags, polystyrene foam containers and/or plastic straws to a customer at the check stand, cash register, point of sale, or other point of departure for the purpose of transporting products or goods out of the business or store, except as otherwise provided in this Chapter. In addition, no business or store shall provide customers any other types of carryout bags that don't meet the definition of Compliant Bag as defined in this Chapter.

1.4 REGULATION OF COMPLIANT BAGS.

Nothing in this Chapter shall require any business or store to provide compliant bags nor restrict their ability to charge for the purchase of said items. A business or store shall not charge a fee for bags of any kind provided by the customer.

1.5 ENFORCEMENT.

This Ordinance shall take effect on the Effective Date, and all Businesses and Stores must be in compliance with same by the Enforcement Date.

Any business or store found not to be in compliance with this Ordinance on the Enforcement Date, and which has not made application to the Borough Council for an extension as provided in this section, shall be in violation of this Ordinance and subject to the violations and penalties prescribed herein.

The Borough Council may, in the Borough's sole discretion, grant an extension of time for compliance with the Ordinance when a business or store makes application for an extension prior to the Enforcement Date. Upon such application, the Borough shall consider whether the business or store has made adequate good faith efforts to comply with this Ordinance by the Enforcement Date and has been unable to do so for compelling reasons. The Borough may, in its sole discretion, grant an extension for not longer than 180 additional days from the Enforcement Date.

1.6 VIOLATIONS AND PENALTIES.

Each business or store violating any of the provisions of this section shall, upon conviction thereof in municipal court, be subject to a penalty of up to \$500 for a first offense, up to \$1,000 for a second offense, and up to \$2,500 for a third offense. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate, and distinct offense.

1.7 SEVERABILITY.

In the event that any clause, section, provision, paragraph, or sentence of this Ordinance is deemed to be invalid or unenforceable for any reason, the remaining provisions of the Ordinance not affected by said invalidity shall remain in full force and effect.

1.8 REVERSE PREEMPTION.

This article shall be null and void on the day that statewide legislation goes into effect incorporating either the same or substantially similar provisions as are contained in this article or in the event that a pertinent state or federal administrative agency issues and promulgates regulations preempting such action by the Borough of Fair Haven. The Borough of Fair Haven Council may determine by resolution whether or not identical or substantially similar statewide legislation or pertinent preempting state or federal regulations have been enacted for the purposes of triggering the provisions of this section.

Mayor Lucarelli thanked Councilwoman Sorensen for referring this matter to Councilman Peters who is liaison to the Environmental Commission. There was brief discussion on dry cleaners and how they would be affected; they are exempt per the ordinance.

Offered for introduction by Councilwoman Sorensen, second by Councilwoman Koch

Affirmative: Councilmembers Koch, Rice, Rodriguez and Sorensen
Negative: None
Abstain: None
Absent: Councilmembers Banahan and Peters

CONSENT AGENDA
RESOLUTIONS

1. Resolution No. 2019-121, Support Path to Progress Recommendations – This was pulled from the agenda to be listed on the July 15th agenda when Councilman Peters can be present.
2. Resolution No. 2019-122, Approve 2019/2020 Liquor License Renewal for Shrewsbury River Yacht Club

WHEREAS, an application for renewal of a club license has been made to the Mayor and Council of the Borough of Fair Haven; and

WHEREAS, the Borough Clerk certifies that the requisite fee has been paid and a Tax Clearance Certificate is on file in her office.

NOW, THEREFORE, BE IT RESOLVED that a club liquor license be issued by the Borough of Fair Haven and the appropriate officer of the Borough of Fair Haven is authorized to issue and sign the same in the name of the Borough of Fair Haven for the period commencing July 1, 2019 and ending June 30, 2020 upon application filed by:

1313-31-006-001 Shrewsbury River Yacht Club

Offered for adoption by Councilwoman Rice, second by Councilman Rodriguez

Affirmative: Councilmembers Rice, Rodriguez and Sorensen
Negative: None
Abstain: Councilwoman Koch
Absent: Councilmembers Banahan and Peters

3. Resolution No. 2019-123, Approve 2019/2020 Liquor License Renewal for Knights of Columbus

WHEREAS, an application for renewal of a club license has been made to the Mayor and Council of the Borough of Fair Haven; and

WHEREAS, the Borough Clerk certifies that the requisite fee has been paid and a Tax Clearance Certificate is on file in her office.

