

WHITE TOWNSHIP COMMITTEE

MINUTES OF MEETING JANUARY 11, 2023

CALL TO ORDER – RE-ORGANIZATION

Jeff Herb called the meeting to order at 6:00 p.m. and stated ‘Adequate Notice of this meeting of January 11, 2023 has been given in accordance with the Open Public Meetings Act by forwarding a notice of the date, time, and location of the meeting to the Express-Times and Star-Ledger; and by posting a copy thereof on the bulletin board in the Municipal Building and the township website. Formal action may be taken at this meeting. Public participation is encouraged. This agenda is subject to last minute additions and deletions by the White Township Committee’.

FLAG SALUTE

Jeff Herb asked everyone to stand for the flag salute.

ROLL CALL

Committeewoman Skoog, Committeeman Hyndman, Committeeman Elect Herb, Clerk Reinalda, Deputy Clerk Whitmore and Attorney Tipton were present for the meeting.

OATH OF OFFICE

Brian Tipton administered the oath of office to Mr. Herb. Mr. Herb will serve a three year term to expire December 31, 2025.

APPOINTMENT OF CHAIRPERSON (MAYOR) OF THE COMMITTEE FOR 2023

Dr. Hyndman nominated Anna Marie Skoog as Mayor of the White Township Committee for 2023, seconded by Mr. Herb and carried by unanimous favorable roll call vote. Attorney Tipton administered the oath of office.

APPOINTMENT OF DEPUTY MAYOR – 2023

Mrs. Skoog nominated Dr. Hyndman as Deputy Mayor of the White Township Committee for 2023, seconded by Mr. Herb and carried by unanimous favorable roll call vote. Attorney Tipton administered the oath of office.

RESOLUTIONS

On motion by Dr. Hyndman, seconded by Mr. Herb and carried by unanimous favorable roll call vote, Mayor and Committee approved the following resolutions. Hyndman – yes, Herb – yes, Skoog – yes. Resolutions adopted.

RESOLUTION 2023-1

BE IT RESOLVED by the Township Committee of the Township of White, County of Warren, State of New Jersey, that the following schedule of meetings of said Committee for the year 2023, and the anticipated Agendas for same, are hereby approved, in accordance with the Open Public Meetings Act of the State of New Jersey:

The regular meetings of the Township Committee of the Township of White, County of Warren, State of New Jersey, shall be held in-person and via Zoom at the White Township Municipal Building, 555 CR 519, Belvidere, NJ 07823. PLEASE NOTE, in the event that the equipment being utilized to facilitate the zoom meeting malfunctions, the meeting will proceed as an ‘in person’ meeting only. Instructions for joining the meeting can be found at whitetwp-nj.com. All Meetings will commence at 6:00 p.m., prevailing time, on the following dates in the year 2023:

REGULAR MEETINGS

	July 12 th
February 8 th	August 9 th
March 8 th	September 13 th
April 12 th	October 11 th
May 10 th	November 8 th
June 14 th	December 13 th

WORKSHOP MEETINGS (if necessary)

January 25 th	July 26 th
February 22 nd	August 23 rd
March 22 nd	September 27 th
April 26 th	October 25 th
May 24 th	November 22 nd
June 28 th	

YEAR END MEETING – Thursday, Dec. 28th, 4:00PM.

2024 RE-ORGANIZATION MEETING – Wednesday, January 10th 6PM

2024 FIRST REGULAR MEETING OF NEW YEAR – immediately following Re-Organization Meeting, Wednesday, January 10th.

PROPOSED AGENDAS OF ABOVE MEETINGS

1. Call to Order - Open Public Meetings Act Statement.
2. Salute to the Flag.
3. Receipt of Bids(if applicable); Closing of same.
4. Minutes of previous meeting(s); Action on same.
5. Payment of bills.
6. Correspondence - Discussion of same.
7. Unfinished or old business.
8. New business.
9. Adoption of Resolutions(if applicable).
10. Introduction/Passage of ordinances(if applicable).
11. Transfer of funds(if applicable).
12. Public questions and comments.
13. Reports of committees(standing, special and/or Attorney).
14. Announcements.
15. Any other business deemed necessary by the Committee.
16. Adjournment.

17. Executive Session (if necessary)

Newspaper Designation

WHEREAS, Section 3d of the Open Public Meetings Act, Ch. 231, PL 1975 requires that certain notice of meetings be submitted to two (2) newspapers, one of which shall be the official newspaper;

WHEREAS, the second newspaper designated by this body must be one which has the greatest likelihood of informing the public within the jurisdictional boundaries of this body of such meeting;

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of White, County of Warren, State of New Jersey, as follows:

1. NJ Advance Media (The Express-Times Warren County Zone), is hereby designated to receive all notices of meetings as required under the Open Public Meetings Act.
2. NJ Advance Media (The Star-Ledger), is hereby designated as the secondary option for receiving notices of meetings as required under the Open Public Meetings Act if the Official Newspaper (NJ Advance Media – The Express-Times Warren County Zone) cannot receive the notice in a timely manner or the Township deems it necessary or appropriate to notify both newspapers.
3. This Resolution shall take effect immediately.

Resolution 2023-2

TEMPORARY BUDGET

WHEREAS, Title 40A:4-19 known as the Local Budget Law, provides that where any contracts, commitments or payments are to be made prior to the final adoption of the 2023 budget, temporary appropriations be made for the purposes and amounts required in the manner and time therein provided, and;

WHEREAS, the total appropriations in the 2022 budget, less appropriations made for the Capital Improvement Fund, Debt Service, Relief for the Poor (Public Assistance) and Deferred Charges are as follows:

General Fund:	\$2,298,634.23
Sewer Utility Fund:	\$ 349,044.00

AND;

WHEREAS, 26.25% of the total appropriations in the 2022 budget, less the

appropriations made for Capital Improvement Fund, Debt Service, Relief for the Poor (Public Assistance), and Deferred Charges are as follows,

General Fund: \$603,391.49
Sewer Utility Fund: \$91,624.05

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of White, County of Warren that the temporary appropriations be made in the amount of \$603,391.49 for the General Fund and \$91,624.05 for the Sewer Utility Fund and that a certified copy of this resolution be transmitted to the Chief Financial Officer for recordkeeping.

RESOLUTION #2023-3

BE IT RESOLVED by the Township Committee of the Township of White, County of Warren, that the Chief Financial Officer/Deputy Chief Financial Officer shall administer the cash management plan, adopted on January 11, 2023, through compliance with 40A:5-1, et seq, prudent application of these cash management policies, which shall not conflict the plan in any way.

1. **Objectives.** The priority of investing practices shall be, in order of descending importance, **security, liquidity, and yield.**

A. Security. The safety of principal is the foremost objective of the cash management plan. Investments shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. The objective is to mitigate credit risk and interest rate risk.

1. **Credit Risk.** Credit risk is the risk of loss due to failure of security issuer or backer. Credit risk may be mitigated by:

a. Limiting investments to the safest types of security. Agencies to be used: **Valley Bank; First National Bank of Hope; PNC Bank; NJ Cash Management Fund; TD BankNorth, Fulton Bank of New Jersey.**

b. Pre-qualifying the financial institutions, broker/dealers, intermediaries, and advisors with which an entity will do business.

c. Diversifying the investment portfolio.

2. **Interest Rate Risk.** Interest rate risk is the risk that the market value of the securities in the portfolio will fall due to changes in general interest rates. Interest rate risk may be mitigated by:

a. Structuring the investment portfolio so that securities mature to meet cash requirements for ongoing operations, thereby avoiding the need to sell securities on the open market prior to maturity, and

b. By investing operating funds primarily in shorter-term securities.

B. Liquidity. The portfolio shall remain sufficiently liquid to meet all operating requirements that may be reasonably anticipated. Investments of various funds should be structured so that they match the potential need. Thus, investments of operating funds should be kept in investments with a maturity of not more than one year. Investments of a capital, or long term trust fund nature should match the expected use of the funds, But not to exceed five years. Investments should consist of securities with active secondary markets or in mutual funds that permit liquidation at net asset value. Securities shall not be sold prior to maturity with the following exceptions:

1. A declining credit security could be sold early to minimize the loss of principal.
2. A security swap would improve the quality, yield or target duration in the portfolio.
3. Liquidity needs of the local unit require that the security be sold.

C. Yield: The investment portfolio must be designed with the objective of attaining a market Rate of return throughout budgetary and economic cycles, taking into account the investment risk constraints and liquidity needs. Return on investment is of least importance compared to the safety and liquidity objectives described above. The core of investments are limited to relatively low risk securities in anticipation of earning a fair return relative to the risk being assumed. The Chief Financial Officer/Deputy Chief Financial Officer shall carefully evaluate the legality, security, and yield attributes of any investment offering above market yields.

II Standards of Care

A. Prudence. The standard of prudence to be used by investment officials shall be the “prudent person” standard and shall be applied in the context of managing an overall portfolio in accordance with State Law and this Policy. Chief Financial Officers/Deputy Chief Financial Officers acting in accordance with the Cash Management Plan and Policy shall be relieved of any liability for loss of such moneys due to the insolvency or closing of any depository designated by, or the decrease in value of any investment authorized by, the Cash Management Plan.

Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.

B. Ethics and Conflicts of Interest. Officers and employees involved in the investment process shall not have personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions. Employees and investment officials shall disclose any material investment in financial institutions with which they conduct business. They shall disclose any personal financial/investment positions that could be related to the performance of the investment portfolio. Employees and officers shall refrain from undertaking personal investment transactions with the same individual with whom business is conducted on behalf of their entity. Personnel involved in investment activities shall comply with the Local Government Ethics Law.

C. Delegation of Responsibility and Authority. Responsibility and authority to manage a Cash Management Plan and Policy is granted to the Chief Financial Officer/Deputy Chief Financial Officer, pursuant to **N.J.S.A. 40A:5-14**. No person may engage in an investment transaction except as provided under the terms of the Policy and the written procedures established by the Chief Financial Officer. The Chief Financial Officer shall

be responsible for all transactions undertaken and shall establish a system of controls to regulate the activities of subordinate officials.

III. Safekeeping and Custody.

- A. Authorized Banks for Deposit of Governmental Funds. The Cash Management Plan shall list all authorized banks for deposit of governmental funds. Only banks approved by the Department of Banking and Insurance under the Government Unit Depository Protection Act(GUDPA)can be approved depositories.
- B. Approved Security Broker/Dealers. The Cash Management Plan shall list any approved security brokers/dealers.
- C. Internal Controls.
 1. The Governing Body shall act to provide that the agency has an internal control structure that is established, defined and maintained to ensure that the assets of the entity are protected from loss, theft or misuse. The Chief Financial Officer/Deputy Chief Financial Officer shall develop written internal controls and submit them to the Governing Body for approval. The internal control structure shall be designed to provide reasonable assurance that the assets of the entity are protected from loss, theft or misuse. The concept of reasonable assurance recognizes that”
 - a.. The cost of a control should not exceed the benefits likely to be derived..
 - b. The valuation of costs and benefits of internal controls requires estimates and judgments by management.
 2. Internal control practices shall address the following points:
 - a.. Control of collusion - Collusion is a situation where two or more employees are working in conjunction to defraud their employer.
 - b. Separation of transaction authority from accounting and record keeping - By separating the person who authorizes or performs the transaction from the people who record or otherwise account for the transaction, a separation of duties is achieved.
 - c. Custodial safekeeping - Securities purchased from any bank or dealer, including appropriate collateral(as defined by N.J.S.A. 12A:9-105)shall be placed with an independent third party for custodial safekeeping.
 - d. Avoidance of physical delivery securities - Book entry securities are much easier to transfer and account for since actual delivery of a document never takes place. Delivered securities must be properly safeguarded against loss or destruction. The potential for fraud and loss increases with physically

delivered securities.

- e. Clear delegation of authority to subordinate staff members - Subordinate staff members must have a clear understanding of their authority and responsibilities to avoid improper actions. Clear delegation of authority also preserves the internal control structure that is contingent on the various staff positions and their respective responsibilities.
- f. Written confirmation or telephone transactions for investments and wire transfers - Due to the potential for error and improprieties arising from telephone transactions, all telephone transactions should be supported by written communications and approved by the appropriate person. Written communication may be via fax if on letterhead and the safekeeping institution has a list of authorized signatures.
- g. Development of a wire transfer agreement with the lead bank or third party custodian - This agreement should outline the various controls, security provisions, and delineate responsibilities of each party making and receiving wire transfers.

D. Delivery vs. Payment: All trades where applicable will be executed by delivery vs. payment (DVP). This ensures that securities are deposited in the eligible financial institution prior to the release of funds. Securities will be held by a third party custodian as evidenced by safekeeping receipts.

IV. Reporting.

A. Methods: The Chief Financial Officer/Deputy Chief Financial Officer shall prepare an investment report to the Governing Body each month, including a succinct management summary that provides a clear picture of the status of the current investment portfolio and transactions made over the last month. This management summary will be prepared in a manner which will allow the Governing Body to ascertain whether investment activities during the reporting period have conformed to the Investment Policy. The report should be provided to the Chief Executive Officer and the Governing Body. The report will include those items outlined in the Cash Management Plan.

B. Performance Standards: The investment portfolio will be managed in accordance with the parameters specified within the Cash Management Plan and Policy. The portfolio should obtain a market average rate of return during a market/economic environment of stable interest rates. Portfolio performance should be compared to appropriate benchmarks on a regular basis.

V. Policy.

A. Exemption: Any investment currently held that does not meet these guidelines shall be

exempted from the requirements of the Cash Management Plan. At maturity or liquidation such monies shall be reinvested only as provided by the Cash Management Plan and Policy.

