

**FAIR HAVEN BOROUGH COUNCIL
REGULAR MEETING AGENDA
APRIL 12, 2021, 7:00 P.M.**

Zoom Link: <https://us02web.zoom.us/j/82258664375>

iPhone or Land Line Telephone Call In: 1-301-715-8592

Webinar ID: 822 5866 4375

1. **Call to Order:** pm
2. **Salute to the Flag:**
3. **Moment of Meditation:**
4. **Sunshine Law Notice:**
5. **Roll Call:** Councilmembers Banahan Chrisner-Keefe Koch
McCue Neff Rodriguez
6. **Proclamations**
 - Autism Awareness and Acceptance Month (April)
 - Child Abuse Awareness Month (April)
 - Arbor Day (April 30th)
7. **Workshop Session**
 - Brush Committee Recommendations
 - Engineering Projects Update and Bid Preparation
 - Waterfront Improvements - Pocket Parks
 - 2021 Micro Projects: Road, Sidewalk and Drainage Improvements
8. **Public Comment on Agenda Items**
9. **Approval of Minutes**
 - March 22, 2021 Regular Meeting
 - March 22, 2021 Executive Session
10. **Old Business**
 - Hearing and Adoption of Ordinances**
Ordinance No. 2021-03, Amend Chapter 30 to update Stormwater Management Ordinance
Ordinance No. 2021-05, Amend Salary Ordinance No. 2021-04
11. **New Business**
 - Council Committee Reports**
Finance - Councilman Banahan
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**
Ordinance No. 2021-06, Amend Chapter 30, Section 5-5, Affordable Housing Zone Ordinance
 - Consent Agenda**
 - Resolutions**
2021-85 Award Contract to Garden Mark for Turf Field at McCarter Park

2021-99	Authorize Execution of Settlement Agreement for Fair Share Housing
2021-101	Executive Session – Personnel and Contract Negotiations
2021-102	Authorize Mayor to Execute Agreement with Catherine Ricker for Human Resource Consulting Services
2021-103	Amend Non-Aligned Borough Employee Salary Resolution No. 2021-69
2021-104	Approve Adoption of Commercial Driver’s License Policy
2021-105	Appoint Designated Employer Representatives (DER) for CDL Clearinghouse – Richard Gardella and Nick Poruchynsky
2021-106	Approve 2021 Temporary Budget Amendment
2021-107	Temporarily Amend the Sidewalk Café License requirements
2021-108	Authorize Businesses to hold Sidewalk Sales through 2021
2021-109	Authorize Use of Fair Haven Parks by Local Exercise and Fitness Businesses
2021-110	Approve Fire Department Membership Application - Barry Chubrick
2021-111	Approve Fire Department Affiliate Membership Application – Megan O’Hare (First Aid)
2021-112	Re-approve Fire Department Membership Application - Richard Andres
2021-113	Authorize Settlement Agreement and Execution of Agreement with J&M Holdings, LLC and Yacht Works
2021-114	Authorize Contract Renewal with Dell for Microsoft 365
2021-115	Payment of Vouchers

Department Reports

March 2021

- Municipal Clerk
- Dog License
- Police Department
- Planning Board Police Department Capital Review Report (dated March 23rd)

- Budget Status

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

13. Adjournment

PROCEDURE FOR CITIZEN PARTICIPATION AT COUNCIL MEETINGS

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

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

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

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

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



**PROCLAMATION
AUTISM AWARENESS AND ACCEPTANCE MONTH
APRIL 2021**

WHEREAS, a diagnosis of ASD now includes several conditions that used to be diagnosed separately: autistic disorder, pervasive developmental disorder not otherwise specified (PDD-NOS) and Asperger syndrome; and

WHEREAS, the Centers for Disease Control (CDC) estimates that 1 in every 68 children in the United States are among the more than 2 million Americans living with an Autism Spectrum Disorder (ASD); and

WHEREAS, early diagnosis and treatment are essential for those affected by autism spectrum disorder, and we support any health care system that works for children and adults with ASD; and

WHEREAS, during Autism Awareness and Acceptance Month, we recommit to helping individuals on the autism spectrum reach their full potential; and

WHEREAS, each person should have the opportunity to live full, independent lives and follow their talents wherever they lead. In April, we recognize those with ASD who are achieving and breaking down barriers.

NOW, THEREFORE, BE IT PROCLAIMED, that I, Benjamin J. Lucarelli, Mayor of the Borough of Fair Haven, on behalf of Borough Council, do hereby proclaim April 2021 as Autism Awareness and Acceptance Month and strive to promote awareness, acceptance, inclusion and self-determination for all, and assure that each person with ASD is provided an opportunity to achieve the highest possible quality of life.



**PROCLAMATION
CHILD ABUSE PREVENTION AND AWARENESS MONTH
APRIL 2021**

WHEREAS, CHILDREN ARE VITAL TO OUR STATE'S FUTURE SUCCESS, PROSPERITY AND QUALITY OF LIFE AS WELL AS BEING OUR MOST VULNERABLE ASSETS; AND

WHEREAS, ALL CHILDREN DESERVE TO HAVE SAFE, STABLE, NURTURING HOMES AND COMMUNITIES THEY NEED TO FOSTER THEIR HEALTHY GROWTH AND DEVELOPMENT; AND

WHEREAS, CHILD ABUSE AND NEGLECT IS A COMMUNITY RESPONSIBILITY AFFECTING BOTH THE CURRENT AND FUTURE QUALITY OF LIFE OF A COMMUNITY; AND

WHEREAS, COMMUNITIES THAT PROVIDE PARENTS WITH THE SOCIAL SUPPORT, KNOWLEDGE OF PARENTING AND CHILD DEVELOPMENT AND CONCRETE RESOURCES THEY NEED TO COPE WITH STRESS AND NURTURE THEIR CHILDREN ENSURE ALL CHILDREN GROW TO THEIR FULL POTENTIAL; AND

WHEREAS, EFFECTIVE CHILD ABUSE PREVENTION STRATEGIES SUCCEED BECAUSE OF PARTNERSHIPS CREATED AMONG CITIZENS, HUMAN SERVICE AGENCIES, SCHOOLS, FAITH AGENCIES, AND THE BUSINESS COMMUNITY.

NOW, THEREFORE, BE IT PROCLAIMED THAT APRIL IS CHILD ABUSE AWARENESS AND PREVENTION MONTH AND CALL UPON ALL CITIZENS, COMMUNITY AGENCIES, FAITH GROUPS, MEDICAL FACILITIES, ELECTED LEADERS AND BUSINESSES TO INCREASE THEIR PARTICIPATION IN OUR EFFORTS TO SUPPORT FAMILIES, THEREBY PREVENTING CHILD ABUSE AND STRENGTHENING THE COMMUNITIES IN WHICH WE LIVE.



ARBOR DAY PROCLAMATION

WHEREAS, In 1872 J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees; and

WHEREAS, the holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska; and

WHEREAS, Arbor Day is now observed throughout the nation and the world; and

WHEREAS, trees can reduce the erosion of our precious topsoil by wind and water, lower our heating and cooling costs, moderate the temperature, clean the air, produce oxygen and provide habitat for wildlife; and

WHEREAS, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products; and

WHEREAS, trees in our Borough increase property values, enhance the economic vitality of business areas and beautify our community; and

WHEREAS, trees, wherever they are planted are a source of joy and spiritual renewal.

NOW, THEREFORE, I, Benjamin J. Lucarelli, Mayor of the Borough of Fair Haven do hereby proclaim, April 30, 2021 as Arbor Day in the Borough of Fair Haven and I urge all citizens to celebrate Arbor Day and to support efforts to protect our trees and woodlands; and

BE IT FURTHER PROCLAIMED that I urge all citizens to plant and care for trees to gladden the heart and promote the well being of this and future generations.

**BOROUGH OF FAIR HAVEN
ORDINANCE NO. 2021-03**

**AN ORDINANCE OF THE COUNCIL OF THE BOROUGH OF FAIR HAVEN IN THE COUNTY OF
MONMOUTH AMENDING CHAPTER 30: “LAND USE AND DEVELOPMENT REGULATIONS”
OF THE BOROUGH’S REVISED GENERAL ORDINANCES TO DELETE AND REPLACE
SECTION 30-14: “STORMWATER MANAGEMENT AND CONTROL” TO COMPLY WITH
NEWLY UPDATED NJDEP STORMWATER MANAGEMENT RULES.**

WHEREAS, the New Jersey Department of Environmental Protection (“NJDEP”) recently amended its state-wide Stormwater Management Rules, N.J.A.C. 7:8, *et seq.*; and

WHEREAS, the Borough of Fair Haven (the “Borough”) presently maintains its municipal stormwater management regulations at Borough Code Section 30-14; and

WHEREAS, pursuant to the recommendation and instruction of the Borough Engineer, the Borough must amend its local stormwater management regulations within the Borough’s Revised General Ordinances to be consistent with NJDEP amendments and mandates.

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 30-14: “Stormwater Management and Control” of Chapter 30: “Land Use and Development Regulations” of the Borough’s Revised General Ordinances is hereby deleted and replaced as follows:

CHAPTER 30: “LAND USE AND DEVELOPMENT”

* * *

§ 30-14 STORMWATER MANAGEMENT AND CONTROL.

§ 30-14.1 Scope and Purpose.

- A. *Policy Statement.* Flood control, groundwater recharge, and pollutant reduction shall be achieved through the use of stormwater management measures, including green infrastructure Best Management Practices (GI BMPs) and nonstructural stormwater management strategies. GI BMPs and low impact development (LID) should be utilized to meet the goal of maintaining natural hydrology to reduce stormwater runoff volume, reduce erosion, encourage infiltration and groundwater recharge, and reduce pollution. GI BMPs and LID should be developed based upon physical site conditions and the origin, nature and the anticipated quantity, or amount, of potential pollutants. Multiple stormwater management BMPs may be necessary to achieve the established performance standards for water quality, quantity, and groundwater recharge.
- B. *Purpose.* The purpose of this Section is to establish minimum stormwater management requirements and controls for “major development,” as defined below in Section 30-14.2.
- C. *Applicability.*
 - 1. This Section shall be applicable to the following major developments:
 - a. Non-residential major developments; and
 - b. Aspects of residential major developments that are not pre-empted by the Residential Site Improvement Standards at N.J.A.C. 5:21.

2. This Section shall also be applicable to all major developments undertaken by the Borough of Fair Haven.

D. *Compatibility with Other Permit and Ordinance Requirements.* Development approvals issued pursuant to this Section are to be considered an integral part of development approvals and do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act, or ordinance. In their interpretation and application, the provisions of this Section shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. This Section is not intended to interfere with, abrogate, or annul any other ordinances, rule or regulation, statute, or other provision of law except that, where any provision of this Section imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, the more restrictive provisions or higher standards shall control.

§ 30-14.2 Definitions.

For purposes of this Section, the following terms, phrases, words and derivations shall have the meanings stated herein unless their use in the text of this Section clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word “shall” is always mandatory and not merely directory. The definitions below are the same as or based on corresponding definitions in the Stormwater Management Rules at N.J.A.C. 7:8-1.2.

“*CAFRA Centers, Cores or Nodes*” means those areas with boundaries incorporated by reference or revised by the Department in accordance with N.J.A.C. 7:7-13.16.

“*CAFRA Planning Map*” means the map used by the Department to identify the location of Coastal Planning Areas, CAFRA centers, CAFRA cores, and CAFRA nodes. The CAFRA Planning Map is available on the Department's Geographic Information System (GIS).

“*Community basin*” means an infiltration system, sand filter designed to infiltrate, standard constructed wetland, or wet pond, established in accordance with N.J.A.C. 7:8-4.2(c)14, that is designed and constructed in accordance with the New Jersey Stormwater Best Management Practices Manual, or an alternate design, approved in accordance with N.J.A.C. 7:8-5.2(g), for an infiltration system, sand filter designed to infiltrate, standard constructed wetland, or wet pond and that complies with the requirements of this Section.

“*Compaction*” means the increase in soil bulk density.

“*Contributory drainage area*” means the area from which stormwater runoff drains to a stormwater management measure, not including the area of the stormwater management measure itself.

“*Core*” means a pedestrian-oriented area of commercial and civic uses serving the surrounding municipality, generally including housing and access to public transportation.

“*County review agency*” means an agency designated by the County Board of Chosen Freeholders to review municipal stormwater management plans and implementing ordinance(s). The county review agency may either be:

1. A county planning agency; or
2. A county water resource association created under N.J.S.A 58:16A-55.5, if the ordinance or resolution delegates authority to approve, conditionally approve, or disapprove municipal stormwater management plans and implementing ordinances.

“*Department*” means the Department of Environmental Protection.

“*Designated Center*” means a State Development and Redevelopment Plan Center as designated by the State Planning Commission such as urban, regional, town, village, or hamlet.

“*Design engineer*” means a person professionally qualified and duly licensed in New Jersey to perform engineering services that may include, but not necessarily be limited to, development of project requirements, creation and development of project design and preparation of drawings and specifications.

“*Development*” means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlarge-enlargement of any building or structure, any mining excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission is required under the Municipal Land Use Law, N.J.S.A. 40:55D-1 *et seq.* For development of agricultural land, development means: any activity that requires a State permit, any activity reviewed by the County Agricultural Board (CAB) and the State Agricultural Development Committee (SADC), and municipal review of any activity not exempted by the Right to Farm Act, N.J.S.A 4:1C-1 *et seq.*

“*Disturbance*” means the placement or reconstruction of impervious surface or motor vehicle surface, or exposure and/or movement of soil or bedrock or clearing, cutting, or removing of vegetation. Milling and repaving is not considered disturbance for the purposes of this definition.

“*Drainage area*” means a geographic area within which stormwater, sediments, or dissolved materials drain to a particular receiving waterbody or to a point along a receiving waterbody.

“*Environmentally constrained area*” means the following areas where the physical alteration of the land is in some way restricted, either through regulation, easement, deed restriction or ownership such as: wetlands, floodplains, threatened and endangered species sites or designated habitats, and parks and preserves. Habitats of endangered or threatened species are identified using the Department's Landscape Project as approved by the Department's Endangered and Nongame Species Program.

“*Environmentally critical area*” means an area or feature which is of significant environmental value, including but not limited to: stream corridors, natural heritage priority sites, habitats of endangered or threatened species, large areas of contiguous open space or upland forest, steep slopes, and well head protection and groundwater recharge areas. Habitats of endangered or threatened species are identified using the Department's Landscape Project as approved by the Department's Endangered and Nongame Species Program.

“*Empowerment Neighborhoods*” means neighborhoods designated by the Urban Coordinating Council “in consultation and conjunction with” the New Jersey Redevelopment Authority pursuant to N.J.S.A 55:19-69.

