

**FAIR HAVEN BOROUGH COUNCIL
MARCH 13, 2023**

The meeting was called to order by Mayor Halpern at 7:02 p.m. The Flag Salute was followed by a Moment of Silent Reflection. The following Sunshine Law Statement was read:

IN ACCORDANCE WITH THE PROVISIONS OF THE OPEN PUBLIC MEETINGS ACT, PUBLIC MEETINGS MAY BE HELD IN PERSON OR BY MEANS OF COMMUNICATION EQUIPMENT TO INCLUDE STREAMING SERVICES AND OTHER ONLINE MEETING PLATFORMS (NJSA 10:4-8(b)).

THIS MEETING IS BEING HELD IN-PERSON AND THROUGH THE ZOOM MEETING PLATFORM, BEING BROADCAST FROM BOROUGH HALL, 748 RIVER ROAD, FAIR HAVEN, NJ. PUBLIC PARTICIPATION FOR THIS REGULAR COUNCIL MEETING OF MARCH 13, 2023 IS AVAILABLE BY CALL IN PHONE NUMBER OR THROUGH WEB CONFERENCE (ZOOM). MEMBERS OF THE PUBLIC WILL BE ON MUTE UNTIL IT IS TIME FOR QUESTIONS AND COMMENTS, WHICH WILL BE ANNOUNCED. AT THAT TIME, THE PUBLIC HAS THE OPPORTUNITY TO QUESTION/COMMENT BY PHONE OR THROUGH ZOOM BY THE "RAISE HAND" BUTTON AND WILL BE CALLED ON AT THE APPROPRIATE TIME.

NOTICE OF THIS MEETING WAS INCLUDED IN A SCHEDULE OF MEETINGS WHICH WAS ADOPTED BY RESOLUTION NO. 2023-13 AND SENT TO THE ASBURY PARK PRESS, THE TWO RIVER TIMES, THE HUB AND THE STAR LEDGER ON JANUARY 6, 2023 POSTED ON THE BOROUGH WEBSITE, THE BULLETIN BOARD IN THE MUNICIPAL BUILDING AND HAS REMAINED CONTINUOUSLY POSTED AS REQUIRED UNDER THE STATUTE.

WITH ADEQUATE NOTICE HAVING BEEN GIVEN, THE BOROUGH CLERK IS DIRECTED TO INCLUDE THIS STATEMENT IN THE MINUTES OF THIS MEETING.

ROLL CALL

On Roll Call the following were present: Councilmembers Cole, Hoey, Koch, LaBarbera and Rodriguez. Absent: Councilwoman Neff. Others present: Administrator Casagrande, Chief McGovern, Engineer Gardella, CFO Colleen Lapp (via Zoom) and Attorney Sobel. Attorney Cannon arrived at 9:00 p.m.

PRESENTATIONS

Chris Larsen, Chairman of the Shade Tree Commission, presented their 2022 Annual Report. He noted the key accomplishments of the Commission in 2022, including reviewing the Tree Ordinance, new tree plantings, member training and increased social media presence. He urged Council to continue the Tree Preservation Ordinance review and update.

Matt Mariano of Leon S. Avakian Engineering presented an update on the McCarter Pond Hydro-raking project. The project is expected to begin April 10, targeting warmer weather to capture the first growth, and conclude May 8. Mr. Mariano recommends a maintenance plan of every two-three years, including an aeration system. Councilman LaBarbera asked if McCarter Pond was ever hydro-raked? Administrator Casagrande responded no. Councilwoman Cole said the Environmental Commission would like to institute a maintenance plan that includes measurements, barometric surveys and data analysis. Mayor Halpern asked if the cost would be halved in the future, if maintained? Mr. Mariano responded likely more than half of the original cost: although 20 years of removing material vs. 2-3 years worth of material is substantial, there are still fixed and rising costs. Administrator Casagrande noted that Ralph Wyndrum tested other less costly methods to remove debris that may be more effective once the hydro-raking is complete. Councilman Rodriguez asked about the odor produced by the spoils? Mr. Mariano expects to move the process quickly and then revegetate with topsoil and seed. Councilwoman Koch mentioned the Fishing Derby will be pushed back until after the hydro-raking is complete. Councilwoman Hoey asked if Avakian provided education regarding this in schools? He responded that some ecology classes and outreach was done in Asbury Park.

WORKSHOP SESSION

A Tree Removal Appeal from Lindsey and Brad Koechling, 37 Elmwood Lane, was reviewed. Without an additional Tree Professional opinion, there was not enough information to make a determination. This request will be carried to the next Council meeting.

Administrator Casagrande gave a Finance Update and introduced Heather Litzebauer of NW Financial Group to discuss the Issuance and Sale of Bond Anticipation Notes with the Monmouth County Improvement Authority. Changes in the note market occurred in September 2022 for NJ municipalities due to SEC fines of certain institutions. She described the advantages of a pooled

County offerings are achieving a AAA rating (County rating from all three rating agencies vs. Fair Haven is AA) and savings on costs of issuance. Councilwoman Cole asked about the timing? For this short-term bond anticipation note, the closing is in May and will mature in March 2024. Short-term financing is typically used when a municipality is just starting a project, in case a project is stalled or doesn't move forward so there is no situation of over-issuance. Permanent financing (long-term bond) is typically done towards the end of a project. Councilman LaBarbera asked when the pooled offerings are available? Ms. Litzebauer said certain programs are offered annually (December pooled loans) or only odd years (capital equipment lease financing). On the note side, only when savings can be recognized (post-Sandy and the beginning of COVID due to market access issues). Administrator Casagrande noted the Borough will fund microprojects through notes and that funding from authorization in prior ordinances may be used in "like" projects. A resolution will be listed on the next Council meeting agenda.

Administrator Casagrande discussed the 2023 Municipal Budget. The Governing Body has a copy of the draft budget which results in a 3.21% tax increase. The tax rate actually went down, but valuations are going up. The average assessed property value increased in 2023. Councilwoman Cole asked how much surplus is the Borough using? CFO Lapp said \$1.5 million is in this budget draft; \$1.9 million was generated in 2022. Councilman LaBarbera believes the Finance Committee is being fiscally responsible given the current obstacles and budgeting options. Councilwoman Cole asked about the large increase in state health benefits/insurance and has the Finance Committee looked at debt service? CFO Lapp responded that there was a significant increase this year, hopefully it will level off. She is trying to keep debt service level and part of the budget. Councilwoman Koch noted there are a lot of generalities in the budget and wants to make sure the promises Council has made to residents are reflected. Administrator Casagrande said the microprojects will be presented by Engineer Gardella on March 27; it is based on the priorities of previous governing bodies as well as the current. Councilman LaBarbera commented that the projects are classified as microprojects so they may be grouped together for a more attractive bid. Councilman Rodriguez noted the Fire Chiefs are concerned about cuts. He suggested areas of cuts may be fireworks, recreation and over-time vs. Fire and First Aid. Councilman LaBarbera noted that a lot of equipment and its maintenance is regulated. Councilwoman Koch asked if the Fire Department can contribute to their budget? The Mayor said they are able to fundraise. Councilwoman Hoey noted that Fair Haven Baseball pays for a majority of field repair from their own budget, so in the spirit of equality, it is feasible to ask other departments to contribute to their budget as well, if they are allowed. Administrator Casagrande said the budget must be introduced at the April 17 Council meeting and changes may not occur on or after that date.

Colleen Lapp left the meeting.

Administrator Casagrande said the Zoning Board was asked for an opinion on the Fence Ordinance (Corner Lots). The Zoning Board is not recommending changes to the Ordinance as relief may be obtained through the variance process. Councilwoman Cole asked if there is a way for an applicant with a legitimate exemption to have a "summary proceeding" versus enduring the arduous variance process? Attorney Sobel responded not as the Ordinance is written. Councilman LaBarbera noted as a Zoning Board member in 2022, this process was reviewed. Councilwoman Cole asked Attorney Sobel to contemplate a more streamlined process. Councilwoman Cole made a motion to amend the Land Use ordinance as it relates to fencing to include an exemption for a corner lot/property adjacent to a non-permitted use. Administrator Casagrande said a motion may not be made to amend an ordinance; it must be workshopped then introduced. Councilwoman Cole will discuss the ordinance with the Planning and Zoning Committee, offline, then bring back to Council Workshop.

Attorney Sobel discussed the draft Vacant/Abandoned Property Ordinance; Fair Haven does not have an ordinance in place. It creates a registry and there are fees associated with registration. Lenders must notify the municipality if foreclosure occurs. It is important for code enforcement to know which properties are being used as a residence and their upkeep. Councilman LaBarbera asked how it is enforced; Attorney Sobel responded through Code Enforcement if the property is deemed vacant or abandoned. Administrator Casagrande noted it is not a large issue in Fair Haven. Councilwoman Cole believes it is good to have on the books. The ordinance will be introduced at the next Council Meeting.

Attorney Sobel discussed the Short-Term Rental Ordinance. It addresses what is identified as a short-term rental and what is exempt. As written, it's classified as rental occupancy between 7 and 90 days. There is an application process with the municipality and a fee associated. Mayor Halpern asked what this ordinance would achieve and felt the definition of short-term should be between one day and 150 days. Attorney Sobel responded that, by NJ statute, a seasonal rental is 125 days. Councilman Rodriguez cited the short-term renovation relocation situation, which are very prevalent in Fair Haven. Councilwoman Cole said this ordinance would be to preserve the quality of life in Fair Haven neighborhoods and supports an ordinance that prohibits rentals less than 125 days.

Administrator Casagrande noted there is no Certificate of Occupancy Program in Fair Haven. Councilwoman Koch asked if there is a mechanism for appeal? Attorney Sobel responded it will be clear in the ordinance whether you are exempt or not. Councilman LaBarbera asked how this ordinance aligns with the State? Attorney Sobel will bring that information and re-work the ordinance for workshop again March 27.