NOW, THEREFORE, BE IT RESOLVED that a club liquor license be issued by the Borough of Fair Haven and the appropriate officer of the Borough of Fair Haven is authorized to issue and sign the same in the name of the Borough of Fair Haven for the period commencing July 1, 2019 and ending June 30, 2020 upon application filed by:

1313-31-005-001 Columbus Club of Red Bank

Offered for adoption by Councilwoman Rice, second by Councilman Rodriguez

Affirmative: Councilmembers Koch, Rice and Sorensen
Negative: None
Abstain: Councilman Rodriguez
Absent: Councilmembers Banahan and Peters

4. Resolution No. 2019-124, Approve 2019/2020 Liquor License Renewal for The Cellar

WHEREAS, an application for renewal of a plenary retail distribution license has been made to the Mayor and Council of the Borough of Fair Haven; and

WHEREAS, the Borough Clerk certifies that the requisite fee has been paid and a tax clearance certificate is on file in her office.

NOW, THEREFORE, BE IT RESOLVED that a plenary retail distribution license be issued by the Borough of Fair Haven and the appropriate officer of the Borough of Fair Haven is authorized to issue and sign the same in the name of the Borough of Fair Haven for the period commencing July 1, 2019 and ending June 30, 2020 upon application filed by:

1313-44-001-006 The Cellar, Inc.

Offered for adoption by Councilwoman Rice, second by Councilman Rodriguez

Affirmative: Councilmembers Koch, Rice, Rodriguez and Sorensen
Negative: None
Abstain: None
Absent: Councilmembers Banahan and Peters

5. Resolution No. 2019-125, Approve 2019/2020 Liquor License Renewal for Raven and The Peach

WHEREAS, an application for renewal of a plenary retail consumption license has been made to the Mayor and Council of the Borough of Fair Haven; and

WHEREAS, the Borough Clerk certifies that the requisite fee has been paid and a Tax Clearance Certificate is on file in her office.

NOW, THEREFORE, BE IT RESOLVED that a plenary retail consumption liquor license be issued by the Borough of Fair Haven and the appropriate officer of the Borough of Fair Haven is authorized to issue and sign the same in the name of the Borough of Fair Haven for the period commencing July 1, 2019 and ending June 30, 2020 upon application filed by:

1313-32-004-014 Raven and The Peach

Offered for adoption by Councilwoman Rice, second by Councilman Rodriguez

Affirmative: Councilmembers Koch, Rice, Rodriguez and Sorensen
Negative: None
Abstain: None
Absent: Councilmembers Banahan and Peters

6. Resolution No. 2019-126, Approve 2019/2020 Liquor License Renewal for Nauvoo Grill Club

WHEREAS, an application for renewal of a plenary retail consumption license has been made to the Mayor and Council of the Borough of Fair Haven; and

WHEREAS, the Borough Clerk certifies that the requisite fee has been paid and a Tax Clearance Certificate is on file in her office.

NOW, THEREFORE, BE IT RESOLVED that a plenary retail consumption liquor license be issued by the Borough of Fair Haven and the appropriate officer of the Borough of Fair Haven is authorized to issue and sign the same in the name of the Borough of Fair Haven for the period commencing July 1, 2019 and ending June 30, 2020 upon application filed by:

1313-33-002-010 Nauvoo Grill Club Corp

Offered for adoption by Councilwoman Rice, second by Councilman Rodriguez

Affirmative: Councilmembers Koch, Rice, Rodriguez and Sorensen
Negative: None
Abstain: None
Absent: Councilmembers Banahan and Peters

7. Resolution No. 2019-127, Executive Session – Personnel and Acquisition of Property

WHEREAS, the Open Public Meetings, P. L. 1975, Chapter 231 permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS, this public body is of the opinion that such circumstances presently exist; and

WHEREAS, the Governing Body may wish to discuss the following matters:

Personnel

1. DPW Staffing
2. Director of Engineering and DPW

Acquisition of Property

1. River Road

Possible Litigation

1. Dartmouth Avenue

Contract Negotiations

1. River Road
2. Facilities Project Consulting
3. Added Assessment

WHEREAS, minutes will be kept and once the matter involving the confidentiality of the above no longer requires that confidentiality, then the minutes can be made public.

