

**FAIR HAVEN BOROUGH COUNCIL
REGULAR MEETING AGENDA
MAY 24, 2021, 7:00 P.M.**

Zoom Link: [HTTPS://US02WEB.ZOOM.US/J/81519882596](https://us02web.zoom.us/j/81519882596)
iPhone or Land Line Telephone Call In: 1-301-715-8592
Webinar ID: 815 1988 2596

1. **Call to Order:** pm
2. **Salute to the Flag:**
3. **Moment of Meditation:**
4. **Sunshine Law Notice:**
5. **Roll Call:** Councilmembers Chrisner-Keefe Koch McCue
Neff Rodriguez
6. **Resolution**
2021-140 Executive Session - Property Acquisition
7. **Proclamation**
-Celebrating Rumson-Fair Haven's Rowing, Stotesbury Cup Victory
8. **Workshop Session**
-Councilmember Vacancy
 - Resolution No. 2021-141, Fill Council Vacancy
-Tree Appeal from Ryan Federer, 703 River Road
-Tree Appeal from Navesink Fine Home Building, 182 Oxford Avenue
-Request from the Fair Haven PTA to waive the Municipal Code for Consumption in the Parks
-Request from Jersey Shore Rugby to post lawn signs for "sign-up" (Late May to Late June)
-Borough Hall/Library Opening
9. **Public Comment on Agenda Items**
10. **Approval of Minutes**
-May 10, 2021 Regular Meeting
-May 10, 2021 Executive Session
11. **Old Business**
Hearing and Adoption of Ordinances
2021-06 Amend Fair Share Housing Ordinance
2021-07 Amend Chapter 2 to Update Junior Firefighters' Auxiliary Regulations
12. **New Business**
Council Committee Reports
Finance - Councilwoman Neff
Personnel - Councilwoman Chrisner-Keefe
Planning & Zoning - Councilwoman Koch
Parks and Recreation and Communications - Councilwoman Koch
Police, Fire & OEM - Councilman McCue
Engineering, DPW and Borough Facilities - Councilman Rodriguez

Introduction of Ordinances
2021-08 Amend Affordable Housing Development Fee Ordinance

Consent Agenda

Resolutions

- 2021-142 Approve Refund for 2nd Quarter Tax Overpayment Refund – 162 Buena Vista Avenue
- 2021-143 Hire 2021 Summer Camp Rec N Crew Counselors
- 2021-144 Waive ABC Municipal Codes for Knollwood School Graduation Celebration
- 2021-145 Amend Temporary Budget Appropriations
- 2021-146 Support Sustainable New Jersey 2021 EDF Climate Corps Program Application
- 2021-147 Refund 2nd Quarter 2021 Tax Payment Interest – 80 Buttonwood Drive
- 2021-148 Approve Borough Architect Proposal – New Police Storage Building
- 2021-149 Endorse Amended Fair Share Plan
- 2021-150 Payment of Vouchers
- 2021-151 Approve Proposal from Monmouth Conservation Foundation

Department Reports

April 2021

- Police Department
- Municipal Court

-Budget Status

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

PROCEDURE FOR CITIZEN PARTICIPATION AT COUNCIL MEETINGS

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

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

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

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

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

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2021-140

TITLE: EXECUTIVE SESSION

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

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

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

Acquisition of Property

1. Fair Haven Road

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

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

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2021-141

TITLE: APPOINT NEW COUNCILMEMBER

WHEREAS, a vacancy exists on the Fair Haven Borough Council upon the resignation of Councilman James Banahan; and

WHEREAS, the Municipal Vacancy Law of NJSA 40A:16-7 requires “An appointment to fill a vacancy in the membership of the Governing Body shall be by a majority vote of the membership of the remaining members of the Governing Body”; and

WHEREAS, pursuant to NJSA 40A:6-11, Municipal Vacancy Law, the Fair Haven Republican Committee has recommended **Tracy Cole, Sheri D’Angelo and Suzanne McCabe** to fill the vacant seat for the remainder of 2021.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Fair Haven that pursuant to NJSA 40A:16-7, _____, **Fair Haven, NJ** is appointed as a Councilmember to fill the unexpired term of James Banahan through December 31, 2021.

**BOROUGH OF FAIR HAVEN
ORDINANCE NO. 2021-06**

**AN ORDINANCE OF THE COUNCIL OF THE BOROUGH OF FAIR HAVEN IN THE COUNTY OF
MONMOUTH AMENDING CHAPTER 30, LAND USE AND DEVELOPMENT REGULATIONS, BY
AMENDING THE AFFORDABLE HOUSING ZONE**

WHEREAS, in March 2019, the Borough Council of the Borough of Fair Haven, Monmouth County, New Jersey (the "Borough") voluntarily petitioned the Court via Declaratory Judgment Action ("DJ Action") for approval of its Housing Element and Fair Share Plan ("HEFSP"), which was also adopted in March of 2019; and

WHEREAS, as a result, the Borough obtained immunity from builder's remedy and Mount Laurel litigation, while its plan was processed; and

WHEREAS, the 2019 HEFSP included a mixed-use overlay zone in the B-1 district, which the Borough found to be consistent with its long-term planning goals; and

WHEREAS, the Borough Council of the Borough of Fair Haven, Monmouth County, New Jersey, entered into a Settlement Agreement with Fair Share Housing Center (FSHC) on February 12, 2020 that resolves the Borough's DJ Action globally; and

WHEREAS, the Borough subsequently entered into a Settlement Agreement with M&M Realty Partners ("M&M"), the owner of property located at Block 31, Lot 1, which is within the mixed use overlay district as it was defined by the 2019 HEFSP; and

WHEREAS, M&M Entered into a settlement on February 12, 2020 that proposes the property be included in the Borough's Housing Element and Fair Share Plan as a mixed-use inclusionary development at the density prescribed in the Township's 2019 HEFSP; and

WHEREAS, a Court Order was signed by the Honorable Judge Linda Grasso-Jones on June 5, 2020, that found that the Borough's proposed affordable housing strategy as set forth within the FSHC Settlement Agreement is facially constitutionally compliant and provides a fair and reasonable opportunity for the Borough to meet its obligations under Mount Laurel IV; and

WHEREAS, pursuant to the executed Settlement Agreements and Court Order, the Borough has determined that Block 31 Lot 1 is appropriate within the parameters of the regulations defined herein, for mixed-use inclusionary development through the creation of a new zone, entitled the "Affordable Housing (AH)" District; and

WHEREAS, a dispute over the original ordinance subsequently arose between the parties; and

WHEREAS, the parties were able to amicably resolve those disputes; and

WHEREAS, a first Amendment dated April 12, 2021 to the Settlement Agreement between the Borough and M & M was executed; and

WHEREAS, this amended Ordinance implements and incorporates the Borough's First Amended Settlement Agreement with M&M Realty Partners, the Borough's executed Settlement Agreement with FSHC, the Court Order, and the New Jersey Fair Housing Act of 1985.