- B. Amendment: The Cash Management Plan must be approved by the Governing Body, by Resolution, on an annual basis, and may be amended at any time during the year to reflect changes due to changes in laws, depositories, funds or investments.

RESOLUTION 2023-4
TAX COLLECTOR RESOLUTION

WHEREAS, it is the desire of the governing body of the Township of White to approve that overpayments under \$10.00 be turned to surplus and balances due under \$10.00 be waived; and

WHEREAS, N.J.S.A. 54:4-67 permits the governing body of each municipality to fix the rate of interest to be charged for non-payment of taxes or assessments subject to any abatement or discount for the late payment of taxes as provided by law; and

WHEREAS, N.J.S.A. 54:4-67 has been amended to permit the fixing of said rate of 8% per annum on the first \$1,500.00 of the delinquency and 18% per annum on any amount in excess of \$1,500.00 and allows an additional penalty of 6% to be collected against a delinquency in excess of \$10,000.00 on properties that fail to pay the delinquency prior to the end of the calendar year.

NOW, THEREFORE, BE IT RESOLVED by the governing body of the Township of White, Warren County and State of New Jersey as follows:

1. The Tax Collector is hereby authorized and directed to charge 8% per annum on the first \$1,500.00 of taxes becoming delinquent after due date and 18% per annum on any amount of taxes in excess of \$1,500.00 becoming delinquent after due date, and if a delinquency is in excess of \$10,000.00 and remains in arrears beyond December 31st an additional 6% shall be charged against the delinquency.
2. Effective January 1, 2023 there shall be a ten (10) day grace period of quarterly tax payments made by cash, check, wire or money order.
3. Any payments not made in accordance with paragraph two of this resolution shall be charged interest from the due date as set forth in paragraph one of this resolution.
4. Any overpayments under \$10.00 are turned over to Surplus and balances due under \$10.00 be waived.

RESOLUTION #2023-5

WHEREAS, it is resolved that the Mayor and Township Committee of each municipality in the County of Warren, in order to file Municipal Tax Appeals, pass a Resolution allowing the Attorney for the municipality, to file and prosecute said appeals.

NOW, THEREFORE BE IT RESOLVED, by a majority of the members of the Governing Body of the Township of White, County of Warren, State of New Jersey, that the Municipal Attorney and/or Special Counsel are hereby authorized to file, prosecute, stipulate, modify, agree upon, and otherwise perform the duties which are required of said Attorney, in the process of prosecution and/or filing of Municipal Tax Appeals.

RESOLUTION 2023-6

DESIGNATION OF HOLIDAYS

WHEREAS, the following dates have been designated as the 2023 White Township Holiday Schedule:

January 16 th	Martin Luther King Jr. Day
February 13 th	Lincoln’s Birthday
February 20 th	Presidents’ Day
April 7 th	Good Friday
May 29 th	Memorial Day
July 4 th	Independence Day
September 4 th	Labor Day
October 9 th	Columbus Day
November 7 th	Election Day
November 10 th	Veteran’s Day
November 23 rd & 24 th	Thanksgiving
December 25 th	Christmas
January 1 st	New Years Day

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of White, that the above listed dates are designated as the 2023 White Township Holiday Schedule.

RESOLUTION #2023-7

AUTHORIZATION FOR TAX ASSESSOR TO FILE CORRECTIVE APPEALS AND STIPULATIONS AND AUTHORIZATION FOR TOWNSHIP ATTORNEY TO WORK WITH TAX ASSESSOR IN DEFENSE OF TAX APPEALS WITH THE WARREN COUNTY BOARD OF TAXATION

WHEREAS, the Township Committee of the Township of White has been informed by the Tax Assessor of White Township that from time to time, errors are made in computing the tax assessments governing certain property locations with White Township; and

WHEREAS, the Tax Assessor of White Township has requested the Township Committee to authorize her to file corrections of such errors with the Warren County Board of Taxation.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of White, County of Warren, State of New Jersey, on this eleventh day of January 2023, that the Tax Assessor is hereby authorized to file corrective appeals and stipulations with the Warren County Board of Taxation concerning those properties wherein errors were made; and

BE IT FURTHER RESOLVED that the Tax Assessor send copies of such corrected assessments to the individuals involved; and

BE IT FURTHER RESOLVED that a certified copy of this resolution be supplied to the Warren County Tax Board, Belvidere, NJ and to the Municipal Assessor for the Township of White.

BE IT ALSO RESOLVED that the Township Attorney shall work with the Tax Assessor in defending tax appeals before the Warren County Board of Taxation.

RESOLUTION 2023-8

RISK MANAGEMENT CONSULTANT

WHEREAS, the Bylaws of PAIC require that each entity designate a Risk Management Consultant to perform various professional services as detailed in the Bylaws and Risk Management Plan; and

WHEREAS, the Bylaws indicate that PAIC shall pay each Risk Management Consultant a fee to be established annually by the Executive Committee;

NOW, THEREFORE, BE IT RESOLVED that the Township of White does hereby appoint Kathy Young, Alamo Insurance Group Inc., as its Risk Management Consultant in accordance with the Fund's Bylaws.

RESOLUTION 2023-9

APPOINTING A PUBLIC AGENCY COMPLIANCE OFFICER

(N.J.A.C. 17:27-3.2)

WHEREAS, N.J.A.C. 17:27-3.2 requires the appointment of a Public Agency Compliance Officer (P.A.C.O.); and

WHEREAS, the P.A.C.O. acts as the liaison between the Division of Public Contracts Equal Employment Opportunity Compliance and the Township of White; and

WHEREAS, the P.A.C.O. also acts as the point of contact for all matters concerning implementation and administration of N.J.A.C. 17:27-3.2; and

WHEREAS, the P.A.C.O. is also responsible for administering contracting procedures pertaining to equal employment opportunity regarding both the Public Agency and the service providers.

NOW, THEREFORE, BE IT RESOLVED that the Township of White does hereby appoint Kathleen Reinalda, Chief Financial Officer/Qualified Purchasing Agent as its Public Agency Compliance Officer (P.A.C.O.) in accordance with N.J.A.C. 17:27-3.2.

COMMITTEE ASSIGNMENTS – 2023

The following liaison positions were agreed upon for 2023.

Open Space / Environmental Commission – tabled
Buildings and Grounds – Jeff Herb
Streets and Roads – Jeff Herb

2023 Appointments

The following appointments were made for 2023 on motion by Mr. Herb, seconded by Dr. Hyndman and carried by unanimous favorable roll call vote. Hyndman – yes, Herb – Yes, Skoog – yes. Motion carried.

Municipal Position	Appointment Type	Term (Years)	2023	
			Expiration	Appointee
Township Committee				
Township Committee	Elected / Appointed	3	12/31/25	Jeff Herb
Mayor	Elected / Appointed	3	12/31/23	Anna Skoog
Deputy Mayor	Elected	3	12/31/24	Arnold Hyndman
Municipal Attorney	Appointed by Committee	1	12/31/23	Brian Tipton
Special Counsel	Appointed by Committee	1	12/31/23	Steven P. Gruenberg, Esq.
Committee Assignments				

Buildings and Grounds	Appointed by Committee	1	12/31/23	Jeff Herb
Road Department	Appointed by Committee	1	12/31/23	Jeff Herb
Open Space & Environmental	Appointed By Committee	1	12/31/23	vacant
Municipal Clerk's Office				
Municipal Clerk	Appointed by Committee	3	tenure	Kathleen R. Reinalda
Registrar of Vital Statistics	By Statute		tenure	Municipal Clerk
Clerical Assistant 1	Appointed by Committee	1	12/31/23	vacant
Deputy Registrar of Vital Statistics	Appointed by Registrar	1	12/31/23	Brielle Whitmore
Deputy Clerk	Appointed by Committee	1	12/31/23	Brielle Whitmore
Finance				
Auditors	Appointed by Committee	1	12/31/23	Nisivoccia LLP
Tax Collector	Appointed by Committee	4	tenure	Rachel Leber
Tax Assessor	Appointed by Committee	4	tenure	Michelle Trivigno
CFO/Treasurer	Appointed by Committee	4	tenure	Kathleen R. Reinalda
Collections Clerk	Appointed by Committee	1	12/31/23	Irene Fluck
Deputy CFO/Treasurer	Appointed by Committee	1	12/31/23	Jim Kozimor
Sewer Billing/Collections	Appointed by Committee	1	12/31/23	Rachel Leber
Bond Counsel	Appointed by Committee	1	12/31/23	John Draikiwicz, Gibbons P.C.
Construction Office				
Municipal Engineer	Appointed by Committee	1	12/31/23	Paul Sterbenz
Construction Official	Appointed by Committee	4	tenure	Ralph Price
Tech. Assist. Bldg. Office	Appointed by Committee	1	12/31/23	Brielle Whitmore
Electrical Inspector	Appointed by Committee	1	12/31/23	Ralph Price
Plumbing Inspector	Appointed by Committee	1	12/31/23	Ralph Price
Code Enf. / Zoning Officer	Appointed by Committee	1	12/31/23	Paul Sterbenz, Engineer
Public Health and Safety				
Board of Health Members	By Statute		N/A	Governing Body
Board of Health Secretary	By Statute		N/A	Municipal Clerk
Emergency Mgt. Coordinator	Appointed by Mayor	3	12/31/23	Jeff Herb
Deputy EMC	Appointed by EMC	3	12/31/24	Kathleen Reinalda
911 Coordinator	Appointed by Committee	1	12/31/23	Ron Buckenmeyer
Recycling Coordinator	Appointed by Committee	1	12/31/23	Lin Gabel
Planning Board				
Planning Brd. Secretary	Appointed by the Board	1	12/31/23	Brielle Whitmore
Planning Board Engineer	Appointed by the Board	1	12/31/23	Paul Sterbenz
Planning Board Planner	Appointed by the Board	1	12/31/23	Paul Sterbenz
Planning Board Attorney	Appointed by the Board	1	12/31/23	Tara St. Angelo
Class I Member	Mayor By Statute	1	12/31/23	Chanda Collom Mayors Designee
Class II Member	Appointed by Mayor	1	12/31/23	David Pritchard
Class III Member	Appointed by Committee	1	12/31/22	Anne Skoog

Class IV Member	Appointed by Mayor	4	12/31/23	Joseph Phillips
Class IV Member	Appointed by Mayor	4	12/31/23	Rich Niewenhuis
Class IV Member	Appointed by Mayor	4	12/31/24	Drew Kiszonik
Class IV Member	Appointed by Mayor	4	12/31/25	Bob Mackey
Class IV Member	Appointed by Mayor	4	12/31/25	Tim Matthews
Class IV Member	Appointed by Mayor	4	12/31/25	Mike Grossman
Alternate member #1	Appointed by Mayor	2	12/31/23	Joan Schneiber
Alternate member #2	Appointed by Mayor	2	12/31/24	Nevitt Duveneck
Board of Adjustment				
Bd. of Adj. Secretary	Appointed by the Board	1	12/31/23	Brielle Whitmore
Bd. Of Adj. Engineer	Appointed by the Board	1	12/31/23	Paul Sterbenz
Bd. Of Adj. Attorney	Appointed by the Board	1	12/31/23	Tara St. Angelo
Bd. Of Adj. Member	Appointed by Committee	4	12/31/24	Paul Mourry
Bd. Of Adj. Member	Appointed by Committee	4	12/31/25	Donald Weidlick
Bd. Of Adj. Member	Appointed by Committee	4	12/31/25	Jim Cooper
Bd. Of Adj. Member	Appointed by Committee	4	12/31/25	Barry Wessner
Bd. Of Adj. Member	Appointed by Committee	4	12/31/26	Jack Shade
Bd. Of Adj. Member	Appointed by Committee	4	12/31/26	Kyle Shoemaker
Bd. Of Adj. Member	Appointed by Committee	4	12/31/23	Elaine Reichart
Alternate member #1	Appointed by Committee	2	12/31/23	Dennis Smirh
Alternate member #2	Appointed by Committee	2	12/31/24	James Finamore
Environmental Commission				
Envir. Commission Sec'ty.	Appointed by Commission	1	12/31/23	Brielle Whitmore
Envir. Commission Member	Appointed by Mayor	3	tabled	Sussy Tiejero-Ferraz
Envir. Commission Member	Appointed by Mayor	3	Tabled	Malcolm Leslie
Envir. Commission Member	Appointed by Mayor	3	tabled	Craig Spencer
Envir. Commission Member	Appointed by Mayor	3	12/31/21	vacant
Envir. Commission Member	Appointed by Mayor	3	12/31/24	David Pritchard
Envir. Commission Member	Appointed by Mayor	3	12/31/24	Sharon Haggerty
Envir. Commission Member	Appointed by Mayor	3	tabled	John Walburn
Alternate member #1	Appointed by Mayor	2	12/31/200	vacant
Alternate member #2	Appointed by Mayor	2	12/31/200	vacant
Open Space Committee				
Open Space Secretary	Appointed by the Board	1	12/31/23	Brielle Whitmore
Open Space Member	Appointed by Committee	3	12/31/22	vacant
Open Space Member	Appointed by Committee	3	12/31/24	Nevitt Duveneck
Open Space Member	Appointed by Committee	3	12/31/24	vacant
Open Space Member	Appointed by Committee	3	tabled	Jason Menegus
Open Space Member	Appointed by Committee	3	tabled	Beth Kabert

Open Space Member	Appointed by Committee	3	tabled	Nancy Bilyk
Open Space Member	Appointed by Committee	3	12/31/23	Dave Newhouse
Alternate member #1	Appointed by Committee	3	12/31/00	vacant
Alternate member #2	Appointed by Committee	3	12/31/200	vacant
Agriculture Advisory Board				
Ag Advisory Board Secretary	Appointed by the Board	1	12/31/23	Brielle Whitmore
Ag Advisory Board Member	Appointed by Committee	3	12/31/22	vacant
Ag Advisory Board Member	Appointed by Committee	3	12/31/24	Dave Newhouse
Ag Advisory Board Member	Appointed by Committee	3	12/31/23	Nevitt Duveneck
Ag Advisory Board Member	Appointed by Committee	3	12/31/23	Nancy Bilyk
Ag Advisory Board Member	Appointed by Committee	3	12/31/24	Jason Menegus

ENGINEERING UPDATE

Paul Sterbenz reported on the following:

- Motion made by Mr. Herb, seconded by Dr. Hyndman and carried by unanimous favorable roll call vote to approve Colliers Engineering to prepare and complete the resolution and necessary paperwork to apply for the Local Recreation Improvement Grant. Herb – yes, Hyndman – yes, Skoog – yes. Motion carried. The resolution will be prepared for the February meeting.
- Tamarack Road - The drainage work has been completed by K&A Paving.
- Tamarack Road – award of contract for paving, guiderail and striping is tabled for budget discussions.
- Route 46 Sewering - Mr. Sterbenz continues to work on estimates.
- Tier A Reassignment – appeal has not been responded to.
- Zoning violations – violations were issued to John Stier, Block 61, Lot 17 for change of use/parking lot construction and L&K Transport, Block 18, Lot 5.01 for truck and trailer parking.
- 2023 Roadway Improvements – tabled for budget discussions.
- Road Opening Permits for Fiber Optic Lines – Brightspeed has not provided the required documentation and fees in order to receive road opening permits to install fiber optic lines. Dr. Hyndman suggested inviting representatives to attend a meeting to explain

Brightspeed's long term plan. The committee agreed.

