

**FAIR HAVEN BOROUGH COUNCIL
REGULAR MEETING AGENDA
AUGUST 19, 2019, 7:00 P.M.**

1. **Call to Order:** pm
2. **Salute to the Flag:**
3. **Moment of Meditation:**
4. **Sunshine Law Notice:**
5. **Roll Call:** Councilmembers Banahan Koch Peters
Rice Rodriguez Sorensen
6. **Proclamation**
 - Shrewsbury River Yacht Club
 - Sonia Reevey
7. **Workshop Session**
 - Request from Fair Haven Fire Police and Auxiliary to display their October 6th Car Show Banner
 - Request from Fair Haven Business Association to display August 23rd/24th Sidewalk Sale lawn signs
 - Annual request from RFH Booster Club for lawn signs to be posted (September to June)
 - Request from Cub Scout Pack 127 to advertise Scout Night, September 12th
 - Tree Considerations
 - 2019 Capital Requests
8. **Public Comment on Agenda Items**
9. **Approval of Minutes**
 - July 29, 2019 Regular Meeting
 - July 29, 2019 Executive Session
10. **Old Business**
 - Path to Progress Recommendations

Hearing and Adoption of Ordinances

- | | |
|---------|--|
| 2019-07 | Amend Land Use Chapter 30-2.4, Definitions |
| 2019-08 | Amend Land Use Chapter 30-5.3, Permitted and Prohibited Uses |
| 2019-10 | Ordinance Banning Plastic Straws, Styrofoam and Plastic Bags |

11. **New Business**

Introduction of Ordinances

- | | |
|---------|--|
| 2019-11 | Bond Ordinance – DPW Equipment and Road Projects |
|---------|--|

Consent Agenda

Resolutions

- | | |
|----------|--|
| 2019-155 | Authorize Renewal of OPRS-RIM Shared Service with Monmouth County (2019-2024) |
| 2019-156 | Executive Session: Pending Litigation, Acquisition of Property and Contract Negotiations |
| 2019-157 | Approve Temporary Sign Installation for Fair Haven Fire Department (The Outback) |
| 2019-158 | Appoint Zoning Board of Adjustment Member with a term to expire 12/31/2022 |
| 2019-159 | Approve Block Party – Maple Avenue – September 21, 2019, 4 pm - 10 pm |
| 2019-160 | Approve Block Party – Laurel Drive – September 28, 2019, 4 pm - 10 pm |
| 2019-161 | Approve Block Party – Fairwaters Lane – September 14, 2019, 4 pm - 11 pm |

- 2019-162 Approve Fire Department Membership – John Pallonetti
- 2019-163 Approve Fire Department Membership – Roy Wilmoth
- 2019-164 Approve Fire Department Social Membership – Harvey C. Tilton, III
- 2019-165 Authorize Borough Personnel for Oktoberfest
- 2019-166 Waive Borough’s ABC Codes 3-19.1 and 9-1.22 for Oktoberfest-September 14, 2019
- 2019-167 Approve Refund of Performance Guarantees to Judith George - Lexington Avenue
- 2019-168 Approve Refund of Maintenance Bond to Kolarsick Builders - Church Street
- 2019-169 Approve Refund of Performance Guarantees to A.V. Murphy Builders - William Street
- 2019-170 Approve Capital Purchase Authorizations –Police and First Aid
- 2019-171 Appoint Shade Tree Commission Members (Regular and Alternate #2)
- 2019-172 Payment of Vouchers

Department Reports

June 2019

-Chief Financial Officer

July 2019

-Municipal Clerk

-Dog License

-Police Department

-Planning Board and Zoning Board

-Tax Collector

-Municipal Court

12. Good of the Borough - Please stand and identify yourself by clearly stating your name and address for the record (*Please observe a time limit of three minutes*)

13. Adjournment

PROCEDURE FOR CITIZEN PARTICIPATION AT COUNCIL MEETINGS

The Fair Haven Borough Council and the Mayor welcome comments, suggestions and inquiries from residents of Fair Haven. To that end, provision is made for a public discussion period at each meeting. It is listed as:

“Public Discussion” – near the end of the meeting where any topic may be addressed.