Engineer Gardella discussed the need for a Street Opening Ordinance Amendment to bring the fee schedule up to current standards, update time/process, update language to capture specialty items and proper restoration (the driving force). Councilman LaBarbera asked how total restoration is guaranteed, per permit? Engineer Gardella responded the Borough collects and holds a cash repair deposit until inspection is complete. If the contractor doesn't complete the job, the deposit would cover another professional to complete the job and the deposit wouldn't be refunded. Councilman LaBarbera asked why the winter moratorium is being removed? Engineer Gardella responded that they are scheduled on a case-by-case basis regardless with his office; this would alleviate the extra step of Council approval. Administrator Casagrande noted the fee schedule must be the same for residents and utility companies. The ordinance will be introduced.

PUBLIC COMMENT ON AGENDA ITEMS

The meeting was opened to the public for comments or questions at 9:06 p.m.

Bonnie Torcivia, Battin Road, agrees with the Tree Removal denial on Elmwood Lane and suggested a fence or alternative buffer method and save the trees. She hopes the Tree Preservation Ordinance will be reviewed soon, as an increase in tree removal fees may offset consultant fees, in turn helping the budget. Regarding hydro-raking, she believes the Environmental Commission can help educate residents around McCarter Pond about leaf cleanup and fertilizers in order to prolong the hydro-raking benefits. Councilwoman Hoey suggested "Love Where You Live Day" as an opportunity for public education.

Carolyn Ferguson, Colonial Court, thanked Council for reviewing the Fence Ordinance as she believes it is outdated. She asked Council to be mindful of corners, like on Smith Street, that are adjacent to the shopping plaza. Regarding the short-term rental ordinance, she asked Council to consider the school calendar and rentals revolving around that.

Kevin Asadi, Esq., Zager Fuchs Law, noted he is a real estate attorney in Shrewsbury and discussed alternatives to amending the fence ordinance, suggesting adjusting fees and expediting these cases on agendas.

Peter Neczesny, Park Lane, commented he is in favor of the short-term rental ordinance and longer rentals are better.

Ruth Blaser, River Road, asked what the gray boxes along curbs are for? Administrator Casagrande responded that the Borough is replacing missing light posts and updating to be LED retrofit; the delay is due to a supply chain issue. She also asked what the temporary emergency appropriation figures labeled miscellaneous are? Administration Casagrande responded that PERS is the pension benefit.

There being no further comments or questions, the meeting was closed to the public at 9:22 p.m.

APPROVAL OF MINUTES

Councilmember LaBarbera made a motion to approve the Regular Meeting minutes of February 27, 2023, second by Councilmember Koch.

Affirmative: Councilmembers Cole, Hoey, Koch and LaBarbera

Negative: None

Abstain: Councilman Rodriguez

Absent: Councilwoman Neff

Councilmember LaBarbera made a motion to approve the Executive Session minutes of February 27, 2023, second by Councilmember Koch.

Affirmative: Councilmembers Cole, Hoey, Koch and LaBarbera

Negative: None

Abstain: Councilman Rodriguez

Absent: Councilwoman Neff

OLD BUSINESS

Councilman LaBarbera provided a ten-page Power Point Facilities Update presentation to be

included on the Borough’s website. He noted economies of scale may be attained by running the DPW and Police Department/Community Center projects on a similar timetable. He discussed DPW updates, proposed next steps and milestones. There will be an open house for resident feedback. Engineer Gardella said they are working with RMS on the roof part of the project for DPW and Borough Hall. Councilman LaBarbera also provided an update on the Police Department/Community Center; on March 16th, the team is briefing the Technical and Design Review Committee. He believes the Borough is approaching an inflection point where an Owner’s Rep is advantageous from a scope, cost, and schedule perspective, which will be further discussed in Executive Session. Councilman LaBarbera discussed the Gabel Solar Analysis. Due to the orientation, only half of this roof faces south, so only half of the roof can produce solar electricity; the additional cash-flow analysis concluded that solar is a “No-Go”. Both the Police Department and Community Center are designed to support a solar roof, irrespective of go/no-go as of today’s requirements.

NEW BUSINESS

Council Committee Reports

Finance - Councilwoman Neff was absent.

Personnel - Councilwoman Hoey noted the appointment of Krystie Larsen to Deputy Municipal Clerk. The next Personnel Committee meeting will be held on March 21st.

Parks and Recreation - Councilwoman Hoey noted a successful Father/Daughter Dance last weekend and attendance increased 10%. There is a large focus on fields being prepared for spring sports and Engineer Gardella is looking at field solutions during inclement weather. Senior Fitness participation has been strong. A Performing Arts Program for grades 6-9 will be offered. Upcoming events include Easter Egg Hunt, Mother/Son Dance and Opening Day Baseball parade. The next Parks and Recreation meeting will be April 4.

Planning Board - Councilwoman Koch noted a potential Special Planning Board Meeting on April 3. The next scheduled meeting is March 21.

Police, Fire & OEM - Councilman Rodriguez noted the Fire Department would like to present an Annual Report to the Governing Body. Regarding the Cambridge Avenue parking situation, he believes the message is getting across. Chief McGovern commented that the no parking signs have helped. He noted some changes in the Red Bank Regional parking lot are planned to take place over spring break. Councilman LaBarbera and Councilman Rodriguez plan to meet with Little Silver Council regarding Cambridge Avenue parking as well.

Engineering and DPW - Councilman LaBarbera has been working with Engineer Gardella on the prioritization matrix, that will be presented to Council at the March 27 Council meeting. It will highlight maintenance plans for projects and vehicles as well. He advised he is developing an intake form to formalize the process of new projects to help organize and coordinate resources; the Fair Haven Natural Area Advisory Committee will pilot this process. The Leaf and Brush Committee will meet on March 16.

Borough Facilities - Councilman LaBarbera will be meeting with DJ Breckenridge, Parks and Recreation Director, to discuss the Community Center design.

Zoning Board of Adjustment - Councilman LaBarbera advised the next meeting will be held April 6. He noted the progress on the ordinances.

Borough Communications and Community Outreach - Councilwoman Cole advised the next Communications meeting will be held March 23. She continues to work closely with Betty Ann Berube on Borough communication platforms. The Environmental Commission is working on deer mitigation and heard a proposal from Eagle Scout, Max Ansell, for a tree signage project in the Third Street Trail, which will hopefully come to the Governing Body for review on March 27. A Pocket Park and Boat Ramp discussion is scheduled for the March 30 Environmental Commission meeting. The Green Team will host a Film Night on March 22 at Bicentennial Hall. Love Where You Live Day will be May 7. Shade Tree Commission is working with other Commissions/Committees on an Arbor Day project that includes planting of trees on public land; they have reviewed a native tree list. The Historical Association of Fair Haven will host its first annual fundraiser to benefit the preservation of Bicentennial Hall. The Fair Haven Business Association welcomed new member Continuum Sports Rehab.

INTRODUCTION OF ORDINANCES

1. Ordinance No. 2023-02, Amendments to Land Use Code

AN ORDINANCE AMENDING CHAPTER 30: “LAND USE AND DEVELOPMENT REGULATIONS” OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF FAIR HAVEN TO REVISE CERTAIN ZONING REGULATIONS IN AN EFFORT TO PRESERVE AND PROTECT THE EXISTING CHARACTER OF THE BOROUGH’S ESTABLISHED NEIGHBORHOODS.

WHEREAS, the State of New Jersey, by enacting the Municipal Land Use Law (N.J.S.A. 40: 55d-1, *et seq.* (the “MLUL”), permits municipalities to adopt and subsequently amend a zoning ordinance governing the nature and extent of the uses of land, buildings and structures within a municipality (see N.J.S.A. 40:55d-62); and

WHEREAS, section 62 of the MLUL requires that a zoning ordinance be drawn “with reasonable consideration to the character of each district and its peculiar suitability for particular uses and to encourage the most appropriate use of land”; and

WHEREAS, in 2002, the Borough of Fair Haven (the “Borough”) adopted a comprehensive Ordinance regulating land use and development in the municipality, which was codified as Chapter 30 entitled “Land Use and Development Regulations” within the Borough Code (hereinafter, “Chapter 30”); and

WHEREAS, Chapter 30, which has been amended from time-to-time, remains the current zone plan for the Borough; and

WHEREAS, the Borough’s 2016 Master Plan Reexamination and Master Plan Update tracks the history of the struggle to maintain the character of Fair Haven’s residential neighborhoods back to the 2005 Reexamination Report, which report reflected new residential development in Fair Haven prior to 2005; and

WHEREAS, in the Summer of 2021, the Borough Council reconstituted the Fair Haven Land Use Committee (“Committee”), which included the Mayor, members of the Borough Council, as well as members of the Planning Board and Zoning Board; and

WHEREAS, the Committee’s purpose was to perform an analysis of more recent infill development trends in Fair Haven to consider (i) whether existing land use ordinances were appropriate in light of recent residential development, and (ii) whether revisions to the land use ordinances were still required in order to achieve the community’s goal of ensuring the harmonious integration of modern residential structures with the existing housing stock as described in the Master Plan and its various amendments; and

WHEREAS, on March 7, 2022 the Committee issued a memo to the Planning Board identifying a number of problems to be addressed as soon as possible in furtherance of the community’s long term planning goals in an attempt to ensure future infill development is appropriately regulated in Fair Haven; and

WHEREAS, the Planning Board formed a Land Use Subcommittee (“Subcommittee”), which Subcommittee included the Mayor, additional members of the Planning Board and additional members of the Zoning Board; and

WHEREAS, the Subcommittee met regularly and working with legal counsel, prepared proposed revisions to the Borough Code to implement the March 7, 2022 recommendations of the Committee; and

WHEREAS, the Subcommittee presented those recommendations to the Planning Board and at a public meeting, the Planning Board endorsed the recommendations of the Subcommittee and directed that the recommendations be sent to Borough Council for consideration; and

WHEREAS, the Borough Council has reviewed the findings and recommendations of the Committee, the Subcommittee and the Planning Board and determined that it is in the best interest of the Borough to amend Borough Code Chapter §30 accordingly;

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

SECTION 1. Section 30-2.4 entitled “Definitions” of Chapter 30 entitled “Land Use and Development Regulations” of the Revised General Ordinances of the Borough of Fair Haven is hereby amended as follows (~~stricken~~ text deleted; underlined text added):

CHAPTER 30: “LAND USE AND DEVELOPMENT REGULATIONS”

* * *

§ 30-2.4 Definitions.