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

“*Green infrastructure*” means a stormwater management measure that manages stormwater close to its source by:

1. Treating stormwater runoff through infiltration into subsoil;
2. Treating stormwater runoff through filtration by vegetation or soil; or
3. Storing stormwater runoff for reuse.

“*HUC 14*” or “*hydrologic unit code 14*” means an area within which water drains to a particular receiving surface water body, also known as a subwatershed, which is identified by a 14-digit hydrologic unit boundary designation, delineated within New Jersey by the United States Geological Survey.

“*Impervious surface*” means a surface that has been covered with a layer of material so that it is highly resistant to infiltration by water.

“*Infiltration*” is the process by which water seeps into the soil from precipitation.

“*Lead planning agency*” means one or more public entities having stormwater management planning authority designated by the regional stormwater management planning committee pursuant to N.J.A.C. 7:8-3.2, that serves as the primary representative of the committee.

“*Major development*” means an individual “development,” as well as multiple developments that individually or collectively result in:

1. The disturbance of one or more acres of land since February 2, 2004;
2. The creation of one-quarter acre or more of “regulated impervious surface” since February 2, 2004;
3. The creation of one-quarter acre or more of “regulated motor vehicle surface” since March 2, 2021; or
4. A combination of 2 and 3 above that totals an area of one-quarter acre or more. The same surface shall not be counted twice when determining if the combination area equals one-quarter acre or more.

Major development includes all developments that are part of a common plan of development or sale (for example, phased residential development) that collectively or individually meet any one or more of paragraphs 1, 2, 3, or 4 above. Projects undertaken by any government agency that otherwise meet the definition of “major development” but which do not require approval under the Municipal Land Use Law, N.J.S.A. 40:55D-1 *et seq.*, are also considered “major development.”

“*Motor vehicle*” means land vehicles propelled other than by muscular power, such as automobiles, motorcycles, autocycles, and low speed vehicles. For the purposes of this definition, motor vehicle does not include farm equipment, snowmobiles, all-terrain vehicles, motorized wheelchairs, go-carts, gas buggies, golf carts, ski-slope grooming machines, or vehicles that run only on rails or tracks.

“*Motor vehicle surface*” means any pervious or impervious surface that is intended to be used by “motor vehicles” and/or aircraft, and is directly exposed to precipitation including, but not limited to, driveways, parking areas, parking garages, roads, racetracks, and runways.

“*Municipality*” means any city, borough, town, township, or village.

“*New Jersey Stormwater Best Management Practices (BMP) Manual*” or “*BMP Manual*” means the manual maintained by the Department providing, in part, design specifications, removal rates, calculation methods, and soil testing procedures approved by the Department as being capable of contributing to the achievement of the stormwater management standards specified in this Section. The BMP Manual is periodically amended by the Department as necessary to provide design specifications on additional best management practices and new information on already included practices reflecting the best available current information regarding the particular practice and the Department’s determination as to the ability of that best management practice to contribute to compliance with the standards contained in this Section. Alternative stormwater management measures, removal rates, or calculation methods may be utilized, subject to any limitations specified in this Section, provided the design engineer demonstrates to the municipality, in accordance with Section IV.F. of this Section and N.J.A.C. 7:8-5.2(g), that the proposed measure and its design will contribute to achievement of the design and performance standards established by this Section.

“*Node*” means an area designated by the State Planning Commission concentrating facilities and activities which are not organized in a compact form.

“*Nutrient*” means a chemical element or compound, such as nitrogen or phosphorus, which is essential to and promotes the development of organisms.

“*Person*” means any individual, corporation, company, partnership, firm, association, political subdivision of this State and any state, interstate or Federal agency.

“*Pollutant*” means any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, refuse, oil, grease, sewage sludge, munitions, chemical wastes, biological materials, medical wastes, radioactive substance (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. §§ 2011 *et seq.*)), thermal waste, wrecked or discarded equipment, rock, sand, cellar dirt, industrial, municipal, agricultural, and construction waste or runoff, or other residue discharged directly or indirectly to the land, ground waters or surface waters of the State, or to a domestic treatment works. “*Pollutant*” includes both hazardous and nonhazardous pollutants.

“*Recharge*” means the amount of water from precipitation that infiltrates into the ground and is not evapotranspired.

“*Regulated impervious surface*” means any of the following, alone or in combination:

1. A net increase of impervious surface;
2. The total area of impervious surface collected by a new stormwater conveyance system (for the purpose of this definition, a “new stormwater conveyance system” is a stormwater conveyance system that is constructed where one did not exist immediately prior to its construction or an existing system for which a new discharge location is created);
3. The total area of impervious surface proposed to be newly collected by an existing stormwater conveyance system; and/or
4. The total area of impervious surface collected by an existing stormwater conveyance system where the capacity of that conveyance system is increased.

“*Regulated motor vehicle surface*” means any of the following, alone or in combination:

1. The total area of motor vehicle surface that is currently receiving water;
2. A net increase in motor vehicle surface; and/or quality treatment either by vegetation or soil, by an existing stormwater management measure, or by treatment at a wastewater treatment plant, where the water quality treatment will be modified or removed.

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

“*Site*” means the lot or lots upon which a major development is to occur or has occurred.

“*Soil*” means all unconsolidated mineral and organic material of any origin.

“*State Development and Redevelopment Plan Metropolitan Planning Area (PAI)*” means an area delineated on the State Plan Policy Map and adopted by the State Planning Commission that is intended to be the focus for much of the State’s future redevelopment and revitalization efforts.

“*State Plan Policy Map*” is defined as the geographic application of the State Development and Redevelopment Plan’s goals and statewide policies, and the official map of these goals and policies.

“*Stormwater*” means water resulting from precipitation (including rain and snow) that runs off the land’s surface, is transmitted to the subsurface, or is captured by separate storm sewers or other sewage or drainage facilities, or conveyed by snow removal equipment.

“*Stormwater management BMP*” means an excavation or embankment and related areas designed to retain stormwater runoff. A stormwater management BMP may either be normally dry (that is, a detention basin or

infiltration system), retain water in a permanent pool (a retention basin), or be planted mainly with wetland vegetation (most constructed stormwater wetlands).

“*Stormwater management measure*” means any practice, technology, process, program, or other method intended to control or reduce stormwater runoff and associated pollutants, or to induce or control the infiltration or groundwater recharge of stormwater or to eliminate illicit or illegal non-stormwater discharges into stormwater conveyances.

“*Stormwater runoff*” means water flow on the surface of the ground or in storm sewers, resulting from precipitation.

“*Stormwater management planning agency*” means a public body authorized by legislation to prepare stormwater management plans.

“*Stormwater management planning area*” means the geographic area for which a stormwater management planning agency is authorized to prepare stormwater management plans, or a specific portion of that area identified in a stormwater management plan prepared by that agency.

“*Tidal Flood Hazard Area*” means a flood hazard area in which the flood elevation resulting from the two-, 10-, or 100-year storm, as applicable, is governed by tidal flooding from the Atlantic Ocean. Flooding in a tidal flood hazard area may be contributed to, or influenced by, stormwater runoff from inland areas, but the depth of flooding generated by the tidal rise and fall of the Atlantic Ocean is greater than flooding from any fluvial sources. In some situations, depending upon the extent of the storm surge from a particular storm event, a flood hazard area may be tidal in the 100-year storm, but fluvial in more frequent storm events.

“*Urban Coordinating Council Empowerment Neighborhood*” means a neighborhood given priority access to State resources through the New Jersey Redevelopment Authority.

“*Urban Enterprise Zones*” means a zone designated by the New Jersey Enterprise Zone Authority pursuant to the New Jersey Urban Enterprise Zones Act, N.J.S.A. 52:27H-60 *et. seq.*

“*Urban Redevelopment Area*” is defined as previously developed portions of areas:

1. Delineated on the State Plan Policy Map (SPPM) as the Metropolitan Planning Area (PA1), Designated Centers, Cores or Nodes;
2. Designated as CAFRA Centers, Cores or Nodes;
3. Designated as Urban Enterprise Zones; and
4. Designated as Urban Coordinating Council Empowerment Neighborhoods.

“*Water control structure*” means a structure within, or adjacent to, a water, which intentionally or coincidentally alters the hydraulic capacity, the flood elevation resulting from the two-, 10-, or 100-year storm, flood hazard area limit, and/or floodway limit of the water. Examples of a water control structure may include a bridge, culvert, dam, embankment, ford (if above grade), retaining wall, and weir.

“*Waters of the State*” means the ocean and its estuaries, all springs, streams, wetlands, and bodies of surface or groundwater, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

“*Wetlands*” or “*wetland*” means an area that is inundated or saturated by surface water or ground water 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.

§ 30-14.3 Design and Performance Standards for Stormwater Management Measures.

- A. Stormwater management measures for major development shall be designed to provide erosion control, groundwater recharge, stormwater runoff quantity control, and stormwater runoff quality treatment as follows:
 - 1. The minimum standards for erosion control are those established under the Soil and Sediment Control Act, N.J.S.A. 4:24-39 *et seq.*, and implementing rules at N.J.A.C. 2:90.
 - 2. The minimum standards for groundwater recharge, stormwater quality, and stormwater runoff quantity shall be met by incorporating green infrastructure.
- B. The standards in this Section apply only to new major development and are intended to minimize the impact of stormwater runoff on water quality and water quantity in receiving water bodies and maintain groundwater recharge. The standards do not apply to new major development to the extent that alternative design and performance standards are applicable under a regional stormwater management plan or Water Quality Management Plan adopted in accordance with Department rules.

§ 30-14.4 Stormwater Management Requirements for Major Development.

- A. The development shall incorporate a maintenance plan for the stormwater management measures incorporated into the design of a major development in accordance with Section 30-14.10.
- B. Stormwater management measures shall avoid adverse impacts of concentrated flow on habitat for threatened and endangered species as documented in the Department's Landscape Project or Natural Heritage Database established under N.J.S.A. 13:1B-15.147 through 15.150, particularly *Helonias bullata* (swamp pink) and/or *Clemmys muhlenbergi* (bog turtle).
- C. The following linear development projects are exempt from the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity requirements of Section 30-14.4.P, Q and R:
 - 1. The construction of an underground utility line provided that the disturbed areas are revegetated upon completion;
 - 2. The construction of an aboveground utility line provided that the existing conditions are maintained to the maximum extent practicable; and
 - 3. The construction of a public pedestrian access, such as a sidewalk or trail with a maximum width of 14 feet, provided that the access is made of permeable material.
- D. A waiver from strict compliance from the green infrastructure, groundwater recharge, stormwater runoff quality, and stormwater runoff quantity requirements of Section 30-14.4.O, P, Q and R may be obtained for the enlargement of an existing public roadway or railroad; or the construction or enlargement of a public pedestrian access, provided that the following conditions are met:
 - 1. The applicant demonstrates that there is a public need for the project that cannot be accomplished by any other means;
 - 2. The applicant demonstrates through an alternatives analysis, that through the use of stormwater management measures, the option selected complies with the requirements of Section 30-14.4.O, P, Q and R to the maximum extent practicable;

3. The applicant demonstrates that, in order to meet the requirements of Section 30-14.4.O, P, Q and R, existing structures currently in use, such as homes and buildings, would need to be condemned; and
4. The applicant demonstrates that it does not own or have other rights to areas, including the potential to obtain through condemnation lands not falling under 30-14.4.D.3 above within the upstream drainage area of the receiving stream, that would provide additional opportunities to mitigate the requirements of Section 30-14.4.O, P, Q and R that were not achievable onsite.

E. Tables 1 through 3 below summarize the ability of stormwater best management practices identified and described in the New Jersey Stormwater Best Management Practices Manual to satisfy the green infrastructure, groundwater recharge, stormwater runoff quality and stormwater runoff quantity standards specified in Section 30-14.4.O, P, Q and R. When designed in accordance with the most current version of the New Jersey Stormwater Best Management Practices Manual, the stormwater management measures found at N.J.A.C. 7:8-5.2 (f) Tables 5-1, 5-2 and 5-3 and listed below in Tables 1, 2 and 3 are presumed to be capable of providing stormwater controls for the design and performance standards as outlined in the tables below. Upon amendments of the New Jersey Stormwater Best Management Practices to reflect additions or deletions of BMPs meeting these standards, or changes in the presumed performance of BMPs designed in accordance with the New Jersey Stormwater BMP Manual, the Department shall publish in the New Jersey Registers a notice of administrative change revising the applicable table. The most current version of the BMP Manual can be found on the Department's website at: https://njstormwater.org/bmp_manual2.htm.

F. Where the BMP tables in the NJ Stormwater Management Rule are different due to updates or amendments with the tables in this Section the BMP Tables in the Stormwater Management rule at N.J.A.C. 7:8-5.2(f) shall take precedence.

Table 1 Green Infrastructure BMPs for Groundwater Recharge, Stormwater Runoff Quality, and/or Stormwater Runoff Quantity				
Best Management Practice	Stormwater Runoff Quality TSS Removal Rate (percent)	Stormwater Runoff Quantity	Groundwater Recharge	Minimum Separation from Seasonal High Water Table (feet)
Cistern	0	Yes	No	--
Dry Well ^(a)	0	No	Yes	2
Grass Swale	50 or less	No	No	2 ^(e) 1 ^(f)
Green Roof	0	Yes	No	--
Manufactured Treatment Device ^{(a) (g)}	50 or 80	No	No	Dependent upon the device
Pervious Paving System ^(a)	80	Yes	Yes ^(b) No ^(c)	2 ^(b) 1 ^(c)
Small-Scale Bioretention Basin ^(a)	80 or 90	Yes	Yes ^(b) No ^(c)	2 ^(b) 1 ^(c)

Small-Scale Infiltration Basin ^(a)	80	Yes	Yes	2
Small-Scale Sand Filter	80	Yes	Yes	2
Vegetative Filter Strip	60-80	No	No	--

(Notes corresponding to annotations (a) through (g) are found after Table 3)

Table 2
Green Infrastructure BMPs for Stormwater Runoff Quantity
(or for Groundwater Recharge and/or Stormwater Runoff Quality
with a Waiver or Variance from N.J.A.C. 7:8-5.3)

Best Management Practice	Best Management Practice	Best Management Practice	Best Management Practice	Best Management Practice
Bioretention System	80 or 90	Yes	Yes ^(b) No ^(c)	2 ^(b) 1 ^(c)
Infiltration Basin	80	Yes	Yes	2
Sand Filter ^(b)	80	Yes	Yes	2
Standard Constructed Wetland	90	Yes	No	N/A
Wet Pond ^(d)	50-90	Yes	No	N/A

(Notes corresponding to annotations (b) through (d) are found after Table 3)

Table 3 BMPs for Groundwater Recharge, Stormwater Runoff Quality, and/or Stormwater Runoff Quantity only with a Waiver or Variance from N.J.A.C. 7:8-5.3				
Best Management Practice	Stormwater Runoff Quality TSS Removal Rate (percent)	Stormwater Runoff Quantity	Groundwater Recharge	Minimum Separation from Seasonal High Water Table (feet)
Blue Roof	0	Yes	No	N/A
Extended Detention Basin	40-60	Yes	No	1
Manufactured Treatment Device ^(h)	50 or 80	No	No	Dependent upon the device
Sand Filter ^(c)	80	Yes	No	1
Subsurface Gravel Wetland	90	No	No	1
Wet Pond	50-90	Yes	No	N/A

Notes to Tables 1, 2, and 3:

- (a) subject to the applicable contributory drainage area limitation specified at Section 30-14.4.O.2;
- (b) designed to infiltrate into the subsoil;
- (c) designed with underdrains;
- (d) designed to maintain at least a 10-foot wide area of native vegetation along at least 50 percent of the shoreline and to include a stormwater runoff retention component designed to capture stormwater runoff for beneficial reuse, such as irrigation;
- (e) designed with a slope of less than two percent;
- (f) designed with a slope of equal to or greater than two percent;
- (g) manufactured treatment devices that meet the definition of green infrastructure at Section 30-14.2;
- (h) manufactured treatment devices that do not meet the definition of green infrastructure at Section 30-14.2.