You must wait to be recognized by the Mayor. **IDENTIFY YOURSELF BY CLEARLY STATING YOUR NAME AND ADDRESS FOR THE RECORD.** Limit your comments to three (3) minutes. Once a particular topic has been addressed by a member of the public, he/she will not be recognized to talk again on the same topic until all others have been heard a first time.

If you wish to reserve time to speak in advance, you may address your request to Allyson Cinquegrana at 732-747-0241 extension *221, by noon on the Friday preceding the meeting.

You will **NOT** be recognized, **NOR SHOULD YOU COMMENT OR CARRY ON A DEBATE OR DIALOGUE WHILE BUSINESS OF THE BOROUGH IS BEING ADDRESSED BY MAYOR AND COUNCIL.**

THE NEXT COUNCIL MEETING WILL BE MONDAY, SEPTEMBER 9, 2019

**BOROUGH OF FAIR HAVEN
ORDINANCE NO. 2019-07**

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, copartnership 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.*~~

~~**Restaurant, Walk-Up.** *Walk-Up Restaurant means an establishment that by design of its physical facilities, service or packaging encourages or permits pedestrians to receive a service or obtain a product without entering the establishment.*~~

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, curblineline, 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 generally, any type of material that is not solidified and will not repel water or maintain a stable cross-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.

**BOROUGH OF FAIR HAVEN
ORDINANCE NO. 2019-08**

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 shown in normal type.

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, drive-thru and walk-up*~~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.

**BOROUGH OF FAIR HAVEN
ORDINANCE 2019-10**

AN ORDINANCE OF THE BOROUGH OF FAIR HAVEN, 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.

"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.

"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.

"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.

"POLYSTYRENE FOAM CONTAINER" means any disposable food packaging used to provide customers with prepared food or take-out food, which contains polystyrene foam in any part of such packaging. This definition specifically exempts the following from the category of polystyrene foam containers:

1. Meat and fish trays for raw or butchered meat, including poultry, or fish that is sold from a refrigerator or similar retail appliance; or
2. Polystyrene foam food service food containers used for prepackaged food that have been filled and sealed prior to receipt by the store.

"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.

"PREPARED FOOD" means food or beverages which are served, packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed or otherwise prepared on the premises or facilities of the retail food vendor. Prepared food does not include raw, butchered meats, fish and/or poultry which are sold from a butcher case or similar appliance. Prepared food may be eaten either on or off premises or away from the facilities or the retail food vendor. Prepared food includes take-out food.

"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.

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

"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 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.

**BOROUGH OF FAIR HAVEN
BOND ORDINANCE NUMBER 2019-11**

BOND ORDINANCE PROVIDING FOR VARIOUS 2019 GENERAL CAPITAL IMPROVEMENTS BY AND IN THE BOROUGH OF FAIR HAVEN, IN THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY; APPROPRIATING \$2,397,000 THEREFOR (INCLUDING A NEW JERSEY DEPARTMENT OF TRANSPORTATION GRANT IN THE AMOUNT OF \$325,000) AND AUTHORIZING THE ISSUANCE OF \$2,386,071 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF

BE IT ORDAINED AND ENACTED BY THE BOROUGH COUNCIL OF THE BOROUGH OF FAIR HAVEN, IN THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring), **AS FOLLOWS:**

SECTION 1. The improvements or purposes described in Section 3 of this bond ordinance are hereby authorized as general improvements or purposes to be undertaken by the Borough of Fair Haven, in the County of Monmouth, State of New Jersey (the “Borough”). For the said improvements or purposes stated in Section 3, there is hereby appropriated the aggregate sum of \$2,397,000, which is inclusive of a grant from the New Jersey Department of Transportation in the amount of \$325,000 (the “Grant”) and \$10,929 as the amount of down payment for said improvements or purposes as required by the Local Bond Law, N.J.S.A. 40A:2-1 *et seq.* (the “Local Bond Law”). Said down payments are now available therefor by virtue of appropriations in a previously adopted budget or budgets of the Borough for down payment or for capital improvement purposes. Additionally, no down payment is required with respect to the improvements or purposes set forth in Section 3(a)(ii) herein pursuant to N.J.S.A. 40A:2-11(c), as such improvements or purposes are either funded in full or in part by the Grant or loans from the New Jersey Infrastructure Bank (“NJIB”).