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

ACCESSORY BUILDING, STRUCTURE OR USE

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

An extension or increase in building size, floor area or height.

ADMINISTRATIVE OFFICER

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)

The average number of cars per day that pass over a given point.

ADULT BOOKSTORE

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

Soils which may be corrosive to cast iron and ductile iron pipe. These soils represent approximately 5% 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

The traveled way by which cars enter and depart parking spaces.

ALLEY

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, 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

Any place of business containing more than three amusement devices.

AMUSEMENT DEVICE

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

A dwelling unit in a multifamily building.

APPLICANT

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

APPLICATION FOR DEVELOPMENT

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

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

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

A building or portion thereof, in which sculpture, paintings, or other artistic work is displayed or sold.

ASCE

The American Society of Civil Engineers.

ASTM

The American Society for Testing Materials.

ATTACHED SIGN

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

~~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.~~ A floor of a building that is immediately below and wholly or partly within the roof framing. An attic shall not include a kitchen, bedroom or bathroom unless authorized by applicable codes. For clarification, no portion of the first floor or structure adjoining and/or potentially accessible to the second floor, will be considered an Attic and will count as Floor Area.

An Attic shall be counted as a Half Story, and the area of the floor not counted as Floor Area, if it satisfies either of the following conditions:

1. It has no Approved Stairway as a means of access and egress (i.e. it is accessed only by a ladder or pull down stairway); or
2. It has an Approved Stairway as a means of access and egress, and the ceiling area at a minimum height of seven (7) feet above the attic floor (measured from the attic floor to the bottom of the roof rafters) is equal to, or less than, one-third (1/3) of the area of the entirety of the next floor below.

An Attic shall be counted as a Story, and the area of the floor counted as Floor Area, if it has an Approved Stairway as a means of access and egress, and the ceiling area at a minimum height of seven (7) feet above the attic floor (measured from the attic floor to the bottom of the roof rafters) is greater than 1/3 the area of the entirety of the next floor below.

ATTIC, HABITABLE; HABITABLE ATTIC

~~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 feet above the attic floor is not more than 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.~~

AUCTION MARKET

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

AUTOMOBILE REPAIR SHOP

The same as “motor vehicle repair garage.”

AUTOMOBILE SALES AGENCY

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

The same as “motor vehicle service station.”

AUTOMOTIVE REPAIR GARAGE

The same as “motor vehicle repair garage.”

AWNING

A structure made of cloth, metal, or other material affixed to a building with a minimum vertical clearance of eight feet from the ground.

AWWA

The American Water Works Association.

BANNER

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

A steep-faced curb intended to prevent encroachments.

BASEMENT

~~A story partly underground and having more than 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. Unless defined as a Crawl Space as set forth hereinbelow, any space partly underground where the Finished Floor Elevation (FFE) is greater than thirty inches (30").~~ A Basement shall be counted as a Half Story.

BEDROOM

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

BELGIAN BLOCK CURB

A type of paving stone generally cut in a truncated, pyramidal shape, laid with the base of the pyramid down.

BERM

A mound of soil, either natural or man-made, used as a view obstruction.

BICYCLE-COMPATIBLE ROADWAY

A road designed to accommodate the shared use of the roadway by bicycles and motor vehicles.

BICYCLE LANE

A lane at the edge of a roadway reserved and marked for the exclusive use of bicycles.

BICYCLE PATH

A pathway usually separated from the roadway, designed specifically to satisfy the physical requirements of bicycling.

BIKEWAY

A pathway designed to be used by bikers.

BILLBOARD

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

The length of a street between two street intersections.

BLOW-OFFS

An outlet in a pipe through which water or sediment can be discharged.

BOARD OF ADJUSTMENT

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

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

Any dwelling for hire in which more than two persons are housed or lodged, with or without meals. This definition notwithstanding, a certificate of occupancy is required for any dwelling for hire.

BOATYARD

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

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

The central portion of any lot between required yards and/or setback lines.

BUILDING

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

BUILDING AREA

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 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

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

The vertical distance measured to the highest point of the building from the ~~original lot grade~~ Average Existing Grade, or from any ~~revised lot proposed~~ 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 corners of the structure.

BUILDING LINE (SETBACK LINE)

The line beyond which a building shall not extend unless otherwise provided in this chapter.

BUILDING PERMIT

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

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.

BULK STORAGE

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.

BULKHEAD

A structure separating land and water areas, primarily designed to resist earth pressures.

BUSINESS OFFICE

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

A cable television company as defined pursuant to N.J.S.A. 48.5A-3.

CALIPER

The diameter of a tree trunk measured in inches, six inches above ground level for trees up to four inches in diameter and measured 12 inches above ground level for trees over four inches in diameter.

CANNABIS CULTIVATOR

Any licensed person or entity that grows, cultivates, or produces cannabis in this State, and sells, and may transport, this cannabis to other cannabis cultivators, or usable cannabis to cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers.

CANNABIS DELIVERY SERVICE

Any licensed person or entity providing courier services for consumer purchases that are fulfilled by a licensed cannabis retailer in order to make deliveries of the purchase items to a consumer, and which service would include the ability of a consumer to make a purchase directly through the cannabis delivery service which would be presented by the delivery service for fulfillment by a retailer and then delivered to a consumer.

CANNABIS DISTRIBUTOR

Any licensed person or entity that transports cannabis in bulk intrastate from one licensed cannabis cultivator to another licensed cannabis cultivator, or transports cannabis items in bulk intrastate from any one class of licensed cannabis establishment to another class of licensed cannabis establishment and may engage in the temporary storage of cannabis or cannabis items as necessary to carry out transportation activities.

CANNABIS MANUFACTURER

Any licensed person or entity that processes cannabis items in this State by purchasing or otherwise obtaining usable cannabis, manufacturing, preparing, and packaging cannabis items, and selling, and optionally transporting, these items to other cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers.

CANNABIS RETAILER

Any licensed person or entity that purchases or otherwise obtains usable cannabis from cannabis cultivators and cannabis items from cannabis manufacturers or cannabis wholesalers, and sells these to consumers from a retail store, and may use a cannabis delivery service or a certified cannabis handler for the off-premises delivery of cannabis items and related supplies to consumers.

CANNABIS WHOLESALER

Any licensed person or entity that purchases or otherwise obtains, stores, sells or otherwise transfers, and may transport, cannabis items for the purpose of resale or other transfer to either another cannabis wholesaler or to a cannabis retailer, but not to consumers.

CAPITAL IMPROVEMENT

A governmental acquisition of real property or major construction project.

CAPITAL IMPROVEMENTS PROGRAM

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

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

CAR WASH

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.

CARPORT

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

The actual road surface area from curblineline to curblineline, 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.

CELLAR

~~A story wholly or partly underground and having more than 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. Unless defined as a Crawl Space as set forth hereinbelow, any space partly underground where the Finished Floor Elevation (FFE) is thirty inches (30") or less. A Cellar shall not be counted as a Story or Half Story.~~

CENTER LINE OFFSET OF ADJACENT INTERSECTIONS

The gap between the center line of roads adjoining a common road from opposite or same sides.

CERTIFICATE OF COMPLETENESS

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

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

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

- a. Any increase in the number of dwelling units in a structure which would result in three 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

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

CHANNELIZATION

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

CHILD CARE CENTER

A child care center as permitted pursuant to N.J.S.A. 40:55D-66.6.

CHURCH

See "place of worship."

CIRCULATION

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

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

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

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

COLLECTOR STREET OR ROAD

A roadway which channels traffic from local streets into the arterial road system.

COMMERCIAL PARKING FACILITY

The same as "parking area, public." Also see "garage, public" and "vertical parking garage."

COMMON DEVELOPMENT LINE

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

A lateral serving more than one unit.

COMMON OPEN SPACE

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

Any community residential facility housing up to 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

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

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

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

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

The officer in charge of granting building or construction permits in the Borough.

CONVENTIONAL DEVELOPMENT

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

CORNER LOT

A lot at the junction of and abutting two or more intersection streets where the interior angle of intersection does not exceed 135°.

CORPORATION STOP, ALSO KNOWN AS CORPORATION COCK

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

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

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

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

COURT OR COURTYARD

An unoccupied open space on the same lot with a building, which is bounded on three or more sides by building walls.

COVERAGE

The same as "lot coverage."

CRAWL SPACE

A shallow unfinished space beneath the first floor, usually containing pipes, ducts, and other utilities, where the ceiling height (measured from the concrete or dirt floor to the bottom of the floor joists) is less than six (6) feet and the Finished Floor Elevation is thirty inches (30") or less. A Crawl Space shall not be counted as a Story or Half Story.

CRITICAL AREA

A sediment-producing highly erodible or severely eroded area.

CUL-DE-SAC

A local street with only one outlet and having the other end for the reversal of traffic movement.

CULVERT

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

CURB

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

CURB LEVEL

The officially established grade of the curb in front of the midpoint of the front lot line.

CUSHION

Supportive or protective bedding materials placed underneath piping.

DAY CAMP

A licensed, organized and supervised daytime facility used for recreational purposes.

DAY CARE CENTER

See "child care center."

DAYS

Calendar day(s).

DECORATIVE FLAG

A piece of fabric which is ornamental in nature and has no advertising or business logo.

DEMOLITION

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

The permitted number of dwelling units per gross area of land to be developed.

DESIGN FLOOD

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

Guidelines that provide a general framework for sound planning.

DESIGN STANDARDS

Standards that set forth specific improvement requirements.

DETENTION BASIN

A man-made 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 man-made outlets.

DEVELOPER

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

The division of a parcel of land into two 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 PERMIT

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

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.

DEVELOPMENT REGULATION

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.

DEVELOPMENTALLY DISABLED

Experiencing a disability which originates before 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.

DIRECTIONAL SIGN

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

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

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

Any component of the drainage system.

DRAINAGE RIGHT-OF-WAY

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

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

DRIVE-IN RESTAURANT

An establishment or business essentially designed so that food is both served to and consumed by patrons while they are parked in vehicles on the premises (regardless of whether or not seating may also be provided at the premises).

DRIVE-THROUGH WINDOW

A Drive-Through Window is a window or portal through which patrons may pick up food or beverage orders from an establishment without exiting their vehicle.