G. An alternative stormwater management measure, alternative removal rate, and/or alternative method to calculate the removal rate may be used if the design engineer demonstrates the capability of the proposed alternative stormwater management measure and/or the validity of the alternative rate or method to the municipality. A copy of any approved alternative stormwater management measure, alternative removal rate, and/or alternative method to calculate the removal rate shall be provided to the Department in accordance with Section 30-14.6.B. Alternative stormwater management measures may be used to satisfy the requirements at Section 30-14.4.O only if the measures meet the definition of green infrastructure at Section 30-14.2. Alternative stormwater management measures that function in a similar manner to a BMP listed at Section O.2 are subject to the contributory drainage area limitation specified at Section O.2

for that similarly functioning BMP. Alternative stormwater management measures approved in accordance with this subsection that do not function in a similar manner to any BMP listed at Section O.2 shall have a contributory drainage area less than or equal to 2.5 acres, except for alternative stormwater management measures that function similarly to cisterns, grass swales, green roofs, standard constructed wetlands, vegetative filter strips, and wet ponds, which are not subject to a contributory drainage area limitation. Alternative measures that function similarly to standard constructed wetlands or wet ponds shall not be used for compliance with the stormwater runoff quality standard unless a variance in accordance with N.J.A.C. 7:8-4.6 or a waiver from strict compliance in accordance with Section 30-14.4.D is granted from Section 30-14.4.O.

- H. Whenever the stormwater management design includes one or more BMPs that will infiltrate stormwater into subsoil, the design engineer shall assess the hydraulic impact on the groundwater table and design the site, so as to avoid adverse hydraulic impacts. Potential adverse hydraulic impacts include, but are not limited to, exacerbating a naturally or seasonally high water table, so as to cause surficial ponding, flooding of basements, or interference with the proper operation of subsurface sewage disposal systems or other subsurface structures within the zone of influence of the groundwater mound, or interference with the proper functioning of the stormwater management measure itself.
- I. Design standards for stormwater management measures are as follows:
1. Stormwater management measures shall be designed to take into account the existing site conditions, including, but not limited to, environmentally critical areas; wetlands; flood-prone areas; slopes; depth to seasonal high water table; soil type, permeability, and texture; drainage area and drainage patterns; and the presence of solution-prone carbonate rocks (limestone);
 2. Stormwater management measures shall be designed to minimize maintenance, facilitate maintenance and repairs, and ensure proper functioning. Trash racks shall be installed at the intake to the outlet structure, as appropriate, and shall have parallel bars with one-inch spacing between the bars to the elevation of the water quality design storm. For elevations higher than the water quality design storm, the parallel bars at the outlet structure shall be spaced no greater than one-third the width of the diameter of the orifice or one-third the width of the weir, with a minimum spacing between bars of one inch and a maximum spacing between bars of six inches. In addition, the design of trash racks must comply with the requirements of Section 30-14.8.C;
 3. Stormwater management measures shall be designed, constructed, and installed to be strong, durable, and corrosion resistant. Measures that are consistent with the relevant portions of the Residential Site Improvement Standards at N.J.A.C. 5:21-7.3, 7.4, and 7.5 shall be deemed to meet this requirement;
 4. Stormwater management BMPs shall be designed to meet the minimum safety standards for stormwater management BMPs at Section 30-14.8; and
 5. The size of the orifice at the intake to the outlet from the stormwater management BMP shall be a minimum of two and one-half inches in diameter.
- J. Manufactured treatment devices may be used to meet the requirements of this subchapter, provided the pollutant removal rates are verified by the New Jersey Corporation for Advanced Technology and certified by the Department. Manufactured treatment devices that do not meet the definition of green infrastructure at Section II may be used only under the circumstances described at Section 30-14.4.O.4.
- K. Any application for a new agricultural development that meets the definition of major development at Section 30-14.2 shall be submitted to the Soil Conservation District for review and approval in accordance with the requirements at Sections 30-14.4.O, P, Q and R and any applicable Soil Conservation District guidelines for stormwater runoff quantity and erosion control. For purposes of this subsection, "agricultural development" means land uses normally associated with the production of food, fiber, and

livestock for sale. Such uses do not include the development of land for the processing or sale of food and the manufacture of agriculturally related products.

- L. If there is more than one drainage area, the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards at Section 30-14.4.P, Q and R shall be met in each drainage area, unless the runoff from the drainage areas converge onsite and no adverse environmental impact would occur as a result of compliance with any one or more of the individual standards being determined utilizing a weighted average of the results achieved for that individual standard across the affected drainage areas.
- M. Any stormwater management measure authorized under the municipal stormwater management plan or ordinance shall be reflected in a deed notice recorded in the Monmouth County Clerk's Office. A form of deed notice shall be submitted to the municipality for approval prior to filing. The deed notice shall contain a description of the stormwater management measure(s) used to meet the green infrastructure, groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards at Section 30-14.4.O, P, Q and R and shall identify the location of the stormwater management measure(s) in NAD 1983 State Plane New Jersey FIPS 2900 US Feet or Latitude and Longitude in decimal degrees. The deed notice shall also reference the maintenance plan required to be recorded upon the deed pursuant to Section 30-14.10.B.5. Prior to the commencement of construction, proof that the above required deed notice has been filed shall be submitted to the municipality. Proof that the required information has been recorded on the deed shall be in the form of either a copy of the complete recorded document or a receipt from the clerk or other proof of recordation provided by the recording office. However, if the initial proof provided to the municipality is not a copy of the complete recorded document, a copy of the complete recorded document shall be provided to the municipality within 180 calendar days of the authorization granted by the Borough.
- N. A stormwater management measure approved under the municipal stormwater management plan or ordinance may be altered or replaced with the approval of the municipality, if the municipality determines that the proposed alteration or replacement meets the design and performance standards pursuant to Section 30-14.4 of this Section and provides the same level of stormwater management as the previously approved stormwater management measure that is being altered or replaced. If an alteration or replacement is approved, a revised deed notice shall be submitted to the municipality for approval and subsequently recorded with the Monmouth County Clerk's Office and shall contain a description and location of the stormwater management measure, as well as reference to the maintenance plan, in accordance with M above. Prior to the commencement of construction, proof that the above required deed notice has been filed shall be submitted to the municipality in accordance with M above.
- O. Green Infrastructure Standards.
 - 1. This subsection specifies the types of green infrastructure BMPs that may be used to satisfy the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards.
 - 2. To satisfy the groundwater recharge and stormwater runoff quality standards at Section 30-14.4.P and Q, the design engineer shall utilize green infrastructure BMPs identified in Table 1 at Section 30-14.4.F. and/or an alternative stormwater management measure approved in accordance with Section 30-14.4.G. The following green infrastructure BMPs are subject to the following maximum contributory drainage area limitations:

Best Management Practice	Maximum Contributory Drainage Area
Dry Well	1 acre
Manufactured Treatment Device	2.5 acres

Pervious Pavement Systems	Area of additional inflow cannot exceed three times the area occupied by the BMP
Small-scale Bioretention Systems	2.5 acres
Small-scale Infiltration Basin	2.5 acres
Small-scale Sand Filter	2.5 acres

3. To satisfy the stormwater runoff quantity standards at Section 30-14.4.R, the design engineer shall utilize BMPs from Table 1 or from Table 2 and/or an alternative stormwater management measure approved in accordance with 30-14.4.G.
4. If a variance in accordance with N.J.A.C. 7:8-4.6 or a waiver from strict compliance in accordance with Section 30-14.4.D is granted from the requirements of this subsection, then BMPs from Table 1, 2, or 3, and/or an alternative stormwater management measure approved in accordance with Section 30-14.4.G may be used to meet the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards at Section 30-14.4.P, Q and R.
5. For separate or combined storm sewer improvement projects, such as sewer separation, undertaken by a government agency or public utility (for example, a sewerage company), the requirements of this subsection shall only apply to areas owned in fee simple by the government agency or utility, and areas within a right-of-way or easement held or controlled by the government agency or utility; the entity shall not be required to obtain additional property or property rights to fully satisfy the requirements of this subsection. Regardless of the amount of area of a separate or combined storm sewer improvement project subject to the green infrastructure requirements of this subsection, each project shall fully comply with the applicable groundwater recharge, stormwater runoff quality control, and stormwater runoff quantity standards at Section 30-14.4.P, Q and R, unless the project is granted a waiver from strict compliance in accordance with Section 30-14.4.D.

P. Groundwater Recharge Standards.

1. This subsection contains the minimum design and performance standards for groundwater recharge as follows:
2. The design engineer shall, using the assumptions and factors for stormwater runoff and groundwater recharge calculations at Section 30-14.5, either:
 - a. Demonstrate through hydrologic and hydraulic analysis that the site and its stormwater management measures maintain 100 percent of the average annual pre-construction groundwater recharge volume for the site; or
 - b. Demonstrate through hydrologic and hydraulic analysis that the increase of stormwater runoff volume from pre-construction to post-construction for the 2-year storm is infiltrated.
3. This groundwater recharge requirement does not apply to projects within the “urban redevelopment area,” or to projects subject to 4 below.
4. The following types of stormwater shall not be recharged:

- a. Stormwater from areas of high pollutant loading. High pollutant loading areas are areas in industrial and commercial developments where solvents and/or petroleum products are loaded/unloaded, stored, or applied, areas where pesticides are loaded/unloaded or stored; areas where hazardous materials are expected to be present in greater than “reportable quantities” as defined by the United States Environmental Protection Agency (EPA) at 40 CFR 302.4; areas where recharge would be inconsistent with Department approved remedial action work plan or landfill closure plan and areas with high risks for spills of toxic materials, such as gas stations and vehicle maintenance facilities; and
- b. Industrial stormwater exposed to “source material.” “Source material” means any material(s) or machinery, located at an industrial facility, that is directly or indirectly related to process, manufacturing or other industrial activities, which could be a source of pollutants in any industrial stormwater discharge to groundwater. Source materials include, but are not limited to, raw materials; intermediate products; final products; waste materials; by-products; industrial machinery and fuels, and lubricants, solvents, and detergents that are related to process, manufacturing, or other industrial activities that are exposed to stormwater.

Q. Stormwater Runoff Quality Standards

1. This subsection contains the minimum design and performance standards to control stormwater runoff quality impacts of major development. Stormwater runoff quality standards are applicable when the major development results in an increase of one-quarter acre or more of regulated motor vehicle surface.
2. Stormwater management measures shall be designed to reduce the post-construction load of total suspended solids (TSS) in stormwater runoff generated from the water quality design storm as follows:
 - a. Eighty percent TSS removal of the anticipated load, expressed as an annual average shall be achieved for the stormwater runoff from the net increase of motor vehicle surface.
 - b. If the surface is considered regulated motor vehicle surface because the water quality treatment for an area of motor vehicle surface that is currently receiving water quality treatment either by vegetation or soil, by an existing stormwater management measure, or by treatment at a wastewater treatment plant is to be modified or removed, the project shall maintain or increase the existing TSS removal of the anticipated load expressed as an annual average.
3. The requirement to reduce TSS does not apply to any stormwater runoff in a discharge regulated under a numeric effluent limitation for TSS imposed under the New Jersey Pollutant Discharge Elimination System (NJPDES) rules, N.J.A.C. 7:14A, or in a discharge specifically exempt under a NJPDES permit from this requirement. Every major development, including any that discharge into a combined sewer system, shall comply with 2 above, unless the major development is itself subject to a NJPDES permit with a numeric effluent limitation for TSS or the NJPDES permit to which the major development is subject exempts the development from a numeric effluent limitation for TSS.
4. The water quality design storm is 1.25 inches of rainfall in two hours. Water quality calculations shall take into account the distribution of rain from the water quality design storm, as reflected in Table 4, below. The calculation of the volume of runoff may take into account the implementation of stormwater management measures.

Table 4 - Water Quality Design Storm Distribution

Time (Minutes)	Cumulative Rainfall (Inches)	Time (Minutes)	Cumulative Rainfall (Inches)	Time (Minutes)	Cumulative Rainfall (Inches)
1	0.00166	41	0.1728	81	1.0906
2	0.00332	42	0.1796	82	1.0972
3	0.00498	43	0.1864	83	1.1038
4	0.00664	44	0.1932	84	1.1104
5	0.00830	45	0.2000	85	1.1170
6	0.00996	46	0.2117	86	1.1236
7	0.01162	47	0.2233	87	1.1302
8	0.01328	48	0.2350	88	1.1368
9	0.01494	49	0.2466	89	1.1434
10	0.01660	50	0.2583	90	1.1500
11	0.01828	51	0.2783	91	1.1550
12	0.01996	52	0.2983	92	1.1600
13	0.02164	53	0.3183	93	1.1650
14	0.02332	54	0.3383	94	1.1700
15	0.02500	55	0.3583	95	1.1750
16	0.03000	56	0.4116	96	1.1800
17	0.03500	57	0.4650	97	1.1850
18	0.04000	58	0.5183	98	1.1900
19	0.04500	59	0.5717	99	1.1950
20	0.05000	60	0.6250	100	1.2000
21	0.05500	61	0.6783	101	1.2050
22	0.06000	62	0.7317	102	1.2100
23	0.06500	63	0.7850	103	1.2150
24	0.07000	64	0.8384	104	1.2200
25	0.07500	65	0.8917	105	1.2250
26	0.08000	66	0.9117	106	1.2267
27	0.08500	67	0.9317	107	1.2284
28	0.09000	68	0.9517	108	1.2300
29	0.09500	69	0.9717	109	1.2317
30	0.10000	70	0.9917	110	1.2334
31	0.10660	71	1.0034	111	1.2351
32	0.11320	72	1.0150	112	1.2367
33	0.11980	73	1.0267	113	1.2384
34	0.12640	74	1.0383	114	1.2400
35	0.13300	75	1.0500	115	1.2417
36	0.13960	76	1.0568	116	1.2434
37	0.14620	77	1.0636	117	1.2450
38	0.15280	78	1.0704	118	1.2467
39	0.15940	79	1.0772	119	1.2483
40	0.16600	80	1.0840	120	1.2500

5. If more than one BMP in series is necessary to achieve the required 80 percent TSS reduction for a site, the applicant shall utilize the following formula to calculate TSS reduction:

$$R = A + B - (A \times B) / 100,$$

Where

R = total TSS Percent Load Removal from application of both BMPs,

A = the TSS Percent Removal Rate applicable to the first BMP, and

B = the TSS Percent Removal Rate applicable to the second BMP.