- A&P Redevelopment Plan – State of NJ has declared the area in need of redevelopment. Committee needs to schedule a meeting for a public hearing.

ORDINANCES – FIRST READING

- A. Ord. 2023-01: Motion made by Dr. Hyndman, seconded by Mr. Herb and carried by unanimous favorable roll call vote to approve the following ordinance on First Reading. Herb – yes, Hyndman – yes, Skoog – yes.

ORDINANCE NO. 2023-01
ORDINANCE FOR ADOPTION OF THE FLOODPLAIN MANAGEMENT
REGULATIONS
OF TOWNSHIP OF WHITE, NJ

AN ORDINANCE BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF WHITE
AMENDING THE TOWNSHIP OF WHITE CODE OF ORDINANCES TO REPEAL
CHAPTER 140 TO ADOPT A NEW CHAPTER 140; TO ADOPT FLOOD HAZARD
MAPS; TO DESIGNATE A FLOODPLAIN ADMINISTRATOR; AND PROVIDING FOR
SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Legislature of the State of New Jersey has, in N.J.S.A. 40:48 et seq and N.J.S.A. 40:55D et seq., conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of **Township of White**, and such areas may be subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare, and

WHEREAS, the **Township of White** was accepted for participation in the National Flood Insurance Program on **May 15, 1984** and the **Township Committee of the Township of White** desires to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59, 60, 65 and 70 necessary for such participation; and

WHEREAS, the **Township of White** is required, pursuant to N.J.A.C. 5:23 et seq., to administer and enforce the State building codes, and such building codes contain certain provisions that apply to the design and construction of buildings and structures in flood hazard areas; and

WHEREAS, the **Township of White** is required, pursuant to N.J.S.A. 40:49-5, to enforce zoning codes that secure safety from floods and contain certain provisions that apply to

the development of lands; and

WHEREAS, the **Township of White** is required, pursuant to N.J.S.A.58:140A-57, within 12 months after the delineation of any flood hazard area, to adopt rules and regulations concerning the development and use of land in the flood fringe area which at least conform to the standards promulgated by the New Jersey Department of Environmental Protection (NJDEP).

NOW, THEREFORE, BE IT ORDAINED by the **Township Committee of the Township of White** that the following floodplain management regulations are hereby adopted.

SECTION 1. RECITALS.

The foregoing whereas clauses are incorporated herein by reference and made a part hereof.

SECTION 2. These regulations specifically repeal and replace the following ordinance(s) and regulation(s): **Chapter 140 Flood Damage Prevention [HISTORY: Adopted by the Township Committee of the Township of White 9-8-2011 by Ord. No. 2011-5.[1] Amendments noted where applicable.]**

§140-1 SCOPE AND ADMINISTRATION

A. Title. These regulations, in combination with the flood provisions of the Uniform Construction Code (UCC) N.J.A.C. 5:23 (hereinafter “Uniform Construction Code,” consisting of the Building Code, Residential Code, Rehabilitation Subcode, and related codes, and the New Jersey Flood Hazard Area Control Act (hereinafter “FHACA”), N.J.A.C. 7:13, shall be known as the *Floodplain Management Regulations of Township of White* (hereinafter “these regulations”).

B. Scope. These regulations, in combination with the flood provisions of the Uniform Construction Code and FHACA shall apply to all proposed development in flood hazard areas established in §140-2 of these regulations.

C. Purposes and objectives. The purposes and objectives of these regulations are to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific flood hazard areas through the establishment of comprehensive regulations for management of flood hazard areas, designed to:

- (1) Protect human life and health.
- (2) Prevent unnecessary disruption of commerce, access, and public service during times of flooding.
- (3) Manage the alteration of natural floodplains, stream channels and shorelines;
- (4) Manage filling, grading, dredging and other development which may increase flood damage or erosion potential.
- (5) Prevent or regulate the construction of flood barriers which will divert floodwater or increase flood hazards.

- (6) Contribute to improved construction techniques in the floodplain.
- (7) Minimize damage to public and private facilities and utilities.
- (8) Help maintain a stable tax base by providing for the sound use and development of flood hazard areas.
- (9) Minimize the need for rescue and relief efforts associated with flooding.
- (10) Ensure that property owners, occupants, and potential owners are aware of property located in flood hazard areas.
- (11) Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events.
- (12) Meet the requirements of the National Flood Insurance Program for community participation set forth in Title 44 Code of Federal Regulations, Section 59.22.

D. Coordination with Building Codes. Pursuant to the requirement established in N.J.A.C. 5:23, the Uniform Construction Code, that the **Township of White** administer and enforce the State building codes, the **Township Committee of the Township of White** does hereby acknowledge that the Uniform Construction Code contains certain provisions that apply to the design and construction of buildings and structures in flood hazard areas. Therefore, these regulations are intended to be administered and enforced in conjunction with the Uniform Construction Code.

E. Ordinary Building Maintenance and Minor Work. Improvements defined as ordinary building maintenance and minor work projects by the Uniform Construction Code including non-structural replacement-in-kind of windows, doors, cabinets, plumbing fixtures, decks, walls, partitions, new flooring materials, roofing, etc. shall be evaluated by the Floodplain Administrator through the floodplain development permit to ensure compliance with the Substantial Damage and Substantial Improvement §140-3N of this ordinance.

F. Warning. The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. Enforcement of these regulations does not imply that land outside the special flood hazard areas, or that uses permitted within such flood hazard areas, will be free from flooding or flood damage.

G. Other laws. The provisions of these regulations shall not be deemed to nullify any provisions of local, State, or Federal law.

H. Violations and Penalties for Noncompliance. No structure or land shall hereafter be constructed, re-located to, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a violation under N.J.S.A. 40:49-5. Any person who violates this ordinance or fails to comply with any of its requirements shall be subject to one (1) or more of the following: a fine of not more than \$1250 imprisonment for a

term not exceeding ninety(90) days or a period of community service not exceeding 90 days.

Each day in which a violation of an ordinance exists shall be considered to be a separate and distinct violation subject to the imposition of a separate penalty for each day of the violation as the Court may determine except that the owner will be afforded the opportunity to cure or abate the condition during a 30 day period and shall be afforded the opportunity for a hearing before the court for an independent determination concerning the violation. Subsequent to the expiration of the 30 day period, a fine greater than \$1250 may be imposed if the court has not determined otherwise, or if upon reinspection of the property, it is determined that the abatement has not been substantially completed.

Any person who is convicted of violating an ordinance within one year of the date of a previous violation of the same ordinance and who was fined for the previous violation, shall be sentenced by a court to an additional fine as a repeat offender. The additional fine imposed by the court upon a person for a repeated offense shall not be less than the minimum or exceed the maximum fine fixed for a violation of the ordinance, but shall be calculated separately from the fine imposed for the violation of the ordinance.

- (1) **Solid Waste Disposal in a Flood Hazard Area.** Any person who has unlawfully disposed of solid waste in a floodway or floodplain who fails to comply with this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$2500 or up to a maximum penalty by a fine not exceeding \$10,000 under N.J.S.A. 40:49-5.

I. Abrogation and greater restrictions. These regulations supersede any ordinance in effect in flood hazard areas. However, these regulations are not intended to repeal or abrogate any existing ordinances including land development regulations, subdivision regulations, zoning ordinances, stormwater management regulations, or building codes. In the event of a conflict between these regulations and any other ordinance, code, or regulation, the more restrictive shall govern.

§140-2 APPLICABILITY

A. General. These regulations, in conjunction with the Uniform Construction Code, provide minimum requirements for development located in flood hazard areas, including the subdivision of land and other developments; site improvements and installation of utilities; placement and replacement of manufactured homes; placement of recreational vehicles; new construction and alterations, repair, reconstruction, rehabilitation or additions of existing buildings and structures; substantial improvement of existing buildings and structures, including repair of substantial damage; installation of tanks; temporary structures and temporary or permanent storage; utility and miscellaneous Group U buildings and structures; and certain building work exempt from permit under the Uniform Construction Code; and other buildings and development activities.

B. Establishment of Flood Hazard Areas. The **Township of White** was accepted for participation in the National Flood Insurance Program on **May 15, 1984**.

The National Flood Insurance Program (NFIP) floodplain management regulations encourage that all Federal, State, and Local regulations that are more stringent than the minimum NFIP standards take precedence in permitting decisions. The FHACA requires that the effective Flood Insurance Rate Map, most recent preliminary FEMA mapping and flood studies, and Department delineations be compared to determine the most restrictive mapping. The FHACA also regulates unstudied flood hazard areas in watersheds measuring 50 acres or greater in size and most riparian zones in New Jersey. Because of these higher standards, the regulated flood hazard area in New Jersey may be more expansive and more restrictive than the FEMA Special Flood Hazard Area. Maps and studies that establish flood hazard areas are on file at the **Office of the Township Clerk 555 CR 519, Belvidere, NJ.**

The following sources identify flood hazard areas in this jurisdiction and must be considered when determining the Best Available Flood Hazard Data Area:

- 1) **Effective Flood Insurance Study.** Special Flood Hazard Areas (SFHAs) identified by the Federal Emergency Management Agency in a scientific and engineering report entitled Flood Insurance Study, Warren County, New Jersey (All Jurisdictions) dated September 29, 2011 and the accompanying Flood Insurance Rate Maps (FIRM) identified in Table 140-2B(1) whose effective date is September 29, 2011 are hereby adopted by reference.

Table §140-2B(1)

Map Panel #	Effective Date	Suffix	Map Panel #	Effective Date	Suffix
34041C0119	Sept, 29, 2011	E	34041C0209	Sept, 29, 2011	E
34041C0201	Sept, 29, 2011	E	34041C0211	Sept, 29, 2011	E
34041C0202	Sept, 29, 2011	E	34041C0212	Sept, 29, 2011	E
34041C0203	Sept, 29, 2011	E	34041C0219	Sept, 29, 2011	E
34041C0204	Sept, 29, 2011	E	34041C0220	Sept, 29, 2011	E
34041C0206	Sept, 29, 2011	E	34041C0226	Sept, 29, 2011	E
34041C0207	Sept, 29, 2011	E	34041C0228	Sept, 29, 2011	E
34041C0208	Sept, 29, 2011	E	34041C0229	Sept, 29, 2011	E

- 2) **Federal Best Available Information. Township of White** shall utilize Federal flood information as available that provides more detailed hazard information, higher flood elevations, larger flood hazard areas, and results in more restrictive regulations. This information may include but is not limited to preliminary flood elevation guidance from FEMA (such as Advisory Flood Hazard Area Maps, Work Maps or Preliminary FIS and FIRM). Additional Federal Best Available studies issued after the date of this ordinance must also be considered. These studies are listed on FEMA’s Map Service Center. This information shall be used for floodplain regulation purposes only.

- 3) **Other Best Available Data. Township of White** shall utilize high water elevations from flood events, groundwater flooding areas, studies by federal or state agencies, or other information deemed appropriate by the **Township of White**. Other “best available information” may not be used which results in less restrictive flood elevations, design standards, or smaller flood hazard areas than the sources described in §140-2B(1) and (2), above. This information shall be used for floodplain regulation purposes only.

- 4) **State Regulated Flood Hazard Areas.** For State regulated waters, the NJ Department of Environmental Protection (NJDEP) identifies the flood hazard area as the land, and the space above that land, which lies below the “Flood Hazard Area Control Act Design Flood Elevation”, as defined in §140-9, and as described in the New Jersey Flood Hazard Area Control Act at N.J.A.C. 7:13. A FHACA flood hazard area exists along every regulated water that has a drainage area of 50 acres or greater. Such area may extend beyond the boundaries of the Special Flood Hazard Areas (SFHAs) as identified by FEMA. The following is a list of New Jersey State studied waters in this community under the FHACA, and their respective map identification numbers.