SECTION 2. For the financing of said improvements or purposes described in Section 3 hereof and to meet the part of said \$2,397,000 appropriation not provided for by application hereunder of said down payment, negotiable bonds of the Borough are hereby authorized to be issued in the principal amount of \$2,386,071 pursuant to the Local Bond Law. In anticipation of the issuance of said bonds and to temporarily finance said improvements or purposes, negotiable notes of the Borough in a principal amount not exceeding \$2,386,071 are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

SECTION 3. (a) The improvements hereby authorized and purposes for the financing of which said obligations are to be issued include, but are not limited to, the following:

<u>Description</u>	<u>Appropriation</u>	<u>Authorization</u>	<u>Down Payment</u>	<u>Useful Life</u>
(i) <u>Department of Public Works</u> - Acquisition Of A Garbage Truck; and	\$229,500	\$218,571	\$10,929	10 years
(ii) <u>Roads Department</u> – Various Road, Sidewalk And Curb Improvements Throughout The Borough Including, But Not Limited To, Harrison Avenue And River Road, Such Improvements To Include But Not Be Limited To, As Applicable, Excavation, Milling, Paving, Reconstruction And Boxing	\$2,167,500 (Inclusive of the Grant)	\$2,167,500	\$0 (No down payment required pursuant to N.J.S.A. 40A:2-11(c) due to Grant	12.19 years

<u>Description</u>	<u>Appropriation</u>	<u>Authorization</u>	<u>Down Payment</u>	<u>Useful Life</u>
Out And Resurfacing Or Full Depth Pavement Replacement, And Where Necessary, The Sealing Of Pavement Cracks, The Repairing And/Or Installation Of Or Improvements To Curbs, Sidewalks And Driveway Aprons, Curb Ramps In Compliance With ADA, Resetting Utility Castings, And Associated Drainage Work, Roadway Painting, Landscaping And Aesthetic Improvements.			and loans from NJIB)	
TOTAL	<u>\$2,397,000</u>	<u>\$2,386,071</u>	<u>\$10,929</u>	

(b) All such improvements or purposes set forth in Section 3(a) shall include, but are not limited to, as applicable, all engineering, design work, surveying, construction planning, preparation of plans and specifications, permits, bid documents, construction inspection and contract administration, and also shall include all work, materials, equipment, accessories, labor and appurtenances necessary therefor or incidental thereto.

(c) The aggregate estimated maximum amount of bonds or notes to be issued for said purposes is \$2,386,071.

(d) The estimated cost of said improvements or purposes is \$2,397,000, the excess thereof over the said estimated maximum amount of bonds or notes to be issued therefor, being the amount of \$10,929, is the down payment for said improvements or purposes and the amount of \$325,000 is the Grant.

SECTION 4. Including the Grant, in the event the United States of America, the State of New Jersey, the County of Monmouth and/or a private entity make a contribution or grant in aid to the Borough for the improvements and purposes authorized hereby and the same shall be received by the Borough prior to the issuance of the bonds or notes authorized in Section 2 hereof, then the amount of such bonds or notes to be issued shall be reduced by the amount so received from the United States of America, the State of New Jersey, the County of Monmouth and/or a private entity. Including the Grant, in the event, however, that any amount so contributed or granted by the United States of America, the State of New Jersey, the County of Monmouth and/or a private entity shall be received by the Borough after the issuance of the bonds or notes authorized in Section 2 hereof, then such funds shall be applied to the payment of the bonds or notes so issued and shall be used for no other purpose. This Section 4 shall not apply, however, with respect to any contribution or grant in aid received by the Borough as a result of using funds from this bond ordinance as "matching local funds" to receive such contribution or grant in aid.