DRIVEWAY

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

A manhole provided for inspection and maintenance of sewers where an incoming sewer is considerably higher than the outgoing.

DROP PIPE

A vertical pipe used to convey sewage from a higher to a lower elevation.

DRY LINES

See "capped system."

DWELLING

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

DWELLING UNIT

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

DWELLING, MULTIPLE; MULTIPLE DWELLING

A building designed for, or containing three or more dwelling units, which are entirely separated from each other by vertical walls or horizontal floors, unpierced, except for access to outside or a common cellar.

DWELLING, SINGLE-FAMILY; SINGLE-FAMILY DWELLING

A detached building designed for or containing one dwelling unit.

DWELLING, TWO-FAMILY; TWO-FAMILY DWELLING

A detached building designed for, or containing two dwelling units, which are entirely separated from each other by vertical walls, unpierced, except for access to the outside or a common cellar.

EASEMENT

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

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

EDUCATIONAL USE

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

The giving of money and/or services to a charitable or philanthropic organization.

ENVIRONMENTAL COMMISSION

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

ENVIRONMENTAL CONSTRAINTS

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)

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

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

EROSION AND SEDIMENT CONTROL PLAN

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

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

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

Any act by which soil or rock is cut into, dug, quarried, uncovered, removed, displaced or relocated.

EXCAVATION WORK

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

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 25% 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 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

A permanent sign displayed in the Borough on the effective date of this chapter.

FAMILY

One 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

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 and not more than five children for no less than 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 or more of the parents, where no payment for the care is being provided.

FARM

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

FARM BUILDING

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.

FAST-FOOD RESTAURANT

An establishment or business, which is essentially designed to quickly prepare, package, and dispense to customers for quick or ready consumption, a limited, uniform, or standardized variety of food and beverage products, and where the menu and/or practices of such an establishment or business are generally prescribed by contractual, franchise, or other such agreements, to facilitate rapid service and turnover of customers. Such establishments or businesses may or may not have tables, and the food and beverage products may be sold for consumption inside the building and/or

on or off the premises.

FENCE

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 PERMIT

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

The vertical upright of a fence which provides support and the point of attachment for the rails.

FENCE, OPEN; OPEN FENCE

A fence in which 1/2 of the area, between grade level and the top cross member (wire, wood, or other material), is open.

FINAL APPROVAL

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

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.

FINISHED FLOOR ELEVATION (“FFE”)

The measure of height from Average Existing Grade to the surface of the finished floor immediately constructed on the foundation wall or the slab-on-grade. The FFE shall be shown on all Site or Plot Plans submitted to the Borough’s Zoning and/or Construction Departments and, to further establish a point of reference, the Site or Plot Plans shall include the Curb Level elevation. The FFE shall be provided for all new construction and for any renovation or addition that modifies an existing FFE and shall not exceed thirty (30”) inches above Average Existing Grade.

FLAT ROOF

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

FLOOD OR FLOODING

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

The relatively flat area adjoining any natural or man-made stream, pond, lake, river, or any other body or water which is subject to a 100-year flood.

FLOODPLAIN ENCROACHMENT PERMIT

Permission of the Borough to build in accordance with municipal floodplain regulations.

FLOODWAY

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

FLOOR

A story of a building.

FLOOR AREA

The sum of the gross horizontal area of all Stories of a Structure as measured from (i) the exterior face of exterior building walls (and also including in the Floor Area calculation, stairwell openings

and vaulted ceilings); (ii) the centerline of a common wall separating two buildings, or (iii) where the roof connects to the structure where there are no walls, measured to where there is a minimum height of thirty (30") inches measured from the floor to the bottom of the roof rafters. In residential buildings, Floor Area shall exclude:

1. The gross horizontal area, or portions thereof, of Stories where there is a height of less than thirty (30") inches measured from the floor to the bottom of the roof rafters.
2. Attics that qualify as a Half Story (see Attic);
3. Cellars;
4. The first floor of Garages; and
5. The gross horizontal area, or portions thereof, of an unfinished storage area that is constructed immediately above the first floor of a Garage, that is not accessible to a second Story, where the maximum height measured from the Average Existing Grade to the ridge height of the Garage is less than twenty (20') feet.

For clarification, all areas within a Structure where a second story could be constructed to create areas that would qualify as Floor Area pursuant to this definition will be counted as Floor Area regardless of how actually constructed.

FLOOR AREA RATIO

The sum of the area of all floors of buildings or structures compared to the total area of the site. The Floor Area compared to the total land area of the lot, expressed as a percentage.

FLOOR AREA, SALES; SALES FLOOR AREA

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

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

FREESTANDING SIGN

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 or more poles or posts on similar uprights with or without braces.

FRONT BUILDING FACE AREA

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

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

A double sloping roof that forms a gable at each end.

GARAGE

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

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

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 motor vehicles not owned by occupants of the premises shall be deemed a public garage.

GAS STATION

The same as "motor vehicle service station."

GENETICALLY ENGINEERED MATERIAL

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

An area of 50 or more contiguous acres containing a full size professional golf course, at least nine 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

The Mayor and Borough Council of the Borough of Fair Haven.

GRADE, AVERAGE EXISTING; AVERAGE EXISTING GRADE

The Average of Existing Grade of a lot as determined prior to any demolition or construction or change in grade based on a survey or plot plan that shows existing spot elevations and/or topography on the lot as taken from a minimum of four (4) corners of the existing principal structure and any accessory structure, or from the locations of the proposed structures, if different.

GRADE, EXISTING; EXISTING GRADE

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. Should topography of the lot vary, multiple spot elevations should be included on the survey or plot plan to more accurately reflect Existing Grade on the lot.

GRADE, FINISHED; FINISHED GRADE

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. This is to be provided on a Final-As-Built Survey following the new development of a property, installation of a pool or other major site development involving any changes in grade.

GROUND COVER

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

Any sign supported by either uprights affixed to the ground or supported by a base affixed to the ground.

GUTTER

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

~~The sum of the gross horizontal area of all the stories and half stories of a building as measured from the exterior face of exterior building walls, or from the center line of wall separating two buildings. In residential buildings, garages, attics, and cellars shall not be calculated as "habitable floor area." For a new dwelling, 50% of the area of an attached garage shall be calculated as "habitable floor area."~~

HABITABLE FLOOR AREA RATIO

~~The habitable floor area compared to the total area of the lot on which it is sited.~~

HABITABLE ROOM

~~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

Includes, but is 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

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 bioanalytical laboratory (except as specifically excluded hereunder), or central services facility serving one or more such institutions but excluding institutions that provide healing solely by prayer and excluding such bioanalytical 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 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

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

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

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

The person or persons occupying a dwelling unit.

HYDROLOGIC RESPONSE

The properties, distribution, and circulation of water.

IES

The Illuminating Engineering Society.

ILLUMINATED SIGN

A sign in which an artificial source of light is used in connection with the display of such sign.

IMPERVIOUS SURFACES

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

IMPOUNDMENT

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

IMPROVED PARKING AREA

An area for the temporary location of motor vehicles which has been modified from its natural condition by excavation, fill or structures.

IMPROVED STREET

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

Any man-made, immovable item which becomes part of, placed upon, or is affixed to, real estate.

INDIVIDUAL SEWAGE DISPOSAL SYSTEM

A septic tank, seepage tile sewage disposal system, or any other approved sewage treatment device serving a single unit.

INTERESTED PARTY

(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

A lot bounded by a street on one side only.

INTERIOR STREET OR ROAD

A street or road that is developed wholly within a parcel under one ownership and meeting all municipal standards.

INTERNAL STREET OR ROAD

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

A raised area, usually curbed, placed on guide traffic, separate lanes, or used for landscaping, signing, or lighting.

ITE

The Institute of Transportation Engineers.

JETTY

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

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

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

LAND

Any real property including improvements and fixtures on, above or below the surface.

LAND DISTURBANCE

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

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

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

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

Any street other than a collector street.

LOCAL UTILITY

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

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

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 COVERAGE

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

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 10 feet in length measured between its intersections with the side lot lines.

LOT FRONTAGE

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 500 feet, the minimum distance between the side lot lines measured at the street line shall not be less than 75% of the required minimum lot frontage, except that no lot shall have a frontage of less than 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 LINE

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

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

LOT, CORNER; CORNER LOT

Any lot at the junction of and fronting on two or more intersecting streets.

LOT, INTERIOR; INTERIOR LOT

A lot other than a corner lot.

LOW- AND MODERATE-INCOME COMPANION UNIT

A dwelling unit restricted to occupancy by a lower income household and approved as a conditional use pursuant to this chapter.

LOWER-INCOME HOUSEHOLD

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

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

MAINTENANCE BOND

Any security that is acceptable to the Governing Body to assure the maintenance of approved installations by developers.

MAINTENANCE GUARANTEE

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

Any site plan not classified as a minor site plan or exempt site development.

MAJOR SUBDIVISION

Any subdivision not classified as a minor subdivision.

MANHOLE

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

MANNING EQUATION

A method for calculating the hydraulic capacity of a conduit to convey water.

MANUFACTURED HOME

A structure, transportable in one 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

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

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

Any facilities or activity associated with fishing or boating, either for sport or for commercial gain.

MASSAGE PARLOR

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

MASTER PLAN

A composite of one 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

The Mayor of Fair Haven.

MEDIAN

That portion of a divided highway separating the traveled ways of traffic proceeding in opposite directions.

MENTALLY ILL PERSON

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

A development plan for one 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 1,000 square feet of gross floor area;
 3. The proposed development does not increase parking requirements by more than five 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 5,000 square feet or more of ground area.

MINOR SUBDIVISION

A subdivision of land for the creation of not more than two 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 years preceding the application.

MIXED USE

Two or more different uses, one of which is residential.

MIXED USE, RESIDENTIAL

The same as "mixed use."

MLUL

Municipal Land Use Law.

MOBILE HOME

See "manufactured home."

MOTOR VEHICLE REPAIR GARAGE

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

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

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.

MULTIFAMILY BUILDING

Any building containing two or more dwelling units, including townhouses within a lot. Dwelling units within multi-family buildings are classified as multi-family dwellings.