Table §140-2B(2)

Name of Studied Water	File Name	Map Number
Delaware River	L0000001	35
Buckhorn Creek, Trib #1 to Buckhorn Creek	L0000002	34.1
Beaver Brook	PRS00002	B-1
Beaver Brook	PRS00003	B-2
Beaver Brook	PRS00004	B-3
Pequest River	PRS00011	LP-1
Pequest River	PRS00012	LP-2
Pequest River	PRS00013	LP-3
Pequest River	PRS00014	LP-4
Pequest River	PRS00015	LP-5
Delaware River	SUPPVIII21	1
Delaware River	SUPPVIII22	2
Delaware River	SUPPVIII23	3
Delaware River	SUPPVIII24	4
Buckhorn Creek	L0000087p	15P

C. Establishing the Local Design Flood Elevation (LDFE).

The Local Design Flood Elevation (LDFE) is established in the flood hazard areas determined in §140-2B, above, using the best available flood hazard data sources, and the Flood Hazard Area Control Act minimum Statewide elevation requirements for lowest floors in A, Coastal A, and V zones, ASCE 24 requirements for critical facilities as specified by the building code, plus additional freeboard as specified by this ordinance.

At a minimum, the Local Design Flood Elevation shall be as follows:

- 1) For a delineated watercourse, the elevation associated with the Best Available Flood Hazard Data Area determined in §140-2B, above plus one foot or as described by N.J.A.C. 7:13 freeboard; or

- 2) For any undelineated watercourse (where mapping or studies described in §140-2B(1) and (2) above are not available) that has a contributory drainage area of 50 acres or more, the applicants must provide one of the following to determine the Local Design Flood Elevation:
 - a. A copy of an unexpired NJDEP Flood Hazard Area Verification plus one foot of freeboard and any additional freeboard as required by ASCE 24; or
 - b. A determination of the Flood Hazard Area Design Flood Elevation using Method 5 or Method 6 (as described in N.J.A.C. 7:13) plus one foot of freeboard and any additional freeboard as required by ASCE 24. Any determination using these methods must be sealed and submitted according to §140-5B and C.
- 3) AO Zones – For Zone AO areas on the municipality’s FIRM (or on preliminary flood elevation guidance from FEMA), the Local Design Flood Elevation is determined from the FIRM panel as the highest adjacent grade plus the depth number specified plus one foot of freeboard. If no depth number is specified, the Local Design Flood Elevation is three (3) feet above the highest adjacent grade.
- 4) Class IV Critical Facilities - For any proposed development of new and substantially improved Flood Design Class IV Critical Facilities, the Local Design Flood Elevation must be the higher of the 0.2% annual chance (500 year) flood elevation or the Flood Hazard Area Design Flood Elevation with an additional 2 feet of freeboard in accordance with ASCE 24.
- 5) Class III Critical Facilities - For proposed development of new and substantially improved Flood Design Class III Critical Facilities in coastal high hazard areas, the Local Design Flood Elevation must be the higher of the 0.2% annual chance (500 year) flood elevation or the Flood Hazard Area Design Flood Elevation with an additional 1 foot of freeboard in accordance with ASCE 24.

§ 140-3 DUTIES AND POWERS OF THE FLOODPLAIN ADMINISTRATOR

A. Floodplain Administrator Designation. The **Township Engineer** is designated the Floodplain Administrator. The Floodplain Administrator shall have the authority to delegate performance of certain duties to other employees.

B. General. The Floodplain Administrator is authorized and directed to administer the provisions of these regulations. The Floodplain Administrator shall have the authority to render interpretations of these regulations consistent with the intent and purpose of these regulations and to establish policies and procedures in order to clarify the application of its

provisions. Such interpretations, policies and procedures shall be consistent with the intent and purpose of these regulations and the flood provisions of the building code and shall not have the effect of waiving specific requirements without the granting of a variance pursuant to §140-7 of these regulations.

C. Coordination. The Floodplain Administrator shall coordinate with the Construction Official to administer and enforce the flood provisions of the Uniform Construction Code.

D. Duties. The duties of the Floodplain Administrator shall include but are not limited to:

- (1) Review all permit applications to determine whether proposed development is located in flood hazard areas established in §140-2 of these regulations.
- (2) Require development in flood hazard areas to be reasonably safe from flooding and to be designed and constructed with methods, practices and materials that minimize flood damage.
- (3) Interpret flood hazard area boundaries and provide available flood elevation and flood hazard information.
- (4) Determine whether additional flood hazard data shall be obtained or developed.
- (5) Review required certifications and documentation specified by these regulations and the building code to determine that such certifications and documentations are complete.
- (6) Establish, in coordination with the Construction Official, written procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to §140-3N of these regulations.
- (7) Coordinate with the Construction Official and others to identify and investigate damaged buildings located in flood hazard areas and inform owners of the requirement to obtain permits for repairs.
- (8) Review requests submitted to the Construction Official seeking approval to modify the strict application of the flood load and flood resistant construction requirements of the Uniform Construction code to determine whether such requests require consideration as a variance pursuant to §140-7 of these regulations.
- (9) Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the Flood Insurance Rate Maps when the analyses propose to change base flood elevations, flood hazard area boundaries, or floodway designations; such submissions shall be made within 6 months of such data becoming available.
- (10) Require applicants who propose alteration of a watercourse to notify adjacent jurisdictions and the NJDEP Bureau of Flood Engineering, and to submit copies of such notifications to the Federal Emergency Management Agency (FEMA).
- (11) Inspect development in accordance with §140-6 of these regulations and inspect flood hazard areas to determine if development is undertaken without issuance of permits.

- (12) Prepare comments and recommendations for consideration when applicants seek variances in accordance with §140-7 of these regulations.
- (13) Cite violations in accordance with §140-8 of these regulations.
- (14) Notify the Federal Emergency Management Agency when the corporate boundaries of **Township of White** have been modified.
- (15) Permit Ordinary Maintenance and Minor Work in the regulated areas discussed in §140-2B.

E. Use of changed technical data. The Floodplain Administrator and the applicant shall not use changed flood hazard area boundaries or base flood elevations for proposed buildings or developments unless the Floodplain Administrator or applicant has applied for a Conditional Letter of Map Revision (CLOMR) to the Flood Insurance Rate Map (FIRM) revision and has received the approval of the Federal Emergency Management Agency. A revision of the effective FIRM does not remove the related feature(s) on a flood hazard area delineation that has been promulgated by the NJDEP. A separate application must be made to the State pursuant to N.J.A.C. 7:13 for revision of a flood hazard design flood elevation, flood hazard area limit, floodway limit, and/or other related feature.

F. Other permits. It shall be the responsibility of the Floodplain Administrator to assure that approval of a proposed development shall not be given until proof that necessary permits have been granted by Federal or State agencies having jurisdiction over such development, including Section 404 of the Clean Water Act. In the event of conflicting permit requirements, the Floodplain Administrator must ensure that the most restrictive floodplain management standards are reflected in permit approvals.

G. Determination of Local Design Flood Elevations. If design flood elevations are not specified, the Floodplain Administrator is authorized to require the applicant to:

- (1) Obtain, review, and reasonably utilize data available from a Federal, State, or other source, or
- (2) Determine the design flood elevation in accordance with accepted hydrologic and hydraulic engineering techniques. Such analyses shall be performed and sealed by a licensed professional engineer. Studies, analyses, and computations shall be submitted in sufficient detail to allow review and approval by the Floodplain Administrator. The accuracy of data submitted for such determination shall be the responsibility of the applicant.

It shall be the responsibility of the Floodplain Administrator to verify that the applicant's proposed Best Available Flood Hazard Data Area and the Local Design Flood Elevation in any development permit accurately applies the best available flood hazard data and methodologies for determining flood hazard areas and design elevations described in §140-2B and §140-2C respectively. This information shall be provided to the Construction Official and documented according to §140-30.

H. Requirement to submit new technical data. Base Flood Elevations may increase or decrease resulting from natural changes (e.g. erosion, accretion, channel migration,

subsidence, uplift) or man-made physical changes (e.g. dredging, filling, excavation) affecting flooding conditions. As soon as practicable, but not later than six months after the date of a man-made change or when information about a natural change becomes available, the Floodplain Administrator shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Title 44 Code of Federal Regulations Section 65.3. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.

I. Activities in riverine flood hazard areas. In riverine flood hazard areas where design flood elevations are specified but floodways have not been designated, the Floodplain Administrator shall not permit any new construction, substantial improvement or other development, including the placement of fill, unless the applicant submits an engineering analysis prepared by a licensed professional engineer that demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachment, will not increase the design flood elevation more than 0.2 feet at any point within the community.

J. Floodway encroachment. Prior to issuing a permit for any floodway encroachment, including fill, new construction, substantial improvements and other development or land-disturbing-activity, the Floodplain Administrator shall require submission of a certification prepared by a licensed professional engineer, along with supporting technical data, that demonstrates that such development will not cause any increase in the base flood level.

- (1) **Floodway revisions.** A floodway encroachment that increases the level of the base flood is authorized if the applicant has applied for a Conditional Letter of Map Revision (CLOMR) to the Flood Insurance Rate Map (FIRM) and has received the approval of FEMA.

K. Watercourse alteration. Prior to issuing a permit for any alteration or relocation of any watercourse, the Floodplain Administrator shall require the applicant to provide notification of the proposal to the appropriate authorities of all adjacent government jurisdictions, as well as the NJDEP Bureau of Flood Engineering and the Division of Land Resource Protection. A copy of the notification shall be maintained in the permit records and submitted to FEMA.

- (1) **Engineering analysis.** The Floodplain Administrator shall require submission of an engineering analysis prepared by a licensed professional engineer, demonstrating that the flood-carrying capacity of the altered or relocated portion of the watercourse will be maintained, neither increased nor decreased. Such watercourses shall be maintained in a manner that preserves the channel's flood-carrying capacity.

L. Alterations in coastal areas. The excavation or alteration of sand dunes is governed by the New Jersey Coastal Zone Management (CZM) rules, N.J.A.C. 7:7. Prior to issuing a flood damage prevention permit for any alteration of sand dunes in coastal high hazard areas and Coastal A Zones, the Floodplain Administrator shall require that a New Jersey CZM

permit be obtained and included in the flood damage prevention permit application. The applicant shall also provide documentation of any engineering analysis, prepared by a licensed professional engineer, that demonstrates that the proposed alteration will not increase the potential for flood damage.

M. Development in riparian zones All development in Riparian Zones as described in N.J.A.C. 7:13 is prohibited by this ordinance unless the applicant has received an individual or general permit or has complied with the requirements of a permit by rule or permit by certification from NJDEP Division of Land Resource Protection prior to application for a floodplain development permit and the project is compliant with all other Floodplain Development provisions of this ordinance. The width of the riparian zone can range between 50 and 300 feet and is determined by the attributes of the waterbody and designated in the New Jersey Surface Water Quality Standards N.J.A.C. 7:9B. The portion of the riparian zone located outside of a regulated water is measured landward from the top of bank. Applicants can request a verification of the riparian zone limits or a permit applicability determination to determine State permit requirements under N.J.A.C. 7:13 from the NJDEP Division of Land Resource Protection.

N. Substantial improvement and substantial damage determinations. When buildings and structures are damaged due to any cause including but not limited to man-made, structural, electrical, mechanical, or natural hazard events, or are determined to be unsafe as described in N.J.A.C. 5:23; and for applications for building permits to improve buildings and structures, including alterations, movement, repair, additions, rehabilitations, renovations, ordinary maintenance and minor work, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Construction Official, shall:

- (1) Estimate the market value, or require the applicant to obtain a professional appraisal prepared by a qualified independent appraiser, of the market value of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made.
- (2) Determine and include the costs of all ordinary maintenance and minor work, as discussed in §140-2B, performed in the floodplain regulated by this ordinance in addition to the costs of those improvements regulated by the Construction Official in substantial damage and substantial improvement calculations.
- (3) Compare the cost to perform the improvement, the cost to repair the damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, where applicable, to the market value of the building or structure.
- (4) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage.
- (5) Notify the applicant in writing when it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the building code is required and notify the applicant when it is determined that work does not constitute substantial improvement or repair of substantial damage. The Floodplain Administrator shall also

provide all letters documenting substantial damage and compliance with flood resistant construction requirements of the building code to the NJDEP Bureau of Flood Engineering.

O. Department records. In addition to the requirements of the building code and these regulations, and regardless of any limitation on the period required for retention of public records, the Floodplain Administrator shall maintain and permanently keep and make available for public inspection all records that are necessary for the administration of these regulations and the flood provisions of the Uniform Construction Code, including Flood Insurance Studies, Flood Insurance Rate Maps; documents from FEMA that amend or revise FIRMs; NJDEP delineations, records of issuance of permits and denial of permits; records of ordinary maintenance and minor work, determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required certifications and documentation specified by the Uniform Construction Code and these regulations including as-built Elevation Certificates; notifications to adjacent communities, FEMA, and the State related to alterations of watercourses; assurance that the flood carrying capacity of altered waterways will be maintained; documentation related to variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to these regulations and the flood resistant provisions of the Uniform Construction Code. The Floodplain Administrator shall also record the required elevation, determination method, and base flood elevation source used to determine the Local Design Flood Elevation in the floodplain development permit.

P. Liability. The Floodplain Administrator and any employee charged with the enforcement of these regulations, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by these regulations or other pertinent law or ordinance, shall not thereby be rendered liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties. Any suit instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of these regulations shall be defended by legal representative of the jurisdiction until the final termination of the proceedings. The Floodplain Administrator and any subordinate shall not be liable for cost in any action, suit or proceeding that is instituted in pursuance of the provisions of these regulations.