NOW THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Fair Haven, County of Monmouth as follows:

A new zoning district, entitled "Affordable Housing (AH)" district is hereby created as follows:

Section 1. Section 30-5.1 The Official Zoning Map of the Borough of Fair Haven is hereby amended to include the newly created Affordable Housing Zone on Block 31 Lot 1.

Section 2. Section 30-5.1a2 Schedules. The Schedule of Permitted Uses is hereby amended as follows: Schedules. The Schedule of Permitted Uses (Table A, Table B and Table AH) and the Schedule of Area Yard and Building Requirements (Table C) for zone districts within the Borough are established and are made part of this section, together with all notations, references, and designations shown thereon. Requirements related to off-street parking, off-street loading, are set forth in subsection 30-9.2a and b. of this chapter. Requirements related to signs are set forth in subsection 30-7.24 of this Chapter,"

Section 3. Permitted and Prohibited Uses- Schedule of Permitted Uses- Table AH is hereby amended as follows:

**Table AH (subsection 30-5.1)
Schedule of Permitted Uses-Affordable Housing Districts
P=Permitted Use**

C= Conditional Use
A= Accessory Use
NP= Not Permitted
AH Zone

Type of Use	AH Zone
Mixed-use residential with required commercial on the ground floor	P
Restaurant, category one	P
Restaurant, category two	P
Retail sale or rental of goods, merchandise, or equipment, art galleries, artist studios, except for the following:	P
(i) Uses requiring storage or display of goods outside a fully enclosed building, except that this shall not be construed to prohibit temporary sidewalk sales or other temporary special promotional events utilizing a sidewalk area provided the Zoning Office is notified in writing at least ten (10) days in advance of such sale or event; that there is adequate provision for the safe and convenient circulation of pedestrians; and further provided that there are no sales of goods from trucks.	NP
(ii) Motor vehicle sales	NP
(iii) Lumberyards	NP
(iv) Auction markets	NP
Personal service establishments, having as their primary function the rendering of service to a client within a building. Such services may include, but are not limited to, barber and beauty shops; dry cleaning drop-off/pick-up shops; self-service	P
Business service establishments, having as their primary function the rendering of a service to a business client. Such services may include, but not be limited to, document reproduction, duplication, and administrative services.	P
Product service establishments, having as their primary function the servicing or repair of a product, including, but not limited to, the repair or servicing of shoes, audio and visual equipment, appliances, jewelry, and watches. Motor vehicle body shops shall not be permitted.	P
Business offices whose operations are designed to attract and service customers or clients on the premises, including, but not limited to, insurance agents; travel agencies; realtor; finance companies; and tax preparation services.	P
Banks, with no drive-thru services	P
Professional Offices	P
Indoor athletic, exercise, or recreation facilities	P
Childcare center	P
Drive thru uses	NP
Other Uses Incidental and Accessory to the Principal Permitted Use	
Seasonal Outdoor Café and/or Outdoor Dining subject to Section 4-2 of the Borough Code	A
Private garages	NP
Home Occupations	NP
Drive-thru services	NP
Signs (pursuant to Section 30-7.24 of the Borough Code)	A
Fences and walls	A
Off-street parking	A

Loading and unloading areas	A
Essential services	A

Section 4. 30-5.1a.2.c Table C: Schedule of Area, Yard, and Building Requirements regarding the AH Affordable Housing Zone is hereby amended with the following standards:

Zone	Minimum Lot Requirements						Minimum Yard Requirements						Maximum Allotments						
	Interior Lot			Corner Lots			Principal Buildings & Structures				Accessory Buildings & Structures		% Maximum Lot Coverage (7)	Maximum Habitable Floor Area Ratio (4)	Maximum Habitable Floor Area Sq. ft. (5)(8)	Maximum Building Coverage % (6)	Maximum Principal Building or Structure Height (feet)	Maximum Stories	Maximum Accessory Building or Structure Height (feet)
Area (sq. ft.)	Frontage & Width (feet)	Depth (Feet)	Area (sq. ft.)	Frontage & Width (feet)	Depth (Feet)	Front (feet) (3)	Rear (feet)	One Side (feet)	Total side Yards (9)(10)	Rear (feet)	Side (feet)								
R-40	40,000	150	150	40,000	150	150	50	30	25	50	10	25	30%	0.15	6,900	20	35	2.5	15
R-30	30,000	125	200	33,500	140	200	50	30	20	40	10	10	30%	0.15	5,180	20	35	2.5	15
R-20	20,000	100	150	25,000	125	150	50	30	14	35	10	10	35%	0.18	4,140	25	35	2.5	15
R-15	15,000	100	120	18,000	120	120	35	30	12	30	10	10	35%	0.2	3,450	30	32	2.5	15
R-10A	10,000	100	100	11,500	115	100	30	30	10	25	10	10	40%	0.28	3,220	35	32	2.5	15
R-10B	10,000	100	100	11,500	115	100	25	30	10	25	10	10	45%	0.28	3,220	35	32	2.5	15
R-10	10,000	75	100	11,500	95	100	30	30	10	24	10	8	45%	0.28	3,220	35	32	2.5	15
R-7.5	4,500	60	100	10,000	80	100	30	30	7	16	10	8	45%	0.35	3,020	35	30	2.5	15
R-5	5,000	50	100	7,000	70	100	25	30	7	16	10	5	50%	0.4	2,200	35	30	2.5	15
B-1	5,000	50	100	7,000	70	100	35	10	5(1)	10(1)	3	3	80%	0.4	2,200	50	35	2.5	15
B-2	7,500	60	100	10,000	80	100	35	30	15(2)	30(2)	10	10	70%	0.4	3,020	30	35	2.5	15