MUNICIPAL AGENCY

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

N.J.S.A. 40:55D-1 et seq.

MUNICIPAL RESIDENT

A person who is domiciled in the municipality.

NEW CONSTRUCTION

Structures for which the start of construction commenced on or after the effective date of the ordinance codified in this chapter.

NONCONFORMING LOT

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

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

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

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

All lots and structures thereon within any historic districts which are not designated historic sites.

NON-POINT-SOURCE POLLUTION

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

A school designed to provide daytime care or three or more children from two to six years of age inclusive, and operated on a regular basis.

OCCUPANCY

The specific purpose for which land or a building is used, designed or maintained.

OCCUPANCY PERMIT

The same as "certificate of occupancy."

OFF-SITE

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

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

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.

OFFICIAL COUNTY MAP

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

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

ON-SITE

Located on the lot in question.

ON-STREET PARKING SPACE

A temporary storage area for a motor vehicle which is located on a dedicated street right-of-way.

ON-TRACT

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

A porch or steps with a fixed roof no larger than six feet wide by four feet deep and with no sidewalk other than the wall of the structure to which it is attached.

OPEN SPACE

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

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

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

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

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

The same as "garage, public."

PARKING SPACE

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

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

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

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

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

An act by which skills of one 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

Any material that permits full or partial absorption of stormwater into previously unimproved land.

PESTICIDE

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

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

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

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

PLANNING BOARD

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

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

A map or maps of subdivision or site plan.

PLAT, FINAL; FINAL PLAT

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

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

A sign which can be carried or moved about.

PRELIMINARY APPROVAL

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

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

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

PRIMARY OR PRINCIPAL USE

The primary or principal purpose for which a building, structure or lot is issued.

PROFESSIONAL OFFICE

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

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

A sign which is attached to the building wall at a right angle.

PUBLIC AREAS

(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

A master plan, capital improvement program or other proposal for land development adopted by the appropriate public body, or any amendment thereto.

PUBLIC DRAINAGEWAY

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

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

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

QUORUM

The majority of the full authorized membership of a Municipal Agency.

RADIOACTIVE USE

Any natural or artificially produced substance or combination of substances which emits radiation spontaneously.

RATIONAL METHOD

A method of runoff calculation.

RECHARGE

The replenishment of underground water reserves.

RECREATION AREA

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

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

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

An establishment or business where food and/or beverages are prepared and served or dispensed to patrons and consumed at the establishment and/or taken out and/or delivered for off-premises consumption; but expressly excluding from this definition, however, the following: (a) Fast-Food Restaurants, which is a separately defined use; and (b) Drive-In Restaurants, which is a separately defined use. Further, no Restaurant may contain a Drive-Through Window.

RESTAURANT, DRIVE-IN; see, DRIVE-IN RESTAURANT

RESTAURANT, FAST-FOOD; see, FAST-FOOD RESTAURANT

RESUBDIVISION

(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

A structure more than 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

A pond, pool or basin used for the permanent storage of water runoff.

REVETMENT

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

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

The same as "boarding- or lodging house."

SAND DUNES

Naturally occurring or man-made accumulations of sand in ridges or mounds landward of the beach.

SATELLITE DISH ANTENNA OR SATELLITE ANTENNA

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

The same as educational use.

SCREEN

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

Soil Conservation Service.

SEAWALL

A wall or embankment to resist encroachment of the sea.

SECONDARY USE

The same as "accessory use."

SEDIMENT

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

A barrier or dam built at suitable locations to retain rock, sand, gravel, silt or other materials.

SEDIMENTATION

The transport and depositing of solid material by water.

SEPTIC SYSTEM

An underground system with a septic tank used for the decomposition of domestic wastes.

SEPTIC TANK

A watertight receptacle that receives the discharge of sewage.

SETBACK

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, FRONT YARD, PREVAILING; PREVAILING FRONT YARD SETBACK

The minimum required front yard setback for a residential property, which shall be established as the greater of the following:

- a. the minimum required front yard setback otherwise set forth in the zoning schedule for residential uses in the particular zone in which the subject property is located; or
- b. for New Construction only, the average front yard setback calculated from the front property line of all principal structures existing on all properties which properties are (i) located within 200 feet of either side of the subject property, and are also (ii) located on the same side of the street as the subject property, and also (iii) have a front yard facing the same street as the front yard of the subject property; provided, however, that any property that would otherwise be included in the above calculation but which property has a front yard setback that exceeds the remaining average by more than 50% shall be excluded from and not considered in making the above calculation. Further, if the subject property is a corner lot, the average front yard setback shall be calculated to both frontages of that lot separately.

SETBACK LINE (BUILDING LINE)

The line beyond which a building shall not extend unless otherwise provided in this chapter.

SEWER

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

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

SHAPE REQUIREMENT

See "lot shape requirement."

SHOPPING CENTER

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 20,000 square feet.

SHOULDER

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

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

SIGHT TRIANGLE

The triangular area intended to remain free of visual obstructions to prevent potential traffic hazards formed by two 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

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 sides (straight lines) geometric shape that most clearly outlines the signs.

SIGN

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

Any plot, parcel or parcels of land.

SITE PLAN

A development plan of one 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

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

SOIL CEMENT

A mixture of Portland cement and locally available soil. It serves as a soil stabilizer.

SOIL CONSERVATION DISTRICT

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

Garbage, sludge, refuse, trash, rubbish, debris or other discarded solid materials.

SPECIAL EVENT SIGN

A sign advertising a specific occasion such as, but restricted to, holidays, grand openings, and inventory reduction.

STABILIZED TURF OR EARTH

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

(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

Areas where the average slope exceeds 15% which, because of this slope, are subject to high rates of stormwater runoff and erosion.

STORMWATER DETENTION

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

STORMWATER RETENTION

A provision for storage of stormwater runoff.

STORY

That portion of a building between a floor and ceiling, excluding ~~cellars.~~ Cellars and Crawl Spaces. Attics shall be either a Half Story or a Story depending on how constructed (see Attic).

STORY, HALF; HALF STORY

That portion of a building under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than ~~two feet thirty inches (30")~~ above the floor of such half-story. A ~~basement~~ Basement shall also be included as a half-story. Attics shall be either a Half Story or a Story depending on how constructed (see Attic).

STREAM CORRIDORS

Those areas which include the floodway and permanent channel of brooks and streams.

STREET

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

Man-made aboveground items that are usually found in street rights-of-way, including benches, kiosks, plants, canopies, shelters, and phone booths.

STREET HARDWARE

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

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 LINE

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, curbline, 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 25 feet from the center line of the existing pavement.

STREET LOOP; LOOP STREET

A street that has its only ingress and egress at two points on the same subcollector or collector street.

STREET, IMPROVED

See "improved street."

STREET, UNIMPROVED; UNIMPROVED STREET

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

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

STRUCTURAL ALTERATIONS

The same as "alterations."

STRUCTURE

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

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

SUBDIVISION

The division of a lot, tract, or parcel of land into two 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 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 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

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

The natural ground lying beneath a road.

SURFACE WATERS

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, ABOVEGROUND; ABOVEGROUND SWIMMING POOL

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

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

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

The same as "swimming pool, commercial."

TELECOMMUTING

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

TEMPORARY SIGN

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

TIDELANDS

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

The original upper layer of soil material to a depth of six inches which is usually darker and richer than the subsoil.

TRACT

An area of land consisting of one 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

A typed or printed verbatim record, or reproduction thereof, of the proceedings of the Municipal Agency.

TRIP

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

Urban Land Institute.

UNIFORM CONSTRUCTION CODE

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)

United States Coast and Geodetic Survey.

USE

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

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

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

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

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

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.

WATERCOURSE

Channel or canal for the conveyance of water, particularly drainage lands.

WETLANDS (NONTIDAL OR FRESHWATER)

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)

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 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

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

Any area within a tract covered by trees, woods or forests, including closely grouped or stands of 10 or more mature or specimen trees of six-inch caliper or greater; or individual shade and specimen trees of twelve-inch caliper or greater, or individual ornamental trees of four-inch caliper or greater.

YARD

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

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

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

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

The same as district.

ZONING OFFICIAL

The municipal official designated to enforce the provisions of this chapter.

ZONING PERMIT

The same as development permit.

SECTION 2. Subsection 30-6.6 entitled “Mixed Us Residential” of Section 30-6 entitled “Conditional Uses” of Chapter 30 entitled “Land Use and Development Regulations” of the Revised General Ordinances of the Borough of Fair Haven is hereby amended as follows (~~stricken~~ text deleted; underlined text added):

30-6 CONDITIONAL USES.

* * *

§ 30-6.6 Mixed Use Residential.

In order to better utilize existing buildings within commercial districts and to expand the available supply of housing within the community, mixed use residential may be permitted as a conditional use in those zones specified provided that the use and/or structures shall adhere to the minimum standards of the particular zone and the following:

- a. The building and the floor area in which the mixed use is proposed shall be in existence at the time of adoption of this chapter and not more than one dwelling unit shall be located within the building.
- b. The dwelling unit shall be confined to the upper stories of the building. Street level space shall be occupied by the principal uses permitted in the district.
- c. No dwelling unit shall contain more than two bedrooms. Dens, lofts, and other such areas capable of serving as bedrooms shall be construed to be bedrooms.
- d. Plans showing the overall use of the building shall be submitted. Any building which is in a state of disrepair or violates the property maintenance or health and safety standards of the Borough shall be repaired or rehabilitated to conform to the applicable municipal requirements.
- e. Each dwelling unit shall have the following minimum ~~habitable~~ floor area:
 - 1. One bedroom dwelling unit, 600 square feet,
 - 2. Two bedroom dwelling unit, 700 square feet.
- f. The commercial use of the property shall be a permitted principal use within the zone district.
- g. Off-street parking shall be provided for the dwelling unit unless the municipal agency determines that there is sufficient existing parking on site to support both the commercial and residential use or that there is available on-street parking in reasonable proximity to the building to support the mixed-use. A length of 23 feet per on-street parking space with sufficient clearance to street intersections or driveways shall be used in calculating the number of available on-street parking spaces

SECTION 3. Subsection 30-7.7 entitled “Yard Areas, Building Orientation and Fenestration” of Section 30-7 entitled “General Zoning Regulations” of Chapter 30 entitled “Land Use and Development Regulations” of the Revised General Ordinances of the Borough of Fair Haven is hereby amended as follows (~~stricken~~ text deleted; underlined text added):

30-7 GENERAL ZONING REGULATIONS.