NOW THEREFORE BE IT RESOLVED that the public be excluded from this meeting.

Offered for adoption by Councilwoman Rice, second by Councilman Rodriguez

Affirmative: Councilmembers Koch, Rice, Rodriguez and Sorensen

Negative: None

Abstain: None

Absent: Councilmembers Banahan and Peters

8. Resolution No. 2019-128, Authorize Tax Collector to prepare and mail Estimate Tax Bills – 3rd Quarter

WHEREAS, due to the late adoption of the State of New Jersey's budget the County Board of Taxation is unable to certify the tax rate at this time and the municipal Tax Collector will be unable to mail the tax bills on a timely basis;

WHEREAS, the municipal Tax Collector in consultation with the municipal Chief Financial Officer has computed an estimated tax levy in accordance with N.J.S.A. 54:4-66.3, and they have signed a certification showing the tax levies for the previous year, the tax rates and the range of permitted estimated tax levies;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Fair Haven, County of Monmouth and State of New Jersey that:

1. The Tax Collector is hereby authorized and directed to prepare and issue estimated tax bills for the municipality for the third installment of 2019 taxes. The Tax Collector shall proceed and take such actions as permitted and required by P.L. 1994, c72 (N.J.S.A. 54:4-66.2 and 54:4-66.3).
2. The estimated tax levy for 2019 is hereby set at \$32,711,430.82.
3. In accordance with law, the third installment of 2019 taxes shall not be subject to interest until the later of the grace period or the twenty-fifth calendar day after the estimated tax bills were mailed. The estimated tax bills shall contain a notice specifying the date which interest may begin to accrue.

Offered for adoption by Councilwoman Rice, second by Councilman Rodriguez

Affirmative: Councilmembers Koch, Rice, Rodriguez and Sorensen

Negative: None

Abstain: None

Absent: Councilmembers Banahan and Peters

9. Resolution No. 2019-129, Appoint Full-time DPW Laborer - James O'Brien

WHEREAS, a vacancy exists in the Department of Public Works; and

WHEREAS, a classified ad was published on the Borough's website and through the New Jersey State League of Municipalities website for a full-time Public Works Laborer; and

WHEREAS, applications/resumes were received and interviews were held; and

WHEREAS, the Director of Engineering and DPW and Borough Administrator recommend that James O’Brien be hired at the Step 3 rate of \$43,729.00, in accordance with the 2017-2021 Teamsters Local 177 Memorandum of Agreement, effective January 1, 2017.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Fair Haven that James O’Brien be appointed as a full-time laborer for the Department of Public Works, in accordance with the salary schedule outlined above, effective June 25, 2019.

Offered for adoption by Councilwoman Rice, second by Councilman Rodriguez

Affirmative: Councilmembers Koch, Rice, Rodriguez and Sorensen
Negative: None
Abstain: None
Absent: Councilmembers Banahan and Peters

10. Resolution No. 2019-130, Appoint Part-time DPW Laborer - Jeffrey Jarvis – Recycling Center

WHEREAS, there is a need for a Part Time Public Works Laborer to maintain the Borough’s Recycling Center; and

WHEREAS, the Director of Engineering and Public Works submitted his recommendation for Jeffrey Jarvis to be appointed as a Part Time DPW Laborer with hours not to exceed 15 hours per week; and

WHEREAS, the Borough Administrator concurs with this recommendation; and

WHEREAS, the rate of pay for this position is \$15.00 per hour.