AH (16)	N/A	N/A	N/A	28,000	175 feet along River Road; 125 feet along Cedar Avenue	175	15 feet from River Road; 13 feet from Cedar Avenue (13)	18	50	N/A	3	3	85%	0.95 (15)	N/A	45%	38 (14)	3(12)	10
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- (1) Within any B-1 zone, a building used only for residence purposes shall comply with the requirements of the R-5 zone. For any other Building, a side yard of not less than five feet wide is required along a boundary line of any other residential zone. In a B-1 zone, any building constructed on a corner lot, the side street line of the building shall be at least 30 feet from the center of the side street.
- (2) Within any B-2 zone, a building used only for residence purposes shall comply with the requirements of the R-7.5 zone.
- (3) Corner lots shall provide the minimum front yard for the respective zone for both intersecting streets.
- (4) See the definition of "Habitable Floor Area Ratio."
- (5) See the definition of "Habitable Floor Area."
- (6) See the definition of "Building Coverage."
- (7) See the definition of "Lot Coverage."
- (8) This limitation applies to single family dwellings. The permitted habitable floor area for any single family dwelling shall be the lesser of the maximum habitable floor area or the maximum habitable floor area as calculated by applying the maximum habitable floor area ratio to the lot area. For other uses, the permitted habitable floor area is determined by the maximum habitable floor area ration.
- (9) Add 1.5 feet to the total side yard requirement for each full 5 feet that the lot width exceeds the minimum lot width for the zone.
- (10) In the residential zones R-20, R-15, R-10A, R-10B and R-10, the distance between the principal structures on adjacent lots must be equal to the minimum required combined side yard for the zone in question. Where such compliance cannot be made due to the location of an existing non-conforming structure on an adjacent lot, the larger side yard will be placed abutting the least conforming adjacent structure.
- (11) If an existing residential lot contains lot area, lot width and lot depth compliant with a zone above the zone in which the lot is located on the above table, a dwelling may be constructed on said lot under the zoning standards of the zone immediately above it on the table, provided that the front yard setback conforms to the zone standard in which the lot is located. Further provided that a lot in the R-10, R-10A and R-10B zones which would otherwise be fully compliant with the bulk requirements of the R-15 zone, shall be permitted to be developed under the R-15 standards provided that the front yard setback conforms to the zone standard in which the lot is located.
- (12) The second and third story of the proposed mixed-use building shall be setback a minimum of 8 feet from the first story building face along River Road and Cedar Avenue.
- (13) The minimum setback along Cedar Avenue is 13 feet, increasing to 16 feet at the corner of the building at River Road and Cedar Avenue, as shown on the concept plan.
- (14) The measurement of building height shall be measured from the existing curb to the highest point of the building from the average height of each corner of the lot.
- (15) The HFAR shall not include the parking spaces located beneath the building.
- (16) An 8-foot-wide ROW dedication/easement shall be required along Cedar Avenue. For the purposes of lot dimensions, minimum yard requirements, maximum allotments, and calculations, the ROW dedication/easement shall not be included.

Section 5. 30-5.5 is hereby amended as follows:

30-5.5 AH Affordable Housing Zone

Purpose: The purpose of the AH Affordable Housing Zone, which applies to Lot 1 in Block 31, is to provide affordable housing in the form of a mixed-use inclusionary development consisting of a total 14 family rental units, of which 2 will be deed restricted as affordable units in accordance with U.H.A.C rules and regulations. The building shall be a total of 3 stories. The ground floor is required to contain commercial uses. The 2nd and 3rd stories shall consist of the residential units. The 2nd and 3rd story is required to be set back a minimum of 8 feet from the 1st story building facades along the road frontages of River Road and Cedar Avenue. The site plan shall be substantially consistent with the concept plan attached as an exhibit within the executed First Amended Settlement Agreement between the Borough of Fair Haven and M&M Realty Partners and attached to this ordinance. The intent of this zone is to be developed as a single entity. The standards within the Land Development Ordinance remain in effect. Where there is a conflict between this section and another section of the Land Development Ordinance, this section shall supersede those standards.

- a. Principal Permitted Uses
 1. See Table AH in subsection 30-5.1
- b. Permitted Accessory Uses
 1. See Table AH in subsection 30-5.1
- c. Total Number of Residential Units Permitted
 1. 14 total dwelling units
- d. Affordable Housing
 1. Development of the site shall provide for 2 rental family affordable units on site.
 2. One of the affordable units shall be a 2-bedroom low-income unit and the other affordable unit shall be a 2-bedroom moderate-income unit, as specified in the First Amended executed Settlement Agreement. The third and final unit shall be a 2 or 3-bedroom very low-income unit as defined herein or a Payment in Lieu ("PIL") of the construction of the third unit in an amount of no less than \$175,000.00.
 3. Except as otherwise specified in this ordinance relating to Payments in Lieu and income and bedroom distribution, all affordable units shall comply with N.J.A.C.5:93-1 et seq. and the Uniform Housing Affordability Controls (UHAC) at N.J.A.C.5:80-26.1 et seq., the Fair Housing Act and the Borough's HEFSP.
 4. Each affordable restricted unit shall remain restricted for a minimum of 30 years and that restriction may be unilaterally extended by the Borough at its sole discretion, thereafter.
- e. Parking Standards

Section 30-9.2b Off-Street Parking shall apply. Where a conflict occurs between this section and Section 30-9.2b, this section shall supersede those standards.

 1. Each residential unit shall provide 2 parking spaces per unit and no additional guest parking is required
 - (a) Tandem parking is permitted to satisfy residential parking requirements, in accordance with the following:
 - (1) No more than two vehicles shall be placed one behind the other.
 - (2) Both spaces shall be assigned to a single unit.
 2. Commercial parking shall be provided utilizing 1 space/250 sq. ft. of gross floor area, regardless of commercial use. Outdoor dining associated with a restaurant shall not generate additional parking requirements.
 3. Parking areas and drive aisles shall be setback a minimum of four (4) feet from all lot lines; however, a minimum 6-foot setback shall be required along the side lot line.
 4. All surface parking lots that abut the public sidewalk or street shall be separated from the sidewalk or street by a landscaped buffer with a minimum width of four(4) feet. Buffers shall include shrubbery, plantings, a row of trees and/or a minimum 30-inch-high/maximum 42-inch-high brick screen wall.
- f. Circulation Standards

Sections 30-8 Design Guidelines and Standards for Subdivisions and Site Plans and 30-9 Improvement Standards, Specific Criteria and Construction Specifications shall apply. Where a conflict occurs between this section and Sections 30-8 and 30-9, this section shall supersede those standards.

 1. As shown and agreed to in the concept plan attached hereto, one (1) one-way entrance driveway shall be permitted from River Road.

2. One (1) two-way entrance/exit driveway shall be permitted from Cedar Avenue.
3. Parking may be permitted within the front yard along Cedar Avenue, provided it is set back a minimum of 4.9feet from the front lot line along Cedar Avenue. In no event shall parking be located between the building and River Road.
4. The applicant shall provide intersection improvements on the applicant's portion of frontage on Block 31 Lot 1 at the intersection of River Road and Cedar Avenue as recommended in the Borough's Active Transportation Plan, which was adopted by the Borough Planning Board in 2017.
5. Bicycle parking for public use and residents shall be provided.
6. All loading shall only be permitted on-site.

g. Signs

Section 30-7.24 Signs shall apply. Where a conflict occurs between this section and Section 30-7.24, this section shall supersede those standards.

1. Permitted signs in the AH Affordable Housing Zone

(a) Wall signs

- (1) Each commercial store front shall be permitted 1 wall sign above the entrance to the storefront in the 'sign band'.
- (2) In no event shall a single wall sign exceed 5% of the 1st floor commercial façade.
- (3) Wall signs may be externally lit. In no event shall a wall sign be internally lit.
- (4) The maximum lettering height shall be 10 inches.