§140-4 PERMITS

A. Permits Required. Any person, owner or authorized agent who intends to conduct any development in a flood hazard area shall first make application to the Floodplain Administrator and shall obtain the required permit. Depending on the nature and extent of proposed development that includes a building or structure, the Floodplain Administrator may determine that a floodplain development permit or approval is required in addition to a building permit.

B. Application for permit. The applicant shall file an application in writing on a form furnished by the Floodplain Administrator. Such application shall:

- (1) Identify and describe the development to be covered by the permit.

- (2) Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and definitively locate the site.
- (3) Indicate the use and occupancy for which the proposed development is intended.
- (4) Be accompanied by a site plan and construction documents as specified in §140-5 of these regulations, grading and filling plans and other information deemed appropriate by the Floodplain Administrator.
- (5) State the valuation of the proposed work, including the valuation of ordinary maintenance and minor work.
- (6) Be signed by the applicant or the applicant's authorized agent.

C. Validity of permit. The issuance of a permit under these regulations or the Uniform Construction Code shall not be construed to be a permit for, or approval of, any violation of this appendix or any other ordinance of the jurisdiction. The issuance of a permit based on submitted documents and information shall not prevent the Floodplain Administrator from requiring the correction of errors. The Floodplain Administrator is authorized to prevent occupancy or use of a structure or site which is in violation of these regulations or other ordinances of this jurisdiction.

D. Expiration. A permit shall become invalid when the proposed development is not commenced within 180 days after its issuance, or when the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions shall be requested in writing and justifiable cause demonstrated. The Floodplain Administrator is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each.

E. Suspension or revocation. The Floodplain Administrator is authorized to suspend or revoke a permit issued under these regulations wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or code of this jurisdiction.

§140-5 SITE PLANS AND CONSTRUCTION DOCUMENTS

A. Information for development in flood hazard areas. The site plan or construction documents for any development subject to the requirements of these regulations shall be drawn to scale and shall include, as applicable to the proposed development:

- (1) Delineation of flood hazard areas, floodway boundaries and flood zone(s), base flood elevation(s), and ground elevations when necessary for review of the proposed development. For buildings that are located in more than one flood hazard area, the elevation and provisions associated with the most restrictive flood hazard area shall apply.
- (2) Where base flood elevations or floodway data are not included on the FIRM or in the Flood Insurance Study, they shall be established in accordance with §140-5B.
- (3) Where the parcel on which the proposed development will take place will have more

than 50 lots or is larger than 5 acres and base flood elevations are not included on the FIRM or in the Flood Insurance Study, such elevations shall be established in accordance with §140-5B(3) of these regulations.

- (4) Location of the proposed activity and proposed structures, and locations of existing buildings and structures; in coastal high hazard areas and Coastal A zones, new buildings shall be located landward of the reach of mean high tide.
- (5) Location, extent, amount, and proposed final grades of any filling, grading, or excavation.
- (6) Where the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications; a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose. The applicant shall provide an engineering certification confirming that the proposal meets the flood storage displacement limitations of N.J.A.C. 7:13.
- (7) Extent of any proposed alteration of sand dunes.
- (8) Existing and proposed alignment of any proposed alteration of a watercourse.
- (9) Floodproofing certifications, V Zone and Breakaway Wall Certifications, Operations and Maintenance Plans, Warning and Evacuation Plans and other documentation required pursuant to FEMA publications.

The Floodplain Administrator is authorized to waive the submission of site plans, construction documents, and other data that are required by these regulations but that are not required to be prepared by a registered design professional when it is found that the nature of the proposed development is such that the review of such submissions is not necessary to ascertain compliance.

B. Information in flood hazard areas without base flood elevations (approximate Zone A). Where flood hazard areas are delineated on the effective or preliminary FIRM and base flood elevation data have not been provided, the applicant shall consult with the Floodplain Administrator to determine whether to:

- (1) Use the Approximation Method (Method 5) described in N.J.A.C. 7:13 in conjunction with Appendix 1 of the FHACA to determine the required flood elevation.
- (2) Obtain, review, and reasonably utilize data available from a Federal, State or other source when those data are deemed acceptable to the Floodplain Administrator to reasonably reflect flooding conditions.
- (3) Determine the base flood elevation in accordance with accepted hydrologic and hydraulic engineering techniques according to Method 6 as described in N.J.A.C. 7:13. Such analyses shall be performed and sealed by a licensed professional engineer.

Studies, analyses, and computations shall be submitted in sufficient detail to allow review and approval by the Floodplain Administrator prior to floodplain development permit issuance. The accuracy of data submitted for such determination shall be the responsibility of the applicant. Where the data are to be used to support a Letter of Map Change (LOMC) from FEMA, the applicant shall be responsible for satisfying the submittal requirements and pay the processing fees.

C. Analyses and certifications by a Licensed Professional Engineer. As applicable to the location and nature of the proposed development activity, and in addition to the requirements of this section, the applicant shall have the following analyses signed and sealed by a licensed professional engineer for submission with the site plan and construction documents:

- (1) For development activities proposed to be located in a regulatory floodway, a floodway encroachment analysis that demonstrates that the encroachment of the proposed development will not cause any increase in base flood elevations; where the applicant proposes to undertake development activities that do increase base flood elevations, the applicant shall submit such analysis to FEMA as specified in §140-5D of these regulations and shall submit the Conditional Letter of Map Revision, if issued by FEMA, with the site plan and construction documents.
- (2) For development activities proposed to be located in a riverine flood hazard area where base flood elevations are included in the FIS or FIRM but floodways have not been designated, hydrologic and hydraulic analyses that demonstrate that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachments will not increase the base flood elevation more than 0.2 feet at any point within the jurisdiction. This requirement does not apply in isolated flood hazard areas not connected to a riverine flood hazard area or in flood hazard areas identified as Zone AO or Zone AH.
- (3) For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which demonstrates that the flood-carrying capacity of the altered or relocated portion of the watercourse will not be decreased, and certification that the altered watercourse shall be maintained, neither increasing nor decreasing the channel's flood-carrying capacity. The applicant shall submit the analysis to FEMA as specified in §140-5D of these regulations. The applicant shall notify the chief executive officer of all affected adjacent jurisdictions, the NJDEP's Bureau of Flood Engineering and the Division of Land Resource Protection; and shall provide documentation of such notifications.
- (4) For activities that propose to alter sand dunes in coastal high hazard areas (Zone V) and Coastal A Zones, an engineering analysis that demonstrates that the proposed alteration will not increase the potential for flood damage and documentation of the issuance of a New Jersey Coastal Zone Management permit under N.J.A.C. 7:7.
- (5) For analyses performed using Methods 5 and 6 (as described in N.J.A.C. 7:13) in flood hazard zones without base flood elevations (approximate A zones).

D. Submission of additional data. When additional hydrologic, hydraulic or other engineering data, studies, and additional analyses are submitted to support an application, the applicant has the right to seek a Letter of Map Change (LOMC) from FEMA to change the base flood elevations, change floodway boundaries, or change boundaries of flood hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA. Submittal requirements and processing fees shall be the responsibility of the applicant.

§140-6 INSPECTIONS

A. General. Development for which a permit is required shall be subject to inspection. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of these regulations or the building code. Inspections presuming to give authority to violate or cancel the provisions of these regulations or the building code or other ordinances shall not be valid.

B. Inspections of development. The Floodplain Administrator shall inspect all development in flood hazard areas authorized by issuance of permits under these regulations. The Floodplain Administrator shall inspect flood hazard areas from time to time to determine if development is undertaken without issuance of a permit.

C. Buildings and structures. The Construction Official shall make or cause to be made, inspections for buildings and structures in flood hazard areas authorized by permit in accordance with the Uniform Construction Code, N.J.A.C. 5:23.

- 1) **Lowest floor elevation.** Upon placement of the lowest floor, including the basement, and prior to further vertical construction, certification of the elevation required in §140-15B shall be submitted to the Construction Official on an Elevation Certificate.
- 2) **Lowest horizontal structural member.** In V zones and Coastal A zones, upon placement of the lowest floor, including the basement, and prior to further vertical construction, certification of the elevation required in §140-15B shall be submitted to the Construction Official on an Elevation Certificate.
- 3) **Installation of attendant utilities** (electrical, heating, ventilating, air-conditioning, and other service equipment) and sanitary facilities elevated as discussed in §140-15B.
- 4) **Final inspection.** Prior to the final inspection, certification of the elevation required in §140-15B shall be submitted to the Construction Official on an Elevation Certificate.

D. Manufactured homes. The Floodplain Administrator shall inspect manufactured homes that are installed or replaced in flood hazard areas to determine compliance with the requirements of these regulations and the conditions of the issued permit. Upon placement of a manufactured home, certification of the elevation of the lowest floor shall be submitted on an Elevation Certificate to the Floodplain Administrator prior to the final inspection.

§140-7 VARIANCES

A. General. The **Planning Board** shall hear and decide requests for variances. The **Planning Board** shall base its determination on technical justifications submitted by applicants, the considerations for issuance in §140-7E, the conditions of issuance set forth in §140-7F, and the comments and recommendations of the Floodplain Administrator and, as applicable, the Construction Official. The **Planning Board** has the right to attach such

conditions to variances as it deems necessary to further the purposes and objectives of these regulations.

B. Historic structures. A variance to the substantial improvement requirements of this ordinance is authorized provided that the repair or rehabilitation of a historic structure is completed according to N.J.A.C. 5:23-6.33, Section 14012 of the International Building Code and R322 of the International Residential Code, the repair or rehabilitation will not preclude the structure's continued designation as a historic structure, the structure meets the definition of the historic structure as described by this ordinance, and the variance is the minimum necessary to preserve the historic character and design of the structure.

C. Functionally dependent uses. A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use provided the variance is the minimum necessary to allow the construction or substantial improvement, and that all due consideration has been given to use of methods and materials that minimize flood damage during the base flood and create no additional threats to public safety.

D. Restrictions in floodways. A variance shall not be issued for any proposed development in a floodway when any increase in flood levels would result during the base flood discharge, as evidenced by the applicable analysis and certification required in §140-5C(1) of these regulations.

E. Considerations. In reviewing requests for variances, all technical evaluations, all relevant factors, all other portions of these regulations, and the following shall be considered:

- (1) The danger that materials and debris may be swept onto other lands resulting in further injury or damage.
- (2) The danger to life and property due to flooding or erosion damage.
- (3) The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners.
- (4) The importance of the services provided by the proposed development to the community.
- (5) The availability of alternate locations for the proposed development that are not subject to flooding or erosion and the necessity of a waterfront location, where applicable.
- (6) The compatibility of the proposed development with existing and anticipated development.
- (7) The relationship of the proposed development to the comprehensive plan and floodplain management program for that area.
- (8) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- (9) The expected heights, velocity, duration, rate of rise and debris and sediment

transport of the floodwater and the effects of wave action, where applicable, expected at the site.

- (10) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets, and bridges.

F. Conditions for issuance. Variances shall only be issued upon:

- (1) Submission by the applicant of a showing of good and sufficient cause that the unique characteristics of the size, configuration or topography of the site limit compliance with any provision of these regulations or renders the elevation standards of the building code inappropriate.
- (2) A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable.
- (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- (4) A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (5) Notification to the applicant in writing over the signature of the Floodplain Administrator that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and that such construction below the base flood level increases risks to life and property.

§140-8 VIOLATIONS

A. Violations. Any development in any flood hazard area that is being performed without an issued permit or that is in conflict with an issued permit shall be deemed a violation. A building or structure without the documentation of elevation of the lowest floor, the lowest horizontal structural member if in a V or Coastal A Zone, other required design certifications, or other evidence of compliance required by the building code is presumed to be a violation until such time as that documentation is provided.

B. Authority. The Floodplain Administrator is authorized to serve notices of violation or stop work orders to owners of property involved, to the owner's agent, or to the person or persons doing the work for development that is not within the scope of the Uniform Construction Code, but is regulated by these regulations and that is determined to be a violation.

C. Unlawful continuance. Any person who shall continue any work after having been served with a notice of violation or a stop work order, except such work as that

person is directed to perform to remove or remedy a violation or unsafe condition, shall be subject to penalties as prescribed by N.J.S.A. 40:49-5 as appropriate.

D. Review Period to Correct Violations. A 30-day period shall be given to the property owner as an opportunity to cure or abate the condition. The property owner shall also be afforded an opportunity for a hearing before the court for an independent determination concerning the violation. Subsequent to the expiration of the 30-day period, a fine greater than \$1,250.00 may be imposed if a court has not determined otherwise or, upon reinspection of the property, it is determined that the abatement has not been substantially completed.

§140-9 DEFINITIONS

A. General. The following words and terms shall, for the purposes of these regulations, have the meanings shown herein. Other terms are defined in the Uniform Construction Code N.J.A.C. 5:23 and terms are defined where used in the International Residential Code and International Building Code (rather than in the definitions section). Where terms are not defined, such terms shall have ordinarily accepted meanings such as the context implies.

B. Definitions

30 DAY PERIOD – The period of time prescribed by N.J.S.A. 40:49-5 in which a property owner is afforded the opportunity to correct zoning and solid waste disposal after a notice of violation pertaining to this ordinance has been issued.

100 YEAR FLOOD ELEVATION – Elevation of flooding having a 1% annual chance of being equaled or exceeded in a given year which is also referred to as the Base Flood Elevation.

500 YEAR FLOOD ELEVATION – Elevation of flooding having a 0.2% annual chance of being equaled or exceeded in a given year.

A ZONES – Areas of 'Special Flood Hazard in which the elevation of the surface water resulting from a flood that has a 1% annual chance of equaling or exceeding the Base Flood Elevation (BFE) in any given year shown on the Flood Insurance Rate Map (FIRM) zones A, AE, AH, A1–A30, AR, AR/A, AR/AE, AR/A1– A30, AR/AH, and AR/AO. When used in reference to the development of a structure in this ordinance, A Zones are not inclusive of Coastal A Zones because of the higher building code requirements for Coastal A Zones.