SECTION 5. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the Chief Financial Officer of the Borough, provided that no note shall mature later than one (1) year from its date unless such bond anticipation notes are permitted to mature at such later date in accordance with applicable law. The notes shall bear interest at such rate or rates and be in such form as may be determined by the Chief Financial Officer. The Chief Financial Officer shall determine all matters in connection with the notes issued pursuant to this bond ordinance, and the signature of the Chief Financial Officer upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time in accordance with the provisions of the Local Bond Law. The Chief Financial Officer is hereby authorized to sell part or all of the notes from time to time at public or private sale and to deliver them to the purchaser thereof upon receipt of payment of the purchase price and accrued interest thereon from their dates to the date of delivery thereof. The Chief Financial Officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this bond ordinance is made. Such report must include the principal amount, the

description, the interest rate, and the maturity schedule of the notes so sold, the price obtained and the name of the purchaser.

SECTION 6. The Capital Budget or Budgets of the Borough are hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. In the event of any such inconsistency, a resolution in the form promulgated by the Local Finance Board showing full detail of the amended Capital Budget or Budgets and capital programs as approved by the Director of the Division of Local Government Services, New Jersey Department of Community Affairs will be on file in the office of the Clerk and will be available for public inspection.

SECTION 7. The following additional matters are hereby determined, declared, recited and stated:

(a) The improvements or purposes described in Section 3 of this bond ordinance are not current expenses and are improvements which the Borough may lawfully undertake as general improvements, and no part of the cost thereof has been or shall be specially assessed on property specially benefited thereby.

(b) The average period of usefulness of said improvements or purposes within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the said bonds authorized by this bond ordinance, is 11.98 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly made and filed in the Office of the Clerk of the Borough and a complete executed duplicate thereof has been filed in the Office of the Director of the Division of Local Government Services, New Jersey Department of Community Affairs, and such statement shows that the gross debt of the Borough as defined in the Local Bond Law is increased by the authorization of the bonds or notes provided for in this bond ordinance by \$2,386,071 and the said bonds or notes authorized by this bond ordinance will be within all debt limitations prescribed by said Local Bond Law.

(d) An aggregate amount not exceeding \$480,000 for items of expense listed in and permitted under section 20 of the Local Bond Law is included in the estimated cost indicated herein for the purposes or improvements hereinbefore described.

SECTION 8. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and the interest on the bonds or notes authorized by this bond ordinance. The bonds or notes shall be direct, unlimited obligations of the Borough, and the Borough shall be obligated to levy *ad valorem* taxes upon all the taxable real property within the Borough for the payment of the bonds or notes and the interest thereon without limitation as to rate or amount.

SECTION 9. The Borough hereby declares the intent of the Borough to issue the bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 3 of this bond ordinance. This Section 9 is a declaration of intent within the meaning and for purposes of Treasury Regulations §1.150-2 or any successor provisions of federal income tax law.

SECTION 10. The Borough Chief Financial Officer is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the Borough and to execute such disclosure document on behalf of the Borough. The Borough Chief Financial Officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Borough pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of obligations of the Borough and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the Borough fails to comply with its undertaking, the Borough shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

SECTION 11. The Borough covenants to maintain the exclusion from gross income under section 103(a) of the Code of the interest on all bonds and notes issued under this ordinance.

SECTION 12. This bond ordinance shall take effect twenty (20) days after the first publication thereof after final adoption and approval by the Mayor, as provided by the Local Bond Law.