(b) Freestanding Signs

- (1) One freestanding sign is permitted to be located to the west of the River Road entrance driveway as shown on the attached Concept Plan
- (2) In no event shall the freestanding sign exceed 30 square feet.
- (3) The freestanding sign shall not be greater than eight (8) feet in height.
- (4) The freestanding sign may be externally lit. In no event shall the sign be internally lit.
- (5) The sign shall be set back a minimum of three (3) feet from the front property line.
- (6) The maximum lettering height shall be 10 inches.

(c) Developer shall be permitted to utilize window signs pursuant to Section 30-7.24 of the Borough's code.

2. Awnings

- (a) Awnings shall have a metal structure covered with canvas, metal or like product.
- (b) Awnings may have a front skirt; the bottom of the skirt shall not be scalloped.
- (c) Awnings/canopies shall extend a maximum of three (3) feet from the exterior wall into the front yard setback at a height of at least eight (8) feet above sidewalk grade.
- (d) In no event shall a sign be permitted on an awning.
- (e) The first-floor corner commercial space may have an awning.
- (f) The commercial store fronts fronting along River Road may have awnings only if all the store fronts along River Road have awnings.

h. Lighting

Section 30-7.22c14 Lighting and Illumination shall apply.

i. Design Standards

1. Architectural

The attached River Road and Cedar Avenue M&M illustrative concept plan, elevations, and cross-section shall be used as guidelines.

- (a) Both the River Road and Cedar Avenue building facades shall be designed and treated as front facades
- (b) The building shall be composed of durable materials such as brick, stone or cement board. In no event shall EFIS be permitted.
- (c) There shall be no continuous front facade along River Road. The facade shall be vertically broken up into a minimum of 3 "bays". Each bay shall complement one another and be aesthetically pleasing.

- (d) Pedestrian entry ways and/or lobbies shall be prominent, well-lit and separate from service entrances.
- (e) A minimum of 60% of the ground floor front facades shall be glazed.
- (f) A minimum of 20% of the upper-story front facades shall be glazed.
- (g) Glazing shall be a minimum of 70% transparent.
- (h) The maximum sill height above sidewalk grade shall be 30 inches.
- (i) A horizontal architectural feature shall define the ground floor from the upper floors.
- (j) Each individual commercial use on the ground floor is required to have its own primary entrance.
- (k) The exterior walls of the building shall not have large blank or featureless expanses.
- (l) Retail openings for windows and windowpanes shall have a vertical dimension greater than or equal to the horizontal dimension and shall not be as a walk up or otherwise utilized for transactions.
- (m) Balconies, terraces, Juliet balconies, and sliding glass doors are permitted as shown on the concept plan.
- (n) Enclosure of rooftop areas, terraces, or balconies is not permitted.

2. Balconies

- (a) The Developer shall make every effort to preclude balconies/outdoor areas for such uses including but not limited to storage, trash/recycling, laundry, grill, etc. so as not to create a fire hazard or other nuisance. Landlord shall prohibit the use of balconies from such uses in its residential leases and/or in the Master Deed to the extent the residential units are condominiums.
- (b) Balconies shall be kept free of clutter as a means to maintain the overall aesthetics of the building façade.
- (c) Any violation of this provision shall be enforced against the tenant and not the landlord. However, landlord shall cooperate with the Borough in enforcement.

3. Utilities

Sections 30-8 Design Guidelines and Standards for Subdivisions and Site Plans and 30-9 Improvement Standards, Specific Criteria and Construction Specifications shall apply. Where a conflict occurs between this section and Sections 30-8 and 30-9, this section shall supersede those standards.

- (a) Public utilities, transformers and primary and backup generator shall be located interior to the building, on the roof or vaulted underground within the pavement area of an adjacent street or sidewalk.
- (b) Individual window air conditioning units shall not be permitted.
- (c) Rooftop mechanical equipment shall be screened from public view. In addition, mechanical equipment shall be setback a minimum of 6 feet from the edge of the building.
- (d) Meters and access panels shall be integrated with street and building design.
- (e) Manholes, meters and access panels shall be constructed of materials and styles consistent with established design theme.
- (f) The developer shall coordinate all utility improvements with the responsible utility.
- (g) Backup generators for common areas are encouraged.

4. Landscaping and Buffering

Sections 30-8 and 30-9 apply. Where a conflict occurs between this section of this ordinance and Sections 30-8 or 30-9, this section shall supersede those specific requirements.

- (a) A minimum buffer area of at least four (4) feet shall be provided around the side and rear lot lines. The buffer area shall consist of a combination of deciduous and evergreen shrubs and trees. Plantings are encouraged to consist of native species.
- (b) If the topography of the site requires retaining walls, retaining walls shall be landscaped and be aesthetically pleasing. In no event shall a retaining wall be more than 3 feet tall.

5. Lighting

Sections 30-9.2a12 Lighting and 30-9.3c4 Lighting shall apply. Where a conflict occurs between this section of this ordinance and Sections 30-9.2a12, and 30-9.3c4, this section shall supersede those standards.

- (a) The maximum height of light poles shall be 15 feet.
- (b) Full cutoff of fully shielded light fixtures are encouraged.
- (c) Floodlights shall not be directed toward the street or adjacent properties.
- (d) Only dimmable LED lighting elements shall be permitted.
- (e) Neon lighting is prohibited on commercial storefronts.
- (f) Flashing lights are prohibited.
- (g) Lighting shall be aesthetically unified and complimentary to the design of the building and site.
- (h) On site lighting shall not exceed 3000 Kelvin

6. Signs

- (a) Signs and awnings shall have a coordinated graphic design theme through the site plan. The design theme shall include the style and size of lettering, construction. materials, colors, size, lighting, color of letters, and background. These design theme elements shall be carefully considered in relation to the color and materials of the building, building design, and where the signs are proposed to be located.
- (b) Buildings shall be designed to include a 'signage zone' above the commercial use frontage and integrated into the overall architectural design of the building.

7. Stormwater Management

- (a) Sections 30-8 Design Guidelines and Standards for Subdivisions and Site Plans and 30-9 Improvement Standards, Specific Criteria and Construction Specifications shall apply. Where a conflict occurs between this section and Sections 30-8 and 30-9, this section shall supersede those standards.
- (b) The proposed improvement shall include design elements to reduce post development runoff.
- (c) The project shall utilize roof runoff recharge, rain gardens, and/or bioswales in accordance with the Concept Plan and NJDEP Stormwater Regulations when applicable.
- (d)

8. Additional Design Standards

- (a) To the extent feasible, the developer shall consider potential future interconnections to adjacent sites.
- (b) Pedestrian pathways/sidewalks that are included within a parking lot shall be made of a different surface material than the parking areas and are encouraged to include landscaping around the edges of the walkway.