NOW, THEREFORE, BE IT RESOLVED that the appointment of Jeffrey Jarvis as a Part Time DPW Laborer for the Recycling Center is hereby confirmed and effective June 25, 2019.

Offered for adoption by Councilwoman Rice, second by Councilman Rodriguez

Affirmative: Councilmembers Koch, Rice, Rodriguez and Sorensen
Negative: None
Abstain: None
Absent: Councilmembers Banahan and Peters

11. Resolution No. 2019-131, Payment of Vouchers

BE IT RESOLVED by the Governing Body of the Borough of Fair Haven that the vouchers listed for payment on the June 24, 2019 agenda are hereby approved and the Finance Department is hereby authorized to release payment to the various vendors.

2018 CURRENT ACCOUNT	\$	12,718.56
2019 CURRENT ACCOUNT	\$	245,941.00
GRANT FUND	\$	5,081.40
OTHER TRUST	\$	14,972.78
DOG TRUST	\$	1,868.82
TOTAL	\$	280,582.56

Offered for adoption by Councilwoman Rice, second by Councilman Rodriguez

Affirmative: Councilmembers Koch, Rice, Rodriguez and Sorensen
Negative: None
Abstain: None
Absent: Councilmembers Banahan and Peters

Reports of Departments

April 2019

-Amended Tax Collector

May 2019

-Municipal Court

-Tax Collector

Motion to accept the reports as submitted moved by Councilwoman Sorensen, second by Councilwoman Koch with Ayes by all present.

GOOD OF THE BOROUGH

Mayor Lucarelli opened the meeting to the public for comments or questions at 8:15 p.m.

Carolyn Ferguson, Colonial Court, spoke to both Ordinance Nos. 2019-07 and 2019-08.

Josh Halpern, Buttonwood Drive, said that there are trees on his street with limbs falling and he is concerned. Also, there are potholes on the road that are out of control and kids are getting hurt. Councilwoman Sorensen asked Administrator Casagrande who decides what potholes are repaired; the Foreman of Streets and Roads and the crew for streets and roads through their regular course of the work day and those brought to their attention as a concern. The potholes that have been repaired are washing away. Councilman Rodriguez thanked Mr. Halpern for helping his son who fell off his bike and lost two teeth and noted that Mr. Halpern's son broke his forearm due to the condition of the road. Mayor Lucarelli said this should not be a budgetary concern and will have DPW look at and address potholes in the Borough. The Arborist called an expert in to look at the trees along Buttonwood Drive; it is on our radar.

Andrea Dinger, Spruce Drive, said she is upset that trees are being cut down. She advised that there is a water issue at the intersection of Buttonwood Drive and Spruce Drive which is contributing to the erosion of the street (mainly from sump pumps) and the potholes. Administrator Casagrande said that new home construction requires water to be discharged onto the property. There are older homes that have sump pumps are grandfathered in.

Councilwoman Rice asked Administrator Casagrande if potholes are being filled under the capital program; no, there needs to be a life span for capital such as total reconstruction of a road.

Elizabeth MacNeill, Third Street, asked what the process is to repave streets in Fair Haven. Mayor Lucarelli advised that we have a list of our 95 roads and we work through the list by priority through the Engineering Department. We usually apply for an NJDOT grant and put money into our capital account as well. Councilman Peters likes to work off of a 20 to 30-year cycle. Councilman Rodriguez said it is a steady process i.e. River Road, Third Street and now Battin Road.

Ruth Blaser, River Road, said that residents are being told that they cannot pump out their houses; she asked, "where they would put it"? Dry wells are installed so the water does not go into the street.

With regard to Parks and Recreation, Councilwoman Rice reported that Rec-N-Crew summer camp begins on July 1st; the deadline to register is June 25th. The DeNormandie Park work has begun and there was emergency tree work done at the Community Center Fields.