* * *

§ 30-7.7 Yard Areas, Building Orientation and Fenestration.

- a. No yard or other open space provided around any building for the purpose of complying with the provisions of this chapter shall be considered as providing a yard or open space for any other buildings, and no yard or other open space on one lot shall be considered as providing a yard or open space for a building on any other lot.
- b. All yards facing on a public street shall be considered front yards and shall conform to the minimum front yard requirements for the zone in which located except:
 - 1. Lots with frontage on more than one street which are not corner lots may have a front and rear yard designated by the owner subject to:
 - (a) If the lot contains a principal structure, the front will be considered the direction the principal structure faces.
 - (b) If the lot does not contain a principal structure and only one street frontage conforms to lot frontage requirements, the yard abutting the conforming street frontage will be considered the front yard.
 - 2. The designated rear yard of a lot with frontage on more than one street shall be considered a rear yard for the purposes of this section, except for the area within the depth of the required minimum front yard determined as follows:
 - (a) Not less than the lesser of the setback of existing principal structures on any adjacent lots (but not less than 50% of the minimum front yard required by the zone district).
 - (b) No more than the minimum front yard required by the zone district.
 - 3. Any lot not meeting the definition of a corner lot that in any event has two sides adjacent to the same street right-of-way shall meet the following requirements:
 - (a) Any yard adjacent to a street right-of-way is required to maintain the minimum front yard setback for the zone in which the property is located.
 - (b) For yards not adjacent to the street right-of-way, a minimum of a rear yard setback must be maintained for one yard and a minimum of one side yard setback must be maintained for any other yard.
 - (c) In the case of a corner lot, the yard most nearly opposite the front yard shall be

considered a rear yard and the minimum rear yard requirement of the zone shall be maintained. A proposed principal building must be oriented to face, which means it must have its most prominent facade and principal entrance face, the front of the lot. The front of the lot for the purpose of designating a rear yard and orienting the principal building, shall be:

4. The direction an existing principal building faces, or, if there is no existing principal building;
 5. The lesser lot frontage or, if both frontages are the same;
 6. Designated by the applicant.
- c. Each exterior face of a single-family dwelling shall include windows. The fenestrated portion of any elevation of a principal single-family dwelling shall not be less than 4% of the area of the building face.
- d. Every part of a required yard shall be open and unobstructed from its lowest level to the sky, except for the ordinary projections allowed by the State Uniform Construction Code including, but not limited to, sills, belt courses, chimneys, flues, buttresses, ornamental features, and eaves, provided, however, that none of the aforesaid projections shall project into the minimum required yards more than 24 inches, unless otherwise permitted by this chapter.
- f. For New Construction only in residential zones, the minimum required front yard setback shall be established as the Prevailing Front Yard Setback, which is the greater of either:
1. the minimum required front yard setback otherwise set forth in the zoning schedule for residential uses in the particular zone in which the subject property is located; or
 2. for New Construction only, the average front yard setback calculated from the front yard setbacks of all principal structures existing on all properties that are (i) located within 200 feet of either side of the subject property, and are also (ii) located on the same side of the street as the subject property, and also (iii) have a front yard facing the same street as the front yard of the subject property; provided, however, that any property that would otherwise be included in the above calculation but which property has a front yard setback that exceeds the remaining average by more than 50% shall be excluded from and not considered in making the above calculation. Further, if the subject property is a corner lot, the average front yard setback shall be calculated to both frontages of that lot separately.

SECTION 4. Subsection 30-7.8 entitled “Accessory Buildings and Structures” of Section 30-7 entitled “General Zoning Regulations” of Chapter 30 entitled “Land Use and Development Regulations” of the Revised General Ordinances of the Borough of Fair Haven is hereby amended as follows (~~stricken~~ text deleted; underlined text added):

30-7 GENERAL ZONING REGULATIONS.

* * *

§ 30-7.8 Accessory Buildings and Structures.

Unless otherwise specified in this chapter on the zone district schedule, accessory buildings and structures shall conform to the following regulations as to their locations on the lot:

- a. Location of Accessory Buildings.
 1. An accessory building attached to a principal building shall comply in all respects with the zoning requirements for the principal building.
 2. Detached accessory buildings shall not be located in a front yard.
 3. Detached accessory buildings shall comply with the zone district standards of the zoning Schedule of Area, Yard and Building Requirements with the following exceptions:
 - (a) A one story detached garage may be located as provided under subsection 30-7.26, Garages.
 - (b) Not more than one shed with a height of 10 feet or less and a floor area of 100 square feet or less may be located not less than five feet from any side or rear lot line.
- b. No detached accessory building, in any residential zone, shall be less than five feet from a principal building.
- c. No accessory building shall be constructed before the principal building.

- d. Accessory buildings must be located on the same lot as the principal use to which they are accessory.
- e. Where the front or side yard is on a river, a private, in-ground swimming pool (including cabanas, aprons, decks, walks, etc.) or boathouses may be built in such front or side yard provided that in the R-30 and R-20 Districts, a side yard and front yard setback of 25 feet is maintained. In all other districts, side yard and front yard setbacks of 10 feet shall be maintained, however accessory structures such as cabanas and boathouses shall maintain a setback of 50 feet or the average setback of structures on the abutting riverfront property, whichever is greater. However, in no event shall the required setback be more than 75 feet.
- f. The ground floor area of all accessory buildings may not exceed the following percentages of the ground floor of the principal building:
 - 1. R-40, R-30, R-20 Zones, 30%;
 - 2. R-15, R-10A, R-10B, R-10, R-7.5, R-5 Zones, 40%;
 - 3. B-1, B-2 Zones, 50%.
- g. In a single-family zone district or on a lot with a single-family dwelling, an entry driveway or walkway may cross any yard area but not more than 25% of the front yard area shall be used as a driveway or for off-street parking.
- ~~h. A porch, deck, patio, or similar structure designed to adjoin or as part of the principal building shall in all cases conform to the yard requirements for the principal building except where the structure has no roof and is constructed not more than six inches above grade, it shall adhere to the yard requirements for an accessory structure. A porch, without a roof or structure above it, of less than 100 square feet in total size, inclusive of steps, is permitted in the front yard without regard to setback standards, provided that the porch contains a NJ UCC compliant stairway having not more than two risers, with an intermediate tread not exceeding 12 inches in depth.~~
- ~~i. h.~~ Fences and walls are regulated pursuant to subsection 30-7.25 of this chapter.
- ~~j. i.~~ Signs are regulated pursuant to subsection 30-7.24 of this chapter.

SECTION 5. Subsection 30-7.11 entitled “Height Limitations” of Section 30-7 entitled “General Zoning Regulations” of Chapter 30 entitled “Land Use and Development Regulations” of the Revised General Ordinances of the Borough of Fair Haven is hereby amended as follows (~~stricken~~ text deleted; underlined text added):

§ 30-7.11 Height Limitations.

- a. No structure shall extend higher than the limit provided in each zone for ~~building height~~ Building Height, which is defined as the vertical distance measured to the highest point of the structure from the Average Existing Grade.
- b. Turrets, spires, belfries, and domes shall not exceed the height of the ridge of the major roof type of the structure except that on a place of worship such structures shall be controlled by the conditional use requirements set forth for places of worship in subsection 30-6.3 of this chapter.
- c. Chimneys shall not project more than four feet above the roof.
- d. Cupolas and similar small structures built on top of a roof shall not exceed four feet deep, by four feet wide, by six feet high.
- e. The height limitations of this chapter shall apply to ventilators, skylights, HVAC equipment, stair towers and similar appurtenances usually carried above roof level except:
 - 1. (Reserved)
 - 2. (Reserved)
 - 3. Noncommercial television and radio antennas are regulated by subsection 30-7.20 of this chapter.
- f. Finished Floor Elevation (“FFE”) shall be measured from Average Existing Grade to the surface of the finished floor immediately constructed on the foundation wall or the slab-on-grade. The FFE for all new construction and for any renovation or addition that modifies an existing FFE and shall not exceed thirty (30”) inches above Average Existing Grade.

SECTION 6. Attachment 3 entitled “Schedule of Area, Yard, and Building Requirements” of Chapter 30 entitled “Land Use and Development Regulations” of the Revised General Ordinances of the Borough of Fair Haven is hereby replaced, in its entirety, as follows:

**ATTACHMENT 3:
“SCHEDULE OF AREA, YARD, AND BUILDING REQUIREMENTS”**

* * *

[New and Revised Attachment 3 Follows on Next Page]

SECTION 7. Attachment 5 entitled “Land Development Application Checklist” of Chapter 30 entitled “Land Use and Development Regulations” of the Revised General Ordinances of the Borough of Fair Haven is hereby amended as follows (~~stricken~~ text deleted; underlined text added):

**ATTACHMENT 5:
“LAND DEVELOPMENT APPLICATION CKLIST”**

* * *

[Page 7 of Attachment 5 is Amended as Follows]

SECTION 8. If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

SECTION 9. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough of Fair Haven, the provisions hereof shall be determined to govern. All other parts, portions and provisions of The Revised General Ordinances of the Borough of Fair Haven are ratified and confirmed, except where inconsistent with the terms hereof.

SECTION 10. After introduction, the Borough Clerk is directed to submit a copy of the within Ordinance to the Planning Board of the Borough of Fair Haven for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Planning Board is directed to make and transmit to the Mayor & Council, within 35 days after referral, a report including identification of any provisions in this ordinance which are inconsistent with the master plan and recommendations concerning any inconsistencies and any other matter the Board deems appropriate.

SECTION 11. This Ordinance shall take effect immediately upon (1) adoption; (2) publication in accordance with the laws of the State of New Jersey; and (3) filing of the final form of adopted ordinance by the Clerk with the Monmouth County Planning Board pursuant to N.J.S.A. 40:55D-16.

Offered for introduction by Councilmember Cole, second by Councilmember LaBarbera.