AH ZONES– Areas subject to inundation by 1-percent-annual-chance shallow flooding (usually areas of ponding) where average depths are between one and three feet. Base Flood Elevations (BFEs) derived from detailed hydraulic analyses are shown in this zone.

AO ZONES – Areas subject to inundation by 1-percent-annual-chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet.

ACCESSORY STRUCTURE – Accessory structures are also referred to as appurtenant structures. An accessory structure is a structure which is on the same parcel of property as a

principal structure and the use of which is incidental to the use of the principal structure. For example, a residential structure may have a detached garage or storage shed for garden tools as accessory structures. Other examples of accessory structures include gazebos, picnic pavilions, boathouses, small pole barns, storage sheds, and similar buildings.

AGRICULTURAL STRUCTURE - A structure used solely for agricultural purposes in which the use is exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities, including the raising of livestock. Communities must require that new construction or substantial improvements of agricultural structures be elevated or floodproofed to or above the Base Flood Elevation (BFE) as any other nonresidential building. Under some circumstances it may be appropriate to wet-floodproof certain types of agricultural structures when located in wide, expansive floodplains through issuance of a variance. This should only be done for structures used for temporary storage of equipment or crops or temporary shelter for livestock and only in circumstances where it can be demonstrated that agricultural structures can be designed in such a manner that results in minimal damage to the structure and its contents and will create no additional threats to public safety. New construction or substantial improvement of livestock confinement buildings, poultry houses, dairy operations, similar livestock operations and any structure that represents more than a minimal investment must meet the elevation or dry-floodproofing requirements of 44 CFR 60.3(c)(3).

AREA OF SHALLOW FLOODING – A designated Zone AO, AH, AR/AO or AR/AH (or VO) on a community’s Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow. **AREA OF SPECIAL FLOOD HAZARD** – see **SPECIAL FLOOD HAZARD AREA**

ALTERATION OF A WATERCOURSE – A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

ASCE 7 – The standard for the Minimum Design Loads for Buildings and Other Structures, referenced by the building code and developed and published by the American Society of Civil Engineers, Reston, VA. which includes but is not limited to methodology and equations necessary for determining structural and flood-related design requirements and determining the design requirements for structures that may experience a combination of loads including those from natural hazards. Flood related equations include those for determining erosion, scour, lateral, vertical, hydrostatic, hydrodynamic, buoyancy, breaking wave, and debris impact.

ASCE 24 – The standard for Flood Resistant Design and Construction, referenced by the building code and developed and published by the American Society of Civil Engineers, Reston, VA. References to ASCE 24 shall mean ASCE 24-14 or the most recent version of ASCE 24 adopted in the UCC Code [N.J.A.C. 5:23].

BASE FLOOD ELEVATION (BFE) – The water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year, as shown on a published Flood Insurance Study (FIS), or preliminary flood elevation guidance from FEMA. May also be referred to as the “100-year flood elevation”.

BASEMENT – Any area of the building having its floor subgrade (below ground level) on all sides.

BEST AVAILABLE FLOOD HAZARD DATA - The most recent available preliminary flood risk guidance FEMA has provided. The Best Available Flood Hazard Data may be depicted on but not limited to Advisory Flood Hazard Area Maps, Work Maps, or Preliminary FIS and FIRM.

BEST AVAILABLE FLOOD HAZARD DATA AREA- The areal mapped extent associated with the most recent available preliminary flood risk guidance FEMA has provided. The Best Available Flood Hazard Data may be depicted on but not limited to Advisory Flood Hazard Area Maps, Work Maps, or Preliminary FIS and FIRM.

BEST AVAILABLE FLOOD HAZARD DATA ELEVATION - The most recent available preliminary flood elevation guidance FEMA has provided. The Best Available Flood Hazard Data may be depicted on but not limited to Advisory Flood Hazard Area Maps, Work Maps, or Preliminary FIS and FIRM.

BREAKAWAY WALLS – Any type of wall subject to flooding that is not required to provide structural support to a building or other structure and that is designed and constructed such that, below the Local Design Flood Elevation, it will collapse under specific lateral loads such that (1) it allows the free passage of floodwaters, and (2) it does not damage the structure or supporting foundation system. Certification in the V Zone Certificate of the design, plans, and specifications by a licensed design professional that these walls are in accordance with accepted standards of practice is required as part of the permit application for new and substantially improved V Zone and Coastal A Zone structures. A completed certification must be submitted at permit application.

BUILDING – Per the FHACA, “Building” means a structure enclosed with exterior walls or fire walls, erected and framed of component structural parts, designed for the housing, shelter, enclosure, and support of individuals, animals, or property of any kind. A building may have a temporary or permanent foundation. A building that is intended for regular human occupation and/or residence is considered a habitable building.

CONDITIONAL LETTER OF MAP REVISION - A Conditional Letter of Map Revision (CLOMR) is FEMA's comment on a proposed project that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA). The letter does not revise an effective NFIP map, it indicates whether the project, if built as proposed, would be recognized by FEMA. FEMA charges a fee for processing a CLOMR to recover the costs associated with the review that is described in the

Letter of Map Change (LOMC) process. Building permits cannot be issued based on a CLOMR, because a CLOMR does not change the NFIP map.

CONDITIONAL LETTER OF MAP REVISION - FILL -- A Conditional Letter of Map Revision - Fill (CLOMR-F) is FEMA's comment on a proposed project involving the placement of fill outside of the regulatory floodway that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA). The letter does not revise an effective NFIP map, it indicates whether the project, if built as proposed, would be recognized by FEMA. FEMA charges a fee for processing a CLOMR to recover the costs associated with the review that is described in the Letter of Map Change (LOMC) process. Building permits cannot be issued based on a CLOMR, because a CLOMR does not change the NFIP map.

CRITICAL BUILDING – Per the FHACA, “Critical Building” means that:

- a. It is essential to maintaining continuity of vital government operations and/or supporting emergency response, sheltering, and medical care functions before, during, and after a flood, such as a hospital, medical clinic, police station, fire station, emergency response center, or public shelter; or
- b. It serves large numbers of people who may be unable to leave the facility through their own efforts, thereby hindering or preventing safe evacuation of the building during a flood event, such as a school, college, dormitory, jail or detention facility, day care center, assisted living facility, or nursing home.

DEVELOPMENT – Any manmade change to improved or unimproved real estate, including but not limited to, buildings or other structures, tanks, temporary structures, temporary or permanent storage of materials, mining, dredging, filling, grading, paving, excavations, drilling operations and other land-disturbing activities.

DRY FLOODPROOFING – A combination of measures that results in a non-residential structure, including the attendant utilities and equipment as described in the latest version of ASCE 24, being watertight with all elements substantially impermeable and with structural components having the capacity to resist flood loads.

ELEVATED BUILDING – A building that has no basement and that has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns. Solid perimeter foundations walls are not an acceptable means of elevating buildings in V and VE Zones.

ELEVATION CERTIFICATE – An administrative tool of the National Flood Insurance Program (NFIP) that can be used to provide elevation information, to determine the proper insurance premium rate, and to support an application for a Letter of Map Amendment (LOMA) or Letter of Map Revision based on fill (LOMR-F).

ENCROACHMENT – The placement of fill, excavation, buildings, permanent structures or

other

development into a flood hazard area which may impede or alter the flow capacity of riverine flood hazard areas.

FEMA PUBLICATIONS – Any publication authored or referenced by FEMA related to building science, building safety, or floodplain management related to the National Flood Insurance Program. Publications shall include but are not limited to technical bulletins, desk references, and American Society of Civil Engineers Standards documents including ASCE 24.

FLOOD OR FLOODING

- a. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 1. The overflow of inland or tidal waters.
 2. The unusual and rapid accumulation or runoff of surface waters from any source.
 3. Mudslides (I.e. mudflows) which are proximately caused by flooding as defined in (a)(2) of this definition and are akin to a river or liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition.

FLOOD HAZARD AREA DESIGN FLOOD ELEVATION – Per the FHACA, the peak water surface elevation that will occur in a water during the flood hazard area design flood. This elevation is determined via available flood mapping adopted by the State, flood mapping published by FEMA (including effective flood mapping dated on or after January 31, 1980, or any more recent advisory, preliminary, or pending flood mapping; whichever results in higher flood elevations, wider floodway limits, greater flow rates, or indicates a change from an A zone to a V zone or coastal A zone), approximation, or calculation pursuant to the Flood Hazard Area Control Act Rules at N.J.A.C. 7:13-3.1 – 3.6 and is typically higher than FEMA’s base flood elevation. A water that has a drainage area measuring less than 50 acres does not possess, and is not assigned, a flood hazard area design flood elevation.

FLOOD INSURANCE RATE MAP (FIRM) – The official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY (FIS) – The official report in which the Federal Emergency Management Agency has provided flood profiles, as well as the Flood Insurance Rate Map(s) and the water surface elevation of the base flood.

FLOODPLAIN OR FLOOD PRONE AREA – Any land area susceptible to being inundated by

water from any source. See "Flood or flooding."

FLOODPLAIN MANAGEMENT REGULATIONS – Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such State or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

FLOODPROOFING – Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

FLOODPROOFING CERTIFICATE – Certification by a licensed design professional that the design and methods of construction for floodproofing a non-residential structure are in accordance with accepted standards of practice to a proposed height above the structure's lowest adjacent grade that meets or exceeds the Local Design Flood Elevation. A completed floodproofing certificate is required at permit application.

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

FREEBOARD – A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

FUNCTIONALLY DEPENDENT USE – A use that cannot perform its intended purpose unless it is located or carried out in close proximity to water, including only docking facilities, port facilities necessary for the loading or unloading of cargo or passengers, and shipbuilding and ship repair facilities. The term does not include long-term storage or related manufacturing facilities.

HABITABLE BUILDING– Pursuant to the FHACA Rules (N.J.A.C. 7:13), means a building that is intended for regular human occupation and/or residence. Examples of a habitable building include a single-family home, duplex, multi-residence building, or critical building; a commercial building such as a retail store, restaurant, office building, or gymnasium; an accessory structure that is regularly occupied, such as a garage, barn, or workshop; mobile and manufactured homes, and trailers intended for human residence, which are set on a foundation and/or connected to utilities, such as in a mobile home park (not including campers and recreational vehicles); and any other building that is regularly occupied, such as a house of worship, community center, or meeting hall, or animal shelter that includes regular human access and occupation. Examples of a non-habitable building include a bus stop shelter, utility building, storage shed, self-storage unit, construction trailer, or an individual shelter for animals such as a doghouse or outdoor kennel.

HARDSHIP – As related to §140-7 of this ordinance, meaning the exceptional hardship that would result from a failure to grant the requested variance. The Township Committee of the Township of White requires that the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

HIGHEST ADJACENT GRADE – The highest natural elevation of the ground surface prior to construction next to the proposed or existing walls of a structure.

HISTORIC STRUCTURE – Any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c. Individually listed on a State inventory of historic places in States with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 1. By an approved State program as determined by the Secretary of the Interior; or
 2. Directly by the Secretary of the Interior in States without approved programs.

LAWFULLY EXISTING – Per the FHACA, means an existing fill, structure and/or use, which meets all Federal, State, and local laws, and which is not in violation of the FHACA because it was established:

- a. Prior to January 31, 1980; or
- b. On or after January 31, 1980, in accordance with the requirements of the FHACA as it existed at the time the fill, structure and/or use was established.

Note: Substantially damaged properties and substantially improved properties that have not been elevated are not considered “lawfully existing” for the purposes of the NFIP. This definition is included in this ordinance to clarify the applicability of any more stringent statewide floodplain management standards required under the FHACA.

LETTER OF MAP AMENDMENT - A Letter of Map Amendment (LOMA) is an official amendment, by letter, to an effective National Flood Insurance Program (NFIP) map that is requested through the Letter of Map Change (LOMC) process. A LOMA establishes a property's location in relation to the Special Flood Hazard Area (SFHA). LOMAs are usually issued because a property has been inadvertently mapped as being in the floodplain but is actually on natural high ground above the base flood elevation. Because a LOMA officially amends the effective NFIP map, it is a public record that the community must maintain. Any

LOMA should be noted on the community's master flood map and filed by panel number in an accessible location.

LETTER OF MAP CHANGE – The Letter of Map Change (LOMC) process is a service provided by FEMA for a fee that allows the public to request a change in flood zone designation in an Area of Special Flood Hazard on a Flood Insurance Rate Map (FIRM). Conditional Letters of Map Revision, Conditional Letters of Map Revision – Fill, Letters of Map Revision, Letters of Map Revision-Fill, and Letters of Map Amendment are requested through the Letter of Map Change (LOMC) process.

LETTER OF MAP REVISION - A Letter of Map Revision (LOMR) is FEMA's modification to an effective Flood Insurance Rate Map (FIRM). Letter of Map Revisions are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA). The LOMR officially revises the Flood Insurance Rate Map (FIRM) and sometimes the Flood Insurance Study (FIS) report, and when appropriate, includes a description of the modifications. The LOMR is generally accompanied by an annotated copy of the affected portions of the FIRM or FIS report. Because a LOMR officially revises the effective NFIP map, it is a public record that the community must maintain. Any LOMR should be noted on the community's master flood map and filed by panel number in an accessible location.

LETTER OF MAP REVISION – FILL -- A Letter of Map Revision Based on Fill (LOMR-F) is FEMA's modification of the Special Flood Hazard Area (SFHA) shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway may be initiated through the Letter of Map Change (LOMC) Process. Because a LOMR-F officially revises the effective Flood Insurance Rate Map (FIRM) map, it is a public record that the community must maintain. Any LOMR-F should be noted on the community's master flood map and filed by panel number in an accessible location.