Councilwoman Sorensen reported the first summer concert on the dock is being held Wednesday, June 26th; The Wag will be performing. She thanked the Police Department, DPW, Fire and First Aid for their assistance with Fair Haven Day. She thanked all of the volunteers, Councilmembers Rice and Koch, DJ Breckenridge and Allyson Cinquegrana for their help, as well. She said she hopes everyone had a great time; the Committee is working on next year's event. The public was thanked for allowing the Foundation of Fair Haven to hold the event at Fair Haven Fields. The next event will be Oktoberfest on September 14th.

Chris Hempstead, Willow Street, asked for any updates to the land acquisition since the January Special Meeting; no, there is nothing to report and no updated information regarding Sunoco. Councilwoman Rice said a facilities update will be given with what we can share. Mr. Hempstead said his wish is for the public to have an opportunity to get involved in the process. He understood the delicacy in where to locate a municipal building but felt the public should get involved.

Mrs. Dinger asked who is on the subcommittee for land use; she was advised that it has not been formed as of this date. She asked what the Sunshine Laws are for subcommittees and about public involvement. Attorney Alfieri said that a subcommittee can meet without noticing the date and time. Once they meet, recommendations will be provided and addressed in public. Mrs. Dinger said that once one franchise is permitted in the Borough, all franchises will come flooding in. She said it is important not to have chains in the Borough.

Mr. Hempstead said that when subcommittees are formed, the governing body should take into consideration that the public should be involved to avoid friction. Mayor Lucarelli said that he forms the committee and they will go through the process, review the impacts and it is reported to the entire governing body. Mr. Hempstead said that there are times where there is not a report for months and decisions seem to be made by a "secret committee" formed behind closed doors. He was advised that committee are formed in public, at a public meeting. He was also advised that any committee the Borough has, has professionals working with it. On the advice of the Borough's

Fair Housing attorney, we moved forward with the process for fair share housing; the attorney came to a meeting and discussed the matter with the governing body and the decision was to file a suit. Fair Housing was set up by the State of New Jersey. The Mayor advised Mr. Hempstead that Fair Share Housing is a plan that will have many ordinances come forward and the public will be able to comment on those ordinances. Councilwoman Sorensen also advised that when a subcommittee meets and then reports back, the rest of the governing body is hearing the discussion and recommendation for the first time along with the public. All committees are appointed by the Mayor in open session.

Liz MacNeill asked if committee meetings are governed by the Sunshine Law. Attorney Alfieri said subcommittee meetings are not required to be public or noticed. Any action that happens, takes place in public during a meeting of the full governing body or board and commission. The Planning Board's feeling about affordable/fair share housing was relayed as far as it being worked on for years, but then given ten days to read the plan and vote. Mr. Hempstead did acknowledge that the governing body and Borough employees handle an awful lot of work and it is a thankless, tough job where projects and requirements come to the table all at once.

Mrs. Sciarrino said she understood the need for affordable housing and that fast food is a hot topic in the Borough; she asked why the governing body just does not vote on it as elected officials. Mayor Lucarelli said there are legal issues that are being lost; we have to be careful in how the ordinances are worded. The law does not allow Fair Haven to say a Booskerdoo establishment is good for the Borough and a Dunkin Donuts is bad. The public would like the Borough to make a clear list of what is not allowable; it cannot be done. Mrs. Sciarrino said if there is not a fast food definition then a McDonalds or Popeyes would be allowed to move in. Attorney Alfieri explained that the Borough cannot zone through an election; there is a process that needs to be followed. Zoning cannot be changed without considering the consequences for all. Mrs. Sciarrino said she has attended the land use meetings and does not fully understand why action is not being taken.

Mr. Hempstead asked if signage can be limited. He struggles with Fair Haven being on the hot seat. There is no McDonalds in Rumson, Sea Bright, Little Silver or Colts Neck. He travels a lot for business to other states. He asked what towns would lose by not allowing these establishments to come in. There is a piece missing from our code that prevents or discourages it.