Affirmative: Councilmembers Cole, Hoey, Koch, LaBarbera and Rodriguez

Negative: None

Abstain: None

Absent: Councilwoman Neff

CONSENT AGENDA
RESOLUTIONS

1. Resolution No. 2023-81, Executive Session - Personnel and Contract Negotiations

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

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

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

Personnel

1. Library Staffing

Contract Negotiations

1. Architect for DPW Facility
2. Goldstein Partnership
3. Owners Representative

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

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

Offered for adoption by Councilmember Rodriguez, second by Councilmember Koch

Affirmative: Councilmembers Cole, Hoey, Koch, LaBarbera and Rodriguez

Negative: None

Abstain: None

Absent: Councilwoman Neff

2. Resolution No. 2023-82, Establish 2023 Salaries for Non-Union Borough Employees

WHEREAS, Borough Salary Ordinance No. 2022-07, provides for salary ranges for designated municipal employees; and

WHEREAS, the exact amount of each salary is to be determined by the Borough Council of the Borough of Fair Haven with the recommendation of the Borough Administrator.

NOW, THEREFORE, BE IT RESOLVED that the following non-contractual individuals shall be paid the regular base salary for the year 2023, for their services to the Borough of Fair Haven in the designated positions as follows:

EMPLOYEE	POSITION	2023
Allyson Cinquegrana	Borough Clerk	\$81,395.00
Allyson Cinquegrana	Assistant Administrator	14,582.00
Nancy Britton	Assistant Chief Financial Officer	65,344.00
Nancy Britton	Qualified Purchasing Agent	10,200.00
Betty Ann Berube	Administrative Assistant/Registrar	47,048.00
Betty Ann Berube	Director of Communications	5,100.00
Gregory Hutchinson	Tax Assessor	30,842.00
Peter Lucas	Municipal Court Judge	15,623.00
Darryl Breckenridge, Jr.	Director of Parks and Recreation	67,984.00
Darry Breckenridge, Jr.	Special Project Administrator	10,455.00
Donna Powers	Librarian	53,300.00
Annette Bufano	Assistant Librarian	39,159.00
Nicolas Poruchynsky	Assistant Director of Engineering/Public Works	80,521.00
Nicolas Poruchynsky	Zoning Officer	28,155.00
Nicolas Poruchynsky	Flood Plain Administrator	7,212.00
Various Employees	Permanent Crossing Guard	14,688.00

Hourly Employees

Joseph Mulé	Planning & Zoning Code Compliance	25.50/hour
Jeffrey Jarvis	PT Public Works Laborer	23.50/hour
Krystie Larsen	PT Central Office Administrative Assistant	25.50/hour
Sandra Papa	PT Planning Board & Zoning Board Secretary	25.50/hour
Catherine Palma	PT Library Assistant	20.50/hour
Erin Hendrickson	PT Police Records Clerk	23.25/hour
Bonnie Ferris	PT Police Records Clerk	22.25/hour
Various Employees	PT Crossing Guards	20.50/hour
	Special Officers - Class I	16.50/hour
	Special Officers - Class II	20.00/hour
	Police Matron	19.00/hour
	DPW Seasonal	17.50/hour

Offered for adoption by Councilmember Rodriguez, second by Councilmember Koch

Affirmative: Councilmembers Cole, Hoey, Koch, LaBarbera and Rodriguez

Negative: None

Abstain: None

Absent: Councilwoman Neff

3. Resolution No. 2023-83, Authorizing the Mayor to Execute a contract with Richard Gardella, Director of Engineering and Department of Public Works and Planning Board Engineer, 2022-2024

WHEREAS, Richard Gardella currently serves as the Director of Engineering and Department of Public Works and Planning Board Engineer; and

WHEREAS, the Borough Council has agreed to enter into a three (3) year contract from

2022-2024 with Mr. Gardella as further described below.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Borough of Fair Haven, County of Monmouth, State of New Jersey, that Mayor Halpern is authorized to execute an agreement with Richard Gardella for a three (3) year term as per the contract attached as Exhibit A.

BE IT FURTHER RESOLVED that this resolution and contract become retroactive to January 1, 2022.

Offered for adoption by Councilmember Rodriguez, second by Councilmember Koch

Affirmative: Councilmembers Cole, Hoey, Koch, LaBarbera and Rodriguez
 Negative: None
 Abstain: None
 Absent: Councilwoman Neff

- 4. Resolution No. 2023-84, Authorize Execution of an Interlocal Service Agreement with the Borough of Rumson for Construction Code Services (2023-2026)

WHEREAS, the Borough of Rumson presently provides Uniform Construction Code services to the Borough of Fair Haven; and

WHEREAS, the Borough of Rumson will continue to serve as the Interlocal Enforcing Agency pursuant to N.J.A.C. 5:23-4.6 et seq and said services shall include that of the Construction Code Official and of the Building, Electrical, Fire and Plumbing Subcodes; and

WHEREAS, the proposed agreement under the Interlocal Service Act, N.J.S.A. 40:8A-1, is in the best interests of the municipalities and will tend to promote economy and efficiency in governing.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Fair Haven that the Mayor and Borough Clerk be and hereby are authorized to enter into an agreement with the Borough of Rumson for the provision of Construction Code Services t the Borough of Fair Haven for the period of January 1, 2023 through December 31, 2026.

Offered for adoption by Councilmember Rodriguez, second by Councilmember Koch

Affirmative: Councilmembers Cole, Hoey, Koch, LaBarbera and Rodriguez
 Negative: None
 Abstain: None
 Absent: Councilwoman Neff

- 5. Resolution No. 2023-85, Amend the Borough’s Personnel Policy Regarding Paid Holidays

BE IT RESOLVED by the Mayor and Council of the Borough of Fair Haven that the Borough Administrator is hereby authorized to amend the Paid Holiday Section of the Borough’s Personnel Policy as per the attached (Exhibit A):

Offered for adoption by Councilmember Rodriguez, second by Councilmember Koch

Affirmative: Councilmembers Cole, Hoey, Koch, LaBarbera and Rodriguez
 Negative: None
 Abstain: None
 Absent: Councilwoman Neff

- 6. Resolution No. 2022-86, Refund of 1st Quarter, 2023 Property Tax Overpayment - 50 Laury Drive

WHEREAS, the Tax Collector, has provided a request for a tax overpayment refund for 1st Quarter 2023 and advises that the following property owner qualifies for a refund as follows:

Owner	Address	Block	Lot	Refund
Joan Aufderhar	50 Laury Drive	22	42	\$1,627.70

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Fair Haven that the Tax Collector and Chief Financial Officer are hereby authorized to pay said refund in the amount listed above.

Offered for adoption by Councilmember Rodriguez, second by Councilmember Koch

Affirmative: Councilmembers Cole, Hoey, Koch, LaBarbera and Rodriguez

Negative: None

Abstain: None

Absent: Councilwoman Neff

7. Resolution No. 2022-87, Authorizing the Monmouth County Mosquito Control Division to conduct Aerial Mosquito Control Operations Within the Borough of Fair Haven

WHEREAS, the Monmouth County Board of Commissioners, pursuant to NJSA 26:9-27, et seq., has elected through its Mosquito Control Division to perform all acts necessary for the elimination of mosquito breeding areas and/or to exterminate mosquitoes within the County; and

WHEREAS, the County has instituted an Integrated Pest Management Program consisting of surveillance, water management, biological control and chemical control to exterminate the mosquito population within the County of Monmouth; and

WHEREAS, prior to conducting aerial dispensing operations over a designated “congested area”, the County is required, pursuant to Federal Aviation Administration Regulation (FAR Part 137.51), to secure prior written approval from the governing body of the political subdivision over which the aircraft is to be operated; and

WHEREAS, the Borough of Fair Haven is designated as a “congested area” by the Federal Aviation Administration and the County has requested that this governing body consent to its proposed aerial dispensing operations.

NOW THEREFORE BE IT RESOLVED as follows:

1. The Mayor and Council of the Borough of Fair Haven hereby authorizes the County of Monmouth Mosquito Control Division or its agent to apply pesticides, by aircraft, for mosquito control in certain areas of the municipality designated by the County as being either larval mosquito habitat or areas harboring high populations of mosquitoes constituting either a nuisance, a health hazard or both with the understanding that:
 - a. The County shall utilize pesticides, application equipment and aircraft that are approved for aerial applications by the applicable Federal (USEPA) and State (NJDEP) agencies; and
 - b. Such operations will be performed in compliance with applicable Federal and State regulations; and
 - c. The County will notify the police department of each municipality over which aerial pesticide operations are planned prior to commencement of such operations.

Offered for adoption by Councilmember Rodriguez, second by Councilmember Koch

Affirmative: Councilmembers Cole, Hoey, Koch, LaBarbera and Rodriguez

Negative: None

Abstain: None

Absent: Councilwoman Neff

8. Resolution No. 2022-88, Amend Temporary Emergency Appropriation

WHEREAS, emergent conditions have arisen with respect to the payment of bills in a number of accounts and no adequate provision has been made in a Year 2023 temporary budget for the aforesaid purposes; and

WHEREAS, NJSA 40A:4-20 provides for the creation of an emergency temporary appropriation for the purposes above mentioned; and

WHEREAS, the total temporary emergency resolutions adopted in the year 2023 for the Borough pursuant to the provisions of Chapter 96, PL 1951 (NJSA 40A:4-20) including this resolution total **\$3,012,538.14** for the Current Fund.