**COUNCIL OF THE BOROUGH OF FAIR HAVEN
MONMOUTH COUNTY, NEW JERSEY
RESOLUTION**

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2019-155

**TITLE: AUTHORIZE RENEWAL OF AN OPEN PUBLIC RECORDS – RECORDS
 INFORMATION MANAGEMENT SHARED SERVICES AGREEMENT WITH
 MONMOUTH COUNTY**

WHEREAS, under the New Jersey Uniform Shared Services and Consolidation Act, namely C. 40A:65-1, *et seq.*, local units, such as the County of Monmouth and the Borough of Fair Haven, may enter into shared services agreements with each other; and

WHEREAS, the County of Monmouth has entered into an agreement with Sunrise Systems, Inc. (“Sunrise”), whereby the County is licensed to access and use Sunrise’s web-based system known as the Open Public Records Search System – Records Information Management (“OPRS-RIM”); and

WHEREAS, under the terms of its agreement with Sunrise, the County of Monmouth may sublicense access and use of OPRS-RIM to municipalities within Monmouth County; and

WHEREAS, the County of Monmouth, has offered to enter into a shared services agreement with this Municipality, whereby this Municipality will be authorized as a sublicensee to access and use OPRS-RIM; and

WHEREAS, a copy of the agreement is attached to this resolution; and

WHEREAS, the OPRS-RIM provides for the Inventory Management, Retention Management, and Disposition Management of official records and includes an imaging module that permits the scanning of paper records into TIFF images, which may be stored long-term, searched and retrieved electronically.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Fair Haven that the Mayor and Municipal Clerk be and they are hereby authorized to enter into a renewed OPRS-RIM shared service agreement with the County of Monmouth.

BE IT FURTHER RESOLVED that the agreement period will retroactive from July 1, 2019 through June 30, 2024 at cost of \$3,300 per year.

**COUNCIL OF THE BOROUGH OF FAIR HAVEN
MONMOUTH COUNTY, NEW JERSEY
RESOLUTION**

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2019-156

TITLE: EXECUTIVE SESSION

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:

Pending Litigation

1. Yacht Works

Acquisition of Property

1. River Road

Contract Negotiations

1. Cell Tower - Verizon
2. Engineering Proposal – LSRP Services
3. ILSA with Rumson

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.

COUNCIL OF THE BOROUGH OF FAIR HAVEN
MONMOUTH COUNTY, NEW JERSEY
RESOLUTION

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2019-157

**TITLE: APPROVE TEMPORARY SIGN INSTALLATION ON THE FAIR HAVEN
VOLUNTEER FIRE COMPANY PROPERTY**

WHEREAS, in accordance with Borough Code, **30-7.24 (f) Special Event Signs**, civic groups or service organizations may erect a temporary sign prior to a special event provided that permission is granted by the Mayor and Council; and

WHEREAS, the Fair Haven Fire Company has submitted paperwork to the Borough requesting permission to install a temporary sign for their Annual Firemen’s Fair; and

WHEREAS, on July 19, 2019, Nicolas Poruchynsky, Zoning Officer approved the Zoning Application for the temporary sign.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Fair Haven that the Fair Haven Fire Company is hereby authorized to erect a temporary sign “The Outback” on an accessory structure that exists on the property from August 12, 2019 until September 2, 2019.

COUNCIL OF THE BOROUGH OF FAIR HAVEN
MONMOUTH COUNTY, NEW JERSEY
RESOLUTION

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2019-158

TITLE: APPOINTMENT TO ZONING BOARD FOR AN UNEXPIRED TERM – DR. SKIP LAUFER

WHEREAS, the Borough of Fair Haven has constituted and appointed a Zoning Board of Adjustment pursuant to N.J.S.A. 40:55D-69; and

WHEREAS, Borough of Fair Haven Municipal Code 30-3.2a provides that the Mayor may appoint Zoning Board members with the confirmation of the Borough Council; and

WHEREAS, a vacancy currently exists on the Zoning Board with a term that will expire on December 31, 2022.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Fair Haven that Dr. Skip Laufer is hereby appointed as a Zoning Board member with a term to expire on December 31, 2022.

**COUNCIL OF THE BOROUGH OF FAIR HAVEN
MONMOUTH COUNTY, NEW JERSEY
RESOLUTION**

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2019-159

**TITLE: APPROVING A BLOCK PARTY TO BE HELD ON
 MAPLE AVENUE – SEPTEMBER 21ST**

WHEREAS, a request was received to hold a Block Party on Maple Avenue on Saturday, September 21, 2019 from 4 pm to 10 pm with a rain date of Saturday, September 28, 2019; and

WHEREAS, Police Chief McGovern reviewed the application and submitted his approval on August 13, 2019; and

NOW THEREFORE BE IT RESOLVED by the Governing Body of the Borough of Fair Haven that approval is hereby granted for a block party to be held on Maple Avenue on Saturday, September 21, 2019 from 4 pm to 10 pm with a rain date of Saturday, September 28, 2019.