Section 7. Section 30-7.17a Home Occupations shall be amended as follows:

"Home occupations, as defined in these regulations, are permitted as an accessory use in the zones specified provided that within any residential district, no building or lot with a home occupation will be constructed or altered so as to be inharmonious to the residential character of adjacent structures or to be inconsistent with the residential character of the dwelling unit. ***Home Occupations are not permitted in AH Affordable Housing Zone.***"

Section 8. Section 30-7.18 Storage of Boats and Recreational Vehicles shall be amended as follows:
"e. Recreational vehicles or parts, sections, pieces, or appurtenances and boats or boat trailers or parts, sections, pieces, or appurtenances shall not be stored in the AH Zone."

Section 9. Section 30-7.19 Commercial Vehicles shall be amended as follows:

"c. No commercial vehicles will be permitted to park in the outdoor (non-residential) parking area between the hours of 9:00 PM and 7:00 AM."

Section 10. Section 30-7.25 Fences and walls shall be amended as follows:

"f. Chain link, open wire, or wire mesh fence shall not be located in a front yard. ***In the AH Affordable Housing Zone, chain link, open wire, or mesh fences shall be prohibited.***"

"q. In the AH Affordable Housing Zone, a solid decorative fence shall be installed along the side and rear property lines that has a maximum height of 6 feet."

Section 11. Section 30-7.26a Garages shall be amended as follows:

"a. A private garage accessory to a principal building is permitted in any zone district, except for the AH Affordable Housing zone. ***Garages are prohibited within the AH Affordable Housing Zone.***"

Section 12. This ordinance shall take effect immediately upon final passage and publication thereof according to law

**BOROUGH OF FAIR HAVEN
ORDINANCE NO. 2021-07**

**AN ORDINANCE OF THE COUNCIL OF THE BOROUGH OF FAIR HAVEN IN THE COUNTY OF
MONMOUTH AMENDING CHAPTER 2: “ADMINISTRATION” OF THE BOROUGH’S REVISED
GENERAL ORDINANCES TO DELETE AND REPLACE SECTION 2-27.18: “JUNIOR FIREMAN’S
AUXILIARY” TO COMPLY WITH
NEW STATE LAW GOVERNING JUNIOR FIREFIGHTERS’ AUXILIARIES.**

WHEREAS, Public Law 2020 c. 126 became effective November 20, 2020 and amended N.J.S.A. 40A:14-95, *et seq.* and changed the restrictions, requirements, and regulations for Junior Firefighters’ Auxiliaries throughout the State of New Jersey; and

WHEREAS, the Borough of Fair Haven (the “Borough”) presently maintains a Junior Fireman’s Auxiliary pursuant to N.J.S.A. 40A:14-95, *et seq.* codified within the Borough Code at Section 2-27.18; and

WHEREAS, the Borough must amend its Borough Code at Section 2-27.18 to be consistent with N.J.S.A. 40A:14-95, *et seq.*, as amended by Public Law 2020 c. 126;

NOW, THEREFORE, BE IT ORDAINED by the Council of the Borough of Fair Haven, in the County of Monmouth, in the State of New Jersey that Section 2-27.18: “Junior Fireman’s Auxiliary” of Chapter 2: “Administration” of the Borough’s Revised General Ordinances is hereby deleted and replaced as follows:

CHAPTER 2: “ADMINISTRATION”

* * *

§ 2-27.18 JUNIOR FIREFIGHTERS’ AUXILIARY.

- A. *Established.* A Junior Firefighters' Auxiliary to the Volunteer Fire Department of the Borough of Fair Haven is established pursuant to the provisions of N.J.S.A. 40A:14-95, *et seq.*, and subject to the supervision of the Volunteer Fire Company and the Fire Chief. The members of the Auxiliary shall be known as “Junior Firefighters.”
- B. *Eligibility for Membership.* A person who is not less than 14 or more than 18 years of age shall be eligible for membership in the Junior Firefighters' Auxiliary. Prior to being accepted for membership in the Junior Firefighters' Auxiliary, a person eligible pursuant to subsection a. of this section shall:
- (1) Obtain permission to join the Junior Firefighters' Auxiliary from the person’s parent(s) or guardian. Permission shall be granted in writing to the Volunteer Fire Company on the form prescribed by the N.J. Department of Community Affairs;
 - (2) Complete an application and be interviewed by the Fire Chief or his or her designee with a parent or guardian present; and
 - (3) Submit documentation from a qualified physician verifying that the person is medically able to perform the activities of the Junior Firefighters' Auxiliary.
- C. *Rules and Regulations.* Pursuant to Section 2-27.3 and N.J.S.A. 40A:14-98, the Volunteer Fire Company shall adopt rules and regulations that provide for the training of the Junior Firefighters' Auxiliary for eventual membership in the Volunteer Fire Company. The rules and regulations governing the Junior Firefighters' Auxiliary shall comply with all applicable regulations established by the N.J. Department of Community Affairs, and they shall further comply with the following:

- (1) A Junior Firefighter 16 years of age or older may perform the duties permitted by the rules and regulations governing the Junior Firefighters' Auxiliary at training events and emergency incidents, provided that:
 - (a) the Junior Firefighter has been appropriately and adequately trained to perform said duties.
 - (b) the Junior Firefighter is appropriately and adequately supervised in performing those duties at the training event or emergency incident; and
 - (c) the Junior Firefighter's parent(s) or guardian has provided written permission allowing the Junior Firefighter to perform those duties.
- (2) Activities of Junior Firefighters' Auxiliary members under 16 years of age shall be limited to:
 - (a) attending meetings of the Junior Firefighters' Auxiliary.
 - (b) receiving instruction.
 - (c) participating in training as established by regulations adopted by the commissioner that does not involve fire, smoke, toxic or noxious gas, or hazardous materials or substances; and
 - (d) observing firefighting activities, while under supervision.
- (3) Junior Firefighters shall be subject to provisions of the Borough Code covering Firefighters as to suspension or expulsion as provided therein.
- (4) Junior Firefighters' Auxiliary members shall be insured by the same coverage and in the same amounts as the regular members of the Volunteer Fire Company.

BE IT FURTHER ORDAINED that any ordinances or portions thereof which are inconsistent with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance; and

BE IT FURTHER ORDAINED that, if any provision of this Ordinance or the application of such provision to any person or circumstance is declared invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect, and to this end, the provisions of this Ordinance are declared to be severable.

BE IT FURTHER ORDAINED that this Ordinance shall take effect immediately upon its passage and adoption according to law.