NOW, THEREFORE, BE IT RESOLVED that not less than two-thirds of all members of the Borough Council of the Borough of Fair Haven, New Jersey affirmatively concurring in accordance with the provisions of NJSA 40A:4-20:

1. An emergency temporary appropriation shall be and the same is hereby made for the

following purposes:

Account Number	Description	Amount	Reason
Current Account			
3-01-21-185-211	Zoning Bd. - Contractual	\$5,000.00	Temp Budget
3-01-23-222-227	Waiver - Medical	\$6,000.00	Temp Budget
3-01-25-255-207	Fire Department-Other Expenses	\$5,000.00	Temp Budget
3-01-25-260-219	First Aid - Supplies	\$4,000.00	Temp Budget
3-01-25-265-276	Fire Hydrants	\$23,500.00	Temp Budget
3-01-26-315-235	Vehicle Mtn. - New Equipment/Repair	\$5,000.00	Temp Budget
3-01-26-330-211	Board of Health Contractual	\$500.00	Temp Budget
3-01-31-446-276	Natural Gas - Utilities	\$10,000.00	Temp Budget
3-01-36-471-299	PERS Miscellaneous	\$225,000.00	Temp Budget
3-01-36-475-299	PFRS Miscellaneous	\$540,000.00	Temp Budget
3-01-43-494-202	Recycling Tax	\$2,500.00	Temp Budget
3-01-43-495-211	Public Defender - Contractual	\$600.00	Temp Budget
TOTAL		\$827,100.00	

2. That said emergency temporary appropriations will be provided for in the 2023 budget under the appropriate titles.

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

Offered for adoption by Councilmember Rodriguez, second by Councilmember Koch

Affirmative: Councilmembers Cole, Hoey, Koch, LaBarbera and Rodriguez

Negative: None

Abstain: None

Absent: Councilwoman Neff

9. Resolution No. 2022-89, Appoint Special Law Enforcement Officer, Class II, Christopher Lackner

WHEREAS, a request was made by Police Chief Joseph McGovern to appoint a Special Law Enforcement Officer Class II, effective March 14, 2023; and

WHEREAS, Joseph McGovern, Fair Haven Police Chief, has recommended that Christopher Lackner be appointed as a Special Law Enforcement Officer, Class II.

WHEREAS, the rate of pay for this position is \$20.00 per hour.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Fair Haven that Christopher Lackner. be appointed to the position of Special Class II Officer.

Offered for adoption by Councilmember Rodriguez, second by Councilmember Koch

Affirmative: Councilmembers Cole, Hoey, Koch, LaBarbera and Rodriguez

Negative: None

Abstain: None

Absent: Councilwoman Neff

10. Resolution No. 2022-90, Appointment of Part-Time School Crossing Guard

WHEREAS, there is a need for part-time School Crossing Guards; and

WHEREAS, Chief Joseph McGovern has recommended that Timothy Wisely be appointed as a Part Time School Crossing Guard, effective March 14, 2023 at an hourly salary of \$20.50

BE IT RESOLVED by the Mayor and Council of the Borough of Fair Haven that Timothy Wisely is hereby appointed as part-time School Crossing Guard as noted above.

Offered for adoption by Councilmember Rodriguez, second by Councilmember Koch

Affirmative: Councilmembers Cole, Hoey, Koch, LaBarbera and Rodriguez

Negative: None

Abstain: None
 Absent: Councilwoman Neff

11. Resolution No. 2022-91, Approve Irrevocable License for 68 Battin Road, also known as Block 27, Lot 31 – Drainage Easement Encroachment

WHEREAS, the Borough of Fair Haven (the “Borough”) maintains various easements and rights-of-way for the purpose of facilitating municipal infrastructure throughout the Borough; and

WHEREAS, Tracy D. Hubbell (the “Owner”) is the titled owners of 68 Battin Road, Fair Haven, NJ 07704, also known as Block 27, Lot 31 (the “Property”); and

WHEREAS, the Property was encumbered by a 10 foot-wide drainage easement along the northern property line, dated November 29, 1956, which was recorded in Deed Book 2737 Page 152 on February 14, 1957, (“Drainage Easement”); and

WHEREAS, prior to the establishment of the Drainage Easement through the date hereof, there has been a dwelling structure and a secondary structure already existing upon the Property (the “Structures”) and within the Drainage Easement area; and

WHEREAS, the circumstances are unclear as to why the Drainage Easement was drawn such that it created encumbrances from its inception; and

WHEREAS, a drainage pipe was constructed in the Drainage Easement, such pipe being located close to the northern property line of the subject property and not located under the Structures; and

WHEREAS, the Owner has recently purchased the property and a requirement of the Owner’s title company is to obtain this license; and

WHEREAS, the existence of the Drainage Easement was a significant obstacle in the sale of the property which affects title and an escrow was established pending a resolution of the issue.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Fair Haven hereby approve an Irrevocable License, attached to this Resolution as Exhibit “A”, with the Owner of the Property to resolve the encroachment until such time as the Structures on the Property are demolished or destroyed, and the Mayor is hereby authorized to execute the appropriate paperwork to effectuate same.

Offered for adoption by Councilmember Rodriguez, second by Councilmember Koch

Affirmative: Councilmembers Cole, Hoey, Koch, LaBarbera and Rodriguez
 Negative: None
 Abstain: None
 Absent: Councilwoman Neff

12. Resolution No. 2022-92, Payment of Vouchers

BE IT RESOLVED by the Governing Body of the Borough of Fair Haven that the vouchers listed for payment on the March 13, 2023 Bill List are hereby approved and the Finance Department is hereby authorized to release payment to the various vendors.

2022 CURRENT FUND ACCOUNT	\$ 30,461.74
2023 CURRENT FUND ACCOUNT	\$ 157,571.99
GENERAL CAPITAL	\$ 47,571.40
GRANT FUND	\$ 245.00
PAYROLL AGENCY	\$ 15,717.82
OTHER TRUST	\$ 4,547.07
DOG TRUST	\$ 61.20
	\$ 256,176.22
LESS VOIDED CHECKS	- 6,179.14
	\$ 249,997.08

CURRENT CHECK NO. 63709, \$ 415.20
 CURRENT CHECK NO. 63784, \$5,763.94

Offered for adoption by Councilmember Rodriguez, second by Councilmember Koch

Affirmative: Councilmembers Cole, Hoey, Koch and Rodriguez

Negative: None
Abstain: Councilman LaBarbera
Absent: Councilwoman Neff

Department Reports
2022 Annual Report
-Tax Collector

February 2023
-Municipal Clerk
-Dog License
-Planning Board and Zoning Board

Motion to Accept the reports, as submitted, moved by Councilmember LaBarbera, seconded by Councilmember Rodriguez with Ayes by all present.

GOOD OF THE BOROUGH

Mayor Halpern opened the meeting to the public for comments or questions at 10:12 p.m.

Paul Ferguson, Colonial Court, commented that the Fair Haven Natural Area will be hosting a Natural Area Walk with a Bird Expert on March 25 at 10 am, funded by Community Appeal donations.

Mary Alice Pane, Cypress Court, inquired about the vote count errors detailed in the January 24th Rumson Fair Haven Patch article. Mayor Halpern responded that the Borough received the new vote totals and the results have not changed. Attorney Cannon added that it is an ongoing investigation in the Attorney General’s office, and they will not provide comment until it is concluded.

Ruth Blaser, River Road, asked if taxes will go up; Mayor Halpern responded yes, but that the Governing Body is very mindful of spending. She asked Councilman LaBarbera to please keep seniors in mind when designing the new facilities. Administrator Casagrande commented that seniors may be eligible for a tax freeze. Ms. Blaser also asked the Governing Body to be mindful of private property rights and not to overstep.

Councilwoman Cole advised there was a dumping incident on the Third Street Trail. She believes the Borough can take steps to bring awareness to the issue. She asked Administrator Casagrande if there is a fine for dumping? Administrator Casagrande will look into it.

There being no further comments or questions, the meeting was closed to the public at 10:21 p.m.

Council went into executive session at 10:29 p.m. and this meeting was reconvened at 11:23 p.m.

RESOLUTIONS

- 13. Resolution No. 2022-93, Appoint Temporary, Part Time Library Assistant - Laura Anderson

WHEREAS, there is a need to appoint a temporary, part-time Library Assistant to help fill the work schedule, so the library operations continue to run smoothly; and

WHEREAS, Theresa Casagrande, Borough Administrator and Donna Powers, Library Director have recommended that Laura Anderson, 57 Queens Drive, Little Silver, New Jersey be hired temporarily; and

NOW, THEREFORE, BE IT RESOLVED by the Fair Haven Borough Council that Laura Anderson is hereby appointed as a temporary, part time Library Assistant in the Borough of Fair Haven at a rate of \$20.00 per hour, not to exceed twenty hours per week, effective March 14, 2023.

Offered for adoption by Councilmember Rodriguez, second by Councilmember Koch

Affirmative: Councilmembers Cole, Hoey, Koch, LaBarbera and Rodriguez
Negative: None
Abstain: None
Absent: Councilwoman Neff

- 14. Resolution No. 2022-95, Award Proposal for Additional Costs Associated with the Design Change for the Community Center to the Goldstein Partnership

WHEREAS, a proposal dated March 3, 2023 was received from the Borough’s Architect, Eli Goldstein (The Goldstein Partnership), to provide design changes for the Community Center, Fisk Street; and

WHEREAS, The Goldstein Partnership’s non-fair and open paperwork was submitted at the beginning of the year; and

WHEREAS, the proposal states that the total costs for this work, broken down as follows, shall not exceed a total of \$46,550:

Discipline	Fee for new Comm. Ctr. (March 2023)	Credit for adding Comm. Rm. to Storage Bldg. (July 2022)	Net Difference
Architecture	\$18,000	-\$10,700	\$7,300
Coordination	\$3,500	-\$1,400	\$2,100
Structural Engineering	\$5,150	-\$1,500	\$3,650
Mech/Elec Engineering	\$5,500	-\$5,500	\$0
Site/Civil/Geotech Engineering	\$7,500	-\$7,500	\$0
Technology	\$6,600	\$0	\$6,600
Reimbursable Exp. Allowance	\$300	-\$150	\$150
TOTAL	\$46,550	-\$26,750	\$19,800

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Fair Haven, that the proposal received from Eli Goldstein, The Goldstein Partnership, be accepted and awarded to provide design changes to the Community Center at a cost not to exceed \$46,550 and the Mayor is authorized to execute paperwork, if required.

Offered for adoption by Councilmember Rodriguez, second by Councilmember Koch

Affirmative: Councilmembers Cole, Hoey, Koch, LaBarbera and Rodriguez
 Negative: None
 Abstain: None
 Absent: Councilwoman Neff

ADJOURNMENT

Motion to adjourn moved by Councilmember LaBarbera, second by Councilmember Cole with Ayes by all present.

Time of Adjournment: 11:24 p.m.

Respectfully submitted,

 Krystie Larsen
 Deputy Borough Clerk