LICENSED DESIGN PROFESSIONAL – Licensed design professional shall refer to either a New Jersey Licensed Professional Engineer, licensed by the New Jersey State Board of Professional Engineers and Land Surveyors or a New Jersey Licensed Architect, licensed by the New Jersey State Board of Architects.

LICENSED PROFESSIONAL ENGINEER - A licensed professional engineer shall refer to individuals licensed by the New Jersey State Board of Professional Engineers and Land Surveyors.

LOCAL DESIGN FLOOD ELEVATION (LDFE) – The elevation reflective of the most recent available preliminary flood elevation guidance FEMA has provided as depicted on but not limited to Advisory Flood Hazard Area Maps, Work Maps, or Preliminary FIS and FIRM which is also inclusive of freeboard specified by the New Jersey Flood Hazard Area Control Act and Uniform Construction Codes and any additional freeboard specified in a community's ordinance. In no circumstances shall a project's LDFE be lower than a permit-specified Flood Hazard Area Design Flood Elevation or a valid NJDEP Flood Hazard Area Verification

Letter plus the freeboard as required in ASCE 24 and the effective FEMA Base Flood Elevation.

LOWEST ADJACENT GRADE – The lowest point of ground, patio, or sidewalk slab immediately next a structure, except in AO Zones where it is the natural grade elevation.

LOWEST FLOOR – In A Zones, the lowest floor is the top surface of the lowest floor of the lowest enclosed area (including basement). In V Zones and coastal A Zones, the bottom of the lowest horizontal structural member of a building is the lowest floor. An unfinished or flood resistant enclosure, usable solely for the parking of vehicles, building access or storage in an area other than a basement is not considered a building's lowest floor provided that such enclosure is not built so as to render the structure in violation of other applicable non-elevation design requirements of these regulations.

MANUFACTURED HOME – A structure that is transportable in one or more sections, eight (8) feet or more in width and greater than four hundred (400) square feet, built on a permanent chassis, designed for use with or without a permanent foundation when attached to the required utilities, and constructed to the Federal Manufactured Home Construction and Safety Standards and rules and regulations promulgated by the U.S. Department of Housing and Urban Development. The term also includes mobile homes, park trailers, travel trailers and similar transportable structures that are placed on a site for 180 consecutive days or longer.

MANUFACTURED HOME PARK OR SUBDIVISION – A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MARKET VALUE – The price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in these regulations, the term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. Market value shall be determined by one of the following methods (1) Actual Cash Value (replacement cost depreciated for age and quality of construction), (2) tax assessment value adjusted to approximate market value by a factor provided by the Property Appraiser, or (3) established by a qualified independent appraiser.

NEW CONSTRUCTION – Structures for which the start of construction commenced on or after the effective date of the first floodplain regulation adopted by a community; includes any subsequent improvements to such structures. New construction includes work determined to be a substantial improvement.

NON-RESIDENTIAL – Pursuant to ASCE 24, any building or structure or portion thereof that is not classified as residential.

ORDINARY MAINTENANCE AND MINOR WORK – This term refers to types of work excluded from construction permitting under N.J.A.C. 5:23 in the March 5, 2018 New Jersey Register. Some of these types of work must be considered in determinations of substantial improvement and substantial damage in regulated floodplains under 44 CFR 59.1. These types

of work include but are not limited to replacements of roofing, siding, interior finishes, kitchen cabinets, plumbing fixtures and piping, HVAC and air conditioning equipment, exhaust fans, built in appliances, electrical wiring, etc. Improvements necessary to correct existing violations of State or local health, sanitation, or code enforcement officials which are the minimum necessary to assure safe living conditions and improvements of historic structures as discussed in 44 CFR 59.1 shall not be included in the determination of ordinary maintenance and minor work.

RECREATIONAL VEHICLE – A vehicle that is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled or permanently towable by a light-duty truck, and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

REPETITIVE LOSS – any flood-related damage sustained by a structure on two separate occasions during a 10 year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

RESIDENTIAL – Pursuant to the ASCE 24:

- a. Buildings and structures and portions thereof where people live or that are used for sleeping purposes on a transient or non-transient basis;
- b. Structures including but not limited to one- and two-family dwellings, townhouses, condominiums, multi-family dwellings, apartments, congregate residences, boarding houses, lodging houses, rooming houses, hotels, motels, apartment buildings, convents, monasteries, dormitories, fraternity houses, sorority houses, vacation time-share properties; and
- c. institutional facilities where people are cared for or live on a 24-hour basis in a supervised environment, including but not limited to board and care facilities, assisted living facilities, halfway houses, group homes, congregate care facilities, social rehabilitation facilities, alcohol and drug centers, convalescent facilities, hospitals, nursing homes, mental hospitals, detoxification facilities, prisons, jails, reformatories, detention centers, correctional centers, and prerelease centers.

SOLID WASTE DISPOSAL – “Solid Waste Disposal” shall mean the storage, treatment, utilization, processing or final disposition of solid waste as described in N.J.A.C. 7:26-1.6 or the storage of unsecured materials as described in N.J.A.C. 7:13-2.3 for a period of greater than 6 months as specified in N.J.A.C. 7:26 which have been discharged, deposited, injected, dumped, spilled, leaked, or placed into any land or water such that such solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

SPECIAL FLOOD HAZARD AREA – The greater of the following: (1) Land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year, shown on the FIRM as Zone V, VE, V1-3-, A, AO, A1-30, AE, A99, or AH; (2) Land and the space above that land, which lies below the peak water surface elevation of the flood hazard area design flood for a particular water, as determined using the methods set forth in the New

Jersey Flood Hazard Area Control Act in N.J.A.C. 7:13; (3) Riparian Buffers as determined in the New Jersey Flood Hazard Area Control Act in N.J.A.C. 7:13. Also referred to as the AREA OF SPECIAL FLOOD HAZARD.

START OF CONSTRUCTION – The **Start of Construction is as follows:**

- a. **For other than new construction or substantial improvements, under the Coastal Barrier Resources Act (CBRA)**, this is the date the building permit was issued, provided that the actual start of construction, repair, rehabilitation, addition, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a building on site, such as the pouring of a slab or footing, the installation of piles, the construction of columns or any work beyond the stage of excavation; or the placement of a manufactured (mobile) home on a foundation. For a substantial improvement, actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- b. For the purposes of determining whether proposed construction must meet new requirements when National Flood Insurance Program (NFIP) maps are issued or revised and Base Flood Elevation's (BFEs) increase or zones change, the Start of Construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation.

Permanent construction does not include land preparation, such as clearing, grading, and filling, nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. Such development must also be permitted and must meet new requirements when National Flood Insurance Program (NFIP) maps are issued or revised and Base Flood Elevation's (BFEs) increase or zones change.

For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

For determining if new construction and substantial improvements within the Coastal Barrier Resources System (CBRS) can obtain flood insurance, a different definition applies.

STRUCTURE – A walled and roofed building, a manufactured home, or a gas or liquid storage tank that is principally above ground.

SUBSTANTIAL DAMAGE – Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT – Any reconstruction, rehabilitation, addition, or other improvement of a structure taking place the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. This term also includes structures which have incurred “repetitive loss” or “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of State or local health, sanitary or safety code specifications which have been identified by the local code enforcement officer and which are the minimum necessary to assure safe living conditions; or
- b. Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

UTILITY AND MISCELLANEOUS GROUP U BUILDINGS AND STRUCTURES – Buildings and structures of an accessory character and miscellaneous structures not classified in any special occupancy, as described in ASCE 24.

VARIANCE – A grant of relief from the requirements of this section which permits construction in a manner otherwise prohibited by this section where specific enforcement would result in unnecessary hardship.

VIOLATION – A development that is not fully compliant with these regulations or the flood provisions of the building code. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION – the height, in relation to the North American Vertical Datum (NAVD) of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

WATERCOURSE. A river, creek, stream, channel, or other topographic feature in, on, through, or over which water flows at least periodically.

WET FLOODPROOFING – Floodproofing method that relies on the use of flood damage resistant materials and construction techniques in areas of a structure that are below the Local Design Flood Elevation by intentionally allowing them to flood. The application of wet floodproofing as a flood protection technique under the National Flood Insurance Program (NFIP) is limited to enclosures below elevated residential and non-residential structures and to accessory and agricultural structures that have been issued variances by the community.

§140-10 SUBDIVISIONS AND OTHER DEVELOPMENTS

A. General. Any subdivision proposal, including proposals for manufactured home parks and subdivisions, or other proposed new development in a flood hazard area shall be reviewed to assure that:

- (1) All such proposals are consistent with the need to minimize flood damage.
- (2) All public utilities and facilities, such as sewer, gas, electric and water systems are located and constructed to minimize or eliminate flood damage.
- (3) Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwater around and away from structures.

B. Subdivision requirements. Where any portion of proposed subdivisions, including manufactured home parks and subdivisions, lies within a flood hazard area, the following shall be required:

- (1) The flood hazard area, including floodways, coastal high hazard areas, and Coastal A Zones, and base flood elevations, as appropriate, shall be delineated on tentative subdivision plats.
- (2) Residential building lots shall be provided with adequate buildable area outside the floodway.
- (3) The design criteria for utilities and facilities set forth in these regulations and appropriate codes shall be met.

§140-11 SITE IMPROVEMENT

A. Encroachment in floodways. Development, land disturbing activity, and encroachments in floodways shall not be authorized unless it has been demonstrated through hydrologic and hydraulic analyses required in accordance with §140-5C(1) of these regulations, that the proposed encroachment will not result in any increase in the base flood level during occurrence of the base flood discharge. If §140-5C(1) is satisfied, proposed elevation, addition, or reconstruction of a lawfully existing structure within a floodway shall also be in accordance with §140-15B of this ordinance and the floodway requirements of N.J.A.C. 7:13.

B. Prohibited in floodways. The following are prohibited activities:

- (1) The storage of unsecured materials is prohibited within a floodway pursuant to N.J.A.C. 7:13.
- (2) Fill and new structures are prohibited in floodways per N.J.A.C. 7:13.

C. Sewer facilities. All new and replaced sanitary sewer facilities, private sewage treatment plants (including all pumping stations and collector systems) and on-site waste disposal systems shall be designed in accordance with the New Jersey septic system regulations contained in N.J.A.C. 14A and N.J.A.C. 7:9A, the UCC Plumbing Subcode (N.J.A.C. 5:23) and

Chapter 7, ASCE 24, to minimize or eliminate infiltration of floodwater into the facilities and discharge from the facilities into flood waters, or impairment of the facilities and systems.

D. Water facilities. All new and replacement water facilities shall be designed in accordance with the New Jersey Safe Drinking Water Act (N.J.A.C. 7:10) and the provisions of Chapter 7 ASCE 24, to minimize or eliminate infiltration of floodwater into the systems.

E. Storm drainage. Storm drainage shall be designed to convey the flow of surface waters to minimize or eliminate damage to persons or property.

F. Streets and sidewalks. Streets and sidewalks shall be designed to minimize potential for increasing or aggravating flood levels.

G. Limitations on placement of fill. Subject to the limitations of these regulations, fill shall be designed to be stable under conditions of flooding including rapid rise and rapid drawdown of floodwater, prolonged inundation, and protection against flood-related erosion and scour. In addition to these requirements, when intended to support buildings and structures (Zone A only), fill shall comply with the requirements of the UCC (N.J.A.C. 5:23). Proposed fill and encroachments in flood hazard areas shall comply with the flood storage displacement limitations of N.J.A.C. 7:13.

H. Hazardous Materials. The placement or storage of any containers holding hazardous substances in a flood hazard area is prohibited unless the provisions of N.J.A.C. 7:13 which cover the placement of hazardous substances and solid waste is met.

§140-12 MANUFACTURED HOMES

A. General. All manufactured homes installed in flood hazard areas shall be installed pursuant to the Nationally Preemptive Manufactured Home Construction and Safety Standards Program (24 CFR 3280).

B. Elevation. All new, relocated, and replacement manufactured homes to be placed or substantially improved in a flood hazard area shall be elevated such that the bottom of the frame is elevated to or above the elevation specified in §140-15B.

C. Foundations. All new, relocated, and replacement manufactured homes, including substantial improvement of existing manufactured homes, shall be placed on foundations as specified by the manufacturer only if the manufacturer's installation instructions specify that the home has been designed for flood-resistant considerations and provides the conditions of applicability for velocities, depths, or wave action as required by 24 CFR Part 3285-302. The Floodplain Administrator is authorized to determine whether the design meets or exceeds the performance necessary based upon the proposed site location conditions as a precondition of issuing a flood damage prevention permit. If the Floodplain Administrator determines that the home's performance standards will not withstand the flood loads in the proposed location, the applicant must propose a design certified by a New Jersey licensed design professional and in accordance with 24 CFR 3285.301 (c) and (d) which conforms with ASCE 24,

the accepted standard of engineering practice for flood resistant design and construction.

D. Anchoring. All new, relocated, and replacement manufactured homes to be placed or substantially improved in a flood hazard area shall be installed using methods and practices which minimize flood damage and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

E. Enclosures. Fully enclosed areas below elevated manufactured homes shall comply with the requirements of §140-15B.

F. Protection of mechanical equipment and outside appliances. Mechanical equipment and outside appliances shall be elevated to or above the elevation of the bottom of the frame required in §140-15B of these regulations.