**BOROUGH OF FAIR HAVEN
ORDINANCE NO. 2021-08**

AN ORDINANCE ADDING SECTION 15.4 TO CHAPTER 30 (LAND USE AND DEVELOPMENT REGULATIONS) IN THE FAIR HAVEN BOROUGH CODE, WHICH WILL BE ENTITLED “DEVELOPMENT FEE ORDINANCE,” WHICH WILL COMPLY WITH CURRENT STATE AFFORDABLE HOUSING REGULATIONS

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

Section 1. Section 15.4 of Chapter 30 (Land Use and Development Regulations) of the Code of the Borough of Fair Haven entitled “Development Fee Ordinance”, under a new section entitled “Section 15 Affordable Housing Requirements,” is hereby created and established to read as follows:

Section 15: Affordable Housing Requirements

30-15.4 Development Fee Ordinance

A. Purpose

1. In Holmdel Builder’s Association V. Holmdel Township, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 (the Act), N.J.S.A. 52:27d-301 et seq., and the State Constitution, subject to the Council on Affordable Housing’s (COAH’s) adoption of rules.
2. Pursuant to P.L.2008, c.46 section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH is authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of the Council or a court of competent jurisdiction and have a COAH-approved spending plan may retain fees collected from non-residential development.
3. In Re: Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015), also known as the Mount Laurel IV decision, the Supreme Court remanded COAH’s duties to the Superior Court. As a result, affordable housing development fee collections and expenditures from the municipal affordable housing trust funds to implement municipal Third Round Fair Share Plans through July 1, 2025 are under the Court’s jurisdiction and are subject to approval by the Court.
4. This chapter establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH’s regulations and in accordance P.L.2008, c.46, Sections 8 and 32-38. Fees collected pursuant to this ordinance shall be used for the sole purpose of providing low- and moderate-income housing. This ordinance shall be interpreted within the framework of COAH’s rules on development fees, codified at N.J.A.C. 5:93-8.

B. Definitions

The following terms, as used in this chapter, shall have the following meanings:

1. “**Affordable housing development**” means a development included in the Borough’s Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable development.

2. “**COAH**” or the “**Council**” means the New Jersey Council on Affordable Housing established under the Act.
3. “**Development fee**” means money paid by a developer for the improvement of property as authorized by Holmdel Builder’s Association v. Holmdel Borough, 121 N.J. 550 (1990) and the Fair Housing Act of 1985, N.J.S.A. 52:27d-301, *et seq.*, and regulated by applicable COAH regulations.
4. “**Developer**” means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.
5. “**Equalized assessed value**” means the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 of P.L.1973, c.123 (C.54:1-35a through C.54:1-35c).
6. “**Green building strategies**” means those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

C. Residential Development Fees

1. Imposed Fees

- a. Within all zoning districts, residential developers, the developers of all new development of principal and accessory residential buildings, except for developers of the types of development specifically exempted below, shall pay a fee of one and a half percent (1.5%) of the equalized assessed value for residential development provided no increased density is permitted.
- b. When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a “d” variance) has been permitted, developers may be required to pay a development fee of six percent (6%) of the equalized assessed value for each additional unit that may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

2. Eligible Exactions, Ineligible Exactions, and Exemptions for Residential Development

- a. Affordable housing developments, developments where the developer is providing for the construction of affordable units elsewhere in the municipality, and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.
- b. Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.
- c. Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use requiring a CO for reconstruction, is demolished and replaced,

or is expanded, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.

- d. Nonprofit organizations which have received tax exempt status pursuant to section 501(c)(3) of the Internal Revenue Code, providing current evidence of that status is submitted to the municipal clerk, together with a certification that services of the organization are provided at reduced rates to those who establish an inability to pay existing charges, shall be exempted from paying a development fee.
- e. Federal, state, county and local governments shall be exempted from paying a development fee.
- f. Owner-occupied residential structures demolished and replaced as a result of a fire, flood, or natural disaster shall be exempt from paying a development fee.

D. Non-residential Development Fees

1. Imposed Fees

- a. Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to two and one-half percent (2.5%) of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.
- b. Non-residential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to two and one-half percent (2.5%) of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.
- c. Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and one-half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvement and the equalized assessed value of the newly improved structure, i.e. land and improvement, at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.

2. Eligible Exactions, Ineligible Exactions, and Exemptions for Non-Residential Development

- a. The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to the two and one-half percent (2.5%) development fee, unless otherwise exempted below.
- b. The two and one-half percent (2.5%) fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
- c. Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to P.L.2008, c.46, as specified in the Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" Form. Any exemption claimed by a developer shall be

substantiated by that developer.

- d. A developer of a non-residential development exempted from the non-residential development fee pursuant to P.L.2008, c.46 shall be subject to it at such time the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.
- e. If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within forty-five (45) days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the Borough of Fair Haven as a lien against the real property of the owner.

E. Collection Procedures

1. Upon the granting of a preliminary, final or other applicable approval, for a development, the applicable approving authority shall direct its staff to notify the Borough's Land Use Officer responsible for the issuance of a building permit.
2. For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" to be completed as per the instructions provided. The developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The construction official shall verify the information submitted by the non-residential developer in accordance with the instructions in Form N-RDF. The Tax assessor shall verify exemptions and prepare estimated and final assessments in keeping with the instructions in Form N-RDF.
3. The Land Use Officer responsible for the issuance of a building permit shall notify the local tax assessor of the issuance of the first building permit for a development which is subject to a development fee.
4. Within 90 days of receipt of that notice, the municipal tax assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
5. The Land Use Officer responsible for the issuance of a final certificate of occupancy shall notify the local assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.
6. Within 10 business days of a request for the scheduling of a final inspection, the municipal assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
7. Should the Borough of Fair Haven fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in subsection b. of section 37 of P.L.2008, c.46 (C.40:55D-8.6).
8. Fifty percent of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of certificate of occupancy.

9. Appeal of development fees

- a. A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest-bearing escrow account by the Borough of Fair Haven. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
- b. A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by the Borough of Fair Haven Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

F. Affordable Housing Trust Fund

1. There is hereby created a separate, interest-bearing housing trust fund to be maintained by the Borough's Chief Financial Officer for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.
2. The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
 - a. Payments in lieu of on-site construction of affordable units;
 - b. Developer contributed funds to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached development accessible;
 - c. Rental income from municipally operated units;
 - d. Repayments from affordable housing program loans;
 - e. Recapture funds;
 - f. Proceeds from the sale of affordable units; and
 - g. Any other funds collected in connection with the Borough of Fair Haven's affordable housing program.
3. In the event of a failure by the Borough of Fair Haven to comply with trust fund monitoring and reporting requirements or to submit accurate monitoring reports; or a failure to comply with the conditions of the judgment of compliance or a revocation of the judgment of compliance; or a failure to implement the approved Spending Plan and to expend funds within the applicable required time period as set forth in In re Tp. of Monroe, 442 N.J. Super. 565 (Law Div. 2015) (aff'd 442 N.J. Super. 563); or the expenditure of funds on activities not approved by the Court; or for

other good cause demonstrating the unapproved use(s) of funds, the Court may authorize the State of New Jersey, Department of Community Affairs, Division of Local Government Services (LGS), to direct the manner in which the funds in the Affordable Housing Trust Fund shall be expended, provided that all such funds shall, to the extent practicable, be utilized for affordable housing programs within the Borough of Fair Haven, or, if not practicable, then within the County or the Housing Region.