6. Stormwater management measures shall also be designed to reduce, to the maximum extent feasible, the post-construction nutrient load of the anticipated load from the developed site in stormwater runoff generated from the water quality design storm. In achieving reduction of nutrients to the maximum extent feasible, the design of the site shall include green infrastructure BMPs that optimize nutrient removal while still achieving the performance standards in Section 30-14.4.P, Q and R.
7. In accordance with the definition of FW1 at N.J.A.C. 7:9B-1.4, stormwater management measures shall be designed to prevent any increase in stormwater runoff to waters classified as FW1.
8. The Flood Hazard Area Control Act Rules at N.J.A.C. 7:13-4.1(c)1 establish 300-foot riparian zones along Category One waters, as designated in the Surface Water Quality Standards at N.J.A.C. 7:9B, and certain upstream tributaries to Category One waters. A person shall not undertake a major development that is located within or discharges into a 300-foot riparian zone without prior authorization from the Department under N.J.A.C. 7:13.
9. Pursuant to the Flood Hazard Area Control Act Rules at N.J.A.C. 7:13-11.2(j)3.i, runoff from the water quality design storm that is discharged within a 300-foot riparian zone shall be treated in accordance with this subsection to reduce the post-construction load of total suspended solids by 95 percent of the anticipated load from the developed site, expressed as an annual average.
10. This stormwater runoff quality standards do not apply to the construction of one individual single-family dwelling, provided that it is not part of a larger development or subdivision that has received preliminary or final site plan approval prior to December 3, 2018, and that the motor vehicle surfaces are made of permeable material(s) such as gravel, dirt, and/or shells.

R. Stormwater Runoff Quantity Standards.

1. This subsection contains the minimum design and performance standards to control stormwater runoff quantity impacts of major development.
2. In order to control stormwater runoff quantity impacts, the design engineer shall, using the assumptions and factors for stormwater runoff calculations at Section 30-14.5, complete one of the following:
 - a. Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, post-construction runoff hydrographs for the 2-, 10-, and 100-year storm events do not exceed, at any point in time, the pre-construction runoff hydrographs for the same storm events;
 - b. Demonstrate through hydrologic and hydraulic analysis that there is no increase, as compared to the pre-construction condition, in the peak runoff rates of stormwater leaving the site for the 2-, 10- and 100-year storm events and that the increased volume or change in timing of stormwater runoff will not increase flood damage at or downstream of the site. This analysis shall include the analysis of impacts of existing land uses and projected land uses assuming full development under existing zoning and land use ordinances in the drainage area;

- c. Design stormwater management measures so that the post-construction peak runoff rates for the 2-, 10- and 100-year storm events are 50, 75 and 80 percent, respectively, of the pre-construction peak runoff rates. The percentages apply only to the post-construction stormwater runoff that is attributable to the portion of the site on which the proposed development or project is to be constructed; or
3. The stormwater runoff quantity standards shall be applied at the site's boundary to each abutting lot, roadway, watercourse, or receiving storm sewer system.

§ 30-14.5 Calculation of Stormwater Runoff and Groundwater Recharge.

A. Stormwater runoff shall be calculated in accordance with the following:

1. The design engineer shall calculate runoff using one of the following methods:
 - a. The USDA Natural Resources Conservation Service (NRCS) methodology, including the NRCS Runoff Equation and Dimensionless Unit Hydrograph, as described in Chapters 7, 9, 10, 15 and 16 Part 630, Hydrology National Engineering Handbook, incorporated herein by reference as amended and supplemented. This methodology is additionally described in Technical Release 55 - Urban Hydrology for Small Watersheds (TR-55), dated June 1986, incorporated herein by reference as amended and supplemented. Information regarding the methodology is available from the Natural Resources Conservation Service website at:

https://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb1044171.pdf
or at United States Department of Agriculture Natural Resources Conservation Service, 220 Davison Avenue, Somerset, New Jersey 08873; or
 - b. The Rational Method for peak flow and the Modified Rational Method for hydrograph computations. The rational and modified rational methods are described in "Appendix A-9 Modified Rational Method" in the Standards for Soil Erosion and Sediment Control in New Jersey, January 2014. This document is available from the State Soil Conservation Committee or any of the Soil Conservation Districts listed at N.J.A.C. 2:90-1.3(a)3. The location, address, and telephone number for each Soil Conservation District is available from the State Soil Conservation Committee, PO Box 330, Trenton, New Jersey 08625. The document is also available at:

<http://www.nj.gov/agriculture/divisions/anr/pdf/2014NJSoilErosionControlStandardsComplete.pdf>.
2. For the purpose of calculating runoff coefficients and groundwater recharge, there is a presumption that the pre-construction condition of a site or portion thereof is a wooded land use with good hydrologic condition. The term "runoff coefficient" applies to both the NRCS methodology above at Section 30-14.5.A.1.i and the Rational and Modified Rational Methods at Section 30-14.5.A.1.ii. A runoff coefficient or a groundwater recharge land cover for an existing condition may be used on all or a portion of the site if the design engineer verifies that the hydrologic condition has existed on the site or portion of the site for at least five years without interruption prior to the time of application. If more than one land cover have existed on the site during the five years immediately prior to the time of application, the land cover with the lowest runoff potential shall be used for the computations. In addition, there is the presumption that the site is in good hydrologic condition (if the land use type is pasture, lawn, or park), with good cover (if the land use type is woods), or with good hydrologic condition and conservation treatment (if the land use type is cultivation).
3. In computing pre-construction stormwater runoff, the design engineer shall account for all significant land features and structures, such as ponds, wetlands, depressions, hedgerows, or culverts, that may reduce pre-construction stormwater runoff rates and volumes.

4. In computing stormwater runoff from all design storms, the design engineer shall consider the relative stormwater runoff rates and/or volumes of pervious and impervious surfaces separately to accurately compute the rates and volume of stormwater runoff from the site. To calculate runoff from unconnected impervious cover, urban impervious area modifications as described in the NRCS Technical Release 55 – Urban Hydrology for Small Watersheds or other methods may be employed.
5. If the invert of the outlet structure of a stormwater management measure is below the flood hazard design flood elevation as defined at N.J.A.C. 7:13, the design engineer shall take into account the effects of tailwater in the design of structural stormwater management measures.

B. Groundwater recharge may be calculated in accordance with the following:

The New Jersey Geological Survey Report GSR-32, A Method for Evaluating Groundwater-Recharge Areas in New Jersey, incorporated herein by reference as amended and supplemented. Information regarding the methodology is available from the New Jersey Stormwater Best Management Practices Manual; at the New Jersey Geological Survey website at: <https://www.nj.gov/dep/njgs/pricelst/greport/gsr32.pdf> or at New Jersey Geological and Water Survey, 29 Arctic Parkway, PO Box 420 Mail Code 29-01, Trenton, New Jersey 08625-0420.

§ 30-14.6 Sources for Technical Guidance.

A. Technical guidance for stormwater management measures can be found in the documents listed below, which are available to download from the Department's website at: http://www.nj.gov/dep/stormwater/bmp_manual2.htm.

1. Guidelines for stormwater management measures are contained in the New Jersey Stormwater Best Management Practices Manual, as amended and supplemented. Information is provided on stormwater management measures such as, but not limited to, those listed in Tables 1, 2, and 3.
2. Additional maintenance guidance is available on the Department's website at: https://www.njstormwater.org/maintenance_guidance.htm.

B. Submissions required for review by the Department should be mailed to:
The Division of Water Quality, New Jersey Department of Environmental Protection, Mail Code 401-02B, PO Box 420, Trenton, New Jersey 08625-0420.

§ 30-14.7 Solids and Floatable Materials Control Standards.

A. Site design features identified under Section 30-14.4.F above, or alternative designs in accordance with Section 30-14.4.G above, to prevent discharge of trash and debris from drainage systems shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this paragraph, "solid and floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see Section 30-14.7.A.2 below.

1. Design engineers shall use one of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:
 - a. The New Jersey Department of Transportation (NJDOT) bicycle safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines; or

- b. A different grate, if each individual clear space in that grate has an area of no more than seven (7.0) square inches, or is no greater than 0.5 inches across the smallest dimension. Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb-opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater system floors used to collect stormwater from the surface into a storm drain or surface water body.
- c. For curb-opening inlets, including curb-opening inlets in combination inlets, the clear space in that curb opening, or each individual clear space if the curb opening has two or more clear spaces, shall have an area of no more than seven (7.0) square inches, or be no greater than two (2.0) inches across the smallest dimension.

2. The standard in A.1. above does not apply:

- a. Where each individual clear space in the curb opening in existing curb-opening inlet does not have an area of more than nine (9.0) square inches;
- b. Where the municipality agrees that the standards would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets;
- c. Where flows from the water quality design storm as specified in N.J.A.C. 7:8 are conveyed through any device (e.g., end of pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:
 - i. A rectangular space four and five-eighths (4.625) inches long and one and one-half (1.5) inches wide (this option does not apply for outfall netting facilities); or
 - ii. A bar screen having a bar spacing of 0.5 inches.
 - iii. These exemptions do not authorize any infringement of requirements in the Residential Site Improvement Standards for bicycle safe grates in new residential development (N.J.A.C. 5:21-4.18(b)2 and 7.4(b)1).
- d. Where flows are conveyed through a trash rack that has parallel bars with one-inch (1 inch) spacing between the bars, to the elevation of the Water Quality Design Storm as specified in N.J.A.C. 7:8; or
- e. Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.

- B. Any land area used as a nonstructural stormwater management measure to meet the performance standards in subsections 30-14.3.A, 30-14.4.O, P, and Q shall be dedicated to a government agency, subjected to a conservation restriction filed with the appropriate County Clerk's office, or subject to an approved equivalent restriction that ensures that measure or an equivalent stormwater management measure approved by the reviewing agency is maintained in perpetuity.

§ 30-14.8 Safety Standards for Stormwater Management Basins.

- A. This section sets forth requirements to protect public safety through the proper design and operation of stormwater management BMPs. This section applies to any new stormwater management BMP.
- B. The provisions of this section are not intended to preempt more stringent municipal or county safety requirements for new or existing stormwater management BMPs. Municipal and county stormwater management plans and ordinances may, pursuant to their authority, require existing stormwater management BMPs to be retrofitted to meet one or more of the safety standards in Section 30-14.8.C.1, 30-14.8.C.2, and 30-14.8.C.3 for trash racks, overflow grates, and escape provisions at outlet structures.
- C. Requirements for Trash Racks, Overflow Grates and Escape Provisions
1. A trash rack is a device designed to catch trash and debris and prevent the clogging of outlet structures. Trash racks shall be installed at the intake to the outlet from the Stormwater management BMP to ensure proper functioning of the BMP outlets in accordance with the following:
 - a. The trash rack shall have parallel bars, with no greater than six-inch spacing between the bars;
 - b. The trash rack shall be designed so as not to adversely affect the hydraulic performance of the outlet pipe or structure;
 - c. The average velocity of flow through a clean trash rack is not to exceed 2.5 feet per second under the full range of stage and discharge. Velocity is to be computed on the basis of the net area of opening through the rack; and
 - d. The trash rack shall be constructed of rigid, durable, and corrosion resistant material and designed to withstand a perpendicular live loading of 300 pounds per square foot.
 2. An overflow grate is designed to prevent obstruction of the overflow structure. If an outlet structure has an overflow grate, such grate shall meet the following requirements:
 - a. The overflow grate shall be secured to the outlet structure but removable for emergencies and maintenance.
 - b. The overflow grate spacing shall be no less than two inches across the smallest dimension
 - c. The overflow grate shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 pounds per square foot.
 3. Stormwater management BMPs shall include escape provisions as follows:
 - a. If a stormwater management BMP has an outlet structure, escape provisions shall be incorporated in or on the structure. Escape provisions include the installation of permanent ladders, steps, rungs, or other features that provide easily accessible means of egress from stormwater management BMPs. With the prior approval of the municipality pursuant to 30-14.8.C, a free-standing outlet structure may be exempted from this requirement;
 - b. Safety ledges shall be constructed on the slopes of all new stormwater management BMPs having a permanent pool of water deeper than two and one-half feet. Safety ledges shall be comprised of two steps. Each step shall be four to six feet in width. One step shall be located approximately two and one-half feet below the permanent water surface, and the second step shall be located one to one and one-half feet above the permanent water surface. See 30-14.8.E for an illustration of safety ledges in a stormwater management BMP; and

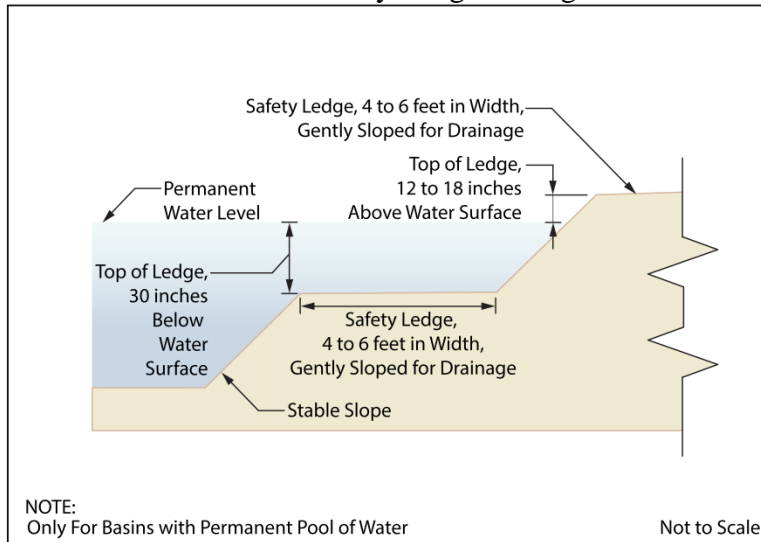
- c. In new stormwater management BMPs, the maximum interior slope for an earthen dam, embankment, or berm shall not be steeper than three horizontal to one vertical.