Diane Mevorach, Navesink Avenue, said the Borough forefathers created an ordinance that prevented fast food and protected the Borough from it. When a McDonalds application was denied, there was a court case and media coverage. She questioned the language being repealed. She was advised that a prior governing body repealed the ordinance in December 1998. She said a majority of the residents would like the Borough to not have fast food or franchises. She asked that the governing body not rush into anything and get the public's input on matters because it seems businesses are trumping the residents. Mayor Lucarelli said that Mrs. Mevorach is missing the point and that the LLC that owns the Acme is a professional corporation. Any amendments that are made could affect our historic district businesses. A grandfathered existing use could be made non-conforming and any changes would make them a D Variance where they would have to go through a process in order to meet requirements. Mrs. Mevorach said she read the code and Booskerdoo does not fall into the category; she asked that the governing body choose the definitions for what it wants in the Borough so that applicants fall into the category that we want. Councilwoman Sorensen said that she has been on Council for eight years and that residents against an idea show up to meetings, not the residents who are in favor of the idea or have no position. The governing body has to consider the town as a whole (residents and businesses) and look at what is happening today and what may happen in the future when others may have a different view. Mrs. Mevorach said, "the squeaky wheel gets the oil". Councilwoman Sorensen gave an example of when she circulated a petition to have lights at the Community Center Fields and 600 signatures were received; only a few people in favor of the idea showed up to a meeting and spoke so the idea never moved forward. Mrs. Mevorach thanked Councilwomen Rice and Sorensen for Constant Contact.

Mary Haynes, Grange Walk, said that the Borough is at a crossroads and this is the opportunity to have a unique vision for the Borough. The Borough is small with everyone gathering at the various events and talking about what is happening in town. It is time to think outside of the box; passions get high and everyone needs to think more calmly and for the future. The governing body and public need to think about what the public wants for our Borough. Fair Haven is a bike and walk safety community with traffic calming on our main corridor; fast food restaurants would be counter intuitive. The Master Plan could have so much more. It is important to mix up the subcommittees to think beyond the box about traffic, safety and the unique businesses we have in the Borough.

Mrs. Sciarrino said that there have been traffic studies and many opinions of the people submitted. Administrator Casagrande said she had a conversation with Tracy Cole earlier in the day about this matter and the concerns; no one has been advocating for fast food. The Borough cannot

pass an ordinance banning fast food establishments; it is illegal. The Borough is working with its Planners to encourage uses that we want and address uses that we do not want, but we need the Planner's input. Mayor and Council are not advocating for anything; they are looking at the Master Plan and listening to resident input and this has to be done thoughtfully. The establishments that the residents want kept out have "deep pockets" and will fight the decisions made and the ordinances put into effect. Each decision by the Borough needs to be thought through.

Mr. Hempstead said that what Administrator Casagrande just explained was helpful in context and urged the Borough Council and professionals to not fear creating a "D" Variance to enable what the community wants. He advised that he moved to Fair Haven in early 2000 and decided to put in a pool which had to go to the Zoning Board for a pre-existing, non-conformity. Because of the process, he wound up as a Zoning Board member and made some process changes. Recently, there was a commercial property that was approved that abuts his property and is a monstrosity in his backyard. He asked that the Council move forward with ordinances that can be defend and that they not be afraid to offend.

Mrs. Ferguson said that the devil is in the details. There are businesses in town that are or can be grandfathered in. If a business grows or needs to downsize and would like to move a few doors down, they are treated as a new business. She said grandfathering is tossed around a lot, but changes in ordinances or language can affect the businesses significantly in town. Mr. Hempstead said that laws can change and being a business owner is a business plan that has risks involved.

Mrs. Blaser requested a non-agenda meeting be held. She also reported recently finding a Dunkin Donuts bag in her brush pile.

There being no further comments or questions, the meeting was closed to the public at 9:11 p.m.

Council went into executive session at 9:13 p.m. and this meeting was reconvened at 9:43 p.m.

ADJOURNMENT

Motion to adjourn moved by Councilwoman Sorensen, second by Councilwoman Koch with Ayes by all present.

Time of Adjournment: 9:43 p.m.

Respectfully submitted,

Allyson M. Cinquegrana, RMC/CMR
Borough Clerk