BE IT FURTHER RESOLVED that Permit No. BP 2019-07 will be issued for said event.

**COUNCIL OF THE BOROUGH OF FAIR HAVEN
MONMOUTH COUNTY, NEW JERSEY
RESOLUTION**

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2019-160

**TITLE: APPROVING A BLOCK PARTY TO BE HELD ON LAUREL DRIVE –
 SEPTEMBER 28, 2019**

WHEREAS, a request was received to hold a Block Party on Laurel Drive on Saturday, September 28, 2019 from 4 pm to 10 pm (rain date: September 29th); and

WHEREAS, Police Chief Joseph McGovern reviewed the application and submitted his approval on July 30, 2019; and

NOW THEREFORE BE IT RESOLVED by the Governing Body of the Borough of Fair Haven that approval is hereby granted for a block party to be held on Laurel Drive on Saturday, September 28, 2019 from 4 pm to 10 pm (rain date: September 29th).

BE IT FURTHER RESOLVED that Permit No. BP 2019-05 will be issued for said event.

COUNCIL OF THE BOROUGH OF FAIR HAVEN
MONMOUTH COUNTY, NEW JERSEY
RESOLUTION

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2019-161

**TITLE: APPROVING A BLOCK PARTY TO BE HELD ON
 FAIRWATERS LANE**

WHEREAS, a request was received to hold a Block Party on Fairwaters Lane beginning at Fair Haven Road on Saturday, September 14, 2019 from 4:00 pm to 11:00 pm with a raindate of Sunday, September 15, 2019; and

WHEREAS, Police Chief McGovern reviewed the application and submitted his approval on August 7, 2019; and

NOW THEREFORE BE IT RESOLVED by the Governing Body of the Borough of Fair Haven that approval is hereby granted for a block party to be held on Fairwaters Lane on Saturday, September 14, 2019 from 4:00 pm to 11:00 pm with a raindate of Sunday, September 15, 2019.

BE IT FURTHER RESOLVED that Permit No. BP 2019-06 will be issued for said event.

**COUNCIL OF THE BOROUGH OF FAIR HAVEN
MONMOUTH COUNTY, NEW JERSEY
RESOLUTION**

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2019-162

**TITLE: RESOLUTION APPOINTING A MEMBER TO THE FAIR HAVEN
FIRE DEPARTMENT, Regular Member – John Pallometti**

BE IT RESOLVED by the Borough Council of the Borough of Fair Haven that John Pallometti, 6 Rutgers Drive, Fair Haven, NJ having been duly accepted as a regular member of the Fair Haven Volunteer Fire Co., is hereby appointed to the Fair Haven Fire Department.

**COUNCIL OF THE BOROUGH OF FAIR HAVEN
MONMOUTH COUNTY, NEW JERSEY
RESOLUTION**

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2019-163

**TITLE: RESOLUTION APPOINTING A MEMBER TO THE FAIR HAVEN
FIRE DEPARTMENT, Regular Member - Roy Wilmoth, II**

BE IT RESOLVED by the Borough Council of the Borough of Fair Haven that Roy Wilmoth, II, 191 Oak Place, Fair Haven, NJ having been duly accepted as a regular member of the Fair Haven Volunteer Fire Co., is hereby appointed to the Fair Haven Fire Department.

COUNCIL OF THE BOROUGH OF FAIR HAVEN
MONMOUTH COUNTY, NEW JERSEY
RESOLUTION

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2019-164

**TITLE: RESOLUTION APPOINTING A MEMBER TO THE FAIR HAVEN
FIRE DEPARTMENT, Social Member – Harvey C. Tilton, III**

BE IT RESOLVED by the Borough Council of the Borough of Fair Haven that Harvey C. Tilton, III, 76 Avenue of Two Rivers, Rumson, NJ having been duly accepted as a social member of the Fair Haven Volunteer Fire Co., is hereby appointed to the Fair Haven Fire Department.