D. Variance or Exemption from Safety Standard

A variance or exemption from the safety standards for stormwater management BMPs may be granted only upon a written finding by the municipality that the variance or exemption will not constitute a threat to public safety.

E. Safety Ledge Illustration

Elevation View –Basin Safety Ledge Configuration



§ 30-14.9 Requirements for a Site Development Stormwater Plan.

A. Submission of Site Development Stormwater Plan

1. Whenever an applicant seeks municipal approval of a development subject to this Section, the applicant shall submit all of the required components of the Checklist for the Site Development Stormwater Plan at Section 30-14.9.C below as part of the submission of the application for approval.
2. The applicant shall demonstrate that the project meets the standards set forth in this Section.
3. The applicant shall submit twelve (12) copies of the materials listed in the checklist for site development stormwater plans in accordance with Section 30-14.9.C.

B. Site Development Stormwater Plan Approval

The applicant's Site Development project shall be reviewed as a part of the review process by the municipal board or official from which municipal approval is sought. That municipal board or official shall consult the municipality's review engineer to determine if all of the checklist requirements have been satisfied and determine if the project meets the standards set forth herein.

C. Submission of Site Development Stormwater Plan

The following information shall be required:

1. Topographic Base Map

The reviewing engineer may require upstream tributary drainage system information as necessary. It is recommended that the topographic base map of the site be submitted which extends a minimum of 200 feet beyond the limits of the proposed development, at a scale of 1"=200' or greater, showing 2-foot contour intervals. The map as appropriate may indicate the following: existing surface water drainage, shorelines, steep slopes, soils, erodible soils, perennial or intermittent streams that drain into or upstream of the Category One waters, wetlands and flood plains along with their appropriate buffer strips, marshlands and other wetlands, pervious or vegetative surfaces, existing man-made structures, roads, bearing and distances of property lines, and significant natural and manmade features not otherwise shown.

2. Environmental Site Analysis

A written and graphic description of the natural and man-made features of the site and its surroundings should be submitted. This description should include a discussion of soil conditions, slopes, wetlands, waterways and vegetation on the site. Particular attention should be given to unique, unusual, or environmentally sensitive features and to those that provide particular opportunities or constraints for development.

3. Project Description and Site Plans

A map (or maps) at the scale of the topographical base map indicating the location of existing and proposed buildings roads, parking areas, utilities, structural facilities for stormwater management and sediment control, and other permanent structures. The map(s) shall also clearly show areas where alterations will occur in the natural terrain and cover, including lawns and other landscaping, and seasonal high groundwater elevations. A written description of the site plan and justification for proposed changes in natural conditions shall also be provided.

4. Land Use Planning and Source Control Plan

This plan shall provide a demonstration of how the goals and standards of Sections 30-14.3 through 30-14.5 are being met. The focus of this plan shall be to describe how the site is being developed to meet the objective of controlling groundwater recharge, stormwater quality and stormwater quantity problems at the source by land management and source controls whenever possible.

5. Stormwater Management Facilities Map

The following information, illustrated on a map of the same scale as the topographic base map, shall be included:

- a. Total area to be disturbed, paved or built upon, proposed surface contours, land area to be occupied by the stormwater management facilities and the type of vegetation thereon, and details of the proposed plan to control and dispose of stormwater.
- b. Details of all stormwater management facility designs, during and after construction, including discharge provisions, discharge capacity for each outlet at different levels of detention and emergency spillway provisions with maximum discharge capacity of each spillway.

6. Calculations

- a. Comprehensive hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in Section 30-14.4.
- b. When the proposed stormwater management control measures depend on the hydrologic properties of soils or require certain separation from the seasonal high water table, then a soils report shall be submitted. The soils report shall be based on onsite boring logs or soil pit profiles. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soils present at the location of the control measure.

7. Maintenance and Repair Plan

The design and planning of the stormwater management facility shall meet the maintenance requirements of Section 30-14.10.

8. Waiver from Submission Requirements

The municipal official or board reviewing an application under this Section may, in consultation with the municipality's review engineer, waive submission of any of the requirements in Section 30-14.9.C.1 through 30-14.9.C.6 when it can be demonstrated that the information requested is impossible to obtain or it would create a hardship on the applicant to obtain and its absence will not materially affect the review process.

§ 30-14.10 Maintenance and Repair

A. Applicability

Projects subject to review under Section 30-14.1.C shall comply with the requirements of Sections 30-14.10.B and 30-14.10.C.

B. General Maintenance

1. The design engineer shall prepare a maintenance plan for the stormwater management measures incorporated into the design of a major development.
2. The maintenance plan shall contain specific preventative maintenance tasks and schedules; cost estimates, including estimated cost of sediment, debris, or trash removal; and the name, address, and telephone number of the person or persons responsible for preventative and corrective maintenance (including replacement). The plan shall contain information on BMP location, design, ownership, maintenance tasks and frequencies, and other details as specified in Chapter 8 of the NJ BMP Manual, as well as the tasks specific to the type of BMP, as described in the applicable chapter containing design specifics.
3. If the maintenance plan identifies a person other than the property owner (for example, a developer, a public agency or homeowners' association) as having the responsibility for maintenance, the plan shall include documentation of such person's or entity's agreement to assume this responsibility, or of the owner's obligation to dedicate a stormwater management facility to such person under an applicable ordinance or regulation.
4. Responsibility for maintenance shall not be assigned or transferred to the owner or tenant of an individual property in a residential development or project, unless such owner or tenant owns or leases the entire residential development or project. The individual property owner may be assigned incidental tasks, such as weeding of a green infrastructure BMP, provided the individual agrees to

assume these tasks; however, the individual cannot be legally responsible for all of the maintenance required.

5. If the party responsible for maintenance identified under Section 30-14.10.B.3 above is not a public agency, the maintenance plan and any future revisions based on Section 30-10.B.7 below shall be recorded upon the deed of record for each property on which the maintenance described in the maintenance plan must be undertaken.
6. Preventative and corrective maintenance shall be performed to maintain the functional parameters (storage volume, infiltration rates, inflow/outflow capacity, etc.) of the stormwater management measure, including, but not limited to, repairs or replacement to the structure; removal of sediment, debris, or trash; restoration of eroded areas; snow and ice removal; fence repair or replacement; restoration of vegetation; and repair or replacement of non-vegetated linings.
7. The party responsible for maintenance identified under Section 30-14.10.B.3 above shall perform all of the following requirements:
 - a. maintain a detailed log of all preventative and corrective maintenance for the structural stormwater management measures incorporated into the design of the development, including a record of all inspections and copies of all maintenance-related work orders;
 - b. evaluate the effectiveness of the maintenance plan at least once per year and adjust the plan and the deed as needed; and
 - c. retain and make available, upon request by any public entity with administrative, health, environmental, or safety authority over the site, the maintenance plan and the documentation required by Section 30-14.10.B.6 and B.7 above.
8. The requirements of Section 30-14.10.B.3 and B.4 do not apply to stormwater management facilities that are dedicated to and accepted by the municipality or another governmental agency, subject to all applicable municipal stormwater general permit conditions, as issued by the Department.
9. In the event that the stormwater management facility becomes a danger to public safety or public health, or if it is in need of maintenance or repair, the municipality shall so notify the responsible person in writing. Upon receipt of that notice, the responsible person shall have fourteen (14) days to effect maintenance and repair of the facility in a manner that is approved by the municipal engineer or his designee. The municipality, in its discretion, may extend the time allowed for effecting maintenance and repair for good cause. If the responsible person fails or refuses to perform such maintenance and repair, the municipality or County may immediately proceed to do so and shall bill the cost thereof to the responsible person. Nonpayment of such bill may result in a lien on the property.
10. Responsibility for operation and maintenance of stormwater management facilities, including periodic removal and disposal of accumulated particulate material and debris, shall remain with owner or owners' property within permanent arrangements that it shall pass to any successive owner, unless assumed by a government agency. If portions, of the land are to be sold, legally binding arrangements shall be made to pass the basic responsibility to successors in title. These arrangements shall be designate for each project the property owner, governmental agency or other legally established entity to be permanently responsible for maintenance, hereinafter in this section referred to as the responsible person.
11. The owner of a private stormwater facility is required to inspect the facility after each major storm event and perform any maintenance and/or repairs that may be required in addition to routine mowing and removal and disposal of accumulated debris from the facility. "Major storm event" shall mean the occurrence of rainfall within the Borough of more than 1.50 inches of precipitation within any one-hour period or the occurrence of a two-year storm within the Borough as defined by the National

Oceanic and Atmospheric Administration, whichever is lesser. The Borough shall inspect the facility once per year and maintain a log to demonstrate compliance with maintenance requirements and any actions taken by the Borough to enforce compliance. If inspection reveals that maintenance has not been maintained by the owner of the stormwater facility, then the Borough Official will issue an order to correct the deficiency within 30 days. If the deficiency is not corrected within 30 days, the Borough will correct the deficiency and recover the cost under the Property Maintenance Section of the Borough Code. The Borough, in its discretion, may extend the time allowed for effecting maintenance and repair for good cause as approved by the Borough Engineer or his/her designee.

12. The applicant shall enter into any agreement with the Borough (or County) to ensure the continued operation and maintenance of the facility. This agreement shall be in a form satisfactory to the Borough Attorney, and may include, but may not necessarily be limited to, personal guarantees, deed restrictions, covenants, and bonds, in case where property subdivided and sold separately, a homeowners association or similar permanent entity governmental agency to assume responsibility.

- a. An applicant seeking approval for construction of a stormwater management facility shall provide the funds necessary to permanently maintain the facility. The amount necessary to permanently maintain the facility shall be calculated by the Planning Board Engineer based upon current estimates for maintenance with an annual increase of 4%. The Planning Board Engineer shall also assume that the investment will yield a return equal to the ninety day certificate of deposit interest rate paid by the Borough's official depository bank on the date the calculation is made.
- b. The form of security for the maintenance of the facility shall be approved by the Borough's Chief Finance Officer.

13. Dedication of Facilities. Where required, the stormwater management facilities shall be dedicated to the Borough of Fair Haven as a drainage easement or right-of-way. Detention or retention facility dedication shall be 15 feet from the top of bank of facilities constructed in fill, inlet and outlet piping and maintenance access shall be contained within thirty-foot-side, minimum, drainage utility easements. No relocation, construction or reconstruction shall take place within the area of the easement, nor shall any structures be located within such area, nor shall any action be taken which may alter or impair the effectiveness of present or future drainage facilities without prior approval from the Borough Council.

14. Surface Water Runoff Control Plan Standards for Residential Lots.

- a. All blocks and lots in all subdivisions shall be graded to secure proper drainage away from building and to prevent the collection of pools of stormwater. Finished floor elevation and exterior grading shall be shown on all lots.
- b. At the time of application to the Borough Construction Code Official for a building permit for any building within an individual lot or part of an approved subdivision or site plan, the applicant shall submit a Surface Water Runoff Control Plan to the Borough Engineer for review and approval.

C. At a minimum, the following items are required as part of the Surface Water Runoff Control Plan:

1. An outbound survey, inclusive of all easements, of the property on which the structure is proposed, as prepared by a New Jersey licensed land surveyor, indicating the name and the development and/or applicant, Tax Map, lot, block and street address. The scale of the survey shall be no smaller than one inch equals 30 feet.
2. Footprint of the proposed dwelling unit.

3. The basement elevation, garage elevation, and finished floor elevation of the proposed building upon USGS MSL data. Spot grades should be provided at all corners of the building footprint and garage apron.
 4. Data showing that the lowest finished floor of the structure, including the basement, is at least one foot above the delineated one hundred-year flood elevation of any watercourse on or near the property, or one foot above the seasonal high water table, as determined by test pit, soil boring, or investigative work done in conjunction with a disconnected on-site individual sewage disposal system.
 5. Provision of sufficient, existing and proposed contour lines and spot elevations to show the direction of surface water runoff, yard slopes greater than 2% or less than one vertical to three horizontal, elimination of any standing water conditions and grading which will not adversely impact adjoining properties.
 6. The location of proposed potable water and sanitary sewer services or potable water supply water well, and a disconnected on-site individual sewage disposal system. The applicant shall show the location of any proposed sump pump pit and the point of discharge on the property.
 7. Driveway location.
- D. Any or all the above standards may be waived by the Borough Engineer, as site conditions may require. An acceptable Surface Water Runoff Control Plan report must be issued by the Borough Engineer prior to the issuance of a building permit by the Borough Construction Code Official.
- E. Nothing in this subsection shall preclude the Borough from requiring the posting of a performance or maintenance guarantee in accordance with N.J.S.A. 40:55D-53.

§ 30-14.11 Penalties.

Any person(s) who erects, constructs, alters, repairs, converts, maintains, or uses any building, structure or land in violation of this Section shall be subject to the penalties set forth in Chapter 1, Section 1-5 of the Borough of Fair Haven Code.

BE IT FURTHER ORDAINED by Mayor and Council that should any section, paragraph, sentence, clause, or phase of this ordinance be declared unconstitutional or invalid for any reason, the remaining portion of this ordinance shall not be affected thereby and shall remain in full force and effect, and to that end the provisions of this ordinance are hereby declared to be severable; and

BE IT FURTHER ORDAINED by Mayor and Council that, 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 pursuant to N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64, and 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 the proposed ordinance which are inconsistent with the master plan and recommendations concerning any inconsistencies and any other matter as the Board deems appropriate; and

BE IT FURTHER ORDAINED that, after adoption of this Ordinance, the Borough Clerk is hereby directed to submit a copy of the within Ordinance to the Planning Board of the County of Monmouth for its review and approval in accordance with N.J.S.A. 40:55D-97; and

BE IT FURTHER ORDAINED that this Ordinance shall take effect upon its (1) adoption; (2) publication in accordance with the laws of the State of New Jersey; and (3) approval by the Monmouth County Planning Board pursuant to N.J.S.A. 40:55D-97; and

BE IT FURTHER ORDAINED that all ordinances or parts of ordinances inconsistent with this amending ordinance are hereby repealed to the extent of their inconsistencies.

BOROUGH OF FAIR HAVEN

ORDINANCE NO. 2021-05

AN ORDINANCE OF THE COUNCIL OF THE BOROUGH OF FAIR HAVEN IN THE COUNTY OF MONMOUTH SETTING THE SALARY RANGES OF OFFICERS, EMPLOYEES AND ADMINISTRATIVE AND EXEMPT MEMBER OF THE BOROUGH OF FAIR HAVEN

BE IT ORDAINED by the Council of the Borough of Fair Haven, in the County of Monmouth, in the State of New Jersey that the purpose of this Ordinance is to amend Ordinance 2019-04 to alter and reflect current salary ranges paid within the Borough, as last revised and passed May 13, 2019.