4. Any party may bring a motion before the Superior Court presenting evidence of such condition(s), and the Court may, after considering the evidence and providing the municipality a reasonable opportunity to respond and/or to remedy the non-compliant condition(s), and upon a finding of continuing and deliberate non-compliance, determine to authorize LGS to direct the expenditure of funds in the Trust Fund. The Court may also impose such other remedies as may be reasonable and appropriate to the circumstances.
5. All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by the Court.

G. Use of Funds

1. The expenditure of all funds shall conform to a spending plan approved by the Court. Funds deposited in the housing trust fund may be used for any activity approved by the Court to address the Borough of Fair Haven's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing non-residential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or state standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted pursuant to N.J.A.C. 5:93-8 and specified in the approved spending plan.
2. Funds shall not be expended to reimburse the Borough of Fair Haven for past housing activities.
3. At least thirty percent (30%) of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning thirty percent (30%) or less of median income by region.
 - a. Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, and assistance with emergency repairs.
 - b. Affordability assistance to households earning thirty percent (30%) or less of median income may include buying down the cost of low or moderate income units in the municipal Fair Share Plan to make them affordable to households earning thirty percent (30%) or less of median income.
 - c. Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
4. The Borough of Fair Haven may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in

accordance with N.J.A.C. 5:94-7.

5. No more than twenty percent (20%) of all revenues collected from development fees, may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than twenty percent (20%) of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with monitoring requirements for the affordable housing in compliance with the Housing Element and Fair Share Plan. Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's regulations and/or action are not eligible uses of the affordable housing trust fund.

H. Monitoring

1. On an annual basis commencing with the first anniversary of the entry of the Order granting a Final Judgment of Compliance and Repose The Borough of Fair Haven shall provide annual reporting of trust fund activity to the New Jersey Department of Community Affairs ("DCA"), COAH, or Local Government Services ("LGS"), or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the DCA, COAH, or LGS. This reporting shall include an accounting of all housing trust fund activity, including the collection of development fees from residential and nonresidential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier-free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with the Borough's housing program, as well as to the expenditure of revenues and implementation of the plan approved by the court.

I. Ongoing Collection of Fees

1. The ability for the Borough of Fair Haven to impose, collect and expend development fees shall expire with its Judgment of Compliance and Repose unless the Borough of Fair Haven has filed an adopted Housing Element and Fair Share Plan with the court or other appropriate jurisdiction, has filed a Declaratory Judgment action and has received court approval of its development fee ordinance. If the Borough of Fair Haven fails to renew its ability to impose and collect development fees prior to the expiration of Judgment of Compliance and Repose, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320). The Borough of Fair Haven shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its Judgment of Compliance and Repose, nor shall the Borough of Fair Haven retroactively impose a development fee on such a development. The Borough of Fair Haven shall not expend development fees after the expiration of its Judgment of Compliance and Repose.

Section 2. 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 3. 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 hereby ratified and confirmed, except where inconsistent with the terms hereof.

Section 4. The Borough Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this ordinance to the Monmouth County Planning Board and to all other persons entitled thereto pursuant to N.J.S.A. 40:55D-15, and N.J.S.A. 40:55D-63 (if required).

Section 5. After introduction, the Borough Clerk is hereby 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.

Section 6. This Ordinance shall take effect immediately upon (1) adoption; (2) approval by the Mayor pursuant to N.J.S.A. 40:69A-149.7; (3) publication in accordance with the laws of the State of New Jersey; and (4) filing of the final form of adopted ordinance by the Clerk with (a) the Monmouth County Planning Board pursuant to N.J.S.A. 40:55D-16, and (b) the Borough Tax Assessor as required by N.J.S.A. 40:49-2.1.

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

RESOLUTION

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2021-142

TITLE: REFUND OF 2nd QUARTER, 2021 PROPERTY TAX OVERPAYMENTS

WHEREAS, the Tax Collector, has provided a request for a tax overpayment refund for 1st Quarter 2021 due to duplicate payment and advises that the following property owners qualify for a refund as follows:

Owner	Address	Block	Lot	Refund
Timothy and Janice Lake	162 Buena Vista Avenue	66	5	3,149.23

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 refunds in the amounts listed above.

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2021-143

TITLE: APPOINT COUNSELORS FOR THE 2021 REC-N-CREW SUMMER CAMP PROGRAM IN THE PARKS & RECREATION DEPARTMENT

WHEREAS, the Borough of Fair Haven will be offering a Rec-N-Crew Summer Camp Program through the Parks and Recreation Department for the 2021 summer season; and

WHEREAS, DJ Breckenridge, Parks and Recreation Director has recommended the following individuals be appointed as part time Counselors for the 2021 program:

Camp Employee	Hourly Salary	Title/Notes	Term
Alex Componile	\$19.00	Head Counselor	June 28 – July 30
Edward Messigner	\$19.00	Head Counselor	June 28 – July 30
Cam Lewis	\$12.00	Assistant Head Counselor	June 28 – July 30
Emily Pozzuto	\$12.00	Assistant Head Counselor	June 28 – July 30
Jack Benedetto	\$10.00	Counselor	June 28 – July 30
Christian Danielczyk	\$10.00	Counselor	June 28 – July 30
Giavonna Darcy	\$10.00	Counselor	June 28 – July 30
Francesca Darcy	\$10.00	Counselor	June 28 – July 30
Thomas Friedman	\$10.00	Counselor	June 28 – July 30
Jason Hall	\$10.00	Counselor	June 28 – July 30
Brody McGowan	\$10.00	Counselor	June 28 – July 30
P.J. Rawlins	\$10.00	Counselor	June 28 – July 30
Sarah Rodriguez	\$10.00	Counselor	June 28 – July 30
Chris Ryan	\$10.00	Counselor	June 28 – July 30
Luke Alex Turoczi	\$10.00	Counselor	June 28 – July 30
Ben Turoczi	\$10.00	Counselor	June 28 – July 30

WHEREAS, the Summer Playground Program is offset through the fees paid by participants of the programs by way of the Recreation Trust Fund.

NOW THEREFORE BE IT RESOLVED by the Borough Council of the Borough of Fair Haven that the above Counselors be appointed for the 2021 Summer Rec-N-Crew Camp Program at the program salaries listed above for the program beginning June 28, 2021 through July 30, 2021.