**COUNCIL OF THE BOROUGH OF FAIR HAVEN
MONMOUTH COUNTY, NEW JERSEY
RESOLUTION**

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2019-165

TITLE: ESTABLISH PERSONNEL FOR THE 2019 OKTOBERFEST EVENT

WHEREAS, the Mayor and Council of the Borough of Fair Haven that the Borough Administrator is authorized to allocate Borough resources, including Borough Personnel and budgeted funds, to successfully carry out the Oktoberfest event on September 14, 2019.

BE IT FURTHER RESOLVED that Police personnel will receive the Special Duty Rate of \$50.00 per hour as per Ordinance 2017-10.

COUNCIL OF THE BOROUGH OF FAIR HAVEN
MONMOUTH COUNTY, NEW JERSEY
RESOLUTION

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2019-166

TITLE: WAIVE BOROUGH CODE 3-19, SECTION 3-19.1 PROHIBITION OF OPEN CONSUMPTION OF ALCOHOL AND SECTION 9-1.22 ALCOHOLIC BEVERAGES PROHIBITED ON PUBLIC PROPERTY FOR 2019 OKTOBERFEST

WHEREAS, the Foundation of Fair Haven will be holding an Oktoberfest Event on Saturday, September 14, 2019; and

WHEREAS, Borough Code 3-19.1 “prohibits open consumption of any alcoholic beverages on public property within the Borough unless authorized by the Governing Body, or on private property without consent of the owner of the property or the person, over the age of twenty-one (21) years, in possession or control of the property” and Borough Code 9-1.22 “prohibits alcoholic beverages while in a public park, open space, sanctuary, or recreation area and all persons shall conduct themselves in a proper and orderly manner and, in particular, no person shall bring alcoholic beverages, drink same at any time nor shall any person be under the influence of intoxicating liquor”; and

WHEREAS, the Oktoberfest Event will take place at Fair Haven Fields and will include the provision of alcoholic beverage requiring that the above-mentioned codes be waived for alcohol purchased through the Foundation of Fair Haven as no outside alcohol will be permitted.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Fair Haven that Borough Codes 3-19.1 and 9-1.22 be waived on September 14, 2019 between the hours of 4:00 p.m. and 10:30 p.m. for Oktoberfest and codes be waived for alcohol purchased through the Foundation of Fair Haven as no outside alcohol will be permitted.

**COUNCIL OF THE BOROUGH OF FAIR HAVEN
MONMOUTH COUNTY, NEW JERSEY
RESOLUTION**

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2019-167

**TITLE: RESOLUTION AUTHORIZING RELEASE OF A PERFORMANCE GUARANTEES
FOR BLOCK 18, LOTS 1 AND 2 – JUDITH GEORGE**

WHEREAS, Mrs. Judith George posted Performance Guarantees required for a Minor Subdivision for Block 18, Lots 1 and 2; and

WHEREAS, Mrs. George posted a cash bond in the amount of \$5,000.00 on June 5, 2017 which was accepted by Resolution No. 2017-123; and

WHEREAS, on August 13, 2019, the Borough Engineer recommended the release of the cash bond.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Fair Haven that the Performance Guarantee in the amount of \$5,000.00 for Block 18, Lots 1 and 2 is hereby released and the Finance Department is authorized to process said refund.