NOTE: Additions are in **bold italics with underlines**, deletions are shown as ~~**strikeovers in bold italics**~~.

SECTION 1. ADMINISTRATIVE OFFICE AND EMPLOYEES

<u>TITLE</u>	<u>MINIMUM - MAXIMUM</u>
Borough Administrator	\$60,000.00 - 165,000.00
Assistant Borough Administrator	\$ 500.00 - 25,000.00
Borough Clerk	\$ 40,000.00 - 90,000.00
Deputy Borough Clerk	\$ 2,000.00 - 5,000.00
Chief Financial Officer	\$ 20,000.00 - 40,000.00*
Assistant Chief Financial Officer	\$ 25,000.00 - 70,000.00
Payroll Coordinator	\$ 3,500.00 - 7,500.00
Tax Collector	\$ 35,000.00 - 60,000.00*
Tax Search Officer	\$ 1,000.00 - 3,500.00*
Municipal Court Administrator	\$ 5,000.00 - 25,000.00*
Tax Assessor	\$ 15,000.00 - 30,000.00
Administrative Assistant	\$ 18,000.00 - 45,000.00
Registrar	\$ 2,000.00 - 4,000.00
Librarian	\$ 30,000.00 - 55,000.00
Assistant Librarian	\$ 20,000.00 - 40,000.00
Municipal Judge	\$ 10,000.00 - 20,000.00
Municipal Prosecutor	\$ 7,500.00 - 20,000.00
Parks and Recreation Director	\$ 30,000.00 - 70,000.00
<u>Assistant to the Administrator</u>	
<u>for Special Projects</u>	<u>\$ 10,000.00 - 20,000.00</u>
Chief of Police	\$ 85,000.00 - 165,000.00
Police Officer	\$ 30,000.00 - 135,000.00
Code Enforcement Officer	\$ 10,000.00 - 25,000.00
Zoning Officer	\$ 10,000.00 - 35,000.00
Construction Official	\$ 20,000.00 - 45,000.00*
Fire Sub-Code Officer	\$ 4,000.00 - 15,000.00*
Fire Prevention Officer	\$ 4,000.00 - 8,000.00*
Plumbing Inspector	\$ 3,000.00 - 15,000.00*
Electrical Inspector	\$ 5,000.00 - 15,000.00*
School Crossing Guard (<i>permanent</i>)	\$ 5,000.00 - 12,000.00
Director of Engineering/Director of Public Works	\$ 80,000.00 - 140,000.00
Assistant Director of Engineering & Public Works	\$ 50,000.00 - 80,000.00
Public Works Foreman	\$ 50,000.00 - 80,000.00
Buildings, Grounds and Parks Foreman	\$ 2,000.00 - 5,000.00
Streets and Sanitation Foreman	\$ 2,000.00 - 5,000.00
Mechanic	\$ 45,000.00 - 80,000.00
Public Works Laborer	\$ 27,500.00 - 75,000.00

Municipal Alliance Coordinator	\$ 5,000.00 - 20,000.00
Recycling Coordinator	\$ 500.00 - 2,500.00
Performance Based Merit Bonus	\$ 0.00 - 10,000.00

HOURLY RANGES

Receptionist/Secretary	\$15.00 – 30.00 per hour
Assistant Parks and Recreation Director	\$14.00 - 18.00 per hour
Police Records Clerk	\$12.00 – 30.00 per hour
Special Officer Class I	\$12.00 – 20.00 per hour
Special Officer Class II	\$13.00 - 20.00 per hour
School Crossing Guard (<i>substitute</i>)	\$12.00 – 17.00 per hour
Public Works Laborer	\$12.00 – 20.00 per hour
<u>DPW – PT Recycling Laborer</u>	\$ 12.00 – 30.00 per hour
Planning Board Secretary	\$ 12.00 - 30.00 per hour
Zoning Board Secretary	\$ 12.00 - 30.00 per hour
Code Enforcement Officer	\$12.00 - 18.00 per hour
Deputy Court Administrator/Violations Clerk	\$13.00 - 18.00 per hour*
Library Assistant	\$12.00 – 20.00 per hour
Clean Communities Worker	\$12.00 – 15.00 per hour
Summer Camp Counselors	\$12.00 – 20.00 per hour
Tennis Camp Instructors	\$14.00 - 18.00 per hour

BE IT FURTHER ORDAINED that specific salaries and bonuses within the ranges will be set by a negotiated contract or in an annual salary resolution adopted by the governing body.

*Services provided through an Interlocal Service Agreement (positions are currently vacant)

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2021-85

TITLE: AUTHORIZE AND AWARD OF CONTRACT WITH GARDEN MARK FOR A TURF FIELD AT MCCARTER PARK

WHEREAS, the Director of Parks and Recreation requested and received proposals for the installation of a 30X100 turf field at McCarter Park; and

WHEREAS, three proposals were received from the following vendors:

<u>CONTRACTOR</u>	<u>LOCATION</u>	<u>AMOUNT BID</u>
1. Garden Mark	Hoboken, NJ	\$21,808.60
2. Ryser's Lawn & Tree Service	Little Silver, NJ	\$24,500.00
3. Down to Earth Landscaping, Inc.	Jackson, NJ	\$29,800.00

WHEREAS, DJ Breckenridge, Director of Parks and Recreation, the Recreation Committee and Theresa Casagrande, Borough Administrator reviewed the submitted proposals and hereby recommend that a contract award be made to Garden Mark, Hoboken, NJ, in the amount of \$21,808.60; and

WHEREAS, the Borough of Fair Haven has entered into a Shared Service Agreement with the Fair Haven Board of Education who have agreed to contribute \$6,500.00 toward the cost of this project; and

WHEREAS, the Chief Financial Officer of the Borough of Fair Haven has certified that funds for the low bid are available in Capital Fund Appropriations, as attached; and

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Fair Haven that it hereby recommends award of a contract for a 30X100 turf field at McCarter Park to Garden Mark, 1060 Monroe Street, Hoboken, New Jersey 07030 in the amount of \$21,808.60.

BE IT FURTHER RESOLVED, the Mayor and Clerk are hereby authorized to execute an agreement with Garden Mark.

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2021-99

TITLE: AUTHORIZE EXECUTION OF THE FIRST AMENDMENT TO THE SETTLEMENT AGREEMENT BETWEEN THE BOROUGH OF FAIR HAVEN AND M&M REALTY PARTNERS AT FAIR HAVEN, LLC

WHEREAS, pursuant to N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015) (Mount Laurel IV), on March 7, 2019, the Borough of Fair Haven (hereinafter “Fair Haven Borough” or the “Borough”) filed a Declaratory Judgment Complaint in Superior Court, Law Division seeking, among other things, a judicial declaration that its Housing Element and Fair Share Plan (hereinafter “Fair Share Plan”), to be amended as necessary, satisfies its “fair share” of the regional need for low and moderate income housing pursuant to the “Mount Laurel doctrine;” and

WHEREAS, the Borough sought, and ultimately secured, a protective order providing Fair Haven Borough immunity from all exclusionary zoning lawsuits while it pursues approval of its Fair Share Plan; and

WHEREAS, the trial judge appointed Francis Banisch, P.P., A.I.C.P. as the Special Court Master (hereinafter the “Court Master”), as is customary in Mount Laurel matters adjudicated in the courts; and

WHEREAS, M&M Realty Partners at Fair Haven, LLC (“M&M”) engaged in good faith negotiations which resulted in a Settlement Agreement entered by M&M on January 24, 2020 and by the Borough on February 12, 2020.

WHEREAS, M&M and the Borough continued good faith negotiations and agreed on the various substantive terms and conditions as set forth in the First Amendment to the Settlement Agreement attached hereto as Exhibit A, which revises and supersedes any prior agreements between M&M and the Borough relative to this site; and

WHEREAS, in light of the above, the Borough Council finds that it is in the best interest of Fair Haven Borough to execute the attached First Amendment to the Settlement Agreement with M&M.

NOW, THEREFORE, BE IT RESOLVED on this 22nd day of March by the Council of the Borough of Fair Haven, County of Monmouth, State of New Jersey, as follows:

1. The Borough Council hereby authorizes and directs the Mayor of Fair Haven Borough to execute the First Amendment to the Settlement Agreement with M&M, as attached hereto as Exhibit A.
2. The Borough hereby directs its Affordable Housing Counsel to take all actions reasonable and necessary to utilize the First Amendment to the Settlement Agreement, if necessary as it works towards ultimately securing judicial approval of the Borough’s Fair Share Plan, after it is drafted, adopted by the Borough’s Planning Board and endorsed by the Borough Council.

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2021-101

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:

Personnel

1. Assistant CFO
2. Part-time Non-Aligned Salaries

Contract Negotiations

1. Middletown ILSA: QPA

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. 2021-102

**TITLE: AUTHORIZE MAYOR LUCARELLI TO EXECUTE AN AGREEMENT WITH
 CATHERINE RICKER FOR HUMAN RESOURCE CONSULTING SERVICES**

BE IT RESOLVED by the Council of the Borough of Fair Haven, that Mayor Lucarelli is hereby authorized to execute a contract with Catherine Ricker for Human Resource Consulting Services at an hourly rate of \$150 (not to exceed an amount of \$3,375).

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2021-103

TITLE: AMEND NON-ALIGNED BOROUGH EMPLOYEE SALARY RESOLUTION NO. 2021-69

WHEREAS, Resolution No. 2021-69 established the 2021 salaries for the Non-Aligned Borough Employees and was adopted by the Mayor and Council at their February 22, 2021 meeting; and

WHEREAS, there is a need to amend the resolution as follows:

1. The Municipal Prosecutor position needs to be removed from the resolution as the position is now paid as a vendor.
2. DJ Breckenridge, Jr. will be given a **\$10,000** stipend as the Assistant to the Administrator for Special Projects.
3. Nicolas Poruchynsky will receive a salary of **\$6,898** for his Flood Plain Manager position (per Resolution No. 2021-97).

WHEREAS, DJ Breckenridge is approved to take two Masters of Administration classes per year, not to exceed \$2,000 per course.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Fair Haven that the salaries for the employees/positions referenced above be adjusted accordingly.

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2021-104

TITLE: APPROVE ADOPTION OF COMMERCIAL DRIVER LICENSE POLICY

WHEREAS, the Borough of Fair Haven, in accordance with Federal regulations, test employees required to have a Commercial Driver's License (CDL) for the use of controlled substances that violate law or Federal regulation and the misuse of alcohol; and

WHEREAS, as Fair Haven participates in the Municipal Excess Liability Insurance Fund (MEL); and

WHEREAS, the MEL and Title 49 CFR Part 40 Regulations of the U.S. Department of Transportation Procedures for Transportation Workplace Drug and Alcohol Testing Programs and Urine Specimen Collection Guidelines, Office of Drug and Alcohol Policy and Compliance, U.S. Department of Transportation, are integral parts of this Policy and apply to all covered Employees; and

WHEREAS, the regulations may be viewed at on the U.S. Department of Transportation webpage at <http://www.dot.gov/odapc> for collection procedures, laboratory procedures, M.R.O. review, alcohol testing, record keeping and all other procedural requirements in adherence to Title 49, CFR Part 40, and

WHEREAS, the purpose of this resolution is to distribute and establish a program designed to help prevent accidents and injuries resulting from the misuse of alcohol or use of controlled substances by employees; and

WHEREAS, the Borough's Procedures and Controlled Substances and Alcohol Use and Testing Policies of the Borough of Fair Haven (Appendix 1) and Receipt of Policies Form (Appendix 2) are included as part of this program.

NOW, THEREFORE BE IT RESOLVED, that the Borough of Fair Haven does hereby adopt the Borough's Procedures as described in Appendix 1 and Appendix 2; and

BE IT FURTHER RESOLVED the Borough shall distribute Appendix 1 and 2 to all employees by May 1, 2021.

BE IT FINALLY RESOLVED a copy of this resolution and all Appendices shall be attached to the Borough Personnel Manual and placed on file in the Municipal Clerk Office, the Office of the Borough Administrator and the Director of Public Works.

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2021-105

TITLE: APPOINT DESIGNATED EMPLOYER REPRESENTATIVE FOR CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING POLICIES FOR COMMERCIAL DRIVERS LICENSES AS PER 49 CFR PART 382

WHEREAS, the United States Department of Transportation and the Federal Motor Carrier Safety Administration as mandated in 49 CFR Part 382, require every entity who employs employees with commercial driver's licenses appoint a Designated Employer Representative who will make formal decisions regarding the approved drug and alcohol testing policy; and

WHEREAS, the Mid-Jersey Municipal Joint Insurance Fund and the Municipal Excess Liability Fund require that the D.E.R. must be an employee of the municipality and must have a complete understanding of the commercial driver's license drug and alcohol testing procedures outlined by federal law as well as the employers policies and procedures; and

WHEREAS, the D.E.R. must be authorized and empowered to take immediate action to remove employees from safety-sensitive duties if test results warrant such action; and

WHEREAS, the D.E.R. and secondary D.E.R. must be available 24 hours, 7 days a week in order to take immediate action.

NOW THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Fair Haven that the Director of Engineering and Public Works, Richard Gardella and Assistant Director of Engineering and Public Works, Nicolas Poruchynsky, have completed the required training as outlined by the Mid-Jersey Municipal Joint Insurance Fund and the Municipal Excess Liability and prescribed by the USDOT, FMCSA, and federal law 49 CFR Part 382.

BE IT FURTHER RESOLVED, that Richard Gardella will serve as the primary D.E.R. and Nicolas Poruchynsky as the secondary D.E.R. as department heads and as part of their current job duties and responsibilities without additional compensation or remuneration.