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2021-144

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

WHEREAS, the Fair Haven PTA will be holding an 8th Grade Graduation Parent Party on June 16, 2021 (rain date June 15, 2021); and

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

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

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Fair Haven that Borough Codes 3-19.1 and 9-1.22 be waived on June 16, 2021 (rain date of June 15, 2021) between the hours of 7:45 p.m. and 10:00 p.m. for Fair Haven PTA’s 8th Grade Graduation Parent Party and codes be waived for alcohol purchased through Brennan’s of Rumson as no outside alcohol will be permitted.

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2021-145

TITLE: 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 2021 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 2021 for the Borough pursuant to the provisions of Chapter 96, PL 1951 (NJSA 40A:4-20) including this resolution total **\$4,932,076.38** 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			
1-01-25-255-235	Fire Department Equipment	\$20,000.00	Add to Temp Budget
1-01-26-300-237	Shade Tree Consulting	\$200.00	Add to Temp Budget
1-01-26-310-202	Buildings and Grounds	\$1,200.00	Add to Temp Budget
TOTAL		\$21,400.00	

2. That said emergency temporary appropriations will be provided for in the 2021 budget under the appropriate titles.

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

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2021-146

TITLE: SUPPORT AND AUTHORIZATION FOR THE FAIR HAVEN ENVIRONMENTAL COMMISSION, GREEN TEAM, TO SUBMIT A 2021 SUSTAINABLE JERSEY, EDF CLIMATE CORPS PROGRAM APPLICATION

WHEREAS, a sustainable community seeks to optimize quality of life for its residents by ensuring that its environmental, economic and social objectives are balanced and mutually supportive; and

WHEREAS, the Borough of Fair Haven strives to save tax dollars, assure clean land, air and water, improve working and living environments; and

WHEREAS, Fair Haven is participating in the Sustainable Jersey Program; and

WHEREAS, one of the purposes of the Sustainable Jersey Program is to provide resources to municipalities to make progress on sustainability issues, and they have created the 2021 EDF Climate Corps Program; and

WHEREAS, the Mayor and Council of the Borough of Fair Haven has determined that Fair Haven should apply for the aforementioned 2021 EDF Climate Corps Program. The assistance will be beneficial in helping us better understand our current energy usage and identifying future ways to save energy costs and improve our community's sustainability and assist us in applying for a Local Government Energy Audit for all municipal buildings through the NJ Clean Energy Program and find incentives for upgrades in appliance, lighting and other equipment.

WHEREAS, the Borough of Fair Haven will commit to providing staff support for the duration of the 2021 EDF Climate Corps Program, including access to data for energy projects such as utility billing data.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Fair Haven, County of Monmouth and State of New Jersey, support and authorize the submission of the aforementioned application to the 2021 EDF Climate Corps Program.

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

RESOLUTION

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2021-147

TITLE: REFUND OF 2nd QUARTER 2021 INTEREST PAID ON PROPERTY TAX PAYMENTS

WHEREAS, the Tax Collector, has provided a request for a refund of interest on 2nd Quarter 2021 taxes that should not have been collected and advises that the following property owners qualify for a refund as follows:

Owner	Address	Block	Lot	Refund
Joshua and Nicole Halpern	80 Buttonwood Drive	71	2	\$17.36

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 refunds in the amounts listed above.

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2021-148

**TITLE: AUTHORIZE BOROUGH ADMINISTRATOR TO ENTER PURCHASE
 ORDERS FOR BOROUGH ARCHITECT TO PERFORM SERVICES**

WHEREAS, The Goldstein Partnership (“Architect”), a licensed architect in the State of New Jersey, was retained by the Borough of Fair Haven (the “Borough”) to perform certain architectural services (the “Work”) by way of Contracts for Professional Services, dated December 11, 2017, October 9, 2018, February 12, 2020, and January 25, 2021; and

WHEREAS, the Architect has already completed and/or undertaken several aspects of the Work under the aforementioned Contracts, with which Work the Borough has been satisfied to date; and

WHEREAS, the Borough desires that the Architect continue to perform said Work in connection with the design of the Borough’s new police storage building; and

WHEREAS, the Architect has submitted a Proposal, revised as of May 14, 2021 and attached hereto as Exhibit A, for its design, inspection, and administration of construction for the Borough’s new police storage building; and

WHEREAS, the Borough has bonded for various construction projects and will encumber funds to pay the Architect for the Work;

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

- (1) Authorize the renewal of the Borough’s Professional Service Contracts with The Goldstein Partnership for a period not to exceed one year pursuant to N.J.S.A. 40A:11-5; and
- (2) Authorize the Borough Administrator to accept and execute the Proposal attached hereto as Exhibit A from The Goldstein Partnership pursuant to N.J.S.A. 40A:11-5; and
- (3) Provide notice that the retention of The Goldstein Partnership is exempt from public bidding as a professional service under N.J.S.A. 40A:11-5.1(a)(i), and is being awarded under a non-fair and open process in accordance with New Jersey’s Pay-to-Play law; and
- (4) Direct that Notice of this contract award shall be published in the designated official newspapers as required by law within ten (10) days of the passage of this Resolution; and
- (5) Direct that The Goldstein Partnership shall submit a Business Entity Disclosure Certification which certifies compliance with New Jersey’s Pay-to-Play law; and
- (6) Direct that the Borough Purchasing Agent shall ensure the appropriate public contracting language and documentary requirements are submitted by The Goldstein Partnership prior to commencement of the Work; and

- (7) Direct that a certified copy of this resolution be forwarded to the Borough Administrator, Chief Financial Officer, Borough Engineer, and The Goldstein Partnership; and

BE IT FURTHER RESOLVED that the Borough Administrator is hereby authorized to prepare the appropriate purchase order(s) for the full proposal amounts received from the Architect and draw down from those encumbered funds, inclusive of work performed to date on these projects; and

BE IT FURTHER RESOLVED that the necessary funds to pay the Architect for the Work described on Exhibit A hereto will be encumbered from existing bonds obtained by the Borough and payment to the Architect will be made through purchase orders as services are provided.

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2021-150

TITLE: PAYMENT OF VOUCHERS

BE IT RESOLVED by the Governing Body of the Borough of Fair Haven that the vouchers listed for payment on the May 24, 2021 agenda are hereby approved and the Finance Department is hereby authorized to release payment to the various vendors.

2020 CURRENT ACCOUNT	\$ 8,311.75
2021 CURRENT ACCOUNT	\$ 257,703.65
OTHER TRUST	\$ 3,228.48
TOTAL	\$ 269,243.88

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2021-151

**TITLE: APPROVE PROPOSAL AND AGREEMENT FROM MONMOUTH CONSERVATION
FOUNDATION FOR OPEN SPACE AND FARMLAND CONSULTING SERVICES**

BE IT RESOLVED by the Mayor and Council of the Borough of Fair Haven that the Mayor and Borough Clerk are authorized to execute an agreement with the Monmouth Conservation Foundation for consulting services at a rate of \$55.00 per hour, not to exceed \$5,500.