COUNCIL OF THE BOROUGH OF FAIR HAVEN
MONMOUTH COUNTY, NEW JERSEY
RESOLUTION

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2019-168

**TITLE: RESOLUTION AUTHORIZING RELEASE OF A MAINTENANCE BOND FOR
BLOCK 28, LOT 17.01, 17.02 AND 17.03, KOLARSICK BUILDERS**

WHEREAS, Resolution No. 2018-106 released the Performance Bond and Cash Deposit and accepted a Maintenance for a Minor Subdivision for Block 28, Lots 17.01, 17.02 and 17.03, (corner of River Road and Church Street), Fair Haven, NJ; and

WHEREAS, the Maintenance Bond amount of \$15,749.10 was posted via Check No. 1506 on August 11, 2017; and

WHEREAS, the Borough Engineer has recommended the release of the Maintenance Bond.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Fair Haven, that the Maintenance Bond in the amount of \$15,749.10 for Block 28, Lots 17.01, 17.02 and 17.03 is hereby released and the Finance Department is authorized to process said refund.

COUNCIL OF THE BOROUGH OF FAIR HAVEN
MONMOUTH COUNTY, NEW JERSEY
RESOLUTION

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2019-169

TITLE: RESOLUTION AUTHORIZING THE RELEASE OF PERFORMANCE GUARANTEE FOR MINOR SUBDIVISION (BLOCK 45, LOTS 22 AND 23) WILLIAM STREET

WHEREAS, A.V. Murphy Builders, Inc., is the owner of the real property known as Block 45, Lots 22 and 23; and

WHEREAS, Resolution No. 2018-206 adopted November 8, 2018 accepted the performance guarantees that were posted as a cash deposit of \$16,200.00 pursuant to NJSA 40:55D-1, et seq.; and

WHEREAS, the Borough Engineer authorized the release of the performance guarantees in exchange for a two-year maintenance bond; and

WHEREAS, the developer has requested, that the Borough release \$13,770.00 from the original performance guarantee posted and hold 15% or \$2,430.00 as the two-year maintenance bond.

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 the Chief Financial Officer be authorized to release \$13,770.00 to the Developer and hold \$2,430.00 as a two-year maintenance bond.

COUNCIL OF THE BOROUGH OF FAIR HAVEN
MONMOUTH COUNTY, NEW JERSEY
RESOLUTION

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2019-170

TITLE: PURCHASE AUTHORIZATION FOR CAPITAL ITEM EXPENDITURES

WHEREAS, Ordinance No. 2016-12 was adopted on June 27, 2016 and provides for the acquisition of various equipment, infrastructure improvements and improvements to public buildings and grounds; and

WHEREAS, Capital Item requests have been made as follows:

Police Department

- Body Worn Cameras \$ 20,000.00

First Aid Squad

- Auto Pulse Resuscitation System \$ 14,220.00

Combined Total \$ 34,220.00

WHEREAS, the above equipment will be purchased for the various departments as per their individual needs and requests.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Fair Haven that the above capital item expenditures are hereby approved.

COUNCIL OF THE BOROUGH OF FAIR HAVEN
MONMOUTH COUNTY, NEW JERSEY
RESOLUTION

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2019-171

**TITLE: APPROVE APPOINTMENTS TO THE BOROUGH'S SHADE TREE COMMISSION –
CHRISTIAN LARSEN AND DAVID PAOLO**

WHEREAS, there are vacancies on the Borough's Shade Tree Commission that need to be filled; and

WHEREAS, the Borough has found volunteers willing to fill the unexpired terms and serve on the Shade Tree Commission as follows:

Christian Larsen as a Regular Member with a term to expire December 31, 2023

David Paolo as Alternate #2 with a term to expire on December 31, 2019

COUNCIL OF THE BOROUGH OF FAIR HAVEN
MONMOUTH COUNTY, NEW JERSEY
RESOLUTION

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2019-172

TITLE: PAYMENT OF VOUCHERS

BE IT RESOLVED by the Governing Body of the Borough of Fair Haven that the vouchers listed for payment on the August 19, 2019 agenda are hereby approved and the Finance Department is hereby authorized to release payment to the various vendors.

2018 CURRENT ACCOUNT	\$	14,281.19
2019 CURRENT ACCOUNT	\$	110,720.12
GENERAL CAPITAL	\$	8,271.82
GRANT FUND	\$	7,604.00
PAYROLL AGENCY	\$	12,686.96
OTHER TRUST	\$	8,329.84
DOG TRUST	\$	5.40
TOTAL	\$	161,899.33