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2021-106

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 **\$4,809,220.98** 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			
1-01-20-100-101	Admin Salaries	\$43000.00	Add to Temp Budget
1-01-20-120-101	Municipal Clerk Salaries	\$20000.00	Add to Temp Budget
1-01-20-130-101	Finance Salaries	\$16000.00	Add to Temp Budget
1-01-20-145-101	Tax Collection Salaries	\$10000.00	Add to Temp Budget
1-01-20-150-101	Tax Assessment Salaries	\$6000.00	Add to Temp Budget
1-01-20-150-211	Tax Assessment Other Expense	\$300.00	Add to Temp Budget
1-01-20-165-101	Engineering Salaries	\$50000.00	Add to Temp Budget
1-01-21-180-101	P.B. Salaries	\$750.00	Add to Temp Budget
1-01-21-185-101	Z.B. Salaries	\$750.00	Add to Temp Budget
1-01-21-185-211	Z.B. Contractual	\$3000.00	Add to Temp Budget
1-01-21-186-101	Zoning Officer Salaries	\$6000.00	Add to Temp Budget
1-01-22-209-101	Code Enforcement Salaries	\$3000.00	Add to Temp Budget
1-01-23-210-228	Insurance General Liability	\$63,432.00	Add to Temp Budget
1-01-23-220-227	Health Insurance	\$20000.00	Add to Temp Budget
1-01-23-222-227	Waiver Other Expense	\$4000.00	Add to Temp Budget
1-01-25-240-101	Police Salaries	\$400000.00	Add to Temp Budget
1-01-25-275-201	Prosecutor Other Expense	\$3300.00	Add to Temp Budget
1-01-26-290-101	Streets & Roads Salaries	\$125000.00	Add to Temp Budget
1-01-26-307-101	Recycling Salaries	\$6000.00	Add to Temp Budget
1-01-26-305-202	Solid Waste Contractual	\$125000.00	Add to Temp Budget
1-01-26-315-101	Vehicle Maintenance Salaries	\$16000.00	Add to Temp Budget
1-01-28-370-101	Recreation Salaries	\$10000.00	Add to Temp Budget
1-01-29-390-101	Library Salaries	\$26000.00	Add to Temp Budget
1-01-31-430-276	Electric Utilities	\$10000.00	Add to Temp Budget
1-01-31-435-276	Street Lighting Utilities	\$10000.00	Add to Temp Budget
1-01-31-440-276	Telephone Utilities	\$20000.00	Add to Temp Budget
1-01-31-446-276	Natural Gas Utilities	\$20000.00	Add to Temp Budget

1-01-31-460-276	Gasoline Utilities	\$12000.00	Add to Temp Budget
1-01-31-447-276	Fuel Oil Utilities	\$8000.00	Add to Temp Budget
1-01-32-465-201	Reclamation Fees	\$115000.00	Add to Temp Budget
1-01-36-472-299	Social Security	\$40000.00	Add to Temp Budget
1-01-41-700-202	Recycling Tonnage Grant	\$11183.00	Add to Temp Budget
1-01-43-485-299	RFH Custodial	\$6000.00	Add to Temp Budget
1-01-43-486-299	ILSA RFH Tech	\$2000.00	Add to Temp Budget
1-01-43-487-299	ILSA Court	\$19000.00	Add to Temp Budget
1-01-43-490-101	Municipal Court Salaries	\$4000.00	Add to Temp Budget
1-01-43-491-202	ILSA Finance	\$5000.00	Add to Temp Budget
1-01-43-494-202	Recycling Tax	\$5000.00	Add to Temp Budget
1-01-43-497-202	ILSA Construction	\$58000.00	Add to Temp Budget
1-01-43-499-202	ILSA Animal	\$2500.00	Add to Temp Budget
TOTAL		\$1,826,215.00	

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. 2021-107

**TITLE: CONTINUE THE TEMPORARY AMENDMENT TO CHAPTER 4, SECTION 2.1,
SIDEWALK DINING LICENSES**

WHEREAS, the COVID-19 Global Health Pandemic continues to have a significant negative economic impact on the Borough's restaurants and eateries; and

WHEREAS, the Borough Council wishes to continue the waiver of the Borough's Sidewalk Dining License regulations during 2021 in order to help the Borough's restaurants and eateries.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Fair Haven, in the County of Monmouth, State of New Jersey, that the annual license fee shall be waived for 2021; and

BE IT FURTHER RESOLVED that the Zoning Officer and Emergency Management Coordinator may permit an existing restaurant or food establishment to expand outdoor dining during the 2021 outdoor season subject to the following (as applicable to the business):

1. Outdoor dining may be conducted on any restaurant property; and
2. Any restaurant may create outdoor dining on private property, the public sidewalk in front of their business, parking spaces (where safe) and the public sidewalk next to their establishment with the consent of the property owner and adjoining business, and
3. Outdoor dining may be permitted on premise-owned parking lots in spaces that may have been previously required by zoning or other agreements; and
4. Service of alcoholic beverages shall be permitted in outdoor areas licensed or allowed by temporary ABC or state regulations.
5. All outdoor dining areas must be maintained and clean of litter.
6. During the waiver a small banner, sandwich board sign, etc. will be permitted.
7. All outdoor dining fees for 2021 will be waived.

BE IT FURTHER RESOLVED that any restaurant newly applying for 2021 must submit an application with a map detailing the location, number of tables and seating capacity of the outdoor dining space, complying with Borough regulations and New Jersey COVID-19 guidelines and regulations prior to commencing outdoor dining operations; and

BE IT FURTHER RESOLVED that any restaurant that was approved for outdoor dining by the Borough during 2020 for outdoor dining shall submit only a letter certifying that there is no change or deviation to the plan on file with the Borough Clerk for 2021; and

BE IT FURTHER RESOLVED that the Zoning Officer and Emergency Management Coordinator, with the advice and consent of the Borough Attorney, may waive other sections of Chapter 4, Section 2.1 and may enact other regulations as appropriate to maintain order, enhance public safety and to help Borough restaurants and eateries that are economically impacted by the COVID-19 Global Health Pandemic.

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2021-108

TITLE: RESOLUTION OF THE BOROUGH OF FAIR HAVEN TO CONTINUE THE AUTHORIZATION OF SIDEWALK SALES

WHEREAS, Resolution No. 2020-178 extended a waiver with regard to retail businesses being permitted to hold sidewalk sales during the COVID-19 pandemic; and

WHEREAS, the Fair Haven governing body would like to continue the ease of regulations for sidewalk sales to allow businesses the ability to provide their goods and services with the continuation of social distancing and limiting the contact between customers and retail business staff in enclosed spaces; and

WHEREAS, this resolution grants permission to the Fair Haven Business District to set up tables and merchandise in order to provide their goods.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Borough of Fair Haven, County of Monmouth, State of New Jersey, that retail businesses are hereby authorized to set up tables and merchandise for sidewalk sale activity and that the sidewalk ordinance is hereby waived for this purpose until December 31, 2021.

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2021-109

TITLE: CONTINUE THE AUTHORIZATION OF TEMPORARY USE OF PUBLIC PARKS AND FIELDS BY LOCAL EXERCISE AND FITNESS BUSINESSES

WHEREAS, the COVID-19 Global Health Pandemic continues to have a significant negative economic impact on the Borough's exercise and fitness businesses; and

WHEREAS, the Borough Council wishes to continue the authorization for the use of public parks and fields in order to support the Borough's local exercise and fitness businesses, in accordance with Fair Haven's Emergency Declaration signed by Mayor Lucarelli on March 18, 2020; and

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Fair Haven, in the County of Monmouth, State of New Jersey, that use of the Borough's parks and fields for exercise and fitness instruction by local businesses is authorized following CDC and New Jersey COVID-19 guidelines for safety and social distancing; and

BE IT FURTHER RESOLVED that each business must submit a current insurance certificate, naming the Borough as an additional insured for the activity planned, in accordance with Borough regulations and New Jersey COVID-19 guidelines and regulations. Scheduling of the Borough facilities should be coordinated in advance with the Director of Parks and Recreation for the 2021 season; and

BE IT FURTHER RESOLVED that any business newly applying for 2021 is subject to the approval of the Director of Parks and Recreation; and

BE IT FURTHER RESOLVED that any business approved by the Borough during 2020 shall submit only a letter certifying that there is no change or deviation to the plan on file with the Director of Parks and Recreation.

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2021-110

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

BE IT RESOLVED by the Borough Council of the Borough of Fair Haven that Barry Chubrick, 9 Gentry Drive, Fair Haven, NJ having been duly accepted as a regular member of the Fair Haven Volunteer Fire Co., is hereby appointed to the Fair Haven Fire Department.

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2021-111

**TITLE: RESOLUTION APPOINTING A MEMBER TO THE FAIR HAVEN
FIRE DEPARTMENT, AFFILIATE MEMBERSHIP, FIRST AID – Megan O’Hare**

BE IT RESOLVED by the Borough Council of the Borough of Fair Haven that Megan O’Hare, 8 Blossom Road, Rumson, NJ having been duly accepted as an affiliate member of the Fair Haven Volunteer Fire Co., is hereby appointed to the Fair Haven Fire Department/First Aid.

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2021-112

TITLE: REAPPROVE FIRE DEPARTMENT MEMBERSHIP APPLICATION, REGULAR MEMBER - RICHARD ANDRES

WHEREAS, Resolution No. 2018-149 adopted on July 16, 2018 approved the Fire Department Application of Richard Andres as a regular member of the Fair Haven Volunteer Fire Company #1; and

WHEREAS, there was an amendment to the guidelines that pertain to fire department membership (age limits and requirements) which requires the reapproval of Mr. Andres membership application.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Fair Haven that the membership of Richard Andres approved in 2018 is reapproved/confirmed.

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2021-113

**TITLE: APPROVE A SETTLEMENT AGREEMENT WITH J&M DENORMANDIE HOLDING
 LLC. (“J&M”) AND FAIR HAVEN YACHT WORKS, INC. AND AUTHORIZE
 MAYOR LUCARELLI TO EXECUTE THE AGREEMENT**

BE IT RESOLVED by the Council of the Borough of Fair Haven that the Settlement Agreement reached with J&M DeNormandie Holding LLC (“J&M”) and Fair Haven Yacht Works, Inc. is hereby approved and Mayor Lucarelli is authorized to execute same, attached as Exhibit “A”.

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made and entered into on this ____ day of April, 2021 by, between and among the Borough of Fair Haven (the “Borough”), J&M DeNormandie Holding LLC (“J&M”), Fair Haven Yacht Works, Inc. (“Yacht Works”)(J&M and Yacht Works collectively may be referred to as “FHYW”) and the State of New Jersey (the “State”). The Borough, J&M, Yacht Works and the State shall each be referred to herein as a “Party” and collectively as the “Parties.”

WHEREAS, the Borough acquired from the State a Riparian Grant for the width of DeNormandie Avenue out into the North Shrewsbury River recorded January 11, 1962 in Liber T-4, Page 128. The grant at the end of DeNormandie Avenue extends approximately one hundred fifteen (115) feet to the bulkhead line established by the State of New Jersey and continuing approximately one hundred fifty (150) feet to the pier head line (all as defined in the Riparian Grant)(the “Grant”);

WHEREAS, the Grant contains a reverter clause limiting the use of the Grant for certain defined public uses;

WHEREAS, J & M is the owner of certain real property located at 75 DeNormandie Avenue, known as Block 47, Lot 15 and Lot 15.01 as described on the tax map of the Borough of Fair Haven (the “Property”) together with the adjoining riparian rights (“J&M’s Riparian Rights”);

WHEREAS, Yacht Works owns and operates a marina on the Property and maintains a pier, docks, boat slips and moorings adjacent to and extending into the Borough’s Grant;

WHEREAS, a boatyard and marina has existed at 75 DeNormandie Avenue for approximately ninety five (95) years.

WHEREAS, on August 29, 1966, the Fair Haven Zoning Board of Adjustment (the “Zoning Board”) granted a use variance to the Property approving the following resolution: “Resolved that the requested use variance for the use of the property for the purposes of storage, maintenance, repair and sale of boats be permitted and that the appellant be permitted to erect two buildings on the premises and enclose the entire premises, except on the northerly side, with a six foot chain-link fence” (the “Variance”);

WHEREAS, the Borough alleges that a fixed dock and breakwater known as “D-Dock”, and certain boat slips used and owned by FHYW extend into and encroach upon the Grant area (the “Encroachment”);

WHEREAS, the Borough commenced an action in the Superior Court of the State of New Jersey, Monmouth County, Law Division, under Docket No. MON-L-0343-18, against J&M, Yacht Works and the State alleging, *inter alia*, that FHYW was encroaching on the Grant (the “Encroachment Suit”);

WHEREAS, the Encroachment Suit was filed by the Borough to protect the residents of the Borough in an important property right;

WHEREAS, FHYW alleges, *inter alia*, that it is not encroaching on the Grant because the Grant reverted to the State and that Yacht Works is owed certain amounts by the Borough;

WHEREAS, on June 25, 2020, an Order was entered dismissing the Encroachment Suit in anticipation of a settlement with the Parties having the right to move to re-open the case should the settlement not become final;

WHEREAS, to address any zoning or engineering issues relating to the FHYW operations. the Borough issued summons No. 1313-SC-004974, to Jim Cerruti, J&M and Yacht Works alleging, *inter alia*, that FHYW was in violation of certain zoning regulations (the “Municipal Court Case”);

WHEREAS, FHYW denied the Borough's allegations in the Municipal Court Case, a trial was held and a decision was rendered by Judge Smith (the "Municipal Court Decision" a copy of which is annexed as Exhibit A);

WHEREAS, FHYW thereafter applied to the Zoning Board for amended site plan approval related only to drainage improvements;

WHEREAS, the Zoning Board took the position that it was not bound by the Municipal Court Decision;

WHEREAS, FHYW thereafter withdrew its application to the Zoning Board;

WHEREAS, the matter returned to the Municipal Court and the Municipal Court held that it had no authority to compel the Zoning Board to limit its inquiry to the drainage issue and imposed a monetary fine upon FHYW;

WHEREAS, FHYW appealed the Municipal Court Decision; which appeal is pending;

WHEREAS, FHYW challenged the fees imposed by the Zoning Board professionals as part of its review of the Zoning Board application to the Monmouth County Construction Board of Appeals has been withdrawn; and

WHEREAS, in order to avoid the costs and uncertainties of litigation and to achieve clarity as to the Parties' respective rights, the Parties have agreed to resolve all issues relating to the Encroachment Suit and the Municipal Court Case on the terms set forth herein.

NOW, THEREFORE, in consideration of the mutual promises, terms and conditions contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

FHYW "As Built" Drawing. FHYW has provided a current "As Built" Drawing of the Property, prepared by Landmark Surveys, dated April 18, 2016, last revised August 1, 2019, consisting of one sheet to the Borough Engineer who has reviewed it for accuracy only with respect to the Property, the land based portions of the "As Built" Drawing. A Consent Order with the "As Built" Drawing attached (the "Consent Order"; copy annexed as Exhibit B) shall be submitted to the Honorable Joseph P. Quinn, who presided over the Encroachment Suit for entry. The Consent Order will be recorded by FHYW in the Monmouth County Clerk's Office. The Consent Order will serve the dual purpose of enabling the Borough to take enforcement action should FHYW or its successors fail to adhere to the land based portions of the "As Built" Drawing and enabling FHYW and its successors to operate the marina without the need for site plan approval provided it does so in the manner consistent with the land based portions of the "As Built" Drawing. Any expansion or modification of the FHYW business operations that are inconsistent with the Variance and this Agreement will require approval from the appropriate Land Use Board of the Borough. As further explanation of that portion of the "As Built" Drawing identified as "Seasonal Boat, Kayak, Paddle Board, PWC, and Trailer Storage", the Parties acknowledge and agree that those areas may be used for the storage of the identified items and other comparable watercraft but, that the in season use shall be limited to not more than thirty six (36) racks for the storage of such watercraft, with each rack for the storage of such watercraft not to exceed six (6) feet in height, provided however, that this shall not be construed to limit the continued use of: (i) the area for off rack storage; and (ii) the existing two tier boat rack depicted on the "As Built" Drawing.