Exception. Where such equipment and appliances are designed and installed to prevent water from entering or accumulating within their components and the systems are constructed to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of flooding up to the elevation required by §140-15B, the systems and equipment shall be permitted to be located below that elevation. Electrical wiring systems shall be permitted below the design flood elevation provided they conform to the provisions of NFPA 70 (National Electric Code).

§140-13 RECREATIONAL VEHICLES

A. Placement prohibited. The placement of recreational vehicles shall not be authorized in coastal high hazard areas and in floodways.

B. Temporary placement. Recreational vehicles in flood hazard areas shall be fully licensed and ready for highway use and shall be placed on a site for less than 180 consecutive days.

C. Permanent placement. Recreational vehicles that are not fully licensed and ready for highway use, or that are to be placed on a site for more than 180 consecutive days, shall meet the requirements of §140-15B for habitable buildings and §140-12C.

§140-14 TANKS

A. Tanks. Underground and above-ground tanks shall be designed, constructed, installed, and anchored in accordance with ASCE 24 and N.J.A.C. 7:13.

§140-15 OTHER DEVELOPMENT AND BUILDING WORK

A. General requirements for other development and building work. All development and building work, including man-made changes to improved or unimproved real estate for

which specific provisions are not specified in these regulations or the Uniform Construction Code (N.J.A.C. 5:23), shall:

- (1) Be located and constructed to minimize flood damage;
- (2) Meet the limitations of §140-5C(1) of this ordinance when located in a regulated floodway;
- (3) Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic and hydrodynamic loads, including the effects of buoyancy, during the conditions of flooding up to the Local Design Flood Elevation determined according to §140-2C;
- (4) Be constructed of flood damage-resistant materials as described in ASCE 24 Chapter 5;
- (5) Have mechanical, plumbing, and electrical systems above the Local Design Flood Elevation determined according to §140-2C or meet the requirements of ASCE 24 Chapter 7 which requires that attendant utilities are located above the Local Design Flood Elevation unless the attendant utilities and equipment are:
 - i. Specifically allowed below the Local Design Flood Elevation; and
 - ii. Designed, constructed, and installed to prevent floodwaters, including any backflow through the system from entering or accumulating within the components.
- (6) Not exceed the flood storage displacement limitations in fluvial flood hazard areas in accordance with N.J.A.C. 7:13; and
- (7) Not exceed the impacts to frequency or depth of offsite flooding as required by N.J.A.C. 7:13 in floodways.

B. Requirements for Habitable Buildings and Structures.

- 1) Construction and Elevation in A Zones not including Coastal A Zones.
 - a. No portion of a building is located within a V Zone.
 - b. No portion of a building is located within a Coastal A Zone, unless a licensed design professional certifies that the building's foundation is designed in accordance with ASCE 24, Chapter 4.
 - c. All new construction and substantial improvement of any habitable building (as defined in §140-9) located in flood hazard areas shall have the lowest floor, including basement, together with the attendant utilities (including all electrical, heating, ventilating, air-conditioning and other service equipment) and sanitary facilities, elevated to or above the Local Design Flood Elevation as determined in §140-2C, be in conformance with ASCE Chapter 7, and be confirmed by an Elevation Certificate.
 - d. All new construction and substantial improvements of non-residential structures shall:
 - i. Have the lowest floor, including basement, together with the attendant

utilities (including all electrical, heating, ventilating, air-conditioning and other service equipment) and sanitary facilities, elevated to or above the Local Design Flood Elevation as determined in §140-2C, be in conformance with ASCE Chapter 7, and be confirmed by an Elevation Certificate; or

- ii. Together with the attendant utility and sanitary facilities, be designed so that below the Local Design Flood Elevation, the structure:
 - 1. Meets the requirements of ASCE 24 Chapters 2 and 7; and
 - 2. Is constructed according to the design plans and specifications provided at permit application and signed by a licensed design professional, is certified by that individual in a Floodproofing Certificate, and is confirmed by an Elevation Certificate.

- e. All new construction and substantial improvements with fully enclosed areas below the lowest floor shall be used solely for parking of vehicles, building access, or storage in an area other than a basement and which are subject to flooding. Enclosures shall:

- iii. For habitable structures, be situated at or above the adjoining exterior grade along at least one entire exterior wall, in order to provide positive drainage of the enclosed area in accordance with N.J.A.C. 7:13; enclosures (including crawlspaces and basements) which are below grade on all sides are prohibited;
- iv. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters unless the structure is non-residential and the requirements of §140-15B(1)(d)ii are met;
- v. Be constructed to meet the requirements of ASCE 24 Chapter 2;
- vi. Have openings documented on an Elevation Certificate; and
- vii. Have documentation that a deed restriction has been obtained for the lot if the enclosure is greater than six feet in height. This deed restriction shall be recorded in the Office of the County Clerk or the Registrar of Deeds and Mortgages in which the building is located, shall conform to the requirements in N.J.A.C.7:13, and shall be recorded within 90 days of receiving a Flood Hazard Area Control Act permit or prior to the start of any site disturbance (including pre-construction earth movement, removal of vegetation and structures, or construction of the project), whichever is sooner. Deed restrictions must explain and disclose that:
 - 1. The enclosure is likely to be inundated by floodwaters which may result in damage and/or inconvenience.
 - 2. The depth of flooding that the enclosure would experience to the Flood Hazard Area Design Flood Elevation;
 - 3. The deed restriction prohibits habitation of the enclosure and explains that converting the enclosure into a habitable area may subject the property owner to enforcement;

C. Garages and accessory storage structures. Garages and accessory storage structures shall be designed and constructed in accordance with the Uniform Construction Code.

D. Fences. Fences in floodways that have the potential to block the passage of floodwater, such as stockade fences and wire mesh fences, shall meet the requirements of §140-5C(1) of these regulations. Pursuant to N.J.A.C. 7:13, any fence located in a floodway shall have sufficiently large openings so as not to catch debris during a flood and thereby obstruct floodwaters, such as barbed-wire, split-rail, or strand fence. A fence with little or no open area, such as a chain link, lattice, or picket fence, does not meet this requirement. Foundations for fences greater than 6 feet in height must conform with the Uniform Construction Code. Fences for pool enclosures having openings not in conformance with this section but in conformance with the Uniform Construction Code to limit climbing require a variance as described in §140-7 of this ordinance.

E. Retaining walls, sidewalks, and driveways. Retaining walls, sidewalks and driveways that involve placement of fill in floodways shall meet the requirements of §140-5C(1) of these regulations and N.J.A.C. 7:13.

F. Swimming pools. Swimming pools shall be designed and constructed in accordance with the Uniform Construction Code. Above-ground swimming pools and below-ground swimming pools that involve placement of fill in floodways shall also meet the requirements of §140-5C(1) of these regulations. Above-ground swimming pools are prohibited in floodways by N.J.A.C. 7:13.

G. Roads and watercourse crossings.

- (1) For any railroad, roadway, or parking area proposed in a flood hazard area, the travel surface shall be constructed at least one foot above the Flood Hazard Area Design Elevation in accordance with N.J.A.C. 7:13.
- (2) Roads and watercourse crossings that encroach into regulated floodways or riverine waterways with base flood elevations where floodways have not been designated, including roads, bridges, culverts, low- water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, shall meet the requirements of §140-5C(1) of these regulations.

§140-16 TEMPORARY STRUCTURES AND TEMPORARY STORAGE

A. Temporary structures. Temporary structures shall be erected for a period of less than 180 days. Temporary structures shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the base flood. Fully enclosed temporary structures shall have flood openings that are in accordance with ASCE 24 to allow for the automatic entry and exit of flood waters.

B. Temporary storage. Temporary storage includes storage of goods and materials for a period of less than 180 days. Stored materials shall not include hazardous materials.

C. **Floodway encroachment.** Temporary structures and temporary storage in floodways shall meet the requirements of §140-5C(1) of these regulations.

§140-17 UTILITY AND MISCELLANEOUS GROUP U

- A. **Utility and Miscellaneous Group U.** In accordance with Section 312 of the International Building Code, Utility and Miscellaneous Group U includes buildings and structures that are accessory in character and miscellaneous structures not classified in any specific occupancy in the Building Code, including, but not limited to, agricultural buildings, aircraft hangars (accessory to a one- or two-family residence), barns, carports, communication equipment structures (gross floor area less than 1,500 sq. ft.), fences more than 6 feet (1829 mm) high, grain silos (accessory to a residential occupancy), livestock shelters, private garages, retaining walls, sheds, stables, tanks and towers.
- B. **Flood loads.** Utility and miscellaneous Group U buildings and structures, including substantial improvement of such buildings and structures, shall be anchored to prevent flotation, collapse or lateral movement resulting from flood loads, including the effects of buoyancy, during conditions up to the Local Design Flood Elevation as determined in §140-2C.
- C. **Elevation.** Utility and miscellaneous Group U buildings and structures, including substantial improvement of such buildings and structures, shall be elevated such that the lowest floor, including basement, is elevated to or above the Local Design Flood Elevation as determined in §140-2C and in accordance with ASCE 24. Utility lines shall be designed and elevated in accordance with N.J.A.C. 7:13.
- D. **Enclosures below base flood elevation.** Fully enclosed areas below the design flood elevation shall be constructed in accordance with §140-15B and with ASCE 24 for new construction and substantial improvements. Existing enclosures such as a basement or crawlspace having a floor that is below grade along all adjoining exterior walls shall be abandoned, filled-in, and/or otherwise modified to conform with the requirements of N.J.A.C. 7:13 when the project has been determined to be a substantial improvement by the Floodplain Administrator.
- E. **Flood-damage resistant materials.** Flood-damage-resistant materials shall be used below the Local Design Flood Elevation determined in §140-2C.
- F. **Protection of mechanical, plumbing, and electrical systems.** Mechanical, plumbing, and electrical systems, equipment and components, heating, ventilation, air conditioning, plumbing fixtures, duct systems, and other service equipment, shall be elevated to or above the Local Design Flood Elevation determined in §140-2C.
- Exception:** Electrical systems, equipment and components, and heating, ventilating, air conditioning, and plumbing appliances, plumbing fixtures, duct systems, and other service equipment shall be permitted to be located below the Local Design Flood Elevation provided that they are designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of flooding to the Local Design Flood Elevation in compliance with the flood-resistant construction requirements of ASCE 24. Electrical wiring systems shall be permitted to

be located below the Local Design Flood Elevation provided they conform to the provisions of NFPA 70 (National Electric Code).

SECTION 3. SEVERABILITY.

Where any section, subsection, sentence, clause, or phrase of these regulations is, for any reason, declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof, other than the part so declared.

SECTION 4. EFFECTIVE DATE.

This ordinance shall take effect upon final passage and publication as provided by law.

RESOLUTIONS

Res. 2023-11: Motion made by Mr. Herb, seconded by Mayor Skoog and carried by unanimous favorable roll call vote to approve the following resolution. Hyndman – yes, Herb – yes, Skoog – yes. Resolution adopted.

RESOLUTION #2023-11

RESOLUTION TO PROVIDE FOR THE RENEWALS OF PLENARY RETAIL CONSUMPTION LICENSES FOR 2022-2023 IN THE TOWNSHIP OF WHITE, COUNTY OF WARREN, STATE OF NEW JERSEY.

WHEREAS, proper applications and appropriate fees have been received by the White Township Clerk;

WHEREAS, Clearance Certificates have been received from the New Jersey Division of Taxation, verifying compliance with Chapter 161, Laws of N. J., by the applicants.

NOW, THEREFORE BE IT RESOLVED by the Township Committee of the Township of White, County of Warren, State of New Jersey, that the following Plenary Retail Consumption Licenses in the Township of White, are hereby renewed for the 2022-2023 licensing year, said renewal effective as of the Tax Clearance date December 13, 2022:

2123-33-012-007 Annacon Inc., T/A Red Wolfe Inn

OLD BUSINESS

Sale of Block 18, Lot 93 was tabled for executive session.

Motion made by Mr. Herb, seconded by Dr. Hyndman and carried by unanimous favorable vote to add the roadside beautification language back into the farm lease specifications as requested by Dana Thatcher. With the stipulation that this is not an approval for the project but rather an option for the committee to explore further at a future date. Herb – yes, Hyndman – yes, Skoog – yes. Motion carried.

DPW Supervisor Ron Smith was present to discuss the offer made to a candidate for the DPW Laborer position. The offer was declined. He suggested re-advertising. The committee agreed.

NEW BUSINESS

The DPW Assistant Supervisor was tabled for executive session.

PUBLIC COMMENT

Dana Thatcher requested a time certain he could start the road beautification project. The committee reminded him it has not been officially approved.

On motion by Dr. Hyndman, seconded by Mr. Herb and carried by unanimous favorable roll call vote, the following Resolution was adopted:

RESOLUTION - EXECUTIVE SESSION

WHEREAS, Section 8 of the Open Public Meetings Act, Chapter 231, P.L. 1975, 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.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of White, as follows:

1. The public shall be excluded from discussion, and action upon the hereinafter specified subject matter, January 11, 2023, 7:14 pm:

Personnel Matters
(DPW Assistant Supervisor)
(Open Space/Agricultural Advisory Board/Environmental Commissions)

Contract Negotiations
(BK 18 Lot 93)

2. It is anticipated at this time, the above-stated subjects will be made public at such time when the matters discussed are no longer sensitive. Motion passed.

On motion by Dr. Hyndman, seconded by Mr. Herb, the meeting was re-opened to the public at 7:45 p.m. Motion passed. No action was taken in Executive Session.

ADJOURNMENT

Being no further business to come before the Mayor and Committee, the meeting was adjourned at 7:47 PM on motion by Dr. Hyndman, seconded by Mr. Herb and carried by unanimous favorable vote.

Respectfully Submitted,

Kathleen R. Reinalda, RMC
Township Clerk