The Parties' Riparian Rights Will be Modified. FHYW and the Borough will take the following actions to modify the Parties' riparian rights, in accordance with the drawing annexed hereto as Exhibit C, so that there will be no area of conflicting riparian rights and so that FHYW's D-Dock and the remaining east facing slips will not encroach upon the Borough's Grant:

Annexed hereto as Exhibit C, is a drawing showing modifications to the Borough's Grant and J&M's Riparian Rights so that: (i) the westerly north-south boundary of the modified Grant will run parallel to "D Dock", slightly east of D Dock's pilings; (ii) the northern boundary of the modified Grant will end at a point

approximately where the southernmost border of FHYW's four (4) remaining east facing slips will begin; and (iii) the easterly north-south boundary of J&M's Riparian Rights will be modified to continue to run parallel to "D Dock", slightly east of D Dock's pilings, to the pierhead line, all in accordance with Exhibit C. Annexed hereto as Exhibit D is a "metes and bounds" description of the Borough's Grant and of J&M's Riparian Rights, as shown on Exhibit C and as modified by the TRC Grant Modification, as hereinafter defined;

FHYW, at its sole cost and expense, will prepare and pursue an application, on behalf of FHYW and the Borough, to the Tidelands Resource Council to modify the Parties' riparian rights in accordance with the drawing referred to in the above subparagraph. Approval of the application to modify the Borough's Grant and J&M's Riparian Rights by the Tidelands Resource Council shall be referred to as the "TRC Grant Modification";

The Borough will assist FHYW, as needed, in preparing and pursuing the application to the Tidelands Resource Council to modify the Borough's Grant and J&M's Riparian Rights and will sign any necessary consent to an application, where required, which complies with the provisions of this Agreement. The State will not oppose the application;

FHYW, at its sole cost and expense, will obtain a survey, on behalf of the Borough, showing the Borough's Grant as modified by the TRC Grant Modification.

FHYW to Reduce the Number of Slips East of D Dock. FHYW, at its sole cost and expense, will take the following actions to reduce the number of slips east of D-Dock down to four (4) slips in accordance with the drawing annexed hereto as Exhibit C:

FHYW will modify the license application on file with the Tidelands Resource Council, or if required, file a new application for a license for four (4) east facing slips east of D-Dock in accordance with Exhibit C. Approval of the application for this license by the Tidelands Resource Council shall be referred to as the "TRC D-Dock License". The Borough will withdraw its opposition to FHYW's license application and will sign any necessary consent, if required, to an application which complies with the provisions of this Agreement. The State will not oppose the application;

FHYW will apply to the New Jersey Department of Environmental Protection ("NJDEP") Division of Land Use Regulation ("Land Use") to modify the waterfront development permit previously issued by Land Use to reduce the size of the floating dock and to move the floating dock to attach it to the floating dock at the end of D-Dock in accordance with Exhibit C. Approval of the application to modify the permit issued by Land Use shall be referred to as the "Land Use Permit". The Borough will sign any necessary consent, if required, to an application which complies with the provisions of this Agreement and the State will not oppose FHYW's application;

After receiving the Required Approvals, as hereinafter defined, FHYW will remove the pilings that form the seven (7) slips closest to the beach in accordance with Exhibit C;

After receiving the Required Approvals, as hereinafter defined, FHYW will remove the existing floating dock, ramp and platform in accordance with Exhibit C;

After receiving the Required Approvals, as hereinafter defined, FHYW will move approximately four (4) pilings east ward, away from D-Dock, out into the river, to form the four (4) east facing slips, in accordance with Exhibit C;

After receiving the Required Approvals, as hereinafter defined, FHYW will attach a 60' floating dock to the existing floating dock at the end of D Dock and drive approximately five (5) pilings to maintain the position of the new floating dock 8' away from D Dock and form the four (4) east facing slips, in accordance with Exhibit C;

After receiving the Required Approvals, as hereinafter defined, FHYW will attach two (2) floating fingers to the 60' floating dock which will extend eastward to allow access to the sides of 3 of the 4 boats in those

four (4) slips. One of the fingers will extend out 16' and the southernmost finger, closest to the beach, will extend out 30' and will enclose the southernmost slip, closest to the beach, in accordance with Exhibit C; and

The boats assigned to these four (4) east facing slips will not be longer than 30' in length.

FHYW to Increase the Number of Slips on B-Dock. FHYW, at its sole cost and expense, will be permitted to take the following actions to extend B-Dock to increase the number of slips accessible from B-Dock in accordance with the drawing annexed hereto as Exhibit C:

FHYW has an existing license, pending renewal, with the Tidelands Resource Council for the north facing slips currently at the end of B-Dock. FHYW will apply to modify the existing license with the Tidelands Resource Council to: (i) move the existing north facing slips at the end of B-Dock north, out into the river with two (2) floating fingers added to the existing float; and (ii) to add a 50' floating dock extension to B-Dock, with four (4) floating fingers, and to include three (3) slips on each side of the floating dock extension facing east and west respectively, in accordance with Exhibit C. Approval of the application to modify the license for B-Dock by the Tidelands Resource Council shall be referred to as the "TRC B-Dock License". The Borough will sign any consent, if required, to an application which complies with the provisions of this Agreement and the State will not oppose FHYW's application;

After receiving the Required Approvals, as hereinafter defined, FHYW will move approximately twelve (12) pilings to move the floating dock at the end of B-Dock further out into the river and install approximately twelve (12) additional pilings to support the extended floating dock and fingers that will form the new slips along B-Dock, in accordance with Exhibit C.

FHYW to Renew Existing Licenses. FHYW has applications pending to renew its existing licenses for the mooring field and for the north facing slips at the end of D-Dock. Approval of the application to renew these licenses by the Tidelands Resource Council shall be referred to as the "TRC License Renewals". The Borough will sign any consent, if required, to an application which complies with the provisions of this Agreement and the State will not oppose FHYW's application;

Applications to Renew the Licenses. The Borough and the State will not oppose applications by FHYW as referenced in this Agreement or its successors in interest to renew the licenses issued pursuant to and consistent with the terms of this Agreement.

Required Approvals. As used herein, the term "Required Approvals" shall mean: (i) the Consent Order having been entered by the Court; (ii) the TRC Grant Modification having been issued; (iii) the TRC D-Dock License having been issued; (iv) the Land Use Permit having been issued; (v) the TRC B-Dock License having been issued; and (vi) the TRC License Renewals having been issued. All applications for the Required Approvals shall be filed within forty-five (45) days of this Agreement and will be diligently pursued by FHYW.

Contribution. Within sixty (60) days of execution of this Agreement, FHYW will contribute twenty-two thousand five hundred (\$22,500.00) dollars to the Borough's bank stabilization and end of road rain garden project at the terminus of DeNormandie Avenue (the "Rain Garden"). Should FHYW continue to rent and/or use any of the seven (7) slips closest to the beach in the Borough's Grant while the applications for the Required Approvals or any appeals taken therefrom by FHYW shall still be pending in the year 2024 or any year thereafter, FHYW will contribute seven thousand five hundred (\$7,500.00) dollars to the Borough's Rain Garden for each such year in which such rental and/or use occurs.

Release of Claim for Past Storage Fees. Upon execution of this Agreement, FHYW will release any claim to the past due storage fees from the 2015 invoice, in the amount of four thousand one hundred fifty (\$4,150.00) dollars.

Joint Statement. The Borough and FHYW jointly acknowledge that they have reached this Agreement, that is fair and is in the best interests of the Parties. This negotiated Agreement protects and preserves the Borough's property and riparian rights while also allowing FHYW to efficiently operate an important local

business. The Borough and FHYW want to thank Senator Declan O'Scanlon for his initial intervention and acknowledge the good faith and hard work of all those involved in the ongoing negotiations that led to this Agreement.

Mutual Releases. The Borough on the one hand and J&M and Yacht Works on the other hand each shall execute general releases in the forms annexed hereto as Exhibits D and E respectively (the "General Releases"). The General Releases shall be held in escrow by the Parties' respective counsel and shall be released from escrow and exchanged by counsel after receiving the Required Approvals. This Agreement is intended to be a full and final settlement of all actions, claims, proceedings, controversies and disputes between the Parties arising from the beginning of time to the date hereof.

Appeal of the Municipal Court Decision. Upon execution of this Agreement, FHYW shall withdraw the appeal of the Municipal Court Decision it filed which is pending in the Superior Court. FHYW also shall make application to the Municipal Court Judge to have the fine imposed in the Municipal Court Case suspended. The Borough will sign any consent, if required, to that application and the State will not oppose that application.

Appeal to the Construction Board of Appeals. FHYW has withdrawn the appeal to the Construction Board of Appeals it filed and, upon execution of this Agreement, FHYW shall pay the outstanding invoices of the Zoning Board's professionals from which FHYW appealed.

Notices. Any notice required to be given hereunder shall be sent by email and either certified mail, return receipt requested, or overnight delivery, signature required, to the Parties at the following addresses:

If to the Borough: Borough of Fair Haven
c/o Allyson Cinquegrana
748 River Road
Fair Haven, NJ 07704
acinquegrana@fhboro.net

With a copy to: Salvatore Alfieri, Esq.
Cleary Giacobbe Alfieri Jacobs LLC
955 State Route 34 – Suite 200
Matawan, NJ 07747
salfieri@cgajlaw.com

If to J&M or Yacht Works: Fair Haven Yacht Works
c/o James Cerruti
75 DeNormandie Avenue
Fair Haven, NJ 07704
yachtworks@aol.com

With a copy to: John Greco, Esq.
Betancourt, Van Hemmen, Greco & Kenyon, LLC
151 Bodman Place – Suite 200
Red Bank, NJ 07701
JGreco@bvgklaw.com

and

Anthony J. Sposaro, Esq.
444 E. Main Street
Chester, NJ 07930
asposaro@njfarmlaw.com

If to the State:

Office of the Attorney General of New Jersey
c/o Nicholas Seminoff, Esq.
R.J. Hughes Justice Complex
25 Market Street
P.O. Box 093
Trenton, NJ 08625
Nicholas.Seminoff@law.njoag.gov

Governing Law. This Agreement and the obligations of the Parties hereunder shall be governed by the laws of the United States and where applicable, the laws of the State of New Jersey.

No Admissions. The resolution set forth in this Agreement is acknowledged to be a consensual resolution. Except as provided herein, nothing contained herein shall be considered as an admission of liability or past or present wrongdoing by the Parties.

Fees and Expenses. Except as otherwise set forth herein, the Parties shall each bear all of their own attorney's fees, costs, and expenses incurred in the negotiation and execution of this Agreement.

Full Knowledge of Terms. The Parties each represent and warrant that they have authority or obtained the proper authority to enter into this Agreement, and that prior to executing this Agreement, they have fully discussed its meaning and effect with their attorneys and they fully understand its meaning and effect, and that they have voluntarily executed this Agreement.

Construction. The Parties acknowledge and agree that each of them has participated in drafting this Agreement and, as a result, nothing in this Agreement shall be construed in favor of one Party against another Party.

Severability. Should any provision of this Agreement be held by any court of competent jurisdiction to be illegal, invalid or unenforceable, then the remaining portions of this Agreement will nonetheless remain in full force and effect, unless such portion of the Agreement is so material that its deletion would violate the obvious purpose and intent of the Parties.

Binding Effect. This Agreement shall be binding upon and inure to benefit of the assigns, representatives, heirs and successors of the Parties hereto.

Entire Agreement. The Parties acknowledge that this Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof, and all prior agreements, negotiations, and understandings with respect to the subject matter hereof are canceled and superseded by this Agreement.

Modification of Agreement. The Parties agree that this Agreement may not be varied in its terms by an oral agreement or representation or otherwise, except by an instrument in writing of subsequent date hereof executed by all of the Parties.

Counterparts; Signatures. This Agreement may be executed in one or more counterparts, any of which need not contain the signatures of more than one party, each of which shall be deemed an original, and all of which taken together shall constitute one and the same agreement. Facsimile and electronically transmitted signatures shall be treated in all manner and respects as a binding and any such signature of any party shall be considered for these purposes as an original signature.

IN WITNESS WHEREOF, the Parties have each executed this Agreement as of the date and year first above written.

By:
Title:

By:
Title:

J&M DENORMANDIE HOLDING LLC STATE OF NEW JERSEY

By:
Title:

By:
Title:

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

Motion by:

Second by:

- AFFIRMATIVE:**
- NEGATIVE:**
- ABSTAIN:**
- ABSENT:**

RESOLUTION NO. 2021-114

**TITLE: AUTHORIZE THE RENEWAL OF SUBSCRIPTION WITH MICROSOFT FOR
OFFICE 365 THROUGH DELL UNDER NEW JERSEY STATE CONTRACT NO.
M0003 89850**

WHEREAS, on January 29, 2015, the Borough of Fair Haven entered into an Enterprise Enrollment Agreement with Microsoft for Exchange and/or Office 365; and

WHEREAS, Dell is the NJ State Contract vendor for Microsoft Enterprise Enrollment; and

WHEREAS, the current contract expired on March 31, 2021 and a renewal quote in the amount of \$22,457.91 for three years (\$7,485.97 per year) was received under Dell’s NJ State Contract No. M0003 89850; and

WHEREAS, the Chief Financial Officer has certified the availability of funds for this contract in the 2021 budget and the succeeding 2022 and 2023 budgets, in an amount not to exceed \$7,485.97 annually.

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of Fair Haven that the Borough Administrator is authorized to execute any documentation required for a three-year renewal contract based on the unit pricing listed in NJ State Contract No. M0003 89850.

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2021-115

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 April 12, 2021 agenda are hereby approved and the Finance Department is hereby authorized to release payment to the various vendors.

2020 CURRENT ACCOUNT	\$ 16,291.07
2021 CURRENT ACCOUNT	\$1,887,093.50
GENERAL CAPITAL	\$ 126,855.95
PAYROLL AGENCY	\$ 13,914.02
OTHER TRUST	\$ 5,043.83
DOG TRUST	\$ 1,982.80
TOTAL	\$2,